

CHARTER

CITY OF

LA PORTE, TEXAS

**This pamphlet is a reprint of the Charter of the City of
La Porte, Texas, published by order of the City Council.**



MUNICIPAL CODE CORPORATION

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CHARTER*

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ARTICLE I. INCORPORATION; CITY POWERS

1.01. Incorporation.

The inhabitants of the City of La Porte within the boundaries as now established or as hereafter established in the manner provided by law shall continue to be a body politic and corporate and be known by the name of the City of La Porte.

1.02. City boundaries.

The boundaries and limits of the city shall be the same as have heretofore been established and now exist, which boundaries and limits were originally shown on the map recorded in Volume 8, Page 16, Map Records of Harris County, Texas, and as modified by subsequent annexations and disannexations.

1.03. Modification of city boundaries.

The city council shall have power by ordinance to fix the boundary limits of the city and to provide by ordinance for the extension of said boundary limits, by the annexation of

*Editor's note—The home rule Charter of La Porte, as adopted at referendum Aug. 23, 1980, is included herein, substantially as enacted. A uniform style of capitalization, punctuation and indention has been employed, in a format similar to that of the Code portion of this volume, but no substantive changes have been made. Obvious typographical errors have been corrected.

As amendments are enacted, they will be denoted by adding an historical citation, in parentheses, at the end of the affected section.

additional territory lying adjacent to the city, the disannexation of territory within the city and the exchange of territory with other cities and towns, all with or without the consent of the inhabitants in such territory or the owners thereof; provided that the foregoing powers shall be exercised by the council in a manner consistent with, and the council shall comply with, the procedural rules, requirements and limitations prescribed by any law applicable to cities operating under charters adopted or amended pursuant to Article XI, Section 5 of the Constitution of the State of Texas, otherwise known as home rule cities, including Revised Civil Statutes of Texas Article 907a (Municipal Annexation Act). The following methods of annexation may be used:

- (a) *Petition.* The residents of any land contiguous and adjacent to the city may request the annexation of such land. Such request shall be made by a petition in writing which is signed by a majority of the residents of such land, addressed to city council and filed with the city secretary. Within thirty (30) days of the filing of such petition, city council shall hear the petition and any arguments for or against it and shall accept or refuse the petition as council sees fit. If the petition is accepted, council shall by proper ordinance annex such land.
- (b) *Otherwise.* The city may annex territory by use of any of the means provided in Revised Civil Statutes of Texas Article 907a (Municipal Annexation Act).

1.04. Form of government.

The governing body of the city shall be a council composed of the mayor and eight (8) councilpersons, to be known as the city council of the City of La Porte, hereinafter called city council. The members of city council shall be elected from the city in the manner prescribed elsewhere in this Charter.

1.05. Powers of the city.

a. *Generally.* The city shall have all the powers granted to municipal corporations and to cities by the Constitution and laws of the State of Texas together with all the implied powers necessary to carry into execution the powers granted. The city may acquire property within or without its corporate limits for any city purpose in fee-simple title or any lesser interest or estate by purchase, gift, devise, lease or condemnation and may sell, lease, exchange, mortgage, hold, manage and control such property as its interest may require; and, except as prohibited by the Constitution of this state or restricted by the Charter, the city may exercise all municipal powers, functions, rights, privileges and immunities of every name and nature whatsoever. The city may use a corporate seal; may sue and be sued; may contract; may implead and be impleaded in all courts concerning all matters; may cooperate with the government of the United States and of the State of Texas or any agency or political subdivision thereof to accomplish any lawful purpose; and may pass such ordinances as may be expedient for maintaining the city's peace and welfare and for the performance of its functions.

b. *Enumerated powers.* Without limitation of the foregoing powers, the following are enumerated for greater certainty:

1. *Eminent domain.* The city shall have the full power and right to exercise the power of eminent domain when necessary or desirable to carry out any of the powers conferred upon it by this Charter or by the Constitution and laws of the State of Texas. This power shall include the power to acquire any public utility operating with or without a franchise and furnishing a public service. The city may exercise its condemnation power in any manner authorized or permitted by the constitution and laws of this state. The power of eminent domain hereby conferred shall include the right of the city to take fee-simple title in land so condemned and such power and authority shall include the right to condemn property for such purposes. The city shall have and possess the power

of condemnation for any municipal or public purposes even though not specifically enumerated in this Charter.

2. *Streets.*

(a) *Powers.* The city shall have the power to lay out, establish, open, alter, widen, lower, extend, grade, abandon, discontinue, abolish, close, care for, pave, supervise, maintain and improve streets, alleys, sidewalks, parks, squares, public places and bridges; and regulate the use thereof and require the removal from streets, sidewalks, alleys and other public property or places of all obstructions and all vendors, showcases and encroachments of every nature or character upon any of said streets and sidewalks.

(b) *Improvements.* The city shall have exclusive dominion, control and jurisdiction in, upon and over and under the public streets, avenues, alleys and highways of the city, and may provide for the improvement thereof of paving, repaving, raising, draining or otherwise. The provisions of Revised Civil Statutes of Texas, Article 1105b are expressly adopted and made a part of this Charter. Such exclusive dominion, control and jurisdiction in, upon, over and under the public streets, avenues, alleys and highways of the city shall also include, but not be limited to, the right to regulate, locate, relocate, remove, or prohibit the location of all utility pipes, lines, wires or other property.

3. *Sanitary sewer system.* The city shall have the power to provide for a sanitary sewer system and to require property owners to connect their premises with such sewer system, to provide for fixing penalties for failure to make sanitary sewer connections; and shall further have the right to fix charges and compensation to be charged by the city for sewerage service, providing rules and regulations for the collection thereof, and to provide for rendering a lien against any property

owner's premises who fails or refuses to make sanitary sewer connections after due notice and to charge a cost against said owner and make it a personal liability.

4. *Garbage disposal.* City council shall by ordinance adopt and prescribe rules and regulations for the handling and disposition of all garbage, trash and rubbish within the city and shall fix charges and compensation to be charged by the city for the removal of garbage, trash and rubbish, providing rules and regulations of the collection thereof.
5. *Nuisances, etc.* The city shall have the power to define all nuisances and prohibit the same within the city and outside the city limits for a distance of five thousand (5,000) feet; have power to police all parks or grounds, speedways, or boulevards owned by said city and lying outside of said city, to prohibit the pollution of any stream, drain or tributaries thereof, which may constitute the source of water supply of any city and to provide for policing the same as well as to provide for the protection of any watersheds and the policing of same, to inspect dairies, slaughter pens, and slaughterhouses inside and outside the limits of the city, from which meat or milk is furnished to the inhabitants of the city.

c. General powers adopted. The enumeration of the particular powers in this Charter shall not be held or deemed to be exclusive but in addition to the powers enumerated herein or implied hereby or appropriate to the exercise of such powers; the city shall have and may exercise all power of local self-government and all other powers which, under the Constitution and laws of the State of Texas, it would be competent for this Charter specifically to enumerate. The city shall have and may exercise all the powers enumerated in Revised Civil Statutes of Texas, Article 1175.

1.06. Special provisions for damage suits.

Before the city shall be liable to damage claim or suit for personal injury or death or damage to property, the person who is injured or whose property is damaged or someone in his behalf or his personal representative in cases of death shall give the city secretary notice in writing within thirty (30) days after the occurring of the alleged injury, death or damage stating specifically in such notice when, where and how the injury, death or damage was sustained and setting forth the extent of the injury or damage as accurately as possible, and giving the names and addresses of all witnesses upon whose testimony such person is relying to establish the injury, death or damage. No action at law for damage shall be brought against the city for personal injury, death or damage to property prior to the expiration of sixty (60) days after the notice hereinabove described has been filed with the city secretary. After the expiration of sixty (60) days aforementioned, the complainant may then have two (2) years in which to bring an action of law.

ARTICLE II. CITY COUNCIL**2.01. Composition of city council.**

a. *Members of council.* City council shall be composed of a mayor and eight (8) councilpersons. The positions of councilpersons shall be designated as follows:

- Councilperson—District 1
- Councilperson—District 2
- Councilperson—District 3
- Councilperson—District 4
- Councilperson—District 5
- Councilperson—District 6
- Councilperson-at-large—Position A
- Councilperson-at-large—Position B.

The mayor and the two (2) councilpersons-at-large shall be elected by a majority vote of the city at large. The city shall be divided, as described below in subsection b, into six

(6) districts, Districts 1, 2, 3, 4, 5 and 6, and one councilperson shall be elected from each district by majority vote of the resident voters of such district.

b. *Formation of districts.* City council shall divide the city into six (6) districts which are reasonably compact, contiguous and of as nearly equal population as practicable.

It shall be the duty of city council to establish the boundaries of six (6) districts covering the entire city for the purpose of electing district councilpersons. Such boundaries shall be established by ordinance, which shall be final for purposes of this Charter. The first such establishment shall be made as soon as practicable prior to the first city election following adoption of this section. Any subsequent establishment shall be made when required by this Charter.

Promptly following the addition of territory to the city by a boundary change, the city council shall, by ordinance, add such territory to an adjacent district or districts.

Immediately following publication of the 1980 federal census, and at least every five (5) years thereafter, city council shall conduct an investigation and determine the population of the city and the population of each of the districts from which district councilpersons are to be elected. Each such determination shall be based upon the best available data, including, but not limited to, the most recent federal census. Each such determination shall be expressed in an ordinance, which shall be a final determination for purposes of this Charter.

After any such determination, if the distribution of population among the various districts is determined by city council to be materially unbalanced, the city council shall establish new boundaries for the election of district councilpersons.

c. *Election.* All candidates for city council shall be voted on and elected separately for positions and districts on said city council, and each candidate shall be designated on the official ballot according to the title of such position or district to which he seeks election.

Any candidate for office receiving a majority of all the votes cast for the office for which he is a candidate shall be elected to such office. In the event any candidate for any office fails to receive a majority of all votes cast for all the candidates for such office, the city council shall call a run-off election to be held not less than twenty-one (21) days nor more than thirty (30) days after the regular election, at which run-off election the two (2) candidates receiving the highest number of votes shall be voted for again. In the event of a tie in the vote for the two (2) leading candidates, at the regular election, the city council shall hold a second election not less than twenty-one (21) days nor more than thirty (30) days after the regular election, at which said second election the candidates receiving such tie votes shall be voted for again.

d. *Term of office.* The mayor and councilpersons shall each hold their respective offices for a term of three (3) years and until their successors shall have been elected and duly qualified.

2.02. Qualifications.

a. *Enumerated.* The mayor and councilpersons shall be resident electors of the city at the time of filing for office, and continuously during their terms of office. A district councilperson shall also be a resident of his district at the time of filing for office and continuously during his term of office.

b. *Council to be judge of members' qualifications.* City council shall be the judge of the election and qualifications of its members and for such purpose shall have power to subpoena witnesses and require the production of records, but the decision of council in any such case shall be subject to review by the courts.

2.03. Conduct of elections.

a. *Regulations.* All city elections shall be governed by the laws of the State of Texas. In the event there should be any failure of the general laws or this Charter to provide for

some feature of the city elections, city council shall have the power to provide for such deficiency, making all regulations it considers desirable, not inconsistent with the laws of the State of Texas, for the prevention of fraud in such elections and for the recount of ballots in case of doubt or fraud.

Municipal elections shall be conducted by the appointed election authorities, who shall also have power to make such regulations not inconsistent with this Charter, with any regulations made by council or the laws of the State of Texas.

No informalities in conducting a city election shall invalidate the same, if it be conducted fairly and in substantial compliance with the general laws, where applicable, and the Charter and ordinances of the city.

b. *Schedule.*

1. *Regular election.* The regular election for choice of members of council shall be held annually on the first Saturday of ~~the month of~~  ^{by}
2. *Special election.* Council may ~~be~~ ordinance or resolution order a special election, fix the time for holding same and provide necessary means.

2.04. Vacancies in city council.

a. *Candidacy elsewhere.* If the mayor or any council person shall announce his candidacy, or shall in fact become a candidate, in any general, special or primary election for any office of profit or trust under this Charter or the laws of Texas or the United States, other than the office he has held, at any time when the unexpired term of the office then held shall exceed one year, such announcement or such candidacy shall constitute an automatic resignation of the office then held.

b. *Procedure.* When a vacancy occurs for any reason in the office of mayor or councilperson, council shall call a special election within one hundred twenty (120) days. At said election the vacant office or offices shall be filled under the provisions of this Charter.

c. *Filing for office.* Each candidate for public office must:

1. Be a qualified voter in the city.
2. File sworn application with the city secretary at least thirty (30) days prior to the election date.
3. Post the required filing fee:

For mayor: Not to exceed the sum of one hundred dollars (\$100.00).

For councilperson: Not to exceed the sum of fifty dollars (\$50.00).

The filing fees shall be used to defray the cost of the election and said fee shall be prorated and any surplus shall be refunded to said candidates.

In lieu of posting such fee, a candidate may submit a petition requesting that his name be placed on the ballot. Said petition shall bear a number of signatures of qualified electors who are residents of the city, which number shall not be less than five (5) per cent of the total vote cast at the most recent regular election in which a councilperson was elected or fifty (50), whichever is the lesser number. Each signer shall indicate his address and the number and county of his voter registration certificate.

4. File for only one city office.

d. *Official ballots.* The full names of all candidates for mayor or council as hereinbefore provided, except such as may have withdrawn, died or become ineligible, shall be printed on the official ballots without party designations. If two (2) candidates with the same surnames, or with names so similar as to be likely to cause confusion, file for office, their occupations or the addresses of their places of residence shall be placed with their names on the ballots. The order of the names on the ballot shall be determined by lot.

e. *Canvassing elections.* Returns of the elections, general and special, shall be made by the election officers to council

promptly following said election, at which time council shall canvass and declare the results of such election.

2.05. Compensation.

Each councilperson and the mayor shall receive for his services a salary in an amount determined by the council, not to exceed the sum of twenty-four hundred dollars (\$2,400.00) per year for the mayor, and twelve hundred dollars (\$1,200.00) per year for each councilperson.

2.06. Original meeting of new council.

On the first Monday next following the regular municipal election held on the first Saturday of ~~May~~^{May} or as soon thereafter as practicable, city council shall meet at the usual place for holding meetings, and the newly elected members shall qualify and assume the duties of office. At such meeting council shall select one of its members to serve as mayor pro tem, who shall serve for a one year term and until his successor is appointed and has qualified.

2.07. Meetings.

a. *Frequency.* City council shall meet regularly at such times as may be prescribed by its rules but not less frequently than once each month. All meetings of council shall be open to the public; special meetings shall be called by the city secretary upon request of the mayor or three (3) councilpersons.

b. *Rules.* City council shall determine its own rules and order of business.

c. *Journal.* City council shall keep a journal of its proceedings. Such journal shall be open to public inspection.

2.08. Duties of mayor.

The mayor shall preside at meetings of council and shall be entitled to vote upon all matters it considers. The mayor shall exercise such other powers and perform such other duties as are or may be conferred and imposed upon him by

this Charter and the ordinances of the city. He shall be recognized as the head of the city government for all ceremonial purposes, by the courts for civil process, and by the government for purposes of military law. In times of public danger or emergency, the mayor shall take command of the police, maintain order and enforce the law. If a vacancy occurs in the office of mayor or in the case of his absence or disability, the mayor pro tem shall act as mayor until a successor is elected and has qualified or until the mayor is again able to assume his duties of office.

