

CITY CHARTER

CHARTER OF THE CITY OF TULIA, TEXAS

PREAMBLE

We, the people of the City of Tulia, exercising the powers of home rule granted to us by the Constitution and general laws of the State of Texas, in order to provide for more efficient, adequate, and economical government, do hereby ordain, adopt, and establish this Charter of the City of Tulia, Texas.

ARTICLE 1. INCORPORATION; FORM OF GOVERNMENT; POWERS

Sec. 1-1. Incorporation.

The City of Tulia, Texas, within the corporate limits as now established or as hereafter may be established, shall continue to be a municipal body politic and corporate in perpetuity under the name of "City of Tulia," hereinafter called the city. It shall succeed to and possess all the property heretofore belonging to the city; and it shall have such powers, privileges, franchises, rights, duties, and immunities as are provided herein. The city shall be liable for all debts and other obligations for which the corporation is legally bound at the time this charter goes into effect.

Sec. 1-2. Form of government.

The municipal government provided by this charter shall be a "council-manager government." All powers of the city shall be exercised, in the manner prescribed by this charter, or, if the manner is not thus prescribed, then in such manner as the council may prescribe by ordinance.

Sec. 1-3. Powers of the city.

(a) The city shall have full power of local self-government and all other powers possible for a city operating under a home-rule charter to have under the constitution and general laws of this state as fully and completely as though they were specifically enumerated in this charter.

(b) Without limitation of the foregoing general grant of powers, the following powers among others that may be exercised by the city are hereby enumerated for greater certainty:

- (1) To adopt a corporate seal and to alter it at pleasure;
- (2) to sue and to be sued;
- (3) to make contracts;
- (4) to acquire property of all kinds within or without its corporate limits for any municipal or public purpose in fee simple or any lesser interest or estate, by purchase, gift, devise, lease, condemnation, or other lawful manner, and to own, hold, maintain, improve, enlarge, manage, control, operate, lease, sell, or otherwise dispose of such property;
- (5) to raise revenue and to make appropriations;
- (6) to borrow money and to issue general obligation and revenue bonds evidencing the

indebtedness;

(7) to adopt and to enforce municipal legislation for the proper organization and functioning of the city government, for the preservation and enforcement of good government and order, for the protection and enhancement of health, life, morals, property, and welfare of the city and its inhabitants, and for all other purposes within the power of the city to legislate;

(8) to define, prohibit, and abate nuisances within and without the city as authorized by law;

(9) to own, operate, and regulate public utilities and public services, and to grant, renew, and extend franchises; and

(10) to accept property in trust for the use and benefit of the city and its inhabitants and to administer such trusts.

Sec. 1-4. Boundaries of the city.

The boundaries of the city as they exist at the time this charter goes into effect shall be and remain the boundaries of the city until they are changed in a manner authorized by this charter or by general law of the state.

Sec. 1-5. Annexation and detachment of territory; change of boundaries.

(a) The council shall have power by ordinance to fix the boundary limits of the city, and to provide for the alteration of the boundary limits, the detachment of territory, and the annexation of additional territory lying adjacent to the city, with or without the consent of the owners of the territory or inhabitants annexed or detached, subject to such procedural rules as may be prescribed by law, including notice and hearing as required by law.

(b) Territory may also be annexed to or detached from the city in any other manner which is now or may hereafter be provided by law.

Sec. 1-6. 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. The city may exercise the power of eminent domain 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 the fee in land so condemned, and such power and authority shall include the right to condemn public property for such purposes. The city shall have and possess the power of condemnation of property within and without its corporate limits for any municipal or public purposes even though not specifically enumerated in this charter.

Sec. 1-7. Street development and improvement, etc; special assessments.

(a) The city shall have the power, in connection with its power to develop and improve or cause to be developed and improved any and all public streets, sidewalks, waterways, alleys, and other public ways and facilities within the corporate limits of the city, to assess the cost of such development and

improvement partly or entirely by assessments levied as a lien against the property benefited thereby and against the owners thereof. These assessments may be levied in any amount and under any procedures not prohibited by the constitution or laws of the state. The city may prescribe the time, terms, and conditions of payment thereof, and the rate of interest; and may include reasonable attorney's fees and costs of collection, if incurred. No assessment may be made against land or owners of land in excess of the enhancement in value to the property occasioned by such development or improvement. If improvements are ordered constructed in any part of any area used or occupied by the tracks or facilities of any railway or public utility, then the city shall have the power to assess the whole cost of improvements in such area and the added costs of improvements in areas adjacent thereto made necessary by such use or occupancy against such railway or public utility, and shall have the power, by ordinance, to provide for the enforcement of such assessment.

(b) As an alternative and cumulative method of developing, improving and paving any and all public streets, sidewalks, waterways, alleys, highways, and other public ways and facilities within its corporate limits, the city shall have the power to proceed in accordance with article 1105b, Revised Civil Statutes of the State of Texas, as now amended or as hereafter amended.

Sec. 1-8. Construction of charter.

(a) The powers of the city under this charter shall be construed liberally in favor of the city, and the specific mention of particular powers in the charter shall not be construed as limiting in any way the general powers stated in this article.

(b) All powers of the city shall be subject to the limitations imposed by the constitution and general laws of the state and this charter.

Sec. 1-9. Intergovernmental relations.

The city may exercise any of its powers or perform any of its functions and may participate in the financing thereof, jointly or in cooperation, by contract or otherwise, with any one or more states or political subdivisions or agencies thereof, or the United States or any agency thereof.

ARTICLE 2. CITY COUNCIL

Sec. 2-1. Councilmen: Number, qualifications.

(a) There shall be a council of five members, which shall consist of the mayor and four other councilmen.

(b) Only qualified voters of the city who are at least twenty-one (21) years of age and who have resided within the city at least twelve (12) months next preceding their election or appointment to fill a vacancy shall be qualified for the offices of the mayor and the other councilmen. Neither the mayor nor any other councilman may hold any office or position in the city government by appointment by the city manager or by any subordinate of the city manager. If the mayor or any other councilman is convicted of a felony, his office shall become vacant immediately when the case is finally determined.

Sec. 2-2. Mayor and mayor pro tem.

(a) The mayor shall preside at meetings of the council. He shall be recognized as head of the city government for all ceremonial purposes, for the purpose of receiving service of civil process, and by the

governor for purposes of military law. He shall have no regular administrative duties except that he shall sign such written obligations of the city as the council may require. As a councilman, he shall have all powers, rights, privileges, duties, and responsibilities of a councilman, including the right to vote on questions.

(b) At the first meeting after the time prescribed for the beginning of the terms of newly elected councilmen, or as soon thereafter as practicable, the council shall elect from its membership a mayor pro tem, who shall serve as such until the next such first meeting. The mayor pro tem shall act as mayor during the absence, disability, or suspension of the mayor, or, if a vacancy occurs in the office of mayor, until another mayor is elected by the council for completion of the unexpired term and qualifies. If the office of mayor pro tem becomes vacant, the council shall elect from its membership another mayor pro tem for completion of the unexpired term.

Sec. 2-3. Mayor and councilmen: Salary.

