



City of Sullivan City

Mayor Gumaro "Maro" Flores
Mayor Pro-Tem Rosendo "Cheno" Benavides
Commissioner Oscar "Coach" Salinas
City Manager Rolando Gonzalez

Filed in the Office of
Secretary of State

DEC 19 2008


CHARTER

Statutory Documents

Attached hereto is a true and correct copy of the Home-Rule Charter of the City of Sullivan City, Texas, which Charter was adopted and approved at an election, held on November 4, 2008. Said Charter was so adopted and approved by the qualified voters.



The attached copy of said Charter is
hereby authenticated


Gumaro "Maro" Flores, Mayor
City of Sullivan City

RESOLUTION 2008-02

CANVASS OF THE RETURNS AND DECLARATIONS OF THE
RESULTS OF AN ELECTION HELD IN THE CITY OF
SULLIVAN CITY, TEXAS, ON NOVEMBER 4, 2008

BE IT REMEMBERED THAT on the 10th day of November 2008, at a meeting of the Charter Commission of the City of Sullivan City, Texas, a quorum being present, the meeting was called to order and the following business transacted:

Upon a motion by Rita Flores, seconded by Dora Benavides, with all voting "aye", it was ordered that the Commission consider the official returns of the election held in the City on the 4th day of November 2008, "To adopt the proposed Home Rule Charter framed by the Charter Commission".

WHEREUPON, said official returns were opened, examined, canvassed and the results declared as follows:

For 9
Against 0

CANVASS OF RETURNS AND DECLARATION OF RESULTS

WHEREAS, heretofore, the Commission called an election in the City of Sullivan City that was held on November 4, 2008, for the purpose of adopting the proposed Home Rule Charter framed by the Charter Commission, and caused notice thereof to be posted in the manner and for the time provided by law, which order, together with notices issued thereon, is recorded in the minutes of the Charter Commission, and it is hereby incorporated herein and made a part hereof; and,

WHEREAS, immediately after said election the City Secretary and other Election Officers holding said election made their return of the results thereof to the Commission as follows, to-wit:

NUMBER OF VOTES

For 494
Against 31

Said returns being duly made according to law and duly authenticated, and being shown that written notices of said election were posted for the time and in the manner provided by law, and all other proceedings relating to said election having been shown to have been done and performed at, and within the time and in the manner provided by law, and all the papers pertaining thereto having been returned and filed with the City Commission and no protest or objection having been made to or regarding any manner pertaining to said election.

NOW, THEREFORE, BE IT RESOLVED BY THE CHARTER COMMISSION OF THE CITY OF SULLIVAN CITY, TEXAS after examining said returns and opening and canvassing the votes cast in said election that the results of said election were as follows:

That the following number of votes was cast regarding the sole ballot proposition:

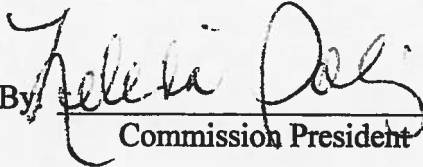
	NUMBER OF VOTES
For	494
Against	<u>31</u>

AND IT IS FURTHER ORDERED that this canvass and declaration of the results of said election shall be entered in the minutes of the Commission and City Commission.

That this resolution declaring the results of this election held on November 4, 2008, shall become effective immediately after its passage.

APPROVED AND ADOPTED by the Charter Commission of the City Sullivan City on this the 10th day of November 2008.

APPROVED:

By 
Commission President

ATTEST:


Commission Secretary

**HOME RULE CHARTER
Of
THE CITY OF SULLIVAN CITY, TEXAS**

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APPOINTED COMMISSIONER'S Drafting Of The Home Rule Charter

1. Dora Benavides
2. Joel Benavides
3. Diana Salinas
4. Arturo Salinas
5. Nellie Solis
6. Rita Flores
7. Samuel Flores
8. Sergio Flores
9. Guadalupe Arechiga
10. Marisela Garcia
11. Noemi Benavides
12. Alma Salinas
13. Daniel Flores
14. Roberto Ramirez
15. Yvonne Benavides

PREAMBLE

We, the citizens of Sullivan City, Texas, in order to establish a home rule municipal government, provide for the future progress of our City and obtain more fully the benefits of local self-government, do hereby adopt this Home Rule charter in accordance with the Statutes of the State of Texas; and do hereby declare the residents of the City of Sullivan City in Hidalgo County, Texas, living within the legally established boundaries of said City, to be a political subdivision of the State of Texas, incorporated forever under the name and style of the "City of Sullivan City" with such powers, rights and duties as are herein provided.

ARTICLE I. INCORPORATION: FORM OF GOVERNMENT: BOUNDARIES

SECTION 1.01 Incorporation

The inhabitants of the City of Sullivan City, in Hidalgo County, Texas, within the corporate limits as now established or as hereafter established in the manner prescribed by this Charter, shall continue to be a municipal body political and corporate in perpetuity, under the name of the "City of Sullivan City".

SECTION 1.02 Form of Government

The municipal government prescribed by this Charter shall be known as the "**Council-Manager Government**". Pursuant to its provisions and subject only to the limitations imposed by the state of Texas constitution and by this Charter, all powers of the City shall be vested in an elective City Council hereinafter referred to as "the City Council", which shall enact local legislation, adopt budgets, determine policies appoint the City Secretary, the City Attorney, the Judge of the Municipal Court, and employ the City Manager, who shall execute the laws and administer the government of the City. All powers of the City shall be exercised in the manner prescribed by this Charter, or if the manner be not prescribed, then in such manner as may be prescribed by ordinance.

SECTION 1.03 Boundaries

The bounds and limits of the City of Sullivan City are hereby established as now constituted or as hereafter established through annexation or disannexation in the manner prescribed by this Charter and the laws of the State of Texas.

ARTICLE II POWERS OF THE CITY

SECTION 2.01 Powers of the City

(A) Powers of the City.

The City of Sullivan City shall be a home rule city and shall have the power to ordain and establish such acts, laws, rules, regulations, resolutions, and ordinances not inconsistent with the Constitution and laws of the State of Texas and of this Charter, and shall be required for the

government, interest, health, welfare and good order of said City and its inhabitants. Under the name of the City of Sullivan City, it shall be known in law and have succession and be capable of contracting and being contracted with, and, being suing, impleading and being impleaded, answering and being answered unto, in all courts and tribunals and in all amounts, whatsoever, subject to the laws of the State of Texas, or which shall hereafter be passed.