2.09. Powers of council.

All powers of the city and the determination of all matters of policy shall be vested in city council. Council shall execute the laws and administer the government of the city. Without limitation of the foregoing and among the other powers that may be exercised by council, the following are hereby enumerated for greater certainty:

- a. Adopt budget of the city.
- b. Authorize the issuance of bonds by a bond ordinance.
- c. Inquire into the conduct of any office, department, agency or officer of the city and make investigations as to municipal affairs, and for that purpose may subpoena witnesses, administer oaths, and compel the production of books, papers and other evidence. Failure to obey such subpoena or to produce books, papers or other evidence as ordered under the provisions of this section shall constitute a misdemeanor and shall be punishable by fine. Council shall enact an ordinance to enforce this provision.
- d. Establish and appoint the members of the planning commission.
- e. Adopt plats.
- f. Adopt and modify the official map of the city.
- g. Adopt, modify and carry out plans proposed by the planning commission for the clearance of slum districts and rehabilitation of blighted areas.

- h. Adopt, modify and carry out plans proposed by the planning commission for the replanning, improvement and redevelopment of neighborhoods and for the replanning, reconstruction or redevelopment of any area or district which may have been destroyed in whole or in part by disaster.
- i. Provide for the establishment and designation of fire limits and to prescribe the kind and character of buildings or structures or improvements to be erected therein, and to provide for the erection of fireproof buildings within certain limits, and to provide for the condemnation of dangerous structures or buildings or dilapidated buildings calculated to increase the fire hazard and the manner of their removal or destruction.
- j. Approve assessment rolls as returned to it by the board of equalization and adopt same as the assessment rolls to be used for the collection of taxes for the current year.
- k. Control and distribute all contingent appropriations. Expenditures from a contingent appropriation shall require prior approval of council. A contingent appropriation shall be disbursed only by transfer to a departmental appropriation, the spending of which shall be charged to the department or activity for which the appropriation is made.

2.10. Additional discretionary powers.

In addition to the above powers and without limitation of such, city council shall have the power to, and may at its discretion, do any or all of the following:

- a. *Public library.* Council shall have the authority to establish and maintain a free public library within the city and to cooperate with any person, firm, association or corporation under such terms as council may prescribe for the establishment of such free public library. For budget purposes, the library shall be considered as a department of the city and the

appropriations therefor shall comply with all the budgetary requirements as outlined in this Charter and as may be prescribed from time to time by council.

b. Hospital.

1. **Operation.** The city shall have the authority to acquire, establish and own, either by purchase, donations, bequest or otherwise, all property that may be useful or necessary for the purpose of establishing and maintaining a municipal hospital. Upon establishment of such hospital, council shall create a hospital board with membership and compensation deemed appropriate by council, which shall operate the hospital subject only to such direction and supervision as shall be contained in any ordinance or ordinances enacted by council.
2. **Finances.** All funds belonging to said hospital, whether classed as funds received in course of operation, or otherwise, shall be kept in a separate hospital fund to be used only for the operation and maintenance of said hospital, except that such funds may be used by the city for general operating purposes with the express consent of the hospital board.

The hospital board shall submit a quarterly operating statement to council, and an annual audit to coincide with the fiscal year of the city.

c. Zoning.

1. **Power.** For the purposes of promoting the health, safety, morals or general welfare of the city, council may by ordinance regulate the location, height, bulk and size of buildings and other structures, the size of yards, courts and other open spaces, the density of population and the uses of buildings, structures and land for trade, industry, business, residence and other purposes.

2. *Procedure.* Should council enact regulations under subsection 1. above, it shall establish a zoning commission and may establish a zoning board of adjustment.

(a) *Zoning commission.*

- (1) The zoning commission shall recommend to council the location of zoning districts and restrictions therein, and shall hold public meetings on such recommendations.
- (2) Commission members shall receive such compensation as council may deem appropriate.
- (3) Council may combine the duties of said commission with the duties of the planning commission, as provided in section 2.09 e through j, to form a planning and zoning commission.

(b) *Zoning board of adjustment.*

- (1) The zoning board of adjustment may, in appropriate cases and subject to appropriate conditions and safeguards, make special exceptions to the terms of a zoning ordinance in harmony with its general purpose and intent and in accordance with general or specific rules therein contained.
- (2) Board members shall receive such compensation as council may deem appropriate.

3. *Generally.* All of the powers granted by Revised Civil Statutes of Texas, Articles 1011a. to 1011j., inclusive, relating to zoning in cities, are hereby adopted and made a part of this Charter.

- d. *Housing authority.* Council may create a housing authority of such number, terms and compensation of

members as council may determine and may delegate to the housing authority such powers relating to the planning, construction, reconstruction, alteration, repair, maintenance or operation of housing projects and housing accommodations as council may determine.

2.11. Ordinances.

a. *Passage.*

1. ***Procedure.*** Every ordinance shall be introduced in written or printed form, and, upon passage, shall take effect at the time indicated therein; provided that any ordinance imposing a penalty, fine or forfeiture for a violation of its provisions shall become effective not less than ten (10) days from the date of its passage. The city secretary shall give notice of the passage of every ordinance imposing a penalty, fine or forfeiture for a violation of the provisions thereof, by causing the caption or title, including the penalty, of any such ordinance to be published in the official newspaper in the city at least once within ten (10) days of its passage according to the provisions of Revised Civil Statutes, Article 1013. He shall note on every ordinance, the caption of which is hereby required to be published, and on the record thereof, the fact that same has been published as required by the Charter, and the date of such publication and promulgation of such ordinance; provided, that the provisions of this section shall not apply to the correction, amendment, revision and modification of the ordinances of the city for publication in book or pamphlet form. Except as otherwise provided in Article VII of this Charter, it shall not be necessary to the validity of any ordinance that it shall be read more than one time or considered at more than one session of city council. Every ordinance shall be authenticated by the signature of the mayor and city secretary and shall be systematically recorded in an ordinance book in a manner approved by council. It shall only be necessary to

record the caption or title of ordinances in the minutes of journal of council meetings.

2. *Codifications.* Council shall have power to cause the ordinances of the city to be corrected, amended, revised, codified and printed in code form as often as council deems advisable. Such printed code, when adopted by council, shall be in full force and effect without the necessity of publishing the same or any part thereof in a newspaper and shall be admitted in evidence in all courts and places without further proof.

b. *Additional ordinances.* In addition to such acts of council as are required by statute or by this Charter to be by ordinance, every act of council establishing a fine or other penalty or providing for the expenditure of funds or for the contracting of indebtedness shall be by ordinance.

c. *Enacting clause.* The enacting clause of all ordinances shall be "BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LA PORTE."

ARTICLE III. ADMINISTRATION

3.01. City manager.

a. *Appointment and qualifications.* City council shall appoint a city manager, who shall be chosen solely on the basis of his executive and administrative training, experience and ability. No member of city council shall, during the term for which he is elected and for one year thereafter, be appointed city manager.

b. *Term and salary.* The city manager may be appointed and removed at the will and pleasure of city council by a vote of the majority of the entire city council. The action of city council in suspending or removing the city manager shall be final, it being the intention of this Charter to vest all authority and fix all responsibility of such action in city council.

Council shall set a salary for the city manager as it deems appropriate.

c. Duties. Except as provided elsewhere in this Charter, the city manager shall be the chief executive officer and head of the administrative branch of the city government. He shall be responsible to the council for the proper administration of all affairs of the city and to that end he shall have power and be required to:

1. Devote all his working time and attention to the affairs of the city.
2. Appoint and, when necessary for the good of the city, remove all city officers and employees except those for which this Charter provides otherwise. He may authorize the head of a department to appoint and remove subordinates in such department.
3. Prepare the budget annually, submit it to council and be responsible for its administration after adoption.
4. Prepare and submit to council, as of the end of the fiscal year, a complete report on the finances and administrative activities of the city for the preceding year.
5. Keep council advised of the financial condition and future needs of the city and make such recommendations as may seem to him desirable.
6. Perform such other duties as may be prescribed by this Charter or required of him by the council, not inconsistent with this Charter.

d. Provisions for absence. Within thirty (30) days after taking office, the city manager shall designate by letter filed with the city secretary a qualified administrative officer of the city to perform his duties during his temporary absence or disability. Upon receipt of said letter, the city secretary shall advise council of its contents. Said letter shall be in force and effect for the duration of the city manager's employ or until he files another such letter.

3.02. Administrative departments.

a. *Creation.* There are hereby created the following administrative departments: Finance, police, fire, law, public works, health, parks and recreation, and water and sewer.

Council may by ordinance create or abolish offices, departments or agencies other than the offices, departments or agencies established by this Charter.

b. *Consolidation.* Council may consolidate or redesignate any of the offices, departments and agencies.

c. *Directors.* The city manager shall appoint a director to supervise and control each department. When necessary for the good of the city, the city manager may remove any such director. Such director shall be an officer of the city and shall have supervision and control of his department, subject to the supervision of the city manager. Two (2) or more departments may be headed by the same individual, and directors of departments may also serve as chiefs of divisions. The city manager may head one or more departments.

d. *Divisions.* The work of each administrative department may be distributed among such divisions thereof as may be established by ordinance or this Charter.

3.03. City secretary.

With the advice and consent of city council, the city manager shall appoint a competent person to be secretary of the city. The city secretary shall:

- a. Give notice of council meetings.
- b. Authenticate by his signature and record in full in a book kept and indexed for the purpose all ordinances and resolutions.
- c. Perform such other duties as may be assigned to him by council or elsewhere in this Charter.

3.04. Municipal court.

a. *Establishment.* There shall be established and maintained a municipal court with all powers and duties as

are now, or may hereafter be, prescribed by the laws of the State of Texas for municipal courts.

b. *Municipal judge.* City council shall appoint a competent attorney, duly licensed by the State of Texas, to be judge of the municipal court. He shall serve at the pleasure of council and shall receive compensation as may be fixed by council.

c. *Alternate municipal judge.* Council shall have the power to create and appoint additional judges as provided by law.

d. *Court clerk.* Subject to the approval of the municipal judge, the city manager shall appoint a municipal court clerk and deputy clerks. Said clerk or clerks shall have the power to administer oaths and affidavits, make certificates, affix the seal of said court thereto and generally do and perform any and all acts usual and necessary by clerks of court in conducting the business thereof.

e. *Costs and fines.* All costs and fines imposed by the municipal court, or any court in cases appealed from its judgments, shall be paid into the city treasury for the use and benefit of the city.

3.05. City attorney.

City council shall appoint a competent attorney, duly licensed by the State of Texas, to be city attorney and head of the department of law. He shall be appointed and removed at the will and pleasure of council by a majority vote of the entire council, and shall receive compensation as may be fixed by council.

The city attorney, or other attorneys selected by him with the approval of Council, shall represent the city in all litigation. He shall be the legal advisor of, and attorney and counsel for, the city and all offices and departments thereof.

ARTICLE IV. BUDGET**4.01. Preparation and submission of budget.**

At least forty-five (45) days prior to the beginning of each fiscal year, the city manager shall submit to council a proposed budget with required attachments. For such purpose, at such date as he shall determine, he shall obtain from the head of each office, department or agency estimates of revenue and expenditures of that office, department or agency, detailed by organization units and character and object of expenditure, and such other supporting data as he may request. In preparing the budget, the city manager shall review the estimates, may hold hearings thereon and may revise the estimates, as he may deem advisable.

- a. *Contents of budget.* The budget shall provide a complete financial plan for the fiscal year. It shall contain the following:
 1. A consolidated statement of receipts and expenditures for all funds.
 2. An analysis of property valuations.
 3. An analysis of tax rate.
 4. Tax levies and tax collections by years for at least ten (10) years or for a number of years for which records are available.
 5. A detailed listing of the resources of each fund.
 6. A summary of proposed expenditures within such funds by department, function and classification.
 7. A revenue and expense statement for all outstanding bonded debt.
 8. A schedule of principal and interest on each issue of outstanding bonds showing rate of interest, maturity dates and amount outstanding.
 9. The appropriation ordinance.
 10. The tax-levying ordinance.

b. *Attachments to budget.*

1. *Budget message.* The city manager shall prepare a budget message which shall be submitted with the budget. It shall contain an outline of the proposed financial policies of the city for the fiscal year and describe in connection therewith the important features of the budget plan. It shall set forth the reasons for salient changes from the previous years in expenditures and revenue items and shall explain any major changes in financial policy.
2. *Supporting schedules.* Attached to the budget shall be such supporting schedules, exhibits and other explanatory material, in respect to both current operations and capital outlays, as the city manager shall believe useful to council.
3. *Comparison tables.* The city manager may prepare tables in which various items may be compared with those of previous years and shall attach such to the budget.
 - (a) *Anticipated revenues.* In parallel columns opposite the several items of revenue, there shall be placed the actual amount of such item for the first six (6) months of the current year, the budgeted amount for the current fiscal year, and the proposed amount for the ensuing fiscal year.
 - (b) *Proposed expenditures.* The proposed expenditures for the administration, operation, maintenance and capital outlay of each office, department or agency of the city shall be itemized by character and object. In parallel columns opposite the various items of expenditures, there shall be placed the actual amount of such items of expenditures for the last completed fiscal year, the estimated amount for the current fiscal year and the proposed amount for the ensuing fiscal year.

- c. *Balanced budget.* 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 classification as promulgated by the National Committee on Municipal Accounting or some other nationally accepted classification.

4.02. Availability of proposed budget.

The proposed budget and all attachments shall be a public record in the office of the city secretary, open to public inspection. The city manager shall cause sufficient copies of such to be prepared for distribution to interested persons.

4.03. Budget adoption.

- a. *Publication of notice of public hearing.* At the meeting of city council at which the budget and attachments are submitted, council shall determine the place and time of the public hearing on the budget, and shall cause to be published a notice of the place and time, not less than seven (7) days after date of publication, at which council will hold a public hearing.

- b. *Public hearing.* At the time and place so advertised, or at any time and place to which such public hearing shall from time to time be adjourned, city council shall hold a public hearing on the budget as submitted, at which all interested persons shall be given an opportunity to be heard, for or against the estimates or any item thereof.

- c. *Vote required for adoption.* The budget shall be adopted by the favorable votes of at least a majority of all members of the whole council.

- d. *Adoption.* The budget shall be finally adopted not later than the last day of the fiscal year. Should council take no final action on or prior to such day, the budget as submitted by the city manager shall be deemed to have been finally adopted by council.

Upon final adoption, the budget shall be in effect for the fiscal year.

4.04. Public record.

a. *Filed.* A copy of the budget as finally adopted shall be filed with the city secretary.

b. *Availability.* The final budget shall be printed, mimeographed or otherwise reproduced and sufficient copies shall be made available for the use of offices, departments and agencies, and for the use of interested persons and civic organizations.