The council by ordinance, from time to time, may determine the salary of the mayor and other councilmen; but no such ordinance may change the salary of the mayor or any other councilman (1) for the term of office during which the ordinance is adopted nor (2) for the succeeding term when such succeeding term follows passage of the ordinance by less than six months. Such ordinance shall be published in full in a newspaper of general circulation within the city within ten days after its passage. The mayor and other councilmen may be reimbursed for reasonable and necessary expenses incurred in the discharge of their official functions.

Sec. 2-4. Council: Powers.

Except as otherwise provided in this charter, all powers of the city, including the determination of all matters of policy, shall be vested in the council. Without limitation of the foregoing, the council shall have power, subject to the constitution and general laws of the state and this charter:

- (1) To appoint and remove the city manager.
- (2) By ordinance to enact municipal legislation.
- (3) To adopt the budget, raise revenue, and make appropriations; and to regulate the levy, assessment, and collection of taxes, salaries, wages, and other compensation of officers and employees, and all other fiscal and business affairs of the city.
- (4) To inquire into the conduct of any office, department, or agency of the city government, and investigate municipal affairs; and for this purpose, to subpoena witnesses, take testimony, and require the production of evidence.
- (5) To appoint or elect and remove all non-administrative officers and employees of the city (including, but not limited to, the judge of the municipal court, the members of the planning commission, the members of the board of adjustment, and other quasi-legislative, quasi-judicial, or advisory personnel and authorities), now or when and if established, or to prescribe the method of appointing or electing and removing them.
- (6) To create, change, and abolish all offices, departments, and agencies of the city government other than the offices, departments, and agencies created by this charter; and to assign additional powers and duties consistent with this charter to offices, departments, and

agencies created by this charter.

Sec. 2-5. Council: Appointments and removals.

Neither the council, the mayor, nor any of its other members may direct or request the appointment of any person to, or his removal from, office or employment by the city manager or by any other authority; or, except as provided in this charter, participate in any manner in the appointment or removal of officers and employees of the city, other than the expression of views and the giving of information to the appointing authority. Except for the purpose of inquiry, the council and its members shall deal with the administrative service solely through the city manager; and neither the council nor any member thereof may give orders on administrative matters to any subordinate of the city manager either publicly or privately.

Sec. 2-6. City secretary to be clerical officer of council.

The city treasurer shall be ex officio city secretary unless the council provides by ordinance that the council shall elect the city secretary. The city secretary shall serve for an indefinite term. He shall be clerical officer of the council. He shall keep the journal of its proceedings, and shall enroll in a book or books kept for the purpose all ordinances and resolutions passed by it; shall be custodian of such documents, records, and archives as may be provided by general law or ordinance; shall be custodian of the seal of the city, and shall attest, and affix the seal to, documents when required in accordance with general law or ordinance; and shall have such other powers and duties as may be prescribed by general law or ordinance consistent with this charter.

Sec. 2-7. Council: Meetings.

The council shall hold at least one regular meeting every month, at such time as it may prescribe by ordinance. The mayor or any three councilmen may call special meetings. All meetings of the council except as authorized by law shall be open to the public, and the journal of its proceedings shall be open to public inspection.

Sec. 2-8. Councilmen: Absences to terminate membership.

If the mayor or any other councilman is absent from more than one-half of all the meetings of the council, regular and special, held within any period of six consecutive calendar months, he shall thereupon cease to hold office.

Sec. 2-9. Council: Vacancies.

(a) The council, by majority vote of its remaining members, shall fill vacancies in its own membership, including the office of mayor, for the unexpired terms or until successors are elected as provided in this section; provided, that, if not enough councilmen remain to constitute a quorum, then the Governor of the State of Texas shall so appoint enough councilmen so that the council will have a quorum.

(b) If a vacancy occurs at least thirty-five days before a regular election, and the unexpired term extends beyond the time when the terms of councilmen elected that year begin, then a mayor or a councilman for that place, as the case may be, shall be elected at the election of that year to serve the rest of the unexpired term beginning at the time the terms of councilmen elected that year begin.

Sec. 2-10. Council: Quorum, rules, voting.

A majority of all of the members of the council shall constitute a quorum, but a smaller number may adjourn from time to time. The council may determine its own rules. On the demand of any member, the vote on any question shall be by roll call, and shall be entered in the journal. An affirmative vote of a majority of all the councilmen is required for the passage or adoption of any ordinance, resolution, or other action by the council, except a motion to adjourn or to recess or other procedural motion, which may be adopted by a majority of the councilmen voting on the question or such larger majority as may be prescribed by ordinance or council rules.

Sec. 2-11. Ordinances: Enacting clause.

The enacting clause of all ordinances shall be: "Be it ordained by the City of Tulia, Texas."

Sec. 2-12. Ordinances: Passage, when in effect.

(a) Every proposed ordinance shall be read in full or by title. The vote on final passage of every ordinance shall be by roll call, and shall be entered in the journal. The mayor shall have no power of veto.

(b) Within ten days after its passage, every ordinance imposing a penalty for violation of any of its provisions and every other ordinance required to be published by general law of the state or this charter, shall be published in full or by descriptive caption or title, stating in summary the purpose of the ordinance and the penalty for violation thereof if any, in a newspaper of general circulation within the city, and shall take effect upon publication unless the ordinance or this charter specifies a later time. Every other ordinance shall take effect upon its final passage unless the ordinance or this charter specifies a later time.

Sec. 2-13. Ordinances: Adoption by reference.

The council by ordinance may adopt by reference, with or without modification, codes, standards, and regulations relating to building, plumbing, electrical installations, milk and milk products, and other matters which it has power to regulate otherwise, including provisions of state law which would not otherwise be applicable to this city. Such code, standard, or regulation so adopted need not be enrolled in the book of ordinances; but a copy shall be filed and kept in the office of the city secretary and shall be open to public inspection.

Sec. 2-14. Ordinances: Codification.

The permanent, general ordinances of the city shall be codified and published in book form at least every ten years unless the council, by use of a loose-leaf or supplement system, provides for bringing the code up-to-date at reasonable intervals. Permanent, general ordinances and parts of ordinances which are to be repealed shall be omitted from the code; and titles, enacting clauses, and other formal parts of ordinances may be omitted from the code. The ordinances and parts of ordinances included in the code may be revised, rearranged, and reorganized. A copy of the published code shall be filed in the office of the city secretary after the council adopts the code by ordinance. The code when adopted shall have the force and effect of an ordinance regularly enacted.

ARTICLE 3. CITY MANAGER AND ADMINISTRATIVE DEPARTMENTS

Sec. 3-1. City manager: Appointment, term, qualifications, removal.

(a) There shall be a city manager. The council shall appoint him for an indefinite term by a vote of a majority of all its members. It shall choose him solely on the basis of his executive and administrative qualifications. At the time of his appointment, he need not be a resident of the city or state; but, during his tenure of office, he shall reside within the city. Neither the mayor nor any other councilman may be appointed city manager or acting city manager during his term nor within two years after the expiration of his term.

(b) The council may suspend or remove the city manager at any time by a vote of a majority of all its members; provided, that the council shall give him a written statement of the reason for the proposed removal at least one month before removal, and on request shall give him an opportunity for a public hearing thereon at or after the expiration of such time before removing him. The decision of the council shall be final.