The City of Sullivan City shall have the power to take, hold, lease, grant, purchase and convey such real property or mixed property or estate, situated within, or without, the limits thereof, as the purpose of said corporation may require and shall have and use a corporate seal, and change and renew the same at pleasure.

(B) Rights Reserved.

All suits, taxes, penalties, fines, forfeitures and all other rights, claims and demands, of every kind and character, which have accrued under the laws in favor of said City, heretofore in force governing the same, shall belong to and vest in said City and shall not abate by reason of the adoption of this Charter, and shall be prosecuted and collected for the use and the benefit of said City of Sullivan City and shall not be in any manner affected by the taking effect of this Charter, but as to all of such rights, the laws under which they shall have accrued, shall be deemed to be in full force and effect.

(C) Local Self-Government.

The City of Sullivan City shall possess and may exercise the full power of local self-government. It may hold, by gift, deed, devise, or otherwise any character of property, including any charitable or trust fund and subject to and within the limits of superior law may act in perpetual succession as a body politic.

(D) Other Powers.

For greater certainty, the following are hereby especially enumerated and referred to as being among the other powers which are hereby conferred upon and which may be exercised by the City of Sullivan City, to wit:

- (1) All powers conferred upon cities and towns by Title 22, Revised Civil Statutes of Texas, 1911, except as may hereafter be denied, limited, or extended, are hereby conferred upon the City of Sullivan City as fully and completely as if such powers were herein separately enumerated;
- (2) All powers conferred upon home rule cities by Chpt. 13, Title 28, Art. 1175, Revised Civil Statutes of Texas, 1925, except as may hereinafter be denied, limited or extended, are hereby conferred upon the City of Sullivan City as fully and completely as if such powers were herein separately enumerated; and,
- (3) all powers, privileges and immunities conferred upon cities of more than five thousand (5,000) inhabitants by Section 4, Chpt. 147, Acts of the 33rd Legislature, General Laws

Regular Session, at page 310 to 316, entitled, "An Act Authorizing Cities Having More Than Five Thousand Inhabitants, By A Majority Vote Of The Qualified Voters Of Said City, And An Election Held For The Purpose To Adopt And Amend Their Charters: etc.", and such powers are hereby conferred upon the City of Sullivan City as fully and completely as if each of said mentioned powers were herein separately enumerated; but enumeration of special powers herein, or in the statutes referred to, shall not be held, or construed to preclude the City from exercising all powers of local government not inhibited by the Constitution and the laws of the State of Texas, or by special limitations in this Charter contained, the purpose of this Charter being to enlarge upon the power extended by the general laws of cities incorporated there under, and to secure to the City of Sullivan City, all the powers conferred by the Constitution and the laws of this State upon cities having more than five thousand (5,000) inhabitants.

SECTION 2.02 Eminent Domain

The City shall have the full power and right to exercise the power of eminent domain, when necessary to the conduct of public affairs, within the authority and scope conferred by this Charter or by the Constitution and laws of the State of Texas. Such authority shall include the obligation to pay adequate compensation and the right to take the fee in land so condemned and to institute condemnation proceedings for municipal or public purposes even though not specifically enumerated herein.

SECTION 2.03 Alteration and Extension of Boundaries

The City shall have the power to provide for the alteration and extension of its boundaries, and to annex or detach territories pursuant to the authority conferred by the Constitution and laws of the State of Texas. Annexation is restricted to area adjacent to the City and within the City's extra-territorial jurisdiction, except where the City owns the area to be annexed. Annexation may be initiated by either of the following methods:

- (A) By petition of a majority of the qualified voters who are inhabitants of an area defined by the City Council; or if there are no qualified voters who are inhabitants of the area, by petition of persons owning a majority of the land in the area; or
- (B) By action of the City Council, with or without the consent of the inhabitants or owners of the territory to be annexed.

SECTION 2.04 Annexation Procedures

When annexation is either by petition, or by action of the City Council, the City shall follow the procedures and requirements as laid out in Chapter. 43, Texas Local Government Code and any other applicable state law.

SECTION 2.05 Disannexation

- (A) If the City fails to provide the services specified in the service plan within the time period specified in the service plan or required by state law, a majority of the qualified voters residing within the annexed area, or a majority of the landowners in the annexed area may petition the City Council to be disannexed as laid out in Chapter, 43, Texas Local Government Code and any other applicable state law.
- (B) If the petition is refused by the City Council, or not acted upon within sixty (60) days, the petitioners may file suit for disannexation in the District Court.
- (C) The petition for disannexation shall meet the requirements as laid out under the Chapter 43, Texas Local Government Code and any other applicable state law. The City Council may, by ordinance, disannex territory within the City. Any territory so detached shall be liable for its pro rata share of any debts incurred while it was a part of the City, and the City shall continue to levy and collect taxes on the property until such indebtedness has been discharged, Disannexation actions are subject only to such procedural rules and regulations as prescribed by Chapter 43, Texas Local Government Code, and any other applicable state statute.

ARTICLE III. CITY COUNCIL

SECTION 3.01 General Powers and Duties

All powers of the City shall be vested in the City Council, except as otherwise provided by law or this Charter and the City Council shall provide for the exercise thereof and for the performance of all duties and obligations imposed on the City by law. Without limitation of the foregoing and among the other powers that may be exercised by the Council, the following are hereby enumerated for greater certainty:

- (1) Appoint and remove the city manager.
- (2) Abolish or consolidate such offices, departments, and agencies of the City government as it may deem to be to the best interest of the City, and may divide the administration of any such departments as it may deem advisable; may create new departments, and may discontinue any offices or departments at its discretion, except those specifically established by this Charter.
- (3) Adopt the budget of the City.
- (4) Authorize the issuance of bonds by a bond ordinance.
- (5) Inquire into the conduct of any office, department or agency of the City and make investigations as to municipal affairs.