4.05. Effect of approved budget.

From the effective date of the budget:

a. The several amounts stated therein as proposed expenditures shall be and become appropriated to the several objects and purposes therein named.

b. The amount stated therein as the amount to be raised by property tax shall constitute a determination of the amount of the levy for the purposes of the city, in the corresponding tax year.

4.06. Fiscal year defined.

The fiscal year of city government shall begin on the first day of October and end on the last day of September of the succeeding calendar year. Such fiscal year shall also constitute the budget and accounting year.

ARTICLE V. FINANCE ADMINISTRATION

5.01. Division of taxation.

There shall be established in the department of finance a division of taxation, the head of which shall be the city tax assessor-collector.

a. *Property subject to tax; method of assessment.* All real and personal property within the city not

expressly exempted by law shall be subject to annual taxation at its true market value.

Each person, partnership and corporation owning property within the limits of the city shall between the first day of January and the thirty-first day of March of each year, hand to the tax assessor-collector a full and complete sworn inventory of the property possessed or controlled by him, her or them within said limits on the first day of January of the current year. In all cases of failure to obtain a statement of real and personal property from any cause, the tax assessor-collector shall ascertain the amount and value of such property and assess the same as he believes to be true and full value thereof; and such assessment shall be as valid and binding as if such property had been rendered by the owner thereof.

b. *Board of equalization.*

1. *Membership.* City council shall each year, prior to the first day of March, appoint three (3) residents who are qualified voters as the board of equalization. Such board shall choose from its membership a chairperson. A majority of said board shall constitute a quorum for the transaction of business.

The tax assessor-collector shall be ex officio secretary of the board.

2. *Compensation.* Members of the board while serving shall receive such compensation as council may deem appropriate.
3. *Powers and duties.* In order that all property within the city shall be assessed as uniformly as possible, the board of equalization shall have the power and duty to:
 - (a) Adopt regulations regarding the procedure of assessment review.

- (b) Review, on complaint of property owners, assessments for the purpose of taxation of both real and personal property within the city made by the assessor-collector.
 - (c) Examine and, if necessary, revise the assessments returned by the tax assessor-collector and as previously set by the board.
 - (d) Administer oaths, take testimony, hold hearings and compel the production of all books, documents and other papers pertinent to the investigations of the taxable values of any person, firm or corporation having or owning property within the corporate limits of the city subject to taxation.
 - (e) Certify its approval of the assessment rolls and have them returned to the tax assessor-collector, immediately upon completion of the board's work.
4. *Records.* The board shall be required to keep an accurate record of all its proceedings, which record shall be available for public inspection.
5. *Public hearing and notice to owner.* At the same meeting that city council appoints the board of equalization, it shall by ordinance fix the time of the first meeting of the board which shall be on the tenth day of May, or as soon thereafter as practicable. After such first meeting, the board may reconvene and adjourn from time to time, and as long thereafter as may be necessary, it shall hear and determine the complaint of any person in relation to the assessment roll. Whenever said board shall find it their duty to raise the value of any property appearing on the lists or books of the assessor-collector, it shall, after having examined such lists and books and corrected all errors appearing therein, adjourn to a day not less than ten (10) nor more than fifteen (15) days from the date of adjournment and shall

cause the secretary of said board to give written notice to the owner of such property or to the person rendering same of the time to which said board has adjourned, and that such owner or person rendering said property may at that time appear and show cause why the value of said property should not be raised. Such notice may be served by depositing the same, properly addressed, and postage paid, in the city post office.

c. *Payment of taxes.*

1. *When due and payable.* All taxes due the city shall be payable at the office of the assessor-collector and may be paid at any time after the tax rolls for the year have been completed and approved, which shall be not later than October first. Taxes shall be paid before February first following the year for which the tax was levied, and all such taxes not paid prior to such date shall be deemed delinquent and shall be subject to such penalty and interest as city council may provide by ordinance.
2. *Tax liens.* The tax levied by the city is hereby declared to be a lien, charge or encumbrance upon the property upon which tax is due, which lien, charge or encumbrance the city is entitled to enforce and foreclose in any court having jurisdiction over the same, and the lien, charge and encumbrance on the property in favor of the city, for the amount of taxes due on such property, is such as to give the state courts jurisdiction to enforce and foreclose said lien on the property on which the tax is due, not only as against any resident of this state or person whose residence is unknown, but also as against nonresidents. All taxes upon real estate shall especially be a lien and a charge upon the property upon which the taxes are due, which lien may be foreclosed in any court having jurisdiction.

5.02. Purchase procedure.

All purchases made and contracts executed by the city shall be pursuant to a requisition from the head of the office, department or agency whose appropriation will be changed, and no contract or order shall be binding upon the city unless and until the city manager or his designee approves the same and certifies that there is to the credit of such office, department or agency a sufficient unencumbered appropriation and allotment balance to pay for the supplies, materials, equipment or contractual services for which the contract or order is to be issued. Before the city makes any purchase or contract, opportunity shall be given for competition. Council may by ordinance confer upon the city manager general authority to contract for expenditures without further approval of council for budgeted items not exceeding three thousand dollars (\$3,000.00). All contracts for expenditures involving more than three thousand dollars (\$3,000.00) must be expressly approved in advance by council. All contracts or purchases involving more than three thousand dollars (\$3,000.00) shall be let to the lowest bidder, considering quality, after there has been opportunity for competitive bidding as provided for by law or ordinance; provided that council or the city manager, in such cases as he is authorized to contract for the city, shall have the right to reject any and all bids. Contracts for professional services for which bidding is prohibited by law shall not be let on competitive bids.

5.03. Alterations in contracts.

Except in case of emergency, alterations in any contract not to exceed twenty-five (25) per cent of the total contract may be made when authorized by council upon written recommendation of the city manager; provided that such alteration is acceptable to the other party to the contract. When such recommended change is for an amount not more than five thousand dollars (\$5,000.00), council may authorize the city manager to approve such alterations.

5.04. Fees shall be paid to city.

All fees for city services received by any officer or employee shall belong to the city government and shall be paid to the department of finance at such times as required by the director of the finance department.

5.05. Borrowing.

a. *Negotiable notes.* In any fiscal year, city council may by resolution authorize borrowing by the issuance and sale of negotiable notes of the city which shall mature and be payable not later than the end of the fiscal year in which the original notes have been issued. All such notes may be sold at not less than par and accrued interest at private sale by the director of the finance department without previous advertisement, but such sale shall be authorized by council. Such notes shall be in anticipation of either of the following:

1. *Property taxes.* Notes authorized in anticipation of the collection of property taxes in a fiscal year shall be designated "tax anticipation note for the year ____" (stating the fiscal year).
2. *Other revenues.* Notes authorized in anticipation of the collection or receipt of other revenues shall be designated "special revenue note for the year ____" (stating the fiscal year).

b. *Capital improvements.*

1. *Power and authority to incur indebtedness.* The city shall have the power and authority, by ordinance duly adopted, to borrow money on the credit of the city for permanent public improvements and to issue its general obligation bonds, revenue bonds, refunding bonds, certificates of indebtedness, notes, warrants, or other forms of indebtedness pursuant to and in accordance with the present or hereinafter adopted or amended general and special laws of this state applicable to home rule cities, except as such power

and authority is expressly limited or denied by this Charter, or any amendments hereto.

2. *Referendum on bond ordinance.* Each bond ordinance passed pursuant to a purpose which has been authorized by majority vote of the voters of the city at an election shall not be subject to referendum. Each bond ordinance relating to bonds not authorized by the qualified voters of the city shall be subject to permissive referendum on petition pursuant to the provision of Article VI of this Charter, unless the bonds are authorized solely for a purpose made necessary as the result of fire, flood or other disaster, or the bonds are to be issued to finance the improvement or extension of a municipally owned or operated utility or other public service enterprise.
3. *Public sale of all bonds.* No bonds issued under this Charter shall be sold without first offering the same at public sale. Notice of such sale shall be given by publication at least once in a financial journal published in the State of Texas and by publication at least once in the official newspaper of the city, both of such publications to be made not less than ten (10) days prior to the date set for such sale.

5.06. Disbursement of funds.

All checks, vouchers or warrants for the withdrawal of funds from the city depository shall be executed in accord with the provisions of this Charter and shall be signed by the city manager or his deputy and counter-signed by a member of city council.

5.07. Independent audit.

Prior to the end of each fiscal year, council shall designate a practicing certified public accountant, who is licensed by the State of Texas, to make an independent audit of accounts and other evidences of financial transactions of the city government and shall submit a report to council. Notice shall be given by publication in the official

newspaper in the city that the annual audit is on file at the city hall for inspection. Such accountant shall have no personal interest, direct or indirect, in the fiscal affairs of the city government. He shall not maintain any accounts or records of the city business, but, within specifications approved by council, shall post-audit the books and documents kept by the department of finance and any separate or subordinate accounts kept by any other office, department or agency of the city government.

5.08. Appropriations lapse at end of year.

All appropriations shall lapse at the end of the budget year to the extent that they shall not have been expended or lawfully encumbered.

ARTICLE VI. INITIATIVE, REFERENDUM AND RECALL

6.01. Power of initiative.

The electors shall have the power to propose any ordinance except an ordinance appropriating money or authorizing the levy of taxes, and to adopt or reject the same at the polls, such power known as the initiative.

6.02. Power of referendum.

The electors shall have power to approve or reject at the polls any ordinance passed by council, or submitted by council to a vote of the electors, except as provided in section 5.05, such power being known as the referendum. Ordinances submitted to council by initiative petition and passed by council without change shall be subject to the referendum in the same manner as the other ordinances.

6.03. Procedure for initiative or referendum petition.

a. Form of petition.

1. *Text.* Initiative petition papers shall contain the full text of the proposed ordinance.

2. Signatures.

- (a) The signatures to initiative or referendum petitions need not all be appended to one paper, but to each separate petition there shall be attached a statement of the circulator thereof as provided by this section. Each signer of any petition paper shall sign his name in ink or indelible pencil and shall indicate after his name his place of residence by street and number, or other description sufficient to identify the place.
- (b) The petition shall be signed by qualified electors of the city equal in number to at least fifty (50) per cent of the number of votes cast in the last regular municipal election.

3. *Circulators.* There shall appear on each petition the names and addresses of five (5) electors, who, as circulators, shall be regarded as responsible for the circulation and filing of the petition.

4. *Affidavit.* Attached to each separate petition paper there shall be an affidavit of the circulator thereof that he, and he only, personally circulated the foregoing paper, that it bears a stated number of signatures, that all signatures appended thereto were made in his presence, and that he believes them to be genuine signatures of the persons whose names they purport to be.

b. Submission of petition.

1. *Filing.* All petition papers comprising an initiative or referendum petition shall be assembled and filed with the city secretary as one instrument.
2. *Examination.* Within twenty (20) days after a petition is filed, the city secretary shall determine whether each paper of the petition has a proper statement of the circulator and whether the petition is signed by a sufficient number of qualified electors. The city secretary shall declare any petition paper entirely invalid which does not have attached thereto an

affidavit signed by the circulator thereof. If a petition paper is found to be signed by more persons than the number of signatures certified by the circulator, the last signatures in excess of the number certified shall be disregarded. If a petition paper is found to be signed by fewer persons than the number certified, the signatures present shall be accepted unless void on other grounds.

3. *Certification.*

(a) *Procedure.* After completing his examination of the petition, the city secretary shall certify the result thereof to city council at its next regular meeting. If he shall certify that the petition is insufficient, he shall set forth in his certificate the particulars in which it is defective and shall at once notify the circulators of his findings.

(b) *Effect.* When a referendum petition or amended petition has been certified as sufficient by the city secretary, the ordinance specified in the petition shall not go into effect, or further action thereunder shall be suspended if it shall have gone into effect, until and unless approved by the electors, as hereinafter provided.

c. *Amendment of petition.* An initiative or referendum petition may be amended at any time within ten (10) days after the notification of insufficiency has been sent by the city secretary, by filing a supplementary petition upon additional papers signed and filed as provided in case of an original petition. The city secretary shall, within five (5) days after such an amendment is filed, make examination of the amended petition and, if the petition be still insufficient, he shall file his certificate to that effect in his office and notify the circulators of his findings and no further action shall be had on such insufficient petition.

d. *Refiling not prejudiced.* The finding of the insufficiency of a petition shall not prejudice the filing of a new petition for the same purpose.

6.04. Consideration of referendum or initiative by council.

Whenever city council receives a certified initiative or referendum petition from the city secretary, it shall proceed at once to consider such petition and shall take final action on it within sixty (60) days after the date on which it was submitted to council.

- a. *Initiative.* A proposed initiative ordinance shall be read and provision made for a public hearing on such before the time set for final action.
- b. *Referendum.* A referred ordinance shall be considered by council and its final vote upon such reconsideration shall be upon the question, "Shall the ordinance in the referendum petition be repealed?"

6.05. Election on referendum or initiative.

a. *Submission to electors.* If council shall fail to pass an ordinance proposed by initiative petition or shall pass it in a form different from that set forth in the petition therefor, or if council fails to repeal a referred ordinance, the proposed or referred ordinance shall be submitted to the electors on the next election day as established by the laws of the State of Texas. Council may, in its discretion, and if no regular election is to be held on such day shall, provide for a special election.

b. *Form of ballot.* Ordinances submitted to vote of electors in accordance with this article shall be submitted by ballot title, which shall be prepared in all cases by the city attorney. The ballot title may be different from the legal title of any such initiated or referred ordinance and shall be a clear, concise statement, without argument or prejudice, descriptive of the substance of such ordinance. Below the ballot title shall appear the following propositions, one preceding the other, in the order indicated: "FOR THE ORDINANCE" and "AGAINST THE ORDINANCE."

Any number of ordinances may be voted on at the same election and may be submitted on the same ballot, but any

paper ballot used for voting thereon shall be for that purpose only.

c. Results. 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. If conflicting ordinances are approved by the electors at the same election, the one receiving the greatest number of affirmative votes shall prevail to the extent of such conflict.

6.06. Amendment of initiative or referendum ordinances.

Initiative and referendum ordinances adopted or approved by the electors shall be published, and may be amended or repealed by council, as in the case of other ordinances.

6.07. Power of recall.

The mayor or any councilperson may be removed from office by recall.

No recall petition shall be filed against the mayor or a councilperson within six (6) months after he takes office nor in respect to an officer subjected to a recall election and not removed thereby, until at least six (6) months after such election.

6.08. Procedure for recall petition.

a. Affidavit. Any elector of the city may make and file with the city secretary an affidavit containing the name or names of the officer or officers whose removal is sought and a statement of the grounds for removal.

b. Petition blanks. Upon receipt of said affidavit, the city secretary shall deliver to said elector copies of petition blanks demanding such removal. The city secretary shall keep a sufficient number of printed petition blanks on hand for distribution. Such blanks when issued shall:

1. Be signed by the city secretary.

2. Be addressed to city council.
3. Be numbered and dated.
4. Indicate the name of the person to whom issued.
5. Indicate the name of the officer whose removal is sought.
6. Indicate the number of such blanks issued.