Sec. 3-2. Temporary absence or disability of city manager.

By letter filed with the city secretary, the city manager may designate, subject to council approval, a qualified city administrative officer to be acting city manager during his temporary absences or disabilities. The council may revoke such designation at any time and appoint another person acting city manager to serve during such times; and if the city manager fails to make such designation, the council may appoint an acting city manager to serve during such times. The council may remove an acting city manager at any time.

Sec. 3-3. City manager: Powers and duties.

The city manager shall be chief administrative officer and head of the administrative branch of the city government. He shall execute the laws and ordinances and administer the government of the city, and shall be responsible therefor to the council. He shall:

- (1) Appoint, and when deemed necessary for the good of the service, lay off, suspend, demote, or remove all directors, or heads, of administrative departments and all other administrative officers and employees of the city except as he may authorize the head of a department, an officer, or an agency to appoint, lay off, suspend, demote, and remove subordinates in such department, office, or agency.
- (2) Supervise and control, directly or indirectly, all administrative departments, agencies, officers, and employees.
- (3) Prepare a budget annually and submit it to the council, be responsible for the administration of the budget after it goes into effect, and recommend to the council any changes in the budget which he deems desirable.
- (4) Submit to the council a report as of the end of the fiscal year on the finances and administrative activities of the city for the preceding year.
- (5) Keep the council advised of the financial condition and future needs of the city, and make such recommendations to the council on matters of policy and other matters as may seem to him desirable.

- (6) Have such other powers and duties as this charter prescribes, and such powers and duties consistent with this charter as the council may prescribe.

Sec. 3-4. Administrative departments, offices, and agencies.

There shall be a department of finance headed by a city treasurer, a department of taxation headed by a city assessor and collector, and such other administrative departments, offices, and agencies as the council may establish.

ARTICLE 4. DEPARTMENT OF FINANCE; MISCELLANEOUS FISCAL AFFAIRS

Sec. 4-1. Department of finance; city treasurer.

(a) There shall be a department of finance, the head of which shall be the city treasurer. The city manager shall appoint the city treasurer for an indefinite term. Subject to and in accordance with this charter, general laws of the state, and such ordinances and other policies as the council may adopt, the city treasurer shall be responsible for the collection or receipt of revenue and other money for the city, and for its custody, safekeeping, deposit, and disbursement; shall maintain a general accounting system for the city government; and shall have such other powers and duties as are prescribed by this charter, by ordinance consistent with this charter, or by general laws of the state.

(b) All warrants and other orders for the disbursement of money shall be signed by such officers of the city as the council may require by ordinance.

Sec. 4-2. Purchases and sales.

(a) The city manager, subject to any regulations which the council may adopt, shall contract for and purchase, or issue purchase authorizations for, all supplies, materials, and equipment for the offices, departments, and agencies of the city government. Every such contract or purchase exceeding an amount to be established by ordinance, shall require the prior approval of the council. The city manager also may transfer to or between offices, departments, and agencies, or sell, surplus or obsolete supplies, materials, and equipment, subject to such regulations as the council may adopt.

(b) Before the purchase of, or contract for, any supplies, materials, or equipment, or the sale of any surplus or obsolete supplies, materials, or equipment, ample opportunity for competitive bidding, under such regulations and with such exceptions, as the council may prescribe, shall be given; but the council shall not except an individual contract, purchase, or sale from the requirement of competitive bidding.

(c) The council by ordinance may transfer some or all of the power granted to the city manager by this section to an administrative officer subordinate to the city manager.

Sec. 4-3. Sale of property valued at more than \$50,000.

The sale, lease, or other alienation of any city property, real or personal, including public utilities, or of any interest therein, the value of which is more than \$50,000, may be made only (1) by authority of an affirmative vote of a majority of the qualified voters of the city who vote on the question of approving or authorizing the sale, lease, or other alienation at an election, or (2) by authority of a special ordinance. Such ordinance shall be published in full in a newspaper of general circulation within the city within ten days after its passage, and shall take effect thirty days after passage unless the ordinance specifies a later date,. The sale, lease, or other alienation of an entire public utility or of any substantial part thereof may

be authorized only as provided in (1) hereinabove.

Sec. 4-4. Public improvements.

Public improvements may be made by the city government itself or by contract. The council shall award all contracts for such improvements; provided, that the council may authorize the city manager to award such contracts not exceeding an amount to be determined by the council and subject to such regulations as the council may prescribe. A contract for public improvements of more than \$2,000 may be awarded only to the lowest responsible bidder after such notice and opportunity for competitive bidding as may be prescribed by law. All bids may be rejected, and further notice and opportunity for competitive bidding may be given.

Sec. 4-5. Independent annual audit.

The council shall designate a certified public accountant or firm of such accountants who shall make an independent audit of the accounts and evidences of financial transactions of the department of finance, of the department of taxation, and of all other departments, offices, and agencies keeping separate or subordinate accounts or making financial transactions, as of the end of every fiscal year at least, and who shall report to the council and to the city manager.

ARTICLE 5. DEPARTMENT OF TAXATION; TAX ADMINISTRATION

Sec. 5-1. Department of taxation; city assessor and collector.

There shall be a department of taxation, the head of which shall be the city assessor and collector of taxes. The city manager shall appoint the city assessor and collector for an indefinite term. He shall be responsible for the assessment and collection of all ad valorem taxes levied by the city and except as may be provided otherwise by ordinance or state law, all other taxes levied by the city.

Sec. 5-2. Powers of taxation.

The city shall have the power to levy, assess, and collect taxes of every character and type not prohibited by the constitution and laws of the State of Texas and for any municipal purpose, and within the limits prescribed by the constitution and law of the state.

Sec. 5-3. Ad valorem taxation: Constitution, laws, etc., to govern.

Ad valorem taxation of property by the city, including, but not limited to, rendition and assessment of property, equalization of assessed values of property, approval of assessment rolls, levy of taxes, and payment and collection of taxes, shall be governed by the constitution and laws of the state, this charter, and ordinances consistent with the constitution, laws, and this charter.

Sec. 5-4. Tax liens and liability.

(a) A lien is hereby created on all property, real, personal, or mixed, in favor of the city for all taxes, ad valorem, occupation, or other. Said lien shall exist from January 1 in each year until the taxes are paid. Such lien shall be prior to all other claims except as may be otherwise provided by law; and no gift, sale, assignment, or transfer of any kind, or judicial writ of any kind, can ever defeat such lien; but the city assessor and collector may pursue such property, and whenever found, may seize and sell enough thereof to satisfy such taxes, penalty, interest, and costs.

(b) All persons, firms, partnerships, associations, corporations, or other legal entities holding, owning, or controlling real, personal, or mixed property having a situs within the corporate limits of the city on the first day of January of each year shall be liable for all municipal taxes levied thereon for such year.

(c) The personal property of all persons, firms, partnerships, associations, corporations, or other legal entities owing any taxes to the city is hereby made liable for all of said taxes, whether the same be due upon personal or real property, or upon both or otherwise. Any person, firm, partnership, association, corporation, or other legal entity purchasing any of said property after the first day of January of any year shall take the same subject to the liens provided herein. In any suit to recover taxes levied on personal property, a general description of the class and type of property taxed shall be sufficient.