- (6) Appoint all commission, board, committees, task forces and/or appointed groups to assist Council in the performance of its duties and responsibilities, such powers subject to the restrictions of the Charter and laws of the State of Texas.
- (7) Fix the salaries and compensation for the non-elective City officers and employees
- (8) Adopt and modify the zoning plan and the building code of the city.
- (9) Compromise and settle any and all claims and lawsuits of every kind and character in favor of or against the City.
- (10) Establish operating policy.
- (11) Adopt and modify the official map of the City and plats.

SECTION 3.02 Qualifications

Each of the four (4) Council members and the Mayor shall meet the following qualifications:

1. Be a registered voter of the City;
2. Have resided in the City for at least twelve (12) months preceding the election at which they are candidates;
3. Continue residency in the City during the term of office;
4. Not hold more than one public elective office;
5. Not hold an appointed office of the City excluding boards, committees, and commissions;
6. Be at least 21 years of age;
7. Not have been determined mentally incompetent by a final judgment of a court; and
8. Not have been convicted, whether final for appeal purposes or not, of a felony from which the person has not been pardoned or otherwise released from the resulting disabilities.

A member of the Council ceasing to possess any of the qualifications specified in this section or any other section of this Charter, or convicted of a felony while in office, shall immediately forfeit his office.

SECTION 3.03 Composition; Eligibility; Election and Terms

- (A) **Composition.** There shall be a City Council composed of the Mayor and four (4) Council members; the Council members shall be elected by the voters of the City at-large, by place, and the Mayor shall be elected as provided in subsection (C) of this Section and in Section 3.03.
- (B) **Eligibility.** Only registered voters of the City shall be eligible to hold the office of Council member or Mayor. No person shall be eligible for the office of Mayor or Councilmember, who shall hold any other public office or emolument, or shall be interested in the profits of the emoluments of any contract job, work or service for the City, or interested in the sale to the City of any supplies, equipment, material, or articles purchased. No Mayor or Council member shall hold any other public office, except that of Notary Public, member of National Guard or any Military Reserve, or a retired member of the Armed Services.

SECTION 3.03 Elected Officers

- (1) **Members --** The governing body of the City shall be known as the “**City Council**” and shall consist of a Mayor and four (4) Councilmember’s. The members of the City Council of the City, which include the Mayor and four (4) Councilmember’s, shall be the only elected officers of the City, and they shall be elected and hold office and be compensated as provided herein.
- (2) **Terms --** The Mayor and Councilmember’s shall be elected by the qualified voters of the entire City for a term of four (4) years, or until a successor has been duly elected and qualified, but each Councilmember shall be elected to and occupy an at-large, non-geographical seat on the Council, such seats being numbered 1, 2, 3, and 4, respectively. The seats of the Councilmember’s shall be designated on the official ballot as Councilmember Seats 1, 2, 3, and 4.
- (3) **Transition Provisions --** To establish staggered terms for the Mayor and Councilmember’s, the following transition provisions shall be applied:
 - (a) Beginning with the May 2009 election, the Mayor and Councilmember for Seat 3 and 4 will be elected for a four (4) year term.
 - (b) In May 2010, Councilmember for Seat 1 and Seat 2 will be elected for a four (4) year term.
- (4) **Current Terms –** The current terms of Councilmember’s in office when this Section takes effect shall not be shortened by the transition provision in (3) above.

SECTION 3.04 Mayor

- (1) The Mayor shall preside at all meetings of the City Council and shall have full voting rights.
- (2) The Mayor shall perform such other duties consistent with the office as may be imposed by this Charter or the ordinances and resolutions of the City.
- (3) The Mayor shall sign all ordinances, resolutions, capital improvement contracts, conveyances made or entered into by the City, all bonds issued under the provisions of this Charter, and such other documents as authorized by the City Council.
- (4) The Mayor shall be recognized as the official head of the City for all ceremonial purposes.
- (5) The Mayor shall be recognized by the governor for the purpose of enforcing martial law. In time of danger or emergency, the Mayor may, in accordance with State law and with the consent of the Councilmember's, take command of the police and govern the City by proclamation and maintain order and enforce all laws.
- (6) A Mayor shall be elected to a four (4) year term.
- (7) The next Mayoral election after the approval of this charter shall be conducted during the regular election designated in May, 2009. Thereafter, a Mayoral election shall take place every four (4) years during the May regular election as designated by the State.
- (8) The Mayor shall be a member of the City Council and shall preside at meetings of the City Council, represent the City in intergovernmental relationships, appoint, with the advice and consent of the City Council, members of citizen advisory boards and commissions, to include, but not limited to a Zoning Commission, a Planning Commission, and a Board of Adjustments, present an annual State of the City message, and perform other duties specified by the City Council.

SECTION 3.05 Mayor Pro-Tem

- (1) The City Council, at its first regular meeting after each annual election, shall elect one of its members Mayor Pro-Tem, and he shall perform all the duties of the mayo in the absence or disability of the Mayor. In the event the City Council, for any reason, fails to elect a Mayor Pro-Tem at its first meeting after an annual City election, then the councilmember with the longest period of service on the City Council Shall automatically become Mayor Pro-Tem. In the event two or more members of the council are tied for the longest period of service the eldest of such members shall serve as Mayor Pro-Tem.

SECTION 3.06 Compensation; Expenses

The Mayor shall be compensated in the amount of \$50 per the regularly scheduled monthly meeting attended and each of the other Council Members shall be compensated in the amount of \$25 per the regularly scheduled monthly meeting attended. Compensation may be increased by ordinance passed by a vote of the Mayor and all four (5) City Council Members.

The Mayor and Council Members shall receive no compensation for other non-scheduled monthly meetings. The Mayor and City Council Members may receive reimbursement for necessary expenses incurred in the performance of their duties of office, according to policies to be determined by the Council.