The city secretary shall enter in a record to be kept in his office the name of the elector to whom the petition blanks were issued and the number issued to said person.

c. Return of petition. To be effective, the recall petition must:

1. Be signed by qualified electors of the city equal in number to at least fifty (50) per cent of those who were qualified voters and voted on the date of the last regular municipal election, and at least one-half of the qualified voters constituting such fifty (50) per cent signing the petition shall make affidavit, to be filed with the petition, to the effect that they voted for the person whose recall is sought, in the election at which he was last elected.
2. Be returned and filed with the city secretary within thirty (30) days after the filing of the affidavit required in section 6.08a.

6.09. Recall election.

a. Submission. The city secretary shall at once examine the recall petition and, if he finds it sufficient and in compliance with the provisions of this article, he shall within five (5) days submit it to city council with his certificate to that effect and notify the officer sought to be recalled of such action. If the officer whose removal is sought does not resign within five (5) days after such notice, council shall thereupon order and fix a date for holding a recall election. Any such election shall be held at the next election day as established by the laws of the State of Texas.

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

1. With respect to each person whose removal is sought the question shall be submitted "Shall (name of person) be removed from the office of (name of office) by recall?"
2. Immediately below each such question there shall be printed the two (2) following propositions, one above the other, in the order indicated:
"For the recall of (name of person)"
"Against the recall of (name of person)."

c. *Results.* If a majority of the votes cast at a recall election shall be against the recall of the officer named on the ballot, he shall continue in office for the remainder of his unexpired term, subject to recall as before. If a majority of the votes at such an election be for the recall of the officer named on the ballot, he shall, regardless of any technical defects in the recall petition, be deemed removed from office and the vacancy shall be filled as in other vacancies.

6.10. District judge may order election.

Should city council fail or refuse to order any of the elections as provided for in this article, when all the requirements for such election have been complied with by the petitioning electors in conformity with this article of the Charter, then it shall be the duty of any one of the district judges of Harris County, Texas, upon proper application being made therefor, to order such elections and to enforce the carrying into effect of the provisions of this article of the Charter.

ARTICLE VII. FRANCHISES AND PUBLIC UTILITIES

7.01. Enfranchisement.

a. *Power of council.* City council shall have power by ordinance to grant, amend, renew and extend all franchises
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of all public utilities of every character operating within the city. All ordinances granting, amending, renewing or extending franchises for public utilities shall not be finally passed until thirty (30) days after the first reading; and no such ordinance shall take effect until sixty (60) days after its final passage; and pending such time, the notice and caption of such ordinance, noting the place where the full text may be examined by the public, shall be published once each week for four (4) consecutive weeks in the official newspaper of the city, and the expense of such publication [is] to be borne by the proponent of the franchise. No public utility franchise shall be transferable except with the approval of council expressed by ordinance.

b. *Extensions.* All extensions of public utilities within the city limits shall become a part of the aggregate property of the public utilities, 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 7.02a. 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.

c. *Other conditions.* All franchises heretofore granted are recognized as contracts between the city and the grantee, and the contractual right as contained in any such franchises shall not be impaired by the provisions of this Charter, except that the power of the city to exercise the right of eminent domain in the acquisition of any utility property is in all things reserved, and except the general power of the city heretofore existing and herein provided for to regulate the rates and services of the grantee which shall include the right 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.

Every public utility franchise hereafter granted shall be held subject to all the terms and conditions contained in the

various sections of this article whether or not such terms are specifically mentioned in the franchise.

When the city chooses to exercise its power of eminent domain to acquire any public utility, the procedure to be used in such acquisition shall be as set forth in Revised Civil Statutes of Texas, Articles 3264 through 3271, inclusive. In valuing the property, the measure of damages shall be the fair market value of the physical properties taken together as one system. This power shall be in addition to and cumulative of any other powers of acquisition granted to or reserved by the city in a franchise ordinance.

Prior to the purchase of any existing franchised utility system, either according to the terms of the franchise or by eminent domain, city council shall submit the question of purchase to the voters of the city, and such must be approved by a majority of those voting.

Nothing in this Charter shall operate to limit in any way, as specifically stated, the discretion of council or the electors of the city in imposing terms and conditions as may be reasonable in connection with any franchise grant.

7.02. Regulation.

a. *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:

1. 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.
2. To require an adequate extension of plant and service, and the maintenance of the plant and fixtures at the highest reasonable standard of efficiency.

3. To establish reasonable standards of service and quality of products and prevent unjust discrimination in service of rates.
4. To prescribe the form of accounts kept by such utility. If the franchise does not prescribe the form of accounts kept by a utility, then it shall keep its accounts in accordance with the utility system of accounts for said utility prescribed by the appropriate state and federal utility regulatory agencies.
5. To examine and audit the accounts and other records of any such utility at any time and to require annual and other reports, including reports on local operations by each such public utility.
6. To impose such reasonable regulations and restrictions as may be deemed desirable or conducive to the safety, welfare and accommodation of the public.
7. To at any time require such compensation and rental as may be permitted by the laws of the State of Texas.

b. *Regulation of rates and service.* Council shall have full power, after due notice and hearing, to regulate by ordinance the rates and service of every public utility operating within the city. Such power shall be subject to the exercise of power in each area of each utility by the appropriate agencies of state and federal government.

7.03. 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 in the city.

The city shall compile and maintain a public record of public utility franchises.

7.04. Accounts of municipality-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 revenues, operating expenses, including depreciation, interest payments, rental and other disposition 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 the 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. City council shall annually cause to be made by a licensed certified public accountant and shall publish a report showing the financial results of such city ownership and operation, giving the information specified in this section or such data as council shall deem expedient, in accordance with section 5.08.

7.05. Franchise value disallowed.

The value of the franchise granted by the city shall not be included in fixing reasonable rates and charges for utility service within the city or in determining the just compensation to be paid by the city for public utility property which may be acquired by eminent domain or otherwise.

7.06. Consent of property owners.

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

ARTICLE VIII. GENERAL PROVISIONS**8.01. Publicity of records.**

All records and accounts of every office, department or agency of the city shall be open to inspection by any person, any representative of a citizen's organization or any representative of the press during normal business hours, as provided in the Texas Open Records Act, Revised Civil Statutes Article 6252-17a.

8.02. Employers and officers.

a. *Personal financial interest.* No member of city council or any officer or employee of the city shall have a financial interest, direct or indirect or by reason of ownership of stock in any corporation, in any contract or in the sale to the city, or to a contractor supplying the city, of any lands or rights of interests in any land, material, supplies or service. Any willful violation of this section shall constitute malfeasance in office, and any officer or employee of the city found guilty thereof shall thereby forfeit his office or position. Any violation of this section with the knowledge expressed or implied of the person or corporation contracting with the city shall render the contract voidable by council.

b. *Employment interest.* No one who has been elected to city office shall be employed in a nonelective office by the city within the term for which he was elected or for one year thereafter.

c. *Nepotism.* No person related, within the second degree by affinity or within the third degree by consanguinity, to the mayor or any councilperson or to the city manager shall be employed or appointed to any office, position or clerkship of the city. This prohibition shall not apply, however, to any person who shall have been employed for two (2) years or more by the city at the time of the election or appointment of the officer to whom he is related.

d. *Bonds.* Council shall require bonds of all municipal officers and employees who receive or pay out any monies of the city. The amount of such bonds shall be determined by

council and the cost thereof borne by the city. Council shall set the bond amount for the city manager and the director of finance at an amount not less than ten thousand dollars (\$10,000.00).

e. Oath of office.

1. *Elected officers.* Every elected officer of the city shall, before entering upon the duties of his office, take and subscribe to the following oath or affirmation, to be filed and kept in the office of the city secretary:

“I, _____, do solemnly swear (or affirm), that I will faithfully execute the duties of the office of _____ of the City of La Porte, State of Texas, and will to the best of my ability preserve, protect and defend the constitution and laws of the United States and of this state and the Charter and ordinances of this city; and I furthermore solemnly swear (or affirm) that I have not directly or indirectly paid, offered, or promised to contribute any money, or valuable thing, or promised any public office or employment, as a reward for the giving or withholding a vote at the election at which I was elected. So help me God.”

2. *Appointed officers.* Every appointed officer of the city shall, before entering upon the duties of his office, take and subscribe to the following oath or affirmation, to be filed and kept in the office of the city secretary:

“I, _____, do solemnly swear (or affirm), that I will faithfully execute the duties of the office of _____ of the City of La Porte, State of Texas, and will to the best of my ability preserve, protect and defend the constitution and laws of the United States and of this state and the Charter and ordinances of this city; and I furthermore solemnly swear (or affirm) that I have not directly or indirectly paid, offered, or promised to contribute any money, or valuable

thing, or promised any public office^{or} of employment, as a reward to secure my appointment or the confirmation thereof. So help me God."

f. *Discharge.* Council shall be authorized to discharge at any time, with or without a hearing, as council may elect, any officer, employee or clerk which it appoints.

The city manager shall be authorized to discharge at any time, with or without a hearing, as the city manager may elect, any officer, employee or clerk which he appoints.

g. *Injuries; insurance.* City council shall have authority to provide the rules and regulations for maintaining employees when injured and disabled while performing their duties, and it may provide for such plan of insurance as it deems proper.

h. *Pensions.* City council may establish a pension plan for any employee who has been employed by the city for twenty (20) years and who shall have reached the age of fifty-five (55), or may adopt in lieu thereof any pension system available to cities under state law. The amount of said pension shall be graded and proportioned to the average salary received by the employee during the whole period of his employment. All those falling under the head of employees in this Charter and who are employed by the city when the same takes effect shall be entitled to a credit for the years of service heretofore served; provided, however, that any payment under this provision shall never constitute a waiver or stop the city from asserting any defenses it might have under section 1.06.

8.03. Assignment, execution and garnishment of city property.

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

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

8.04. City not required to give security or execute bond.

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

8.05. Effect of this Charter on existing law.

All ordinances, resolutions, rules and regulations now in force under the city government of the city and not in conflict with the provisions of this Charter shall remain in force under this Charter until altered, amended or repealed by city council after this Charter takes effect; and all rights of the city under existing franchises and contracts are preserved in full force and effect to the city, and any unissued bonds and revenue bonds, or installments thereof, heretofore authorized at an election held in said city shall not be affected by the adoption of this Charter, but the right to sell, issue and deliver same, in whole or in part, in keeping with the provisions of the laws under which they were voted is hereby expressly reserved.

8.06. Amending this Charter.

a. Amendments may be proposed and submitted to the electors of the city by ordinance passed by a majority vote of the full membership of city council or by a petition signed by qualified voters of the city in number not less than five (5) per cent thereof or twenty thousand (20,000) signatures,

whichever is less. Such petition shall in all other respects conform to the provisions of Article VI.

When a properly drawn petition has been duly filed, council shall provide by ordinance for submitting such proposed amendments to a vote of the electors at an election to be held not less than thirty (30) days nor more than ninety (90) days after the passage of said ordinance. If the next regular municipal election is to be held during said period, the submission of said amendment or amendments shall be at such election. Otherwise, a special election shall be called for the purpose. Notice of the election shall be given by publication thereof in the official newspaper on the same day in each of two (2) successive weeks; the date of the first publication to be not less than fourteen (14) days prior to the date set for said election. The form of such notice shall be as prescribed by this Charter, including a substantial copy of the proposed amendment or amendments.

Each amendment submitted shall contain only one subject and shall be printed separately on the ballot, each proposed amendment being followed by designations for the voter to vote for the amendment or against the amendment.

Each proposed amendment, if approved by the majority of the qualified voters voting at said election, shall become a part of the Charter. The city secretary shall enter notice into the records of the city declaring the same adopted.

b. This section is subject to the provisions of Revised Civil Statutes of Texas Annotated, Article 1170, and Election Code, Article 2.01 et seq.

8.07. Severability clause.

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

meaning and effect with the section or part of section to which such holding shall directly apply.

8.08. References to laws.

All references within this Charter to laws of the State of Texas or of the United States are to be construed as meaning such laws as now or hereafter amended or superseded.

8.09. Approval of this Charter.

a. *Copies to electors.* In not less than thirty (30) days prior to the election provided in subsection b., the city commission shall cause the city clerk to mail a copy of this Charter to each qualified voter of the city, as listed on the current voter registration list.

b. *Submission of Charter to electors.* The charter committee in preparing this comprehensive Charter amendment 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 the comprehensive amendment be adopted in its entirety. For these reasons the charter committee directs that said amended Charter be voted upon as a whole and that it shall be submitted to the qualified voters of the city at an election to be held for that purpose on the 9th day of August, 1980.

The form of ballot to be used in such election shall be as follows:

**FOR THE ADOPTION OF THE AMENDED CHARTER.
AGAINST THE ADOPTION OF THE AMENDED
CHARTER.**

c. *Results of vote for adoption.* If a majority of the qualified electors voting in such election shall vote in favor of the adoption of the Charter, and after the returns have been canvassed, the city clerk shall file an official copy of the Charter with the records of the city. The city commission shall at its next meeting declare this Charter adopted. The

clerk 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.

8.10. Provisions for transition.

a. Tenure of officers during transition. From and after the date of the adoption of this Charter and until the completion of the first election under this Charter to be held on the first Saturday in April, 1981, and the qualification of the councilpersons therein elected, the present qualified and acting commissioners and mayor shall constitute city council. Such city council shall possess all the powers provided by this Charter.

After said election and until the election to be held on the first Saturday in April, 1982, and the qualification of the councilpersons and mayor therein elected, the present qualified and acting commissioner—Position 2 shall serve as councilperson-at-large—Position A; the present qualified and acting commissioner—Position 4 shall serve as councilperson-at-large—Position B; and the present qualified and acting mayor shall serve as mayor. These councilpersons and mayor, along with the councilpersons elected and qualified as provided in subsection b, below, shall, for the duration of their terms of office, compose city council and shall possess all the powers provided by this Charter.

b. Original election of mayor and councilpersons. Councilpersons representing districts shall be elected at the election to be held on the first Saturday in April, 1981, for terms of office as follows:

- Councilperson—District 1, three-year term
- Councilperson—District 2, one-year term
- Councilperson—District 3, one-year term
- Councilperson—District 4, two-year term
- Councilperson—District 5, two-year term
- Councilperson—District 6, three-year term.

Councilpersons-at-large and the mayor shall be elected at the election to be held on the first Saturday in April, 1982, for terms of offices as follows:

Councilperson-at-large—Position A, one-year term

Councilperson-at-large—Position B, two-year term

Mayor, three-year term.

Following these terms of office, all councilpersons and the mayor shall be elected to three-year terms, according to the provisions of Article II of this Charter.

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CHARTER REVIEW COMMITTEE

1. Made up of citizens and community leaders. The City Secretary is the recording secretary and chairperson.
2. Questionnaires are mailed with copies of the present charter to all Department Directors, City Attorney and all City Commission members. When City Secretary receives answers these are brought to staff for review and discussion.
3. Post in the local newspaper and ask for public input for suggested additions or changes for the City Charter.
4. After the Charter Review Committee is appointed break down into committees taking covering each suggested amendments.
5. **HOLD ALL OPEN MEETINGS WITH A POSTED AGENDA AND MEETING NOTICE. POST MEETING NOTICE IN NEWSPAPER.**
6. Process will probably take at least six (6) months to complete before a ballot can be agreed upon.
7. Charter Amendment Election will have to be called following all election laws.