Sec. 5-5. City assessor and collector to deposit taxes with city treasurer.

The city assessor and collector shall promptly deposit with the city treasurer, or for the city treasurer in an appropriate account or accounts maintained by the city treasurer in a depository or depositories, all taxes and other money which he collects or receives.

Sec. 5-6. County or other subdivision may be authorized to assess and collect city taxes.

Nothing in this charter shall prohibit the council from providing for assessment and/or collection of city taxes by appropriate officers of the county, school district, or other political subdivision in which the city is entirely or partly located, as authorized by law.

ARTICLE 6. BUDGET

Sec. 6-1. Fiscal year.

The fiscal year of the city government shall begin on the first day of April and shall end on the last day of March of every calendar year unless the council by ordinance changes the fiscal year. The council may adopt an interim budget and make appropriations from available revenues for any interim period resulting from a change in the fiscal year.

Sec. 6-2. Budget: Law, etc., to govern.

The content and form of the city budget, its preparation and submission by the city manager to the council, public hearing thereon, consideration and adoption of the budget by the council, making of appropriations, and levy of property taxes shall be governed by law, this charter, and ordinances consistent with law and this charter.

Sec. 6-3. Manager to inform; supplements and amendments; transfers.

(a) City manager to inform council. The city manager shall inform the council from time to time as to the excess, sufficiency, or insufficiency of appropriations and of available revenues, and recommend such action by the council as he deems appropriate.

(b) Supplemental appropriations; amendments. If the council finds during the fiscal year that there are available for appropriation in any fund revenues in excess of those estimated in the budget, the council by ordinance may make supplemental appropriations from the fund up to the amount of such excess. Conversely, if the council finds that the total available revenues in any fund are not or will not be as great as total appropriations, the council by ordinance shall provide additional revenue or reduce

appropriations from the fund so that appropriations shall not exceed anticipated revenues. The council by ordinance may also otherwise amend the budget and the appropriations during the fiscal year. But total appropriations from a fund shall never exceed total anticipated revenues thereof in the budget as adopted or as amended, as the case may be.

(c) **Transfer of appropriation balances.**

(1) During the fiscal year, except as the council by ordinance may provide otherwise, the city manager may transfer unencumbered appropriation balances or parts thereof in a fund from one item of appropriation within a department, office, or agency to any other item of appropriation, including new items, in the fund, within the same department, office, or agency.

(2) The council, by motion, resolution, or ordinance, may transfer unencumbered appropriation balances or parts thereof from any item of appropriation, including an item for contingencies, in a fund to any other item of appropriation, including new items, in the fund.

Sec. 6-4. Borrowing in anticipation of revenue.

In any fiscal year, in anticipation of revenues estimated in the budget for any fund, the council by resolution or ordinance may authorize the borrowing of money for the fund by the issuance of revenue-anticipation notes of the city. Such notes may be renewed from time to time, but all such notes and renewals thereof shall mature and be payable not later than the end of the fiscal year. Money for one fund may thus be borrowed from another fund of the city as well as from other sources.

Sec. 6-5. Lapse of appropriations.

Every appropriation, except an appropriation for a capital expenditure from a bond fund or other fund from which such expenditures may be lawfully authorized for more than one year, shall lapse at the close of the fiscal year to the extent that it has not been expended or lawfully encumbered. Such an appropriation for a capital expenditure shall continue in force until the purpose for which it was made has been accomplished or abandoned. In any case, the purpose of any such appropriation shall be deemed abandoned if three years pass without any disbursement from or encumbrance of the appropriation.

ARTICLE 7. BORROWING

Sec. 7-1. Borrowing.

The city shall have the power, except as prohibited by law, to borrow money by whatever method it may deem to be in the public interest.

Sec. 7-2. General-obligation bonds.

The city shall have the power to borrow money on the credit of the city and to issue general-obligation bonds for permanent public improvements or for any other public purpose not prohibited by the Constitution and laws of the State of Texas, and to issue refunding bonds to refund outstanding bonds of the city previously issued. All such bonds shall be issued in conformity with the laws of the State of Texas.

Sec. 7-3. Revenue bonds.

The city shall have the power to borrow money for the purpose of constructing, purchasing, improving, extending, or repairing of public utilities, recreational facilities, or any other self-liquidating municipal function not prohibited by the Constitution and laws of the State of Texas, and to issue revenue bonds to evidence the obligation created thereby. Such bonds shall be a charge upon and payable from the properties, or interest therein, pledged, or the income therefrom, or both. The holders of the revenue bonds shall never have the right to demand payment thereof out of monies raised or to be raised by taxation; and such bonds shall never be a debt of the city. All such bonds shall be issued in conformity with the laws of the State of Texas.

Sec. 7-4. Bonds incontestable.

All bonds of the city having been issued and sold and having been delivered to the purchaser thereof, shall thereafter be incontestable; and all bonds issued to refund and in exchange for outstanding bonds previously issued shall, after said exchange, be incontestable.

ARTICLE 8. CITY ATTORNEY**Sec. 8-1. City attorney.**

(a) There shall be a city attorney, who shall be an attorney licensed to practice law in the state. The city attorney shall be an officer appointed by the council for an indefinite term or for a limited term as the council may determine. All assistant city attorneys and other subordinates of the city attorney, if any, shall be appointed by the council or in such manner as the council may prescribe.

(b) The city attorney shall be the chief legal adviser of the council, the city manager, and all other officers, departments, and agencies of the city government in matters relating to their official powers and duties; and he or assistant city attorneys under his supervision and control shall represent the city in all legal proceedings requiring the services of an attorney. He shall also have such other powers and duties as may be prescribed by ordinance. Provided, that the council may retain special legal counsel when it deems it desirable to do so for specific purposes.

ARTICLE 9. MUNICIPAL COURT**Sec. 9-1. Municipal court established.**

(a) There shall be a municipal court, which shall have jurisdiction to hear and determine cases involving misdemeanor offenses and such other jurisdiction, powers, and duties as are now or hereafter may be prescribed by law or ordinance.

(b) The municipal court shall be presided over by the judge of the municipal court, who shall be appointed by the council for an indefinite term.

(c) The council by ordinance may create the office of clerk of the municipal court and prescribe how the clerk shall be appointed and the powers and duties of the office.

ARTICLE 10. ELECTIONS**Sec. 10-1. Election of mayor and other councilmen; terms; etc.**

- (a) The city shall hold a regular city election, also called general election, every year on the first Saturday of April; provided that the council by ordinance may change the regular election to the first Tuesday in April, and vice versa. The mayor and other councilmen shall be the only city officers elected by the qualified voters of the city.
- (b) The four councilmen other than the mayor shall serve in specific places on the council designated as places 1, 2, 3, and 4.
- (c) At the election in every even-numbered year, the mayor, the councilman for place 2, and the councilman for place 4 shall be elected.
- (d) At the election in every odd-numbered year, the councilman for place 1 and the councilman for place 3 shall be elected.
- (e) The mayor and other councilmen shall serve for terms of two years and until their respective successors are elected and qualify. Their terms shall begin on the fifth day after the day of their election, Sunday excepted. If a mayor-elect or other councilman-elect fails to qualify within one month after the beginning of his term, his office shall become vacant, and the vacancy shall be filled as other vacancies in the council are filled.
- (f) The mayor and other councilmen shall be elected at large, by the qualified voters of the entire city.
- (g) Elections shall be nonpartisan, and no party designation or emblem shall be placed on the ballots.
- (h) Nothing in this charter shall prohibit the use of voting machines.