SECTION 3.07 Prohibitions

- (A) **Holding Other Office.** Except where authorized by law, no Mayor or Councilmember shall hold any other City Office employment during his term as Mayor or Councilman, and no former Mayor or Councilman shall hold any compensated appointive City office or City employment until the passage of one year after the expiration of his term as Mayor or Councilman for which the member was elected to the City Council. No former Councilmember shall hold any compensated appointive office or employment with the City until one (3) year after the expiration of the term for which the member was elected to the City Council. Nothing in this section shall be construed to prohibit the City Council from selecting any current or former Councilmember to represent the *City* on the governing board of any regional or other intergovernmental agency.
- (B) **Appointments and Removals.** Neither the City Council nor any of its members shall in any manner dictate, control or demand the appointment or removal of any City administrative officer or employee whom the City Manager or any his subordinates are empowered to appoint, but the City Council may express its views and fully and freely discuss with the City Manager anything pertaining to any appointment and removal of such officers and employees.
- (C) **Interference with Administration.** Except for the purpose of inquiries and investigations under Section 3.08, the City Council or its members shall deal with City officers and employees who are subject to the direction and supervision of the City Manager solely through the City Manager, and neither the Mayor nor Councilman may give orders publicly or privately to any such officer or employee.

SECTION 3.08 Vacancies; Forfeiture of Office; Filling of Vacancies

- (A) **Vacancies.** The office of a Councilmember or Mayor shall become vacant upon the death, resignation, forfeiture of office, or removal from office in any manner authorized by law.
- (B) **Forfeiture of Office.** A Councilmember, or Mayor, shall forfeit that office if the Councilmember or Mayor:

1. Lacks at any time during the term of office for which elected any qualification for office prescribed by the Charter or by law,
2. Violates any express prohibition of this Charter,
3. Is convicted of a crime involving moral turpitude, or
4. Fails to attend, three (3) consecutive regular meetings of the City Council without being excused by the Council.

(C) **Filling of Vacancies.** A vacancy on the City Council shall be filled by a majority vote in an election called to fill said vacancy. The election shall be held no later than one hundred-twenty (120) days after such vacancy occurs as per Art. II, Section II of the Texas Constitution.

SECTION 3.09 Judge of Qualifications

The City Council shall be the judge of the election and qualifications of its members and of the grounds for forfeiture of their office. The City Council shall have the power to set additional standards of conduct for its members beyond those specified in the Charter and may provide for such penalties as it deems appropriate, including forfeiture of office. In order to exercise these powers, the City Council shall have power to subpoena witnesses, administer oaths and require the production of evidence. A member charged with conduct constituting grounds for forfeiture of office shall be entitled to a public hearing on demand, and notice of such hearing shall be published in one (1) or more newspapers of general circulation in the City at least one (1) week in advance of the hearing. Decisions made by the City Council under this section shall be subject to judicial review.

SECTION 3.10 Investigations

The City Council shall have to power to inquire into the conduct of any office, department, agency, officer or employee of the city and to make investigations as to municipal affairs, and for that purpose may subpoena witnesses, administer oaths and compel the production of book, papers or other evidence. Failure or refusal to obey a lawful order issued in the exercise of these powers by the City Council shall be a Class C misdemeanor and punishable by a fine not to exceed the amount authorized by law.

SECTION 3.11 Independent Audit

The City Council shall provide for an independent annual audit of all city accounts and may provide for more frequent audits as it deems necessary. Such audits shall be made by a certified public accountant or firm of such accountants who have no personal interest, direct or indirect, in the fiscal affairs of the City government or any of its officers. The City Council may, without requiring competitive bids, designate such accountant or firm annually or for a period not exceeding three (3) years, but the designation for any particular fiscal year shall be made no later

than thirty (30) days after the beginning of such fiscal year. If the state makes such an audit, the City Council may accept it as satisfying the requirements of this section.

SECTION 3.12 Procedure

- (A) **Meetings.** The City Council shall meet regularly at least once in every month at such times and places as the City Council may prescribe by rule and/or are covered under the state Open Meetings Act. Special meetings may be held on the call of the Mayor or of three (3) or more Council members and, whenever practicable, upon no less than twelve (12) hours notice to each member of the Council. All meetings of the City Council shall be open to the public, except as allowed by state law.
- (B) **Rules and Journal.** The City Council shall determine its own rules and order of business and shall provide for keeping a journal of its proceedings. This journal shall be a public record except as allowed by state law.
- (C) **Quorum.** A quorum shall consist of three (3) members: Mayor and two (2) Council members, or three (3) Council members. A quorum of the City Council must be present at the start of each City Council meeting. Should the City Council at any meeting lose a quorum, the fact may be raised by any City Councilmember, at which time the City Council may continue its meeting, however, no action or ordinance requiring a vote may be taken or passed. Voting, except on procedural motions, shall be by roll call and the ayes and nays shall be recorded in the journal. No action of the City Council, shall be valid or binding unless adopted by the affirmative vote of a majority of the quorum of the City Council present and voting. The Mayor may vote only in case of a tie.

SECTION 3.13 Action Requiring an Ordinance

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

1. Adopt or amend an administrative code or establish, alter, or abolish any City department, or agency;
2. Provide for a fine or other penalty or establish a rule or regulation for violation of which a fine or other penalty is imposed;
3. Levy taxes;
4. Grant, renew or extend a franchise;
5. Regulate the rate charged for its services by a public utility;
6. Authorize the borrowing of money;
7. Convey or lease or authorize the conveyance or lease of any lands of the City;
8. Regulate land use and development;
9. Amend or repeal any ordinance previously adopted; and,
10. Adopt an annual budget.

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

SECTION 3.14 Ordinances in General

(A) Form.

Every proposed ordinance shall be introduced in writing and in the form required for final adoption. No ordinance shall contain more than one (1) subject which shall be clearly expressed in its title. The enacting clause shall read, "Be it ordained by the City Council of The City of Sullivan City, Texas ..." Any ordinance which repeals or amends an existing ordinance or part of the City code shall set out in full the ordinance, sections or subsections to be repealed or amended, and shall indicate matters to be omitted by enclosing it in brackets with strikeout type, and shall indicate new matters by underscoring or by italics.

(B) Procedure. An ordinance may be introduced by any member of the City Council at any regular or special meeting of the City Council. Upon introduction of any ordinance, the City Secretary shall distribute a copy to each Councilmember and to the City Manager, shall file a reasonable number of copies in the office of the City Secretary and such other public places as the City Council may designate. As soon as practicable after adoption, the City Secretary shall have the ordinance and a notice of its adoption published and available at a reasonable price.

(C) Effective Date. Except as otherwise provided in this Charter, every adopted ordinance shall become effective at the expiration of fifteen (15) days after adoption or at any later date specified therein.