CHARTER

CITY OF

LA PORTE, TEXAS

This pamphlet is a reprint of the Charter of the City of La Porte, Texas, published by order of the City Council.



MUNICIPAL CODE CORPORATION

Tallahassee, Fla.

1985

CHARTER*

- Art. I. Incorporation; City Powers, §§ 1.01—1.06
- Art. II. City Council, §§ 2.01—2.11
- Art. III. Administration, §§ 3.01—3.05
- Art. IV. Budget, §§ 4.01—4.06
- Art. V. Finance Administration, §§ 5.01—5.08
- Art. VI. Initiative, Referendum and Recall, §§ 6.01—6.10
- Art. VII. Franchises and Public Utilities, §§ 7.01—7.06
- Art. VIII. General Provisions, §§ 8.01—8.10

ARTICLE I. INCORPORATION; CITY POWERS

1.01. Incorporation.

The inhabitants of the City of La Porte within the boundaries as now established or as hereafter established in the manner provided by law shall continue to be a body politic and corporate and be known by the name of the City of La Porte.

1.02. City boundaries.

The boundaries and limits of the city shall be the same as have heretofore been established and now exist, which boundaries and limits were originally shown on the map recorded in Volume 8, Page 16, Map Records of Harris County, Texas, and as modified by subsequent annexations and disannexations.

1.03. Modification of city boundaries.

The city council shall have power by ordinance to fix the boundary limits of the city and to provide by ordinance for the extension of said boundary limits, by the annexation of

*Editor's note—The home rule Charter of La Porte, as adopted at referendum Aug. 23, 1980, is included herein, substantially as enacted. A uniform style of capitalization, punctuation and indention has been employed, in a format similar to that of the Code portion of this volume, but no substantive changes have been made. Obvious typographical errors have been corrected.

As amendments are enacted, they will be denoted by adding an historical citation, in parentheses, at the end of the affected section.

additional territory lying adjacent to the city, the disannexation of territory within the city and the exchange of territory with other cities and towns, all with or without the consent of the inhabitants in such territory or the owners thereof; provided that the foregoing powers shall be exercised by the council in a manner consistent with, and the council shall comply with, the procedural rules, requirements and limitations prescribed by any law applicable to cities operating under charters adopted or amended pursuant to Article XI, Section 5 of the Constitution of the State of Texas, otherwise known as home rule cities, including Revised Civil Statutes of Texas Article 907a (Municipal Annexation Act). The following methods of annexation may be used:

- (a) *Petition.* The residents of any land contiguous and adjacent to the city may request the annexation of such land. Such request shall be made by a petition in writing which is signed by a majority of the residents of such land, addressed to city council and filed with the city secretary. Within thirty (30) days of the filing of such petition, city council shall hear the petition and any arguments for or against it and shall accept or refuse the petition as council sees fit. If the petition is accepted, council shall by proper ordinance annex such land.
- (b) *Otherwise.* The city may annex territory by use of any of the means provided in Revised Civil Statutes of Texas Article 907a (Municipal Annexation Act).

1.04. Form of government.

The governing body of the city shall be a council composed of the mayor and eight (8) councilpersons, to be known as the city council of the City of La Porte, hereinafter called city council. The members of city council shall be elected from the city in the manner prescribed elsewhere in this Charter.

1.05. Powers of the city.

a. *Generally.* The city shall have all the powers granted to municipal corporations and to cities by the Constitution and laws of the State of Texas together with all the implied powers necessary to carry into execution the powers granted. The city may acquire property within or without its corporate limits for any city purpose in fee-simple title or any lesser interest or estate by purchase, gift, devise, lease or condemnation and may sell, lease, exchange, mortgage, hold, manage and control such property as its interest may require; and, except as prohibited by the Constitution of this state or restricted by the Charter, the city may exercise all municipal powers, functions, rights, privileges and immunities of every name and nature whatsoever. The city may use a corporate seal; may sue and be sued; may contract; may implead and be impleaded in all courts concerning all matters; may cooperate with the government of the United States and of the State of Texas or any agency or political subdivision thereof to accomplish any lawful purpose; and may pass such ordinances as may be expedient for maintaining the city's peace and welfare and for the performance of its functions.

b. *Enumerated powers.* Without limitation of the foregoing powers, the following are enumerated for greater certainty:

1. *Eminent domain.* The city shall have the full power and right to exercise the power of eminent domain when necessary or desirable to carry out any of the powers conferred upon it by this Charter or by the Constitution and laws of the State of Texas. This power shall include the power to acquire any public utility operating with or without a franchise and furnishing a public service. The city may exercise its condemnation power in any manner authorized or permitted by the constitution and laws of this state. The power of eminent domain hereby conferred shall include the right of the city to take fee-simple title in land so condemned and such power and authority shall include the right to condemn property for such purposes. The city shall have and possess the power

of condemnation for any municipal or public purposes even though not specifically enumerated in this Charter.

2. Streets.

(a) *Powers.* The city shall have the power to lay out, establish, open, alter, widen, lower, extend, grade, abandon, discontinue, abolish, close, care for, pave, supervise, maintain and improve streets, alleys, sidewalks, parks, squares, public places and bridges; and regulate the use thereof and require the removal from streets, sidewalks, alleys and other public property or places of all obstructions and all vendors, showcases and encroachments of every nature or character upon any of said streets and sidewalks.

(b) *Improvements.* The city shall have exclusive dominion, control and jurisdiction in, upon and over and under the public streets, avenues, alleys and highways of the city, and may provide for the improvement thereof of paving, repaving, raising, draining or otherwise. The provisions of Revised Civil Statutes of Texas, Article 1105b are expressly adopted and made a part of this Charter. Such exclusive dominion, control and jurisdiction in, upon, over and under the public streets, avenues, alleys and highways of the city shall also include, but not be limited to, the right to regulate, locate, relocate, remove, or prohibit the location of all utility pipes, lines, wires or other property.

3. Sanitary sewer system. The city shall have the power to provide for a sanitary sewer system and to require property owners to connect their premises with such sewer system, to provide for fixing penalties for failure to make sanitary sewer connections; and shall further have the right to fix charges and compensation to be charged by the city for sewerage service, providing rules and regulations for the collection thereof, and to provide for rendering a lien against any property

owner's premises who fails or refuses to make sanitary sewer connections after due notice and to charge a cost against said owner and make it a personal liability.

4. *Garbage disposal.* City council shall by ordinance adopt and prescribe rules and regulations for the handling and disposition of all garbage, trash and rubbish within the city and shall fix charges and compensation to be charged by the city for the removal of garbage, trash and rubbish, providing rules and regulations of the collection thereof.
5. *Nuisances, etc.* The city shall have the power to define all nuisances and prohibit the same within the city and outside the city limits for a distance of five thousand (5,000) feet; have power to police all parks or grounds, speedways, or boulevards owned by said city and lying outside of said city, to prohibit the pollution of any stream, drain or tributaries thereof, which may constitute the source of water supply of any city and to provide for policing the same as well as to provide for the protection of any watersheds and the policing of same, to inspect dairies, slaughter pens, and slaughterhouses inside and outside the limits of the city, from which meat or milk is furnished to the inhabitants of the city.

c. General powers adopted. The enumeration of the particular powers in this Charter shall not be held or deemed to be exclusive but in addition to the powers enumerated herein or implied hereby or appropriate to the exercise of such powers; the city shall have and may exercise all power of local self-government and all other powers which, under the Constitution and laws of the State of Texas, it would be competent for this Charter specifically to enumerate. The city shall have and may exercise all the powers enumerated in Revised Civil Statutes of Texas, Article 1175.

1.06. Special provisions for damage suits.

Before the city shall be liable to damage claim or suit for personal injury or death or damage to property, the person who is injured or whose property is damaged or someone in his behalf or his personal representative in cases of death shall give the city secretary notice in writing within thirty (30) days after the occurring of the alleged injury, death or damage stating specifically in such notice when, where and how the injury, death or damage was sustained and setting forth the extent of the injury or damage as accurately as possible, and giving the names and addresses of all witnesses upon whose testimony such person is relying to establish the injury, death or damage. No action at law for damage shall be brought against the city for personal injury, death or damage to property prior to the expiration of sixty (60) days after the notice hereinabove described has been filed with the city secretary. After the expiration of sixty (60) days aforementioned, the complainant may then have two (2) years in which to bring an action of law.

ARTICLE II. CITY COUNCIL**2.01. Composition of city council.**

a. Members of council. City council shall be composed of a mayor and eight (8) councilpersons. The positions of councilpersons shall be designated as follows:

Councilperson—District 1
Councilperson—District 2
Councilperson—District 3
Councilperson—District 4
Councilperson—District 5
Councilperson—District 6
Councilperson-at-large—Position A
Councilperson-at-large—Position B.

The mayor and the two (2) councilpersons-at-large shall be elected by a majority vote of the city at large. The city shall be divided, as described below in subsection b, into six

(6) districts, Districts 1, 2, 3, 4, 5 and 6, and one councilperson shall be elected from each district by majority vote of the resident voters of such district.

b. Formation of districts. City council shall divide the city into six (6) districts which are reasonably compact, contiguous and of as nearly equal population as practicable.

It shall be the duty of city council to establish the boundaries of six (6) districts covering the entire city for the purpose of electing district councilpersons. Such boundaries shall be established by ordinance, which shall be final for purposes of this Charter. The first such establishment shall be made as soon as practicable prior to the first city election following adoption of this section. Any subsequent establishment shall be made when required by this Charter.

Promptly following the addition of territory to the city by a boundary change, the city council shall, by ordinance, add such territory to an adjacent district or districts.

Immediately following publication of the 1980 federal census, and at least every five (5) years thereafter, city council shall conduct an investigation and determine the population of the city and the population of each of the districts from which district councilpersons are to be elected. Each such determination shall be based upon the best available data, including, but not limited to, the most recent federal census. Each such determination shall be expressed in an ordinance, which shall be a final determination for purposes of this Charter.

After any such determination, if the distribution of population among the various districts is determined by city council to be materially unbalanced, the city council shall establish new boundaries for the election of district councilpersons.

c. Election. All candidates for city council shall be voted on and elected separately for positions and districts on said city council, and each candidate shall be designated on the official ballot according to the title of such position or district to which he seeks election.

Any candidate for office receiving a majority of all the votes cast for the office for which he is a candidate shall be elected to such office. In the event any candidate for any office fails to receive a majority of all votes cast for all the candidates for such office, the city council shall call a run-off election to be held not less than twenty-one (21) days nor more than thirty (30) days after the regular election, at which run-off election the two (2) candidates receiving the highest number of votes shall be voted for again. In the event of a tie in the vote for the two (2) leading candidates, at the regular election, the city council shall hold a second election not less than twenty-one (21) days nor more than thirty (30) days after the regular election, at which said second election the candidates receiving such tie votes shall be voted for again.

d. *Term of office.* The mayor and councilpersons shall each hold their respective offices for a term of three (3) years and until their successors shall have been elected and duly qualified.

2.02. Qualifications.

a. *Enumerated.* The mayor and councilpersons shall be resident electors of the city at the time of filing for office, and continuously during their terms of office. A district councilperson shall also be a resident of his district at the time of filing for office and continuously during his term of office.

b. *Council to be judge of members' qualifications.* City council shall be the judge of the election and qualifications of its members and for such purpose shall have power to subpoena witnesses and require the production of records, but the decision of council in any such case shall be subject to review by the courts.

2.03. Conduct of elections.

a. *Regulations.* All city elections shall be governed by the laws of the State of Texas. In the event there should be any failure of the general laws or this Charter to provide for

some feature of the city elections, city council shall have the power to provide for such deficiency, making all regulations it considers desirable, not inconsistent with the laws of the State of Texas, for the prevention of fraud in such elections and for the recount of ballots in case of doubt or fraud.

Municipal elections shall be conducted by the appointed election authorities, who shall also have power to make such regulations not inconsistent with this Charter, with any regulations made by council or the laws of the State of Texas.

No informalities in conducting a city election shall invalidate the same, if it be conducted fairly and in substantial compliance with the general laws, where applicable, and the Charter and ordinances of the city.

b. *Schedule.*

1. *Regular election.* The regular election for choice of members of council shall be held annually on the first Saturday of April.
2. *Special election.* Council may by ordinance or resolution order a special election, fix the time for holding same and provide necessary means.

2.04. Vacancies in city council.

a. *Candidacy elsewhere.* If the mayor or any council person shall announce his candidacy, or shall in fact become a candidate, in any general, special or primary election for any office of profit or trust under this Charter or the laws of Texas or the United States, other than the office he has held, at any time when the unexpired term of the office then held shall exceed one year, such announcement or such candidacy shall constitute an automatic resignation of the office then held.

b. *Procedure.* When a vacancy occurs for any reason in the office of mayor or councilperson, council shall call a special election within one hundred twenty (120) days. At said election the vacant office or offices shall be filled under the provisions of this Charter.

c. *Filing for office.* Each candidate for public office must:

1. Be a qualified voter in the city.
2. File sworn application with the city secretary at least thirty (30) days prior to the election date.
3. Post the required filing fee:

For mayor: Not to exceed the sum of one hundred dollars (\$100.00).

For councilperson: Not to exceed the sum of fifty dollars (\$50.00).

The filing fees shall be used to defray the cost of the election and said fee shall be prorated and any surplus shall be refunded to said candidates.

In lieu of posting such fee, a candidate may submit a petition requesting that his name be placed on the ballot. Said petition shall bear a number of signatures of qualified electors who are residents of the city, which number shall not be less than five (5) per cent of the total vote cast at the most recent regular election in which a councilperson was elected or fifty (50), whichever is the lesser number. Each signer shall indicate his address and the number and county of his voter registration certificate.

4. File for only one city office.

d. *Official ballots.* The full names of all candidates for mayor or council as hereinbefore provided, except such as may have withdrawn, died or become ineligible, shall be printed on the official ballots without party designations. If two (2) candidates with the same surnames, or with names so similar as to be likely to cause confusion, file for office, their occupations or the addresses of their places of residence shall be placed with their names on the ballots. The order of the names on the ballot shall be determined by lot.

e. *Canvassing elections.* Returns of the elections, general and special, shall be made by the election officers to council

promptly following said election, at which time council shall canvass and declare the results of such election.

2.05. Compensation.

Each councilperson and the mayor shall receive for his services a salary in an amount determined by the council, not to exceed the sum of twenty-four hundred dollars (\$2,400.00) per year for the mayor, and twelve hundred dollars (\$1,200.00) per year for each councilperson.

2.06. Original meeting of new council.

On the first Monday next following the regular municipal election held on the first Saturday of April, or as soon thereafter as practicable, city council shall meet at the usual place for holding meetings, and the newly elected members shall qualify and assume the duties of office. At such meeting council shall select one of its members to serve as mayor pro tem, who shall serve for a one year term and until his successor is appointed and has qualified.