Sec. 10-2. Filing.

Any qualified person may have his name placed on the ballot for the election as a candidate for mayor or other councilman by filing, not more than forty-five (45) days and at least thirty (30) days prior to the election, with the city secretary a sworn application to have his name placed on the ballot, specifying the office for which he is filing. Such application shall also contain a statement by the candidate that he is fully qualified under the laws of this state and this charter for the office which he seeks.

Sec. 10-3. Voting; who elected; ties.

At an election, every qualified voter of the city shall be entitled to vote for one candidate for each office to be filled. The candidate for an office receiving the greatest number of votes shall be elected. In case of a tie between two or more candidates receiving the greatest number of votes, the election shall be determined in the manner provided by the election laws of the State of Texas.

Sec. 10-4. Election personnel.

The council shall appoint the election judges and other election personnel for all city elections, regular and special, unless it delegates this power to the city secretary. The city secretary shall have such powers and duties relating to elections as the council may prescribe.

Sec. 10-5. Canvassing returns and declaring results.

The election judges shall deliver the election returns of every municipal election, regular or special,

forthwith to the council or to the city secretary or the mayor for transmittal to the council. The council shall meet within four days after every municipal election, Sunday excepted, to receive the returns, and shall immediately canvass the returns and declare the results of the election.

Sec. 10-6. Council to be judge of election and qualifications of its own members.

The council shall be the judge of the election and qualifications of its own members.

Sec. 10-7. Special elections; submission of questions to voters.

The council by ordinance may call special elections and fix the time thereof; and may submit to the qualified voters of the city, at regular and special elections, questions and matters in accordance with this charter and general state law.

Sec. 10-8. Laws to govern, etc.

All municipal elections, regular and special, shall be governed by the laws of the state regulating the holding of municipal elections insofar as they are applicable and in accordance with ordinances which the council may pass regulating such elections.

Sec. 10-9. Political activity of officers and employees.

(a) No officer or employee of the city except the mayor and other councilmen and also personnel who receive no compensation for their services, may work for or against, or attempt to influence, the nomination, election, or defeat of any candidate for mayor or other councilman, or the recall of the mayor or other councilman; but this shall not prohibit the ordinary exercise of one's right to express his opinions and to vote.

(b) Violation of the above subsection shall constitute cause for removal from office or employment, and it is the duty of the officer or authority having power of removal to remove any officer or employee violating the above subsection.

ARTICLE 11. INITIATIVE, REFERENDUM, AND RECALL

Sec. 11-1. Power of initiative.

The qualified voters of the city shall have power to propose any ordinance except an ordinance appropriating money or levying taxes or an ordinance repealing or amending such an ordinance, and to adopt or reject the same at the polls, such power being known as the initiative.

Sec. 11-2. Power of referendum.

The qualified voters of the city shall have power to approve or reject at the polls any ordinance passed by the council or submitted by the council to a vote of the qualified voters, except ordinances appropriating money, levying taxes, authorizing the issuance of tax or revenue bonds which have already been approved by the qualified voters, whether original or refunding, and ordinances repealing or amending such ordinances, such power being known as the referendum. Ordinances submitted to the council by initiative petition and passed by the council without change shall be subject to the referendum in the same manner as other ordinances passed by the council.

Sec. 11-3. Power of recall.

The qualified voters of the city shall have power to remove the mayor or any other councilman by recall.

Sec. 11-4. Committee of petitioners.

For every initiative, referendum, or recall petition, there shall be a committee of petitioners, which shall be composed of five qualified voters of the city. The committee shall be regarded as responsible for the circulation and filing of the petition. The names and addresses of the committee members shall appear on the petition.

Sec. 11-5. Petitions: Content; signatures; affidavit of circulator.

(a) An initiative petition shall contain the full text of the proposed ordinance and a request that the council either pass the ordinance or refer it to a vote of the qualified voters of the city.

(b) A referendum petition shall contain at least the full descriptive caption or title of the ordinance and its date of passage by the council or the full text of the ordinance, and a request that the council either repeal the ordinance or refer it to a vote of the qualified voters of the city.

(c) A recall petition shall contain the name of the officer whose recall is sought and a demand that he be recalled from office, and a statement of the reasons for recall.

(d) The signatures to an initiative, referendum, or recall petition need not all be appended to one paper. Each signer of a 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.

(e) Every circulator of a petition paper shall be a qualified voter of the city. There shall be attached to each separate petition paper an affidavit of the circulator thereof that he 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 the genuine signatures of the persons whose names they purport to be.

Sec. 11-6. Petitions: Filing; signatures required.

(a) Before any initiative, referendum, or recall petition is circulated for signatures, one of the petition papers shall be filed with the city secretary by the committee of petitioners. Before the paper is filed, the five members of the committee must have signed the paper somewhere on the margin thereof to indicate their responsibility as a committee of petitioners.

(b) Every initiative or recall petition must be circulated and filed with the city secretary with the required number of signatures within thirty days after the filing of the petition paper with the city secretary; and every referendum petition must be circulated and filed with the city secretary with the required number of signatures within thirty days after final passage of the ordinance sought to be referred.

(c) All petition papers comprising an initiative, referendum, or recall petition shall be assembled and filed with the city secretary as one instrument.

(d) Every initiative or referendum petition must be signed by qualified voters of the city equal in number to at least twenty-five (25) percent of the total number of votes cast at the last regular municipal election or 250, whichever is greater.

(e) Every recall petition must be signed by qualified voters of the city equal in number to at least thirty-five (35) percent of the total number of votes cast at the last regular municipal election or 300, whichever is greater.

Sec. 11-7. Petitions: Examination and certification.

(a) Within thirty days after an initiative, referendum, or recall petition is filed with the city secretary, the city secretary shall examine it and determine whether the petition is sufficient. A petition shall be sufficient if it has been duly signed by the required number of qualified voters of the city and is otherwise in compliance with this charter and any ordinances relating to the initiative, referendum, or recall, as the case may be. The city secretary shall declare any petition paper entirely invalid which does not have attached thereto the required 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 shall be accepted unless void on other grounds.

(b) After completing his examination of the petition, the city secretary shall certify the result thereof to the council at its next regular meeting. If he certifies that the petition is insufficient, he shall set forth in his certificate the particulars in which it is defective, and shall immediately by mail notify the committee of petitioners of his findings.

Sec. 11-8. Amendment of petitions.