(D) Publication of Ordinance. The City may publish the ordinance, or caption of the ordinance that summarizes the purpose of the ordinance and any penalty for violating the ordinance. The ordinance may be published at least once in the municipality's official newspaper. The publication shall notify citizens where copies of the ordinance have been filed and the times when they are available for public inspection and purchase.

SECTION 3.15 Emergency Ordinances

To meet a public emergency affecting life, health, property or the public peace, the City Council may adopt one (1) or more emergency ordinances, but such ordinances may not levy taxes, grant, renew or extend a franchise, regulate the rate charged by any public utility for its services or authorize the borrowing of money. An emergency ordinance shall be introduced in the form and manner prescribed for ordinances generally, except that it shall be plainly designated as an emergency ordinance and shall contain, after the enacting clause, a declaration stating that an emergency exists and describing it in clear and specific terms. An emergency ordinance may be adopted with or without amendment or rejected at the meeting at which it is introduced, but the affirmative vote of a majority of the quorum present and voting shall be required for adoption. After its adoption the ordinance shall be published and printed as prescribed for other adopted ordinances. It shall become effective upon adoption or such later time as it may specify.

SECTION 3.16 Codes of Technical Regulations

The City Council may adopt any standard code of technical regulations by reference thereto in an adopting ordinance. The procedure and requirements governing such an adopting ordinance shall be as prescribed for ordinances generally except that:

1. The requirements of Section 3.13 for distribution and filing of copies of the ordinance shall be construed to include copies of the code of technical regulations well as of the adopting ordinance; and,
2. A copy of each adopted code of technical regulations as well as of the adopting ordinances shall be authenticated and recorded by the City Secretary pursuant to Section 3.16(A).

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

SECTION 3.17 Authentication and Recording; Codification; Printing

- (A) **Authentication and Recording.** The City Secretary shall authenticate by signing and shall record in full, in a property indexed book kept for that purpose, all ordinances and resolutions adopted by the City Council.
- (B) **Codification.** Within three (3) years after adoption of this Charter and at least every ten (10) years thereafter, the City Council shall provide for the preparation of a general codification of all City ordinances and resolutions having the force and effect of law, The general codification shall be adopted by the City Council by ordinance and shall be published promptly in bound or loose-leaf form, together with this Charter and any amendments thereto, pertinent provisions of the constitution and other Laws of the State of Texas, and such codes of technical regulations and other rules and regulations as the City Council may specify. This compilation shall be known and cited officially as the SULLIVAN CITY CODE. Copies of the code shall be furnished to City officers, placed in libraries and public offices for free public reference and made available for purchase by the public at a reasonable price fixed by the City Council.
- (C) **Printing of Ordinances and Resolutions.** The City Council shall cause each ordinance and resolution having the force and effect of law and each amendment to this Charter to be printed promptly following its adoption, and the printed ordinances, resolutions and Charter amendments shall be distributed or sold to the public at reasonable prices as fixed by the City Council. Following publication of the first SULLIVAN CITY CODE and at all times thereafter, the ordinances, resolutions and Charter amendments shall be printed in substantially the same style as the code currently in effect and shall be suitable in form for integration therein.

The City Council shall make such further arrangements as it deems desirable with respect to reproduction and distribution of any current changes in or additions to the provisions of the constitution and other laws of the State of Texas, or the codes of technical regulations and other rules and regulations included in the code.

ARTICLE IV. CITY ADMINISTRATION

SECTION 4.01 City Manager

- (A) The City Council shall upon approval of a majority of the City Council appoint a City Manager who shall be the chief administrative and executive officer of the City, and shall be responsible to the City Council for the administration of the affairs of the City.
- (B) The City Manager shall be chosen by the City Council solely on the basis of executive and administrative training, experience, and ability.
- (C) The City Manager shall be appointed for an indefinite term and receive compensation *as* may be fixed by the City Council.
- (D) The City Manager serves at the pleasure of the City Council. The City Council may by affirmative vote of the majority of the full City Council adopt a resolution removing the City Manager from office during a regular meeting. The action of the City Council in removing the City Manager shall be final, it being the intention of this Charter to vest all authority and fix all responsibility for such removal in the City Council.
- (E) The City Manager may, by letter filed with the City Secretary and subject to approval by the City Council, designate a qualified City administrative officer to be Acting City Manager to serve during the temporary absence or disability of the City Manager. The Acting City Manager serves at the pleasure of the City Council. The City Council may remove an Acting City Manager at any time.

SECTION 4.02 Duties of the City Manager

The City Manager shall:

- (A) Appoint and, when necessary for the good of the service, suspend or remove all city employees and appoint administrative officers provided for by or under this charter, except as otherwise provided for by law, this charter or personnel rules adopted pursuant to this charter. The city manager may authorize any administrative officer subject to the manager's supervision to exercise these powers with respect to subordinates in that officer's department, office or agency;
- (B) Direct and supervise the administration of all departments, offices and agencies of the city, except as otherwise provided by this charter or by law;

- (C) Attend all City Council meetings. The city manager shall have the right to take part in discussion, but shall not vote;
- (D) See that all laws, provisions of this Charter, and acts of the City Council, subject to enforcement by the City Manager or by officers subject to his or her direction and supervision, are faithfully executed;
- (E) Prepare and submit the annual budget and capital program to the City Council;
- (F) Submit to the City Council and make available to the public a complete report on the finances and administrative activities of the City as of the end of each fiscal year;
- (G) Make such other reports as the City Council may require concerning the operations of the City departments, offices, and agencies subject to his or her direction and supervision;
- (H) Keep the City Council fully advised as to the financial condition and future needs of the City and make such recommendations to the City Council concerning the affairs of the City;
- (I) Keep the city council fully advised as to the financial condition and future needs of the city;
- (J) Provide staff support services for the Mayor and Councilmember's; and
- (K) Perform such other duties as are specified in the Charter or may be required by the City Council or the laws of the State of Texas.