2.07. Meetings.

a. *Frequency.* City council shall meet regularly at such times as may be prescribed by its rules but not less frequently than once each month. All meetings of council shall be open to the public; special meetings shall be called by the city secretary upon request of the mayor or three (3) councilpersons.

b. *Rules.* City council shall determine its own rules and order of business.

c. *Journal.* City council shall keep a journal of its proceedings. Such journal shall be open to public inspection.

2.08. Duties of mayor.

The mayor shall preside at meetings of council and shall be entitled to vote upon all matters it considers. The mayor shall exercise such other powers and perform such other duties as are or may be conferred and imposed upon him by

this Charter and the ordinances of the city. He shall be recognized as the head of the city government for all ceremonial purposes, by the courts for civil process, and by the government for purposes of military law. In times of public danger or emergency, the mayor shall take command of the police, maintain order and enforce the law. If a vacancy occurs in the office of mayor or in the case of his absence or disability, the mayor pro tem shall act as mayor until a successor is elected and has qualified or until the mayor is again able to assume his duties of office.

2.09. Powers of council.

All powers of the city and the determination of all matters of policy shall be vested in city council. Council shall execute the laws and administer the government of the city. Without limitation of the foregoing and among the other powers that may be exercised by council, the following are hereby enumerated for greater certainty:

- a. Adopt budget of the city.
- b. Authorize the issuance of bonds by a bond ordinance.
- c. Inquire into the conduct of any office, department, agency or officer of the city and make investigations as to municipal affairs, and for that purpose may subpoena witnesses, administer oaths, and compel the production of books, papers and other evidence. Failure to obey such subpoena or to produce books, papers or other evidence as ordered under the provisions of this section shall constitute a misdemeanor and shall be punishable by fine. Council shall enact an ordinance to enforce this provision.
- d. Establish and appoint the members of the planning commission.
- e. Adopt plats.
- f. Adopt and modify the official map of the city.
- g. Adopt, modify and carry out plans proposed by the planning commission for the clearance of slum districts and rehabilitation of blighted areas.

- h. Adopt, modify and carry out plans proposed by the planning commission for the replanning, improvement and redevelopment of neighborhoods and for the replanning, reconstruction or redevelopment of any area or district which may have been destroyed in whole or in part by disaster.
- i. Provide for the establishment and designation of fire limits and to prescribe the kind and character of buildings or structures or improvements to be erected therein, and to provide for the erection of fireproof buildings within certain limits, and to provide for the condemnation of dangerous structures or buildings or dilapidated buildings calculated to increase the fire hazard and the manner of their removal or destruction.
- j. Approve assessment rolls as returned to it by the board of equalization and adopt same as the assessment rolls to be used for the collection of taxes for the current year.
- k. Control and distribute all contingent appropriations. Expenditures from a contingent appropriation shall require prior approval of council. A contingent appropriation shall be disbursed only by transfer to a departmental appropriation, the spending of which shall be charged to the department or activity for which the appropriation is made.

2.10. Additional discretionary powers.

In addition to the above powers and without limitation of such, city council shall have the power to, and may at its discretion, do any or all of the following:

- a. *Public library.* Council shall have the authority to establish and maintain a free public library within the city and to cooperate with any person, firm, association or corporation under such terms as council may prescribe for the establishment of such free public library. For budget purposes, the library shall be considered as a department of the city and the

appropriations therefor shall comply with all the budgetary requirements as outlined in this Charter and as may be prescribed from time to time by council.

b. *Hospital.*

1. *Operation.* The city shall have the authority to acquire, establish and own, either by purchase, donations, bequest or otherwise, all property that may be useful or necessary for the purpose of establishing and maintaining a municipal hospital. Upon establishment of such hospital, council shall create a hospital board with membership and compensation deemed appropriate by council, which shall operate the hospital subject only to such direction and supervision as shall be contained in any ordinance or ordinances enacted by council.
2. *Finances.* All funds belonging to said hospital, whether classed as funds received in course of operation, or otherwise, shall be kept in a separate hospital fund to be used only for the operation and maintenance of said hospital, except that such funds may be used by the city for general operating purposes with the express consent of the hospital board.

The hospital board shall submit a quarterly operating statement to council, and an annual audit to coincide with the fiscal year of the city.

c. *Zoning.*

1. *Power.* For the purposes of promoting the health, safety, morals or general welfare of the city, council may by ordinance regulate the location, height, bulk and size of buildings and other structures, the size of yards, courts and other open spaces, the density of population and the uses of buildings, structures and land for trade, industry, business, residence and other purposes.

2. *Procedure.* Should council enact regulations under subsection 1. above, it shall establish a zoning commission and may establish a zoning board of adjustment.

(a) *Zoning commission.*

- (1) The zoning commission shall recommend to council the location of zoning districts and restrictions therein, and shall hold public meetings on such recommendations.
- (2) Commission members shall receive such compensation as council may deem appropriate.
- (3) Council may combine the duties of said commission with the duties of the planning commission, as provided in section 2.09 e through j, to form a planning and zoning commission.

(b) *Zoning board of adjustment.*

- (1) The zoning board of adjustment may, in appropriate cases and subject to appropriate conditions and safeguards, make special exceptions to the terms of a zoning ordinance in harmony with its general purpose and intent and in accordance with general or specific rules therein contained.
- (2) Board members shall receive such compensation as council may deem appropriate.

3. *Generally.* All of the powers granted by Revised Civil Statutes of Texas, Articles 1011a. to 1011j., inclusive, relating to zoning in cities, are hereby adopted and made a part of this Charter.

- d. *Housing authority.* Council may create a housing authority of such number, terms and compensation of

members as council may determine and may delegate to the housing authority such powers relating to the planning, construction, reconstruction, alteration, repair, maintenance or operation of housing projects and housing accommodations as council may determine.

2.11. Ordinances.

a. *Passage.*

- 1. *Procedure.*** Every ordinance shall be introduced in written or printed form, and, upon passage, shall take effect at the time indicated therein; provided that any ordinance imposing a penalty, fine or forfeiture for a violation of its provisions shall become effective not less than ten (10) days from the date of its passage. The city secretary shall give notice of the passage of every ordinance imposing a penalty, fine or forfeiture for a violation of the provisions thereof, by causing the caption or title, including the penalty, of any such ordinance to be published in the official newspaper in the city at least once within ten (10) days of its passage according to the provisions of Revised Civil Statutes, Article 1013. He shall note on every ordinance, the caption of which is hereby required to be published, and on the record thereof, the fact that same has been published as required by the Charter, and the date of such publication and promulgation of such ordinance; provided, that the provisions of this section shall not apply to the correction, amendment, revision and modification of the ordinances of the city for publication in book or pamphlet form. Except as otherwise provided in Article VII of this Charter, it shall not be necessary to the validity of any ordinance that it shall be read more than one time or considered at more than one session of city council. Every ordinance shall be authenticated by the signature of the mayor and city secretary and shall be systematically recorded in an ordinance book in a manner approved by council. It shall only be necessary to

record the caption or title of ordinances in the minutes of journal of council meetings.

2. *Codifications.* Council shall have power to cause the ordinances of the city to be corrected, amended, revised, codified and printed in code form as often as council deems advisable. Such printed code, when adopted by council, shall be in full force and effect without the necessity of publishing the same or any part thereof in a newspaper and shall be admitted in evidence in all courts and places without further proof.

b. *Additional ordinances.* In addition to such acts of council as are required by statute or by this Charter to be by ordinance, every act of council establishing a fine or other penalty or providing for the expenditure of funds or for the contracting of indebtedness shall be by ordinance.

c. *Enacting clause.* The enacting clause of all ordinances shall be "BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LA PORTE."

ARTICLE III. ADMINISTRATION

3.01. City manager.

a. *Appointment and qualifications.* City council shall appoint a city manager, who shall be chosen solely on the basis of his executive and administrative training, experience and ability. No member of city council shall, during the term for which he is elected and for one year thereafter, be appointed city manager.

b. *Term and salary.* The city manager may be appointed and removed at the will and pleasure of city council by a vote of the majority of the entire city council. The action of city council in suspending or removing the city manager shall be final, it being the intention of this Charter to vest all authority and fix all responsibility of such action in city council.

Council shall set a salary for the city manager as it deems appropriate.

c. Duties. Except as provided elsewhere in this Charter, the city manager shall be the chief executive officer and head of the administrative branch of the city government. He shall be responsible to the council for the proper administration of all affairs of the city and to that end he shall have power and be required to:

1. Devote all his working time and attention to the affairs of the city.
2. Appoint and, when necessary for the good of the city, remove all city officers and employees except those for which this Charter provides otherwise. He may authorize the head of a department to appoint and remove subordinates in such department.
3. Prepare the budget annually, submit it to council and be responsible for its administration after adoption.
4. Prepare and submit to council, as of the end of the fiscal year, a complete report on the finances and administrative activities of the city for the preceding year.
5. Keep council advised of the financial condition and future needs of the city and make such recommendations as may seem to him desirable.
6. Perform such other duties as may be prescribed by this Charter or required of him by the council, not inconsistent with this Charter.

d. Provisions for absence. Within thirty (30) days after taking office, the city manager shall designate by letter filed with the city secretary a qualified administrative officer of the city to perform his duties during his temporary absence or disability. Upon receipt of said letter, the city secretary shall advise council of its contents. Said letter shall be in force and effect for the duration of the city manager's employ or until he files another such letter.

3.02. Administrative departments.

a. *Creation.* There are hereby created the following administrative departments: Finance, police, fire, law, public works, health, parks and recreation, and water and sewer.

Council may by ordinance create or abolish offices, departments or agencies other than the offices, departments or agencies established by this Charter.

b. *Consolidaton.* Council may consolidate or redesignate any of the offices, departments and agencies.

c. *Directors.* The city manager shall appoint a director to supervise and control each department. When necessary for the good of the city, the city manager may remove any such director. Such director shall be an officer of the city and shall have supervision and control of his department, subject to the supervision of the city manager. Two (2) or more departments may be headed by the same individual, and directors of departments may also serve as chiefs of divisions. The city manager may head one or more departments.

d. *Divisions.* The work of each administrative department may be distributed among such divisions thereof as may be established by ordinance or this Charter.

3.03. City secretary.

With the advice and consent of city council, the city manager shall appoint a competent person to be secretary of the city. The city secretary shall:

- a. Give notice of council meetings.
- b. Authenticate by his signature and record in full in a book kept and indexed for the purpose all ordinances and resolutions.
- c. Perform such other duties as may be assigned to him by council or elsewhere in this Charter.

3.04. Municipal court.

a. *Establishment.* There shall be established and maintained a municipal court with all powers and duties as

are now, or may hereafter be, prescribed by the laws of the State of Texas for municipal courts.

b. *Municipal judge.* City council shall appoint a competent attorney, duly licensed by the State of Texas, to be judge of the municipal court. He shall serve at the pleasure of council and shall receive compensation as may be fixed by council.

c. *Alternate municipal judge.* Council shall have the power to create and appoint additional judges as provided by law.

d. *Court clerk.* Subject to the approval of the municipal judge, the city manager shall appoint a municipal court clerk and deputy clerks. Said clerk or clerks shall have the power to administer oaths and affidavits, make certificates, affix the seal of said court thereto and generally do and perform any and all acts usual and necessary by clerks of court in conducting the business thereof.

e. *Costs and fines.* All costs and fines imposed by the municipal court, or any court in cases appealed from its judgments, shall be paid into the city treasury for the use and benefit of the city.

3.05. City attorney.

City council shall appoint a competent attorney, duly licensed by the State of Texas, to be city attorney and head of the department of law. He shall be appointed and removed at the will and pleasure of council by a majority vote of the entire council, and shall receive compensation as may be fixed by council.

The city attorney, or other attorneys selected by him with the approval of Council, shall represent the city in all litigation. He shall be the legal advisor of, and attorney and counsel for, the city and all offices and departments thereof.

ARTICLE IV. BUDGET**4.01. Preparation and submission of budget.**

At least forty-five (45) days prior to the beginning of each fiscal year, the city manager shall submit to council a proposed budget with required attachments. For such purpose, at such date as he shall determine, he shall obtain from the head of each office, department or agency estimates of revenue and expenditures of that office, department or agency, detailed by organization units and character and object of expenditure, and such other supporting data as he may request. In preparing the budget, the city manager shall review the estimates, may hold hearings thereon and may revise the estimates, as he may deem advisable.

- a. *Contents of budget.* The budget shall provide a complete financial plan for the fiscal year. It shall contain the following:
 1. A consolidated statement of receipts and expenditures for all funds.
 2. An analysis of property valuations.
 3. An analysis of tax rate.
 4. Tax levies and tax collections by years for at least ten (10) years or for a number of years for which records are available.
 5. A detailed listing of the resources of each fund.
 6. A summary of proposed expenditures within such funds by department, function and classification.
 7. A revenue and expense statement for all outstanding bonded debt.
 8. A schedule of principal and interest on each issue of outstanding bonds showing rate of interest, maturity dates and amount outstanding.
 9. The appropriation ordinance.
 10. The tax-levying ordinance.

b. Attachments to budget.

1. ***Budget message.*** The city manager shall prepare a budget message which shall be submitted with the budget. It shall contain an outline of the proposed financial policies of the city for the fiscal year and describe in connection therewith the important features of the budget plan. It shall set forth the reasons for salient changes from the previous years in expenditures and revenue items and shall explain any major changes in financial policy.
2. ***Supporting schedules.*** Attached to the budget shall be such supporting schedules, exhibits and other explanatory material, in respect to both current operations and capital outlays, as the city manager shall believe useful to council.
3. ***Comparison tables.*** The city manager may prepare tables in which various items may be compared with those of previous years and shall attach such to the budget.
 - (a) ***Anticipated revenues.*** In parallel columns opposite the several items of revenue, there shall be placed the actual amount of such item for the first six (6) months of the current year, the budgeted amount for the current fiscal year, and the proposed amount for the ensuing fiscal year.
 - (b) ***Proposed expenditures.*** The proposed expenditures for the administration, operation, maintenance and capital outlay of each office, department or agency of the city shall be itemized by character and object. In parallel columns opposite the various items of expenditures, there shall be placed the actual amount of such items of expenditures for the last completed fiscal year, the estimated amount for the current fiscal year and the proposed amount for the ensuing fiscal year.

- c. *Balanced budget.* 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 classification as promulgated by the National Committee on Municipal Accounting or some other nationally accepted classification.

4.02. Availability of proposed budget.

The proposed budget and all attachments shall be a public record in the office of the city secretary, open to public inspection. The city manager shall cause sufficient copies of such to be prepared for distribution to interested persons.

4.03. Budget adoption.

- a. *Publication of notice of public hearing.* At the meeting of city council at which the budget and attachments are submitted, council shall determine the place and time of the public hearing on the budget, and shall cause to be published a notice of the place and time, not less than seven (7) days after date of publication, at which council will hold a public hearing.

- b. *Public hearing.* At the time and place so advertised, or at any time and place to which such public hearing shall from time to time be adjourned, city council shall hold a public hearing on the budget as submitted, at which all interested persons shall be given an opportunity to be heard, for or against the estimates or any item thereof.

- c. *Vote required for adoption.* The budget shall be adopted by the favorable votes of at least a majority of all members of the whole council.