An initiative, referendum, or recall petition may be amended at any time within ten days after the notification of insufficiency has been sent by the city secretary to the committee of petitioners, by filing a supplementary petition upon additional papers signed and filed as provided in case of the original petition. The city secretary shall, within ten days after such an amendment is filed, examine the amended petition and determine whether it is sufficient, and certify the result thereof to the council at its next regular meeting. If the petition is still insufficient, he shall by mail notify the committee of petitioners of his findings; and no further action shall be had on such insufficient petition. The finding of the insufficiency of a petition shall not prejudice the filing of a new petition for the same purpose.

Sec. 11-9. Referendum petition: Effect of certification.

When a referendum petition has been certified as sufficient by the city secretary, the ordinance specified in the petition shall not go into effect, or, if it has already gone into effect, further action thereunder shall be suspended until and unless approved by the qualified voters as hereinafter provided.

Sec. 11-10. Initiative and referendum petitions: Consideration by council.

(a) Whenever the council receives an initiative or referendum petition certified by the city secretary to be sufficient, it shall proceed at once to consider such petition.

(b) A proposed initiative ordinance shall be read and provision shall be made for a public hearing upon the proposed ordinance. The council shall take final action on the ordinance not later than sixty

days after the date on which such ordinance was submitted to the council by the city secretary.

(c) A referendum ordinance shall be reconsidered by the council, and its final vote upon such reconsideration shall be upon the question whether the ordinance specified in the referendum petition shall be repealed.

(d) If the council fails to pass an ordinance proposed by initiative petition, or passes it in a form different from that set forth in the petition therefor, or if the council fails to repeal a referendum ordinance, then the council shall submit the initiative or referendum ordinance to the qualified voters at an election not less than thirty days nor more than sixty days from the date the council takes its final vote thereon. The council may, in its discretion, and if no regular municipal election is to be held within such period, shall, call a special election for the purpose to be held within such period.

Sec. 11-11. Initiative and referendum ordinances: Ballots.

Ordinances submitted to vote of the qualified voters in accordance with the initiative and referendum provisions of this charter 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 such initiative or referendum ordinance, and shall be a clear, concise statement, without argument or prejudice, descriptive of the substance of such ordinance. Below the ballot title, the following propositions shall appear 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. The voter shall be given an opportunity to vote for either of the two propositions and thereby to vote for or against the ordinance.

Sec. 11-12. Initiative and referendum: Results of election.

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

Sec. 11-13. Initiative and referendum ordinances: Publication; amendment and repeal.

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

Sec. 11-14. Recall petition: Action by council.

In the case of a recall petition certified to the council as sufficient by the city secretary, if the officer whose removal is sought does not resign within five days after the council receives the petition and certificate of the city secretary, the council shall thereupon submit the question of removing the officer to the qualified voters at an election not less than thirty days nor more than sixty days after the council received the petition and certificate. The council shall submit the question at a regular municipal election if one is to be held during such period, but, if not, the council shall call a special election for the purpose to be held within such period. If the officer sought to be recalled resigns at any time before the day of the recall election, the council by ordinance may cancel the recall election.

Sec. 11-15. Recall election: Ballots.

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

- (1) With respect to each officer whose removal is sought, the question shall be submitted “Shall (name of person) be removed from the office of (mayor or councilman) by recall?”
- (2) Immediately below each such question, the following propositions shall be printed in the order indicated: “FOR THE RECALL OF (NAME OF PERSON)” and “AGAINST THE RECALL OF (NAME OF PERSON)”.

Sec. 11-16. Recall election: Results.

(a) If a majority of the votes cast on the question of recall are for the recall of the officer named on the ballot, he shall, regardless of any technical defects in the recall petition, be removed from office, and the vacancy shall be filled as other such vacancies are filled. Otherwise, the officer named on the ballot shall continue in office for the remainder of his term.

(b) A person thus removed from office by recall or who has resigned from such office while recall proceedings were pending against him, shall not hold any office or position of employment in the city government for a period of two years after his removal or resignation.

Sec. 11-17. Recall: Limitations on.

Recall proceedings shall not be begun against an officer within six months after he takes office. No officer shall be subjected to more than one recall election during a term of office. No recall election shall be held if the term of office of the officer sought to be recalled will expire within ninety (90) days after the petition with signatures is filed with the city secretary.

ARTICLE 12. OFFICERS AND EMPLOYEES GENERALLY

Sec. 12-1. Appointments, removals, etc.; personnel rules.

Appointments and promotions in the service of the city shall be made solely on the basis of merit and fitness; and removals, demotions, suspensions, and layoffs shall be made solely for the good of the service. The council, consistently with this charter, by ordinance or personnel rules, may regulate personnel matters and provide for proper personnel administration.

Sec. 12-2. Nepotism.

Neither the city manager, the council, nor any other authority of the city government may appoint or elect any person related to the mayor or any other councilman, to the city manager, or to himself, or, in the case of a plural authority, to one of its members, within the second degree by affinity or within the third degree by consanguinity, to any office or position in the city government; but this shall not prohibit certain officers and employees already in the service of the city from continuing or being continued in such offices and positions as provided by law.

Sec. 12-3. Holding more than one office.

Except as may be otherwise provided by this charter or by ordinance, the same person may hold more than one office in the city government, but may not receive compensation for service in more than one office. The city manager may hold more than one such office, through appointment by himself, by the

council, or by other city authority having power to fill the particular office, subject to any regulations which the council may make by ordinance; but he may not receive compensation for service in such other offices. Also the council by ordinance may provide that the city manager shall hold ex officio designated offices subordinate to the city manager as well as other designated compatible city offices, notwithstanding any other provision of this charter.

Sec. 12-4. Bonds of officers and employees.

The city manager, the city treasurer, the city assessor and collector, and such other officers and employees as the council may designate, before entering upon their duties, shall provide bonds for the faithful performance of their respective duties, payable to the city, in such form and in such amounts as the council may prescribe, with a surety company authorized to operate within the state. The city shall pay the premiums on such bonds.

Sec. 12-5. Oath or affirmation of office.

Every officer of the city, before entering upon the duties of office, shall take and subscribe to the oath or affirmation of office prescribed by the state constitution. The oath or affirmation shall be filed in the city secretary's office.

Sec. 12-6. Who may administer oaths and affirmations.

All officers authorized by federal or state law, the mayor, the city manager, the city secretary, the city treasurer, the city assessor and collector, the judge of the municipal court, the chairman of the board of equalization, and such other officers as the council may authorize, may administer oaths and affirmations in any matter pertaining to the affairs and government of the city.

Sec. 12-7. Removal, etc., of officers and employees.

The power to lay off, suspend, demote, and remove accompanies the power to appoint or elect; and the city manager, the council, or other appointing or electing authority at any time may lay off, suspend, demote, or remove any officer or employee to whom he, the council, or the other appointing or electing authority respectively may appoint or elect a successor.

Sec. 12-8. Acting officers and employees.

The appointing or electing authority who may appoint or elect the successor of an officer or employee, may appoint or elect a person to act during the temporary absence, disability, or suspension of such officer or employee, or, in case of a vacancy, until a successor is appointed or elected and qualifies, unless the council provides by general ordinance that a particular superior or subordinate of such officer or employee shall act. The council by general ordinance may provide for a deputy to act in such cases.

Sec. 12-9. Officers to continue until successors are elected or appointed and qualify.