SECTION 4.03 City Secretary

- (A) The City Council shall appoint a City Secretary who shall report administratively to the City Manager, but may be removed from office only with the consent of the City Council. The city secretary shall be provided an office in the city hall sufficient to maintain the records entrusted to the city secretary's care and shall be entitled to a seat at the council table at all official meetings.
- (B) The duties of the City Secretary shall be to:
 - 1. prepare and post notice of Council meetings;
 - 2. keep the minutes of proceedings of Council meetings;
 - 3. authenticate by signature and record in full, in a book kept and indexed for that purpose, all ordinances and resolutions passed by the City Council;
 - 4. hold and maintain the City Seal and affix the Seal to all instruments requiring it; and,
 - 5. perform such other duties as may be specified by the City Council, City Manager, this Charter, or the laws of the State of Texas.

SECTION 4.04 City Attorney

- (A) The City Council may appoint an attorney, licensed to practice law in the State of Texas, as City Attorney. The City Attorney shall serve at the will of the City Council and be entitled to compensation as established by the City Council.
- (B) The duties of the City Attorney shall be to:
 - 1. Serve as legal advisor to the City Council, to all offices, departments, and agencies of the City, and to all officers and employees of the City as authorized by the City Manager,
 - 2. Perform all services incidental to his or her position as may be required by statute, this Charter, ordinances, or as directed by the City Council.
 - 3. The City Council may retain special counsel at any time it deems such action appropriate or necessary.

SECTION 4.05 Municipal Court

- (A) There is hereby established a court designated the Municipal Court of the City of Sullivan City.
- (B) The Municipal Court shall have jurisdiction within the territorial limits of the City for the trial of misdemeanor offenses with all powers and duties granted by the laws of the State of Texas.
- (C) The Judge of the Municipal Court shall be nominated by the Mayor and approved by the City Council for a term of four (4) years to run concurrently with the term of office of the Mayor. Compensation shall be set by the City Council and may not be reduced during the term of office for which the Judge was appointed.
- (D) In the absence or disability of the Judge, the City Council shall appoint an interim judge to preside over the Municipal Court.
- (E) All costs and fines collected by the Municipal Court shall be paid to the City treasury for the use and benefit of the City after all legal and financial responsibilities to the State of Texas are met shall be paid to the city.
- (1) Appointment - The Municipal Judge(s) shall be appointed by ordinance of the City Council and their salary may be fixed by ordinance or resolution. The Municipal Judge(s) shall be appointed for a term of two (2) years and may be appointed to additional consecutive terms. Prior to the 2009 election, four (4) affirmative votes of the City Council are required to appoint the Municipal Judge licensed to practice law in the State of Texas.

- (2) Duties – The Municipal Judge shall:
- (A) The Chief Judge of said Municipal Court shall have the power to punish for contempt to the same extent and under the same circumstances as the Justice of the Peace may punish for contempt of criminal cases.
 - (B) The Municipal Judge shall preside over any associate judge(s) who shall be a licensed attorney(s) in the State whenever feasible.
- (3) Compensation -- The Municipal Judge(s) shall receive compensation as may be determined by the City Council.
- (4) Removal -- The Municipal Judge shall be removed, with or without cause, by three (3) affirmative votes of the City Council. Prior to the 2009 election, three (3) affirmative votes of the City Council are required to remove the Municipal Judge.
- (D) In the absence or disability of the Judge, the City Council shall appoint an interim judge to preside over the Municipal Court.
- (E) All costs and fines collected by the Municipal Court shall be paid to the City treasury for the use and benefit of the City.

SECTION 4.06 Bonds for City Employees

The City 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 the City Council and the cost thereof shall be borne by the City.

ARTICLE V. FINANCIAL PROCEDURES

SECTION 5.01 Fiscal Year

The fiscal year of the City of Sullivan City shall commence on October 1 and ending September 30.

SECTION 5.02 Submission of Budget and Budget Message

Not later than sixty (60) days prior to the close of the fiscal year, the City Manager shall submit to the City Council a budget for the ensuing fiscal year and an accompanying message.

SECTION 5.03 Budget Message

The City Manager's message shall explain the budget both in fiscal terms and in terms of the work programs. It shall:

1. outline the proposed financial policies of the City for the ensuing fiscal year;

2. describe the important features of the budget;
3. indicate any major changes from the current year in financial policies, expenditures, and revenues, and the reasons for such changes;
4. summarize the City's debt position; and,
5. include such other material as the City Manager deems desirable.

SECTION 5.04 Budget

- (A) The budget shall provide a complete financial plan of all City funds and activities for the ensuing fiscal year and, except as required by law or this Charter, shall be in such form as the City Manager deems desirable or the City Council may require.
- (B) In organizing the budget, the City Manager shall utilize the most feasible combination of expenditure classifications by fund, organization unit, program, purpose or activity and object. It shall begin with a clear general summary of its contents and shall show in detail:
 1. all estimated income, indicating the proposed property tax levy, and all proposed expenditures, including debt service, for the ensuing fiscal year;
 2. comparative figures for actual and estimated income and expenditures of the current fiscal year;
 3. actual income and expenditures of the preceding fiscal year; and,
 4. any other item(s) required by state law to be included in the budget.
- (C) The budget shall indicate in separate sections:
 1. estimated revenues for operations during the ensuing fiscal year, detailed by source;
 2. proposed expenditures for current operations during the ensuing fiscal year, detailed by offices, departments, and agencies in terms of their respective work programs;
 3. proposed capital expenditures during the ensuing fiscal year, detailed by offices, departments, and agencies when practicable, and the proposed method of financing each capital expenditure; and,
 4. anticipated net surplus or deficits for the ensuing fiscal year of each enterprise owned or operated by the City and the proposed method of financing each capital expenditure.
- (D) Subsidiary budgets for each enterprise, giving detailed income and expenditures information, shall be established as appendices to the budget.
- (E) The total of proposed expenditures shall not exceed the total of estimated income plus any accumulated surplus.