- d. *Adoption.* The budget shall be finally adopted not later than the last day of the fiscal year. Should council take no final action on or prior to such day, the budget as submitted by the city manager shall be deemed to have been finally adopted by council.

Upon final adoption, the budget shall be in effect for the fiscal year.

4.04. Public record.

a. *Filed.* A copy of the budget as finally adopted shall be filed with the city secretary.

b. *Availability.* The final budget shall be printed, mimeographed or otherwise reproduced and sufficient copies shall be made available for the use of offices, departments and agencies, and for the use of interested persons and civic organizations.

4.05. Effect of approved budget.

From the effective date of the budget:

a. The several amounts stated therein as proposed expenditures shall be and become appropriated to the several objects and purposes therein named.

b. The amount stated therein as the amount to be raised by property tax shall constitute a determination of the amount of the levy for the purposes of the city, in the corresponding tax year.

4.06. Fiscal year defined.

The fiscal year of city government shall begin on the first day of October and end on the last day of September of the succeeding calendar year. Such fiscal year shall also constitute the budget and accounting year.

ARTICLE V. FINANCE ADMINISTRATION

5.01. Division of taxation.

There shall be established in the department of finance a division of taxation, the head of which shall be the city tax assessor-collector.

a. *Property subject to tax; method of assessment.* All real and personal property within the city not

expressly exempted by law shall be subject to annual taxation at its true market value.

Each person, partnership and corporation owning property within the limits of the city shall between the first day of January and the thirty-first day of March of each year, hand to the tax assessor-collector a full and complete sworn inventory of the property possessed or controlled by him, her or them within said limits on the first day of January of the current year. In all cases of failure to obtain a statement of real and personal property from any cause, the tax assessor-collector shall ascertain the amount and value of such property and assess the same as he believes to be true and full value thereof; and such assessment shall be as valid and binding as if such property had been rendered by the owner thereof.

b. *Board of equalization.*

1. *Membership.* City council shall each year, prior to the first day of March, appoint three (3) residents who are qualified voters as the board of equalization. Such board shall choose from its membership a chairperson. A majority of said board shall constitute a quorum for the transaction of business.

The tax assessor-collector shall be ex officio secretary of the board.

2. *Compensation.* Members of the board while serving shall receive such compensation as council may deem appropriate.
3. *Powers and duties.* In order that all property within the city shall be assessed as uniformly as possible, the board of equalization shall have the power and duty to:
 - (a) Adopt regulations regarding the procedure of assessment review.

- (b) Review, on complaint of property owners, assessments for the purpose of taxation of both real and personal property within the city made by the assessor-collector.
 - (c) Examine and, if necessary, revise the assessments returned by the tax assessor-collector and as previously set by the board.
 - (d) Administer oaths, take testimony, hold hearings and compel the production of all books, documents and other papers pertinent to the investigations of the taxable values of any person, firm or corporation having or owning property within the corporate limits of the city subject to taxation.
 - (e) Certify its approval of the assessment rolls and have them returned to the tax assessor-collector, immediately upon completion of the board's work.
4. *Records.* The board shall be required to keep an accurate record of all its proceedings, which record shall be available for public inspection.
5. *Public hearing and notice to owner.* At the same meeting that city council appoints the board of equalization, it shall by ordinance fix the time of the first meeting of the board which shall be on the tenth day of May, or as soon thereafter as practicable. After such first meeting, the board may reconvene and adjourn from time to time, and as long thereafter as may be necessary, it shall hear and determine the complaint of any person in relation to the assessment roll. Whenever said board shall find it their duty to raise the value of any property appearing on the lists or books of the assessor-collector, it shall, after having examined such lists and books and corrected all errors appearing therein, adjourn to a day not less than ten (10) nor more than fifteen (15) days from the date of adjournment and shall

cause the secretary of said board to give written notice to the owner of such property or to the person rendering same of the time to which said board has adjourned, and that such owner or person rendering said property may at that time appear and show cause why the value of said property should not be raised. Such notice may be served by depositing the same, properly addressed, and postage paid, in the city post office.

c. *Payment of taxes.*

1. *When due and payable.* All taxes due the city shall be payable at the office of the assessor-collector and may be paid at any time after the tax rolls for the year have been completed and approved, which shall be not later than October first. Taxes shall be paid before February first following the year for which the tax was levied, and all such taxes not paid prior to such date shall be deemed delinquent and shall be subject to such penalty and interest as city council may provide by ordinance.
2. *Tax liens.* The tax levied by the city is hereby declared to be a lien, charge or encumbrance upon the property upon which tax is due, which lien, charge or encumbrance the city is entitled to enforce and foreclose in any court having jurisdiction over the same, and the lien, charge and encumbrance on the property in favor of the city, for the amount of taxes due on such property, is such as to give the state courts jurisdiction to enforce and foreclose said lien on the property on which the tax is due, not only as against any resident of this state or person whose residence is unknown, but also as against nonresidents. All taxes upon real estate shall especially be a lien and a charge upon the property upon which the taxes are due, which lien may be foreclosed in any court having jurisdiction.

5.02. Purchase procedure.

All purchases made and contracts executed by the city shall be pursuant to a requisition from the head of the office, department or agency whose appropriation will be changed, and no contract or order shall be binding upon the city unless and until the city manager or his designee approves the same and certifies that there is to the credit of such office, department or agency a sufficient unencumbered appropriation and allotment balance to pay for the supplies, materials, equipment or contractual services for which the contract or order is to be issued. Before the city makes any purchase or contract, opportunity shall be given for competition. Council may by ordinance confer upon the city manager general authority to contract for expenditures without further approval of council for budgeted items not exceeding three thousand dollars (\$3,000.00). All contracts for expenditures involving more than three thousand dollars (\$3,000.00) must be expressly approved in advance by council. All contracts or purchases involving more than three thousand dollars (\$3,000.00) shall be let to the lowest bidder, considering quality, after there has been opportunity for competitive bidding as provided for by law or ordinance; provided that council or the city manager, in such cases as he is authorized to contract for the city, shall have the right to reject any and all bids. Contracts for professional services for which bidding is prohibited by law shall not be let on competitive bids.

5.03. Alterations in contracts.

Except in case of emergency, alterations in any contract not to exceed twenty-five (25) per cent of the total contract may be made when authorized by council upon written recommendation of the city manager; provided that such alteration is acceptable to the other party to the contract. When such recommended change is for an amount not more than five thousand dollars (\$5,000.00), council may authorize the city manager to approve such alterations.

5.04. Fees shall be paid to city.

All fees for city services received by any officer or employee shall belong to the city government and shall be paid to the department of finance at such times as required by the director of the finance department.

5.05. Borrowing.

a. *Negotiable notes.* In any fiscal year, city council may by resolution authorize borrowing by the issuance and sale of negotiable notes of the city which shall mature and be payable not later than the end of the fiscal year in which the original notes have been issued. All such notes may be sold at not less than par and accrued interest at private sale by the director of the finance department without previous advertisement, but such sale shall be authorized by council. Such notes shall be in anticipation of either of the following:

1. *Property taxes.* Notes authorized in anticipation of the collection of property taxes in a fiscal year shall be designated "tax anticipation note for the year ____" (stating the fiscal year).
2. *Other revenues.* Notes authorized in anticipation of the collection or receipt of other revenues shall be designated "special revenue note for the year ____" (stating the fiscal year).

b. *Capital improvements.*

1. *Power and authority to incur indebtedness.* The city shall have the power and authority, by ordinance duly adopted, to borrow money on the credit of the city for permanent public improvements and to issue its general obligation bonds, revenue bonds, refunding bonds, certificates of indebtedness, notes, warrants, or other forms of indebtedness pursuant to and in accordance with the present or hereinafter adopted or amended general and special laws of this state applicable to home rule cities, except as such power

and authority is expressly limited or denied by this Charter, or any amendments hereto.

2. *Referendum on bond ordinance.* Each bond ordinance passed pursuant to a purpose which has been authorized by majority vote of the voters of the city at an election shall not be subject to referendum. Each bond ordinance relating to bonds not authorized by the qualified voters of the city shall be subject to permissive referendum on petition pursuant to the provision of Article VI of this Charter, unless the bonds are authorized solely for a purpose made necessary as the result of fire, flood or other disaster, or the bonds are to be issued to finance the improvement or extension of a municipally owned or operated utility or other public service enterprise.
3. *Public sale of all bonds.* No bonds issued under this Charter shall be sold without first offering the same at public sale. Notice of such sale shall be given by publication at least once in a financial journal published in the State of Texas and by publication at least once in the official newspaper of the city, both of such publications to be made not less than ten (10) days prior to the date set for such sale.

5.06. Disbursement of funds.

All checks, vouchers or warrants for the withdrawal of funds from the city depository shall be executed in accord with the provisions of this Charter and shall be signed by the city manager or his deputy and counter-signed by a member of city council.

5.07. Independent audit.

Prior to the end of each fiscal year, council shall designate a practicing certified public accountant, who is licensed by the State of Texas, to make an independent audit of accounts and other evidences of financial transactions of the city government and shall submit a report to council. Notice shall be given by publication in the official

newspaper in the city that the annual audit is on file at the city hall for inspection. Such accountant shall have no personal interest, direct or indirect, in the fiscal affairs of the city government. He shall not maintain any accounts or records of the city business, but, within specifications approved by council, shall post-audit the books and documents kept by the department of finance and any separate or subordinate accounts kept by any other office, department or agency of the city government.

5.08. Appropriations lapse at end of year.

All appropriations shall lapse at the end of the budget year to the extent that they shall not have been expended or lawfully encumbered.

**ARTICLE VI. INITIATIVE, REFERENDUM
AND RECALL**

6.01. Power of initiative.

The electors shall have the power to propose any ordinance except an ordinance appropriating money or authorizing the levy of taxes, and to adopt or reject the same at the polls, such power known as the initiative.

6.02. Power of referendum.

The electors shall have power to approve or reject at the polls any ordinance passed by council, or submitted by council to a vote of the electors, except as provided in section 5.05, such power being known as the referendum. Ordinances submitted to council by initiative petition and passed by council without change shall be subject to the referendum in the same manner as the other ordinances.

6.03. Procedure for initiative or referendum petition.

a. Form of petition.

1. *Text.* Initiative petition papers shall contain the full text of the proposed ordinance.

2. Signatures.

- (a) The signatures to initiative or referendum petitions need not all be appended to one paper, but to each separate petition there shall be attached a statement of the circulator thereof as provided by this section. Each signer of any petition paper shall sign his name in ink or indelible pencil and shall indicate after his name his place of residence by street and number, or other description sufficient to identify the place.
 - (b) The petition shall be signed by qualified electors of the city equal in number to at least fifty (50) per cent of the number of votes cast in the last regular municipal election.
3. **Circulators.** There shall appear on each petition the names and addresses of five (5) electors, who, as circulators, shall be regarded as responsible for the circulation and filing of the petition.
 4. **Affidavit.** Attached to each separate petition paper there shall be an affidavit of the circulator thereof that he, and he only, personally circulated the foregoing paper, that it bears a stated number of signatures, that all signatures appended thereto were made in his presence, and that he believes them to be genuine signatures of the persons whose names they purport to be.

b. Submission of petition.

1. **Filing.** All petition papers comprising an initiative or referendum petition shall be assembled and filed with the city secretary as one instrument.
2. **Examination.** Within twenty (20) days after a petition is filed, the city secretary shall determine whether each paper of the petition has a proper statement of the circulator and whether the petition is signed by a sufficient number of qualified electors. The city secretary shall declare any petition paper entirely invalid which does not have attached thereto an

affidavit signed by the circulator thereof. If a petition paper is found to be signed by more persons than the number of signatures certified by the circulator, the last signatures in excess of the number certified shall be disregarded. If a petition paper is found to be signed by fewer persons than the number certified, the signatures present shall be accepted unless void on other grounds.

3. *Certification.*

(a) *Procedure.* After completing his examination of the petition, the city secretary shall certify the result thereof to city council at its next regular meeting. If he shall certify that the petition is insufficient, he shall set forth in his certificate the particulars in which it is defective and shall at once notify the circulators of his findings.

(b) *Effect.* When a referendum petition or amended petition has been certified as sufficient by the city secretary, the ordinance specified in the petition shall not go into effect, or further action thereunder shall be suspended if it shall have gone into effect, until and unless approved by the electors, as hereinafter provided.

c. *Amendment of petition.* An initiative or referendum petition may be amended at any time within ten (10) days after the notification of insufficiency has been sent by the city secretary, by filing a supplementary petition upon additional papers signed and filed as provided in case of an original petition. The city secretary shall, within five (5) days after such an amendment is filed, make examination of the amended petition and, if the petition be still insufficient, he shall file his certificate to that effect in his office and notify the circulators of his findings and no further action shall be had on such insufficient petition.

d. *Refiling not prejudiced.* The finding of the insufficiency of a petition shall not prejudice the filing of a new petition for the same purpose.

6.04. Consideration of referendum or initiative by council.

Whenever city council receives a certified initiative or referendum petition from the city secretary, it shall proceed at once to consider such petition and shall take final action on it within sixty (60) days after the date on which it was submitted to council.

- a. *Initiative.* A proposed initiative ordinance shall be read and provision made for a public hearing on such before the time set for final action.
- b. *Referendum.* A referred ordinance shall be considered by council and its final vote upon such reconsideration shall be upon the question, "Shall the ordinance in the referendum petition be repealed?"

6.05. Election on referendum or initiative.

a. *Submission to electors.* If council shall fail to pass an ordinance proposed by initiative petition or shall pass it in a form different from that set forth in the petition therefor, or if council fails to repeal a referred ordinance, the proposed or referred ordinance shall be submitted to the electors on the next election day as established by the laws of the State of Texas. Council may, in its discretion, and if no regular election is to be held on such day shall, provide for a special election.

b. *Form of ballot.* Ordinances submitted to vote of electors in accordance with this article shall be submitted by ballot title, which shall be prepared in all cases by the city attorney. The ballot title may be different from the legal title of any such initiated or referred ordinance and shall be a clear, concise statement, without argument or prejudice, descriptive of the substance of such ordinance. Below the ballot title shall appear the following propositions, one preceding the other, in the order indicated: "FOR THE ORDINANCE" and "AGAINST THE ORDINANCE."

Any number of ordinances may be voted on at the same election and may be submitted on the same ballot, but any

paper ballot used for voting thereon shall be for that purpose only.

c. *Results.* 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. If conflicting ordinances are approved by the electors at the same election, the one receiving the greatest number of affirmative votes shall prevail to the extent of such conflict.

6.06. Amendment of initiative or referendum ordinances.

Initiative and referendum ordinances adopted or approved by the electors shall be published, and may be amended or repealed by council, as in the case of other ordinances.

6.07. Power of recall.

The mayor or any councilperson may be removed from office by recall.

No recall petition shall be filed against the mayor or a councilperson within six (6) months after he takes office nor in respect to an officer subjected to a recall election and not removed thereby, until at least six (6) months after such election.