Every officer who is elected or appointed for a term ending at a definite time, shall continue to serve thereafter until his successor is elected or appointed and qualifies unless his services are sooner terminated by resignation, removal, disqualification, death, abolition of the office, or other legal manner.

Sec. 12-10. Feminine gender.

When the masculine gender is used in this charter, it shall also include the feminine unless the masculine alone is clearly indicated.

ARTICLE 13. PLANNING AND ZONING

Sec. 13-1. Planning and zoning.

(a) For the purpose of promoting health, safety, morals, and general welfare, or protection and preservation of places and areas of historical and cultural importance and significance, the council shall have power to divide the city into zones or districts, and to regulate and restrict the height, number of stories, and size of buildings and other structures, the percentage of lots that may be occupied, the size of the yards, courts, and other open spaces, the density of population, and the location and use of buildings, structures, and land for trade, industry, residence, or other purposes in such zones or districts; and in the case of designated places and areas of historic and cultural importance, to regulate and restrict the construction, alteration, reconstruction, or razing of buildings and other structures; and also to formulate and adopt other policies and plans relative to the future growth and development of the city. The city shall also have all other powers relating to city planning and zoning, and all powers relating to subdivision and platting of land, both within and without the city, subject only to the limitations imposed by the constitution and laws of the state.

(b) The council shall have power to create such commissions, boards, offices, and other authorities as may be authorized by law for the purpose of carrying out the powers herein granted.

ARTICLE 14. PUBLIC UTILITIES AND FRANCHISES

Sec. 14-1. Public utilities operated by the city.

The city shall have power to buy, construct, lease, otherwise acquire, own, control, regulate, operate, maintain, repair, expand, improve, sell, and otherwise dispose of public utilities and public services of every kind and nature, including, but not limited to, gas systems, electric systems, telephone systems, transportation systems, water systems, and sewerage systems, within or without the city; the power to provide such services to the residents of the city and others whether inside or outside the city, and to fix rates and charges for services provided by such city-owned and/or city-operated public utilities and public services; the power to exercise the right of eminent domain to obtain land, rights-of-way, or anything whatsoever that may be proper and necessary to carry out the powers herein mentioned; and any and all other powers relating to such public utilities and public services owned and/or operated by the city which it is possible for the city to have under the constitution and general laws of the state and this charter.

Sec. 14-2. Inalienability of control of streets, etc.

The right of control and use of the public streets, highways, sidewalks, alleys, parks, public squares, public places, and other real property of the city is hereby declared to be inalienable by the city, except by ordinances not in conflict with the provisions of this charter. No act or omission by the council or any officer or agent of the city shall be construed to grant, renew, extend, or amend by estoppel or indirection any right, franchise, or easement affecting the public streets, highways, sidewalks, alleys, parks, public squares, public places, and other real property.

Sec. 14-3. Power to grant franchises.

The council shall have the power by ordinance to grant, renew, and extend all franchises of all public utilities of every character operating within the city, and with consent of the franchise holder, to amend the same. No franchise shall be for a term of more than twenty-five (25) years from the date of its grant, renewal, or extension. No exclusive franchise shall ever be granted by the city.

Sec. 14-4. Ordinance granting franchise.

Every ordinance granting, renewing, extending, or amending a public-utility franchise shall be read at at least two regular meetings of the council, one of which readings must be in full; and shall not be finally acted upon until thirty (30) days after the first reading thereof. Within ten (10) days following the first reading and following final passage of the ordinance, the full text thereof shall be published one time in a newspaper of general circulation within the city, and the expense of such publication shall be borne by the prospective franchise holder. No such ordinance shall become effective until the expiration of thirty (30) days following the date of its final passage by the council, and every such ordinance shall be subject to the referendum procedures provided by state law and this charter.

Sec. 14-5. Transfer of franchise.

No public-utility franchise shall be transferred by the holder thereof, except with the approval of the council expressed by ordinance; provided, however, that such approval of the council shall not be withheld with respect to a transfer of a franchise incident to the creation or foreclosure of a mortgage or other instrument of security executed in good faith for the purpose of financing or refinancing the public-utility operations of the franchise holder.

Sec. 14-6. Regulation of franchises.

Every public-utility franchise, whether so provided therein or not, shall be subject to the right of the council:

- (1) To forfeit any such franchise by ordinance at any time for failure of the holder thereof to comply with the terms of the franchise, such power to be exercised only after notice and hearing, and a reasonable opportunity to correct the default.
- (2) To impose reasonable regulations to insure safe, efficient, and continuous service to the public.
- (3) To require such expansion, extension, enlargement, and improvement of plants and facilities as are reasonably necessary to provide an adequate service to the public.
- (4) To require every franchise holder to furnish to the city, without cost to the city, full information regarding the location, character, and extent of all facilities of such franchise holder in, over, and under the streets, alleys, and other public property of the city; and to regulate and control the location, relocation, and removal of any part of such facilities whenever required in the public interest.
- (5) To collect from every public utility operating in the city such proportion of the expense of excavating, grading, paving, repaving, constructing, reconstructing, draining, repairing, and maintaining alleys, bridges, culverts, viaducts, and other public places of the city as represents the increased cost of such operations resulting from the occupancy of such public places by such public utility, and such proportion of the costs of such operations as results

from the damage to or disturbance of such public places caused by such public utility; or to compel such public utility to perform, at its own expense, such operations as above listed which are made necessary by the occupancy of such public places by such utility or by damage to or disturbance of such public places caused by such public utility.

(6) To require every franchise holder to allow other public utilities holding a franchise from the city to use its poles or other facilities wherever in the judgment of the council such use is in the public interest; provided, that in such event a reasonable compensation shall be paid such owner of facilities for such use. Provided further, that inability of such public utilities to agree upon the compensation to be paid for use of such facilities shall not be an excuse for failure to comply with such requirement by the council.

(7) To require the keeping of accounts in such form as will accurately reflect the value of the property of each franchise holder which is used and useful in rendering its service to the public, and the expense, income, and profits of all kinds of such franchise holder.

(8) To examine and audit at any time during business hours the accounts and other records of any franchise holder relevant to the city's right of regulation.

(9) To require annual and other reports on the local operations of the utility, which shall be in such form and contain such information relevant to the city's right of regulation as the council may prescribe.

(10) To require and collect any tax, compensation, and rental not now or hereafter prohibited by the laws of this state.

(11) To require such franchise holders who request an increase in rates, charges, or fares to reimburse the city for reasonable expenses incurred in employing rate consultants to conduct investigations, present evidence, and advise the council on such requested increase.

Sec. 14-7. Regulation of rates.

(a) The council shall have full power after notice and hearing to regulate by ordinance the rates, charges, and fares of every public-utility franchise holder operating in the city. Any franchise holder requesting an increase in its rates, charges, or fares shall have, at the hearing on such request, the burden of establishing by clear and convincing evidence the fair value of the property of such franchise holder devoted to furnishing service in the city, and the amount and character of its expenses and revenues resulting from rendering such service.