SECTION 5.05 City Council Action on Budget

- (A) The City Council shall publish in one (1) or more newspapers of general circulation in the City the general summary of the budget and a notice stating:
1. the times and places where copies of the message and budget are available for inspection by the public; and,
 2. the time and place for a public hearing on the budget-
- (B) After the public hearing, the City Council may adopt the budget with or without amendments. In amending the budget, it may add or increase programs or amounts may delete or decrease any program or amounts, except expenditures required by law or for debt service provided that no amendment to the budget shall increase the authorized expenditures to an amount greater than the total of estimated income plus any accumulated surplus.
- (C) The City Council shall adopt the budget on or before the fifteenth (15th) day of the twelfth (12) month of the fiscal year currently ending. If it fails to adopt the budget by this date, the amounts appropriated for current operation for the current fiscal year shall be deemed adopted for the ensuing fiscal year on a month-to-month basis, with all items in it prorated accordingly, until such time as the City Council adopts a budget for the ensuing fiscal year.
- (D) Adoption of the budget shall constitute appropriation of the amounts specified therein as expenditures from the funds indicated and shall constitute a Levy of the property tax therein proposed, provided that in no event shall such levy exceed the legal limit provided by the laws and Constitution of the State of Texas.

SECTION 5.06 Budget Amendments After Adoption

- (A) If during the fiscal year the City Manager certifies that there are revenues available for appropriation in excess of those estimated in the budget, the City Council by ordinance may make supplemental appropriations for the year up to the amount of the excess.
- (B) To meet a public emergency, as defined by state law, the City Council may make emergency appropriations. Such appropriations may be made by emergency ordinance in accordance with the provisions of Article III, Section 3.13 of this Charter. To the extent that there are no available un-appropriated revenues to meet such appropriations, the City Council may by emergency ordinance authorize the issuance of emergency notes, which may be renewed from time to time. The emergency notes and renewal of those notes during any fiscal year shall be paid not later than the last day of the current fiscal year.
- (C) If at any time during the fiscal year it appears probable to the City Manager that the revenues available will be insufficient to meet the amount appropriated, he shall report to the City Council without delay, indicating the estimated amount of the deficit, any remedial action taken, and recommendations as to any other steps to be taken. The City Council shall then take such further action as it deems necessary to prevent or minimize

any deficit and for that purpose it may by ordinance reduce one (1) or more appropriations.

- (D) At any time during the fiscal year the City Manager may transfer part or all of any unencumbered appropriation balance among programs within a department, office, or agency, but no funds may be transferred to increase a salary appropriation without the approval of the City Council. Upon written request by the City Manager, the City Council may by ordinance transfer part or all of any unencumbered appropriation balance from one department, office, or agency to another.
- (E) No appropriations for debt service may be reduced or transferred, and no appropriation may be reduced below any amount required by law to be appropriated or by more than the amount of the unencumbered balance thereof. The supplemental and emergency appropriations and reduction or transfer of appropriations authorized by this Section may be made effective immediately upon adoption.

SECTION 5.07 Lapse of Appropriations

Every appropriation, except an appropriation for a capital expenditure, shall lapse at the close of the fiscal year to the extent, that it has not been expended or encumbered. An appropriation for a capital expenditure shall continue until the purpose of any such appropriation shall be deemed abandoned or completed.

SECTION 5.08 Capital Program

- (A) The City Manager shall prepare and submit to the City Council a five (5) year capital program at least three (3) months prior to the final date for submission of the annual budget.
- (B) The capital program shall include:
 - 1. a clear general summary of its contents;
 - 2. a list of all capital improvements which are proposed to be undertaken during the five (5) fiscal years next ensuing, with appropriate supporting information as to the necessity for such improvements;
 - 3. cost estimates, methods of financing, and recommended time schedules for each such improvement; and,
 - 4. the estimated annual cost of operating and maintaining the facilities to be constructed or acquired.
- (C) The capital program shall be revised and extended each year with regard to capital improvements still pending or in process of construction or acquisition.

SECTION 5.09 Public Records

Copies of the budget as adopted shall be public records and shall be available to the public at suitable places in the City.

SECTION 5.10 Purchase Procedures

- (A) No payment shall be made or obligation incurred against any allotment or appropriation except in accordance with appropriation duly made and unless the City Manager, or the City Manager's designee first certifies that there is a sufficient unencumbered balance in such allotment or appropriation and that sufficient funds there from are or will be available to cover the claim or meet the obligation when it becomes due and payable.
- (B) Any authorization of payment or incurring of obligation in violation of the provisions of this Charter shall be void and any payment so made shall be illegal. Such action shall be cause for removal of any elected or appointed officer who knowingly authorized or made such payment or incurred such obligation, and he or she shall also be liable to the City for any amount so paid.
- (C) All purchases made and contracts executed by the City shall be in accordance with the requirements of the Constitution and laws of the State of Texas.

SECTION 5.11 Accounting and Reporting Procedures

The City shall adopt an accounting manual prepared by competent authority which shall provide procedures to be followed in the detail recording and reporting of financial transactions. Changes in such accounting manual may be made from time to time as necessary, by the City Manager, providing such changes do not weaken controls as may be advised by the City auditor. Accounting controls shall be adequate to protect the assets of the City, but shall not be restrictive beyond the value of the assets being controlled.

SECTION 5.12 Authority to Issue Bonds

The City Council shall have the power and authority to issue all tax bonds, revenue bonds, funding and refunding bonds, warrants, time warrants, certificates of obligation, notes, and other evidence of obligation as may be authorized by the Constitution and laws of the State of Texas.

SECTION 5.13 Authority to Levy Taxes

The City may levy taxes of any type and amount not prohibited by the laws and Constitution of the State of Texas or other provisions of this Charter.

SECTION 5.14 Collection of Taxes

- (A) The City Manager may, subject to approval by a majority of the full City Council, appoint an individual as City Tax Collector to collect taxes. The City Tax Collector shall obtain a fidelity bond. The amount of such bond shall be set by the City Council, but

shall not be less than the amount of tax collections under his or her control at any one time.

- (B) All taxes due the City shall be payable at the office of the designated City Tax Collector or Assessor-Collector.
- (C) Due date of the taxes to be paid without penalty and the penalty and interest charged for late payment shall be in accordance with the Texas Property Tax Code and any other applicable laws of the State of Texas,

ARTICLE VI. ELECTIONS

SECTION 6.01 Regular Elections

City elections shall be held on the first Saturday in May, or on the closest date to the first Saturday in May permitted by the laws of the State of Texas, the Constitution, and this Charter.

SECTION 6.02 Qualified Voters

All citizens qualified by the Constitution and laws of the State of Texas to vote in the City shall be qualified voters of the City.