6.08. Procedure for recall petition.

a. *Affidavit.* Any elector of the city may make and file with the city secretary an affidavit containing the name or names of the officer or officers whose removal is sought and a statement of the grounds for removal.

b. *Petition blanks.* Upon receipt of said affidavit, the city secretary shall deliver to said elector copies of petition blanks demanding such removal. The city secretary shall keep a sufficient number of printed petition blanks on hand for distribution. Such blanks when issued shall:

1. Be signed by the city secretary.

2. Be addressed to city council.
3. Be numbered and dated.
4. Indicate the name of the person to whom issued.
5. Indicate the name of the officer whose removal is sought.
6. Indicate the number of such blanks issued.

The city secretary shall enter in a record to be kept in his office the name of the elector to whom the petition blanks were issued and the number issued to said person.

c. Return of petition. To be effective, the recall petition must:

1. Be signed by qualified electors of the city equal in number to at least fifty (50) per cent of those who were qualified voters and voted on the date of the last regular municipal election, and at least one-half of the qualified voters constituting such fifty (50) per cent signing the petition shall make affidavit, to be filed with the petition, to the effect that they voted for the person whose recall is sought, in the election at which he was last elected.
2. Be returned and filed with the city secretary within thirty (30) days after the filing of the affidavit required in section 6.08a.

6.09. Recall election.

a. Submission. The city secretary shall at once examine the recall petition and, if he finds it sufficient and in compliance with the provisions of this article, he shall within five (5) days submit it to city council with his certificate to that effect and notify the officer sought to be recalled of such action. If the officer whose removal is sought does not resign within five (5) days after such notice, council shall thereupon order and fix a date for holding a recall election. Any such election shall be held at the next election day as established by the laws of the State of Texas.

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

1. With respect to each person whose removal is sought the question shall be submitted "Shall (name of person) be removed from the office of (name of office) by recall?"
2. Immediately below each such question there shall be printed the two (2) following propositions, one above the other, in the order indicated:

"For the recall of (name of person)"

"Against the recall of (name of person)."

c. *Results.* If a majority of the votes cast at a recall election shall be against the recall of the officer named on the ballot, he shall continue in office for the remainder of his unexpired term, subject to recall as before. If a majority of the votes at such an election be for the recall of the officer named on the ballot, he shall, regardless of any technical defects in the recall petition, be deemed removed from office and the vacancy shall be filled as in other vacancies.

6.10. District judge may order election.

Should city council fail or refuse to order any of the elections as provided for in this article, when all the requirements for such election have been complied with by the petitioning electors in conformity with this article of the Charter, then it shall be the duty of any one of the district judges of Harris County, Texas, upon proper application being made therefor, to order such elections and to enforce the carrying into effect of the provisions of this article of the Charter.

ARTICLE VII. FRANCHISES AND PUBLIC UTILITIES

7.01. Enfranchisement.

a. *Power of council.* City council shall have power by ordinance to grant, amend, renew and extend all franchises
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of all public utilities of every character operating within the city. All ordinances granting, amending, renewing or extending franchises for public utilities shall not be finally passed until thirty (30) days after the first reading; and no such ordinance shall take effect until sixty (60) days after its final passage; and pending such time, the notice and caption of such ordinance, noting the place where the full text may be examined by the public, shall be published once each week for four (4) consecutive weeks in the official newspaper of the city, and the expense of such publication [is] to be borne by the proponent of the franchise. No public utility franchise shall be transferable except with the approval of council expressed by ordinance.

b. *Extensions.* All extensions of public utilities within the city limits shall become a part of the aggregate property of the public utilities, 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 7.02a. 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.

c. *Other conditions.* All franchises heretofore granted are recognized as contracts between the city and the grantee, and the contractual right as contained in any such franchises shall not be impaired by the provisions of this Charter, except that the power of the city to exercise the right of eminent domain in the acquisition of any utility property is in all things reserved, and except the general power of the city heretofore existing and herein provided for to regulate the rates and services of the grantee which shall include the right 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.

Every public utility franchise hereafter granted shall be held subject to all the terms and conditions contained in the

various sections of this article whether or not such terms are specifically mentioned in the franchise.

When the city chooses to exercise its power of eminent domain to acquire any public utility, the procedure to be used in such acquisition shall be as set forth in Revised Civil Statutes of Texas, Articles 3264 through 3271, inclusive. In valuing the property, the measure of damages shall be the fair market value of the physical properties taken together as one system. This power shall be in addition to and cumulative of any other powers of acquisition granted to or reserved by the city in a franchise ordinance.

Prior to the purchase of any existing franchised utility system, either according to the terms of the franchise or by eminent domain, city council shall submit the question of purchase to the voters of the city, and such must be approved by a majority of those voting.

Nothing in this Charter shall operate to limit in any way, as specifically stated, the discretion of council or the electors of the city in imposing terms and conditions as may be reasonable in connection with any franchise grant.

7.02. Regulation.

a. *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:

1. 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.
2. To require an adequate extension of plant and service, and the maintenance of the plant and fixtures at the highest reasonable standard of efficiency.

3. To establish reasonable standards of service and quality of products and prevent unjust discrimination in service of rates.
4. To prescribe the form of accounts kept by such utility. If the franchise does not prescribe the form of accounts kept by a utility, then it shall keep its accounts in accordance with the utility system of accounts for said utility prescribed by the appropriate state and federal utility regulatory agencies.
5. To examine and audit the accounts and other records of any such utility at any time and to require annual and other reports, including reports on local operations by each such public utility.
6. To impose such reasonable regulations and restrictions as may be deemed desirable or conducive to the safety, welfare and accommodation of the public.
7. To at any time require such compensation and rental as may be permitted by the laws of the State of Texas.

b. *Regulation of rates and service.* Council shall have full power, after due notice and hearing, to regulate by ordinance the rates and service of every public utility operating within the city. Such power shall be subject to the exercise of power in each area of each utility by the appropriate agencies of state and federal government.

7.03. 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 in the city.

The city shall compile and maintain a public record of public utility franchises.

7.04. Accounts of municipality-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 revenues, operating expenses, including depreciation, interest payments, rental and other disposition 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 the 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. City council shall annually cause to be made by a licensed certified public accountant and shall publish a report showing the financial results of such city ownership and operation, giving the information specified in this section or such data as council shall deem expedient, in accordance with section 5.08.

7.05. Franchise value disallowed.

The value of the franchise granted by the city shall not be included in fixing reasonable rates and charges for utility service within the city or in determining the just compensation to be paid by the city for public utility property which may be acquired by eminent domain or otherwise.

7.06. Consent of property owners.

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

ARTICLE VIII. GENERAL PROVISIONS**8.01. Publicity of records.**

All records and accounts of every office, department or agency of the city shall be open to inspection by any person, any representative of a citizen's organization or any representative of the press during normal business hours, as provided in the Texas Open Records Act, Revised Civil Statutes Article 6252-17a.

8.02. Employers and officers.

a. *Personal financial interest.* No member of city council or any officer or employee of the city shall have a financial interest, direct or indirect or by reason of ownership of stock in any corporation, in any contract or in the sale to the city, or to a contractor supplying the city, of any lands or rights of interests in any land, material, supplies or service. Any willful violation of this section shall constitute malfeasance in office, and any officer or employee of the city found guilty thereof shall thereby forfeit his office or position. Any violation of this section with the knowledge expressed or implied of the person or corporation contracting with the city shall render the contract voidable by council.

b. *Employment interest.* No one who has been elected to city office shall be employed in a nonelective office by the city within the term for which he was elected or for one year thereafter.

c. *Nepotism.* No person related, within the second degree by affinity or within the third degree by consanguinity, to the mayor or any councilperson or to the city manager shall be employed or appointed to any office, position or clerkship of the city. This prohibition shall not apply, however, to any person who shall have been employed for two (2) years or more by the city at the time of the election or appointment of the officer to whom he is related.

d. *Bonds.* Council shall require bonds of all municipal officers and employees who receive or pay out any monies of the city. The amount of such bonds shall be determined by

council and the cost thereof borne by the city. Council shall set the bond amount for the city manager and the director of finance at an amount not less than ten thousand dollars (\$10,000.00).

e. Oath of office.

1. *Elected officers.* Every elected officer of the city shall, before entering upon the duties of his office, take and subscribe to the following oath or affirmation, to be filed and kept in the office of the city secretary:

“I, _____, do solemnly swear (or affirm), that I will faithfully execute the duties of the office of _____ of the City of La Porte, State of Texas, and will to the best of my ability preserve, protect and defend the constitution and laws of the United States and of this state and the Charter and ordinances of this city; and I furthermore solemnly swear (or affirm) that I have not directly or indirectly paid, offered, or promised to contribute any money, or valuable thing, or promised any public office or employment, as a reward for the giving or withholding a vote at the election at which I was elected. So help me God.”

2. *Appointed officers.* Every appointed officer of the city shall, before entering upon the duties of his office, take and subscribe to the following oath or affirmation, to be filed and kept in the office of the city secretary:

“I, _____, do solemnly swear (or affirm), that I will faithfully execute the duties of the office of _____ of the City of La Porte, State of Texas, and will to the best of my ability preserve, protect and defend the constitution and laws of the United States and of this state and the Charter and ordinances of this city; and I furthermore solemnly swear (or affirm) that I have not directly or indirectly paid, offered, or promised to contribute any money, or valuable

thing, or promised any public office of employment, as a reward to secure my appointment or the confirmation thereof. So help me God.”

f. *Discharge.* Council shall be authorized to discharge at any time, with or without a hearing, as council may elect, any officer, employee or clerk which it appoints.

The city manager shall be authorized to discharge at any time, with or without a hearing, as the city manager may elect, any officer, employee or clerk which he appoints.

g. *Injuries; insurance.* City council shall have authority to provide the rules and regulations for maintaining employees when injured and disabled while performing their duties, and it may provide for such plan of insurance as it deems proper.

h. *Pensions.* City council may establish a pension plan for any employee who has been employed by the city for twenty (20) years and who shall have reached the age of fifty-five (55), or may adopt in lieu thereof any pension system available to cities under state law. The amount of said pension shall be graded and proportioned to the average salary received by the employee during the whole period of his employment. All those falling under the head of employees in this Charter and who are employed by the city when the same takes effect shall be entitled to a credit for the years of service heretofore served; provided, however, that any payment under this provision shall never constitute a waiver or stop the city from asserting any defenses it might have under section 1.06.

8.03. Assignment, execution and garnishment of city property.

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

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

8.04. City not required to give security or execute bond.

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

8.05. Effect of this Charter on existing law.

All ordinances, resolutions, rules and regulations now in force under the city government of the city and not in conflict with the provisions of this Charter shall remain in force under this Charter until altered, amended or repealed by city council after this Charter takes effect; and all rights of the city under existing franchises and contracts are preserved in full force and effect to the city, and any unissued bonds and revenue bonds, or installments thereof, heretofore authorized at an election held in said city shall not be affected by the adoption of this Charter, but the right to sell, issue and deliver same, in whole or in part, in keeping with the provisions of the laws under which they were voted is hereby expressly reserved.

8.06. Amending this Charter.

a. Amendments may be proposed and submitted to the electors of the city by ordinance passed by a majority vote of the full membership of city council or by a petition signed by qualified voters of the city in number not less than five (5) per cent thereof or twenty thousand (20,000) signatures,

whichever is less. Such petition shall in all other respects conform to the provisions of Article VI.

When a properly drawn petition has been duly filed, council shall provide by ordinance for submitting such proposed amendments to a vote of the electors at an election to be held not less than thirty (30) days nor more than ninety (90) days after the passage of said ordinance. If the next regular municipal election is to be held during said period, the submission of said amendment or amendments shall be at such election. Otherwise, a special election shall be called for the purpose. Notice of the election shall be given by publication thereof in the official newspaper on the same day in each of two (2) successive weeks; the date of the first publication to be not less than fourteen (14) days prior to the date set for said election. The form of such notice shall be as prescribed by this Charter, including a substantial copy of the proposed amendment or amendments.

Each amendment submitted shall contain only one subject and shall be printed separately on the ballot, each proposed amendment being followed by designations for the voter to vote for the amendment or against the amendment.

Each proposed amendment, if approved by the majority of the qualified voters voting at said election, shall become a part of the Charter. The city secretary shall enter notice into the records of the city declaring the same adopted.

b. This section is subject to the provisions of Revised Civil Statutes of Texas Annotated, Article 1170, and Election Code, Article 2.01 et seq.

8.07. Severability clause.

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

meaning and effect with the section or part of section to which such holding shall directly apply.

8.08. References to laws.

All references within this Charter to laws of the State of Texas or of the United States are to be construed as meaning such laws as now or hereafter amended or superseded.

8.09. Approval of this Charter.

a. *Copies to electors.* In not less than thirty (30) days prior to the election provided in subsection b., the city commission shall cause the city clerk to mail a copy of this Charter to each qualified voter of the city, as listed on the current voter registration list.

b. *Submission of Charter to electors.* The charter committee in preparing this comprehensive Charter amendment 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 the comprehensive amendment be adopted in its entirety. For these reasons the charter committee directs that said amended Charter be voted upon as a whole and that it shall be submitted to the qualified voters of the city at an election to be held for that purpose on the 9th day of August, 1980.

The form of ballot to be used in such election shall be as follows:

FOR THE ADOPTION OF THE AMENDED CHARTER.
AGAINST THE ADOPTION OF THE AMENDED CHARTER.

c. *Results of vote for adoption.* If a majority of the qualified electors voting in such election shall vote in favor of the adoption of the Charter, and after the returns have been canvassed, the city clerk shall file an official copy of the Charter with the records of the city. The city commission shall at its next meeting declare this Charter adopted. The

clerk 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.

8.10. Provisions for transition.

a. Tenure of officers during transition. From and after the date of the adoption of this Charter and until the completion of the first election under this Charter to be held on the first Saturday in April, 1981, and the qualification of the councilpersons therein elected, the present qualified and acting commissioners and mayor shall constitute city council. Such city council shall possess all the powers provided by this Charter.

After said election and until the election to be held on the first Saturday in April, 1982, and the qualification of the councilpersons and mayor therein elected, the present qualified and acting commissioner—Position 2 shall serve as councilperson-at-large—Position A; the present qualified and acting commissioner—Position 4 shall serve as councilperson-at-large—Position B; and the present qualified and acting mayor shall serve as mayor. These councilpersons and mayor, along with the councilpersons elected and qualified as provided in subsection b, below, shall, for the duration of their terms of office, compose city council and shall possess all the powers provided by this Charter.

b. Original election of mayor and councilpersons. Councilpersons representing districts shall be elected at the election to be held on the first Saturday in April, 1981, for terms of office as follows:

- Councilperson—District 1, three-year term
- Councilperson—District 2, one-year term
- Councilperson—District 3, one-year term
- Councilperson—District 4, two-year term
- Councilperson—District 5, two-year term
- Councilperson—District 6, three-year term.

Councilpersons-at-large and the mayor shall be elected at the election to be held on the first Saturday in April, 1982, for terms of offices as follows:

Councilperson-at-large—Position A, one-year term

Councilperson-at-large—Position B, two-year term

Mayor, three-year term.

Following these terms of office, all councilpersons and the mayor shall be elected to three-year terms, according to the provisions of Article II of this Charter.

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