(b) The council shall act on any request for a change in rates, charges, or fares within a reasonable time after such request has been presented. No franchise holder shall institute any legal action to contest any rate, charge, or fare fixed by the council until such franchise holder has filed a motion for rehearing with the council specifically setting out each ground of its complaint against the rate, charge, or fare fixed by the council, and until the council shall have acted upon such motion. Such motion shall be deemed overruled unless acted upon by the council within a reasonable time, not to exceed sixty (60) days from the filing of such motion.

Sec. 14-8. Acquisition by eminent domain.

(a) The city shall have the power through eminent domain proceedings to acquire any public utility

operating with or without a franchise and furnishing a public service to the city and its inhabitants. The procedure to be used in the acquisition of such property shall be that set forth in articles 3264 to 3271, inclusive, title 52, Revised Civil Statutes of the State of Texas. In valuing the property, the measure of damages shall be the fair market value of the physical properties together with its franchise, if any, 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.

(b) Prior to the purchase of any existing franchised public-utility system, either according to the terms of the franchise or by eminent domain, the city council must submit the question of the purchase to the qualified voters of the city, and the same must be approved by a majority of the qualified voters voting in the election.

ARTICLE 15. MISCELLANEOUS PROVISIONS

Sec. 15-1. Notice of injury or damage.

(a) The city shall never be liable for any personal injury, whether resulting in death or not, unless the person injured or someone in his behalf, or in the event the injury results in death, the person or persons who may have a cause of action under the law by reason of such death or injury, shall file a notice in writing with the city manager within thirty (30) days after the same has occurred, stating specifically in such notice when, where, and how the injury occurred, the extent of the injury, the amount of damages claimed or asserted, and a list of persons, if known, who witnessed the injury.

(b) The city shall never be liable for any claim for damage or injury to property unless the person whose property has been injured or damaged, or someone in his behalf, shall file a claim in writing with the city manager within thirty (30) days after the damage or injury occurred, stating specifically when, where, and how the injury was sustained.

(c) The person giving notice under this section shall subscribe his name to the notice under oath that the statements and facts contained in the notice are true and correct.

Sec. 15-2. Damages related to sidewalks.

The city shall not be liable for damages to anyone on account of any defect in, obstruction on, or anything else in connection with any sidewalk in the city.

Sec. 15-3. Execution, garnishment, and assignment.

(a) Property, real or personal, belonging to the city shall not be liable for sale or appropriation under any writ of execution or cost bill.

(b) 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 writ of garnishment on any account whatsoever.

(c) The city shall not be obligated to recognize any assignment of wages or funds by its officers, employees, agents, or contractors.

Sec. 15-4. Bond or security not required.

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

ARTICLE 16. CHARTER: AMENDMENT, SEPARABILITY, PUBLIC ACT**Sec. 16-1. Amendment of charter, etc.**

This charter may be amended, and a new charter may be framed and adopted, in any manner provided now or hereafter by the constitution and general laws of the state.

Sec. 16-2. Separability, etc.

(a) If a court of competent jurisdiction holds any section or part of this charter invalid, such holding shall not affect the remainder of this charter nor the context in which such section or part so held invalid may appear, except to the extent that an entire section or part may be inseparably connected in meaning and effect with that section or part.

(b) If a court of competent jurisdiction holds a part of this charter invalid, or if a change in the state constitution or law renders a part of this charter invalid or inapplicable, the council by ordinance may take such appropriate action as will enable the city government to function properly.

Sec. 16-3. Charter a public act.

This charter shall be deemed a public act and shall have the force and effect of a general law. It may be read in evidence without pleading or proof, and judicial notice shall be taken thereof in all courts and places without further proof.

ARTICLE 17. SUCCESSION IN GOVERNMENT**Sec. 17-1. When charter goes into effect.**

After this charter has been approved by a majority of the qualified voters of the city voting at the election at which it is submitted, it shall go into effect immediately after the governing board canvasses the returns and an official order declaring the charter adopted has been entered upon the records of the city by the governing body thereof.

Sec. 17-2. Officers and employees to continue.

When this charter goes into effect, the mayor and aldermen under the previous government shall continue in office until their respective terms expire, and shall become the first mayor and councilmen under this charter, the title of alderman being changed to councilman. All other city officers and employees under the previous government (including members of boards and commissions) shall continue in their respective offices and positions of employment under this charter until their services are terminated in accordance with the provisions of this charter and ordinances relating to the creation, change, and abolition of offices and removal of officers and employees, as the case may be.

Sec. 17-3. Councilmen: Number.

Notwithstanding any other provision of this charter, the council shall consist of six members until the beginning of the terms of newly elected councilmen in 1973.

Sec. 17-4. Effect of charter on existing ordinances, etc.

All ordinances, resolutions, rules, and regulations in force in the city on the effective date of this charter, insofar as they are not in conflict with this charter, shall remain in force until amended or repealed or until they expire by their own limitations. All taxes, assessments, liens, encumbrances, and demands, of or against the city, fixed or established before such date, or for the fixing or establishing of which proceedings have begun at such date, shall be valid when properly fixed or established either under the law in force at the time of beginning of such proceedings or under the law after the adoption of this charter.

Sec. 17-5. Pending actions and proceedings.

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

Sec. 17-6. Election for adoption of charter.

(a) The charter commission in preparing this charter finds and decides that it is impracticable to segregate each subject so as to permit a vote of "yes" or "no" on the same, for the reason that the charter is so constructed that it should be adopted in its entirety. For this reason, the charter commission directs that the 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 November 28, 1972.

(b) In not less than thirty days prior to such election, the board of aldermen shall cause the city secretary to mail a copy of the charter to each qualified voter of the city as of January 31 preceding the election.

(c) If a majority of the qualified voters voting at such election vote in favor of the adoption of this charter, it shall become the Charter of the City of Tulia. After the returns have been canvassed, the same shall be declared adopted and an official order declaring the charter adopted shall be entered upon the journal of the governing board. The city secretary shall file an official copy of the charter with the records of the city.

(d) The city secretary shall furnish the mayor a copy of the charter; and the 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 the charter by majority vote of the qualified voters voting at such election.

CERTIFICATE

To the Mayor and Board of Aldermen of the City of Tulia:

We, the undersigned members of the Charter Commission of the City of Tulia, Texas, heretofore duly elected to frame a Charter for the City of Tulia, do hereby certify that the said Charter Commission has

framed the Charter of the City of Tulia, Texas, as it appears hereinbefore, and that we hereby approve and propose this Charter for submission at an election to the qualified voters of the City of Tulia.

In testimony whereof, we hereunto set our hands to duplicate copies of said Charter of the City of Tulia, Texas, at Tulia, Texas, this the 14th day of September, 1972.

/s/ K.G. Vaughn

/s/ Ed L. Harris

/s/ Danny P. Lewis

/s/ A.W. Reeves	/s/ T.A. Hayhurst
/s/ Morris Webb	/s/V.H. Harman, Jr.
/s/ A.C. Hill	/s/ Guy C. Young
/s/ Dwane Love	/s/ Vesta Orr
/s/ Bob G. Phillips	/s/ Mattie Evans
/s/ William L. Daniel	/s/ Thomas M. Littlejohn

Sworn to and subscribed in duplicate before me this the 14th day of September, 1972. My commission expires June, 1973, in and for Swisher County.

/s/ Faye Cox

Notary Public

(Seal)