SECTION 6.03 Regulations of Elections

All municipal elections shall be held in accordance with the provisions of the general laws of the State of Texas regulating the holding of elections. The City Council shall have the power to make rules and regulations not inconsistent with this Charter or the general laws of this state for the conduct of elections or for the prevention of frauds in elections.

SECTION 6.04 Filing for Office

- (A) Any qualified citizen who desires to become a candidate for the City office shall file with the City Secretary a signed application for his or her name to appear on the ballot. This application must be filed in accordance with the laws of the State of Texas.
- (B) In addition to all general requirements for application for a place on the ballot as specified in the Texas Election Code, or any other requirements specified in the laws or Constitution of the State of Texas, a candidate must possess the following qualifications:
 - 1. Be a qualified voter of the City;
 - 2. Reside within the corporate limits of the City; and
 - 3. Shall be a resident of the City for a period of one (1) year;
 - 4. Shall be 21 years of age or older at the time of filing for office;

5. Shall NOT have been convicted of any felony in any state or country jurisdiction.
- (C) Any City employee or officer announcing their candidacy, or who in fact becomes a candidate for an elected City office, must resign from said employment or position immediately.

SECTION 6.05 Election by Majority

Any candidate for office in a duly held municipal election receiving a majority (50% plus 1) of the votes cast for the office for which he or she is a candidate, shall be elected to such office. In the event no candidate receives a majority, the Mayor shall, following the completion of the official count of the ballots cast at said first election, issue a call for a run-off election to be held on the next to the last Saturday in May, or on the third (3rd) Saturday following the issuance of such call, at which election the ballots shall contain the names of the two (2) candidates receiving the highest number of votes in the first election.

SECTION 6.06 Prohibition

No person who holds any compensated, appointed City position shall make, solicit, or receive any contribution for any candidate for an elected City office, or take any part in the management, affairs, or political campaign of such candidate, but he may exercise higher rights as a citizen to express his opinions and to cast his vote.

ARTICLE VII. INITIATIVE; REFERENDUM; AND RECALL

SECTION 7.01 Initiative

- (A) The voters of this City shall have the power to propose any ordinance, except an ordinance appropriating money or authorizing the levy of taxes, or one repealing such an ordinance, and to adopt or reject the same at the polls.
- (B) Any initiated ordinance may be submitted to the City Council by a petition signed by registered and qualified voters of the City equal in number to at least thirty (30) percent of the number of votes cast at the last regular City election, or three hundred (300) whichever is greater. Said petition signatures must meet the requirements as set out the Texas Election Code. The City Secretary shall certify the petitions.
- (C) Initiative petitions shall contain the full text of the proposed ordinance.
- (D) Such ordinances may be passed by the City Council without change, or must be submitted to the voters at an election called for that purpose and held in compliance with the Texas Election Code.

SECTION 7.02 Referendum by Voters

- (A) The voters of this City shall have the power to approve or reject at the polls any ordinance passed by the Council except an ordinance appropriating money, authorizing the levy of taxes, or authorizing the issuance of either tax or revenue bonds, whether original or refunding.
- (B) The petition for referendum shall require the same number and qualification of signed as required by this Charter for an initiative petition. Said petition signatures must meet the requirements as set out in the Texas Election Code.
- (C) A referendum petition must contain sufficient description of the ordinance to positively identify it.
- (D) A referendum petition must be filed with the City Secretary within thirty (30) days after the final passage of the ordinance which is the subject of the referendum, or the petition shall be barred by the lapse of time.
- (E) When such petition has been certified as sufficient by the City Secretary, the ordinance shall not go into effect, or if it has gone into effect, further enforcement or action there under shall be suspended unless and until such ordinance is approved by the voter as herein provided.

SECTION 7.03 Consideration by Council

- (A) Whenever the City Council receives a certified initiative or referendum petition from the City Secretary, it shall proceed at once to consider such petition. The City Council shall take final action on such ordinance not later than thirty (30) days after the date on which it was submitted to the City Council by the City Secretary.
- (B) A referred ordinance shall be reconsidered by the City Council and Council's final vote upon such consideration shall be on the proposal to repeal.

SECTION 7.04 Referendum by City Council

- (A) In the absence of a petition, the City Council shall have the authority to submit a proposed ordinance to the voters.
- (B) If the City Council specifies that the election is binding, and if the voters approve the proposed ordinance, then the ordinance is adopted.
- (C) If the City Council specifies that the election is non-binding, then the results of the election are only to supply information and guidance to the City Council and the proposed ordinance is neither approved nor disapproved.

SECTION 7.05 Submission to Voters

- (A) If the City Council shall fail to pass an ordinance proposed by initiative petition in the exact form proposed, or fail to repeal an ordinance referred by referendum petition, the proposed initiative or referred referendum ordinance shall be submitted to the voters.
- (B) An initiative or referendum election shall be held within sixty (60) days from the date the Council takes its final vote on the proposed or referred ordinance or at the earliest date thereafter permitted by the Texas Election Code.
- (C) Any number of ordinances may be voted on at the same election.

SECTION 7.06 Results of Election

- (A) A majority vote in favor of a proposed initiative ordinance shall constitute its adoption as a City ordinance.
- (B) If two (2) or more ordinances with conflicting provisions are approved by the voters, the ordinance receiving the greater number of votes shall be adopted and the conflicting ordinance or ordinances shall be rejected.
- (C) An ordinance referred by petition and voted on in a referendum election that does not receive a majority of the vote shall be deemed repealed.
- (D) No ordinance adopted at the polls under initiative shall be amended or repealed by the City Council within six (6) months of adoption.
- (E) No ordinance repealed at the polls in a referendum election shall be reenacted within six (6) months

SECTION 7.07 Publication of Initiative and Referendum Ordinances

Initiative and referendum ordinances shall be published in the same manner as adopted by the City Council.

SECTION 7.08 Recall

- (A) The voters of this City shall have the power to recall any member of the City Council including the Mayor, and may exercise such power by filing with the City Secretary a petition which shall be signed and verified by registered and qualified voters of the city as required by the Texas Election Code or as specified below:
 - 1. For a position elected from the City at-large, by a number of such voters equal to at least thirty (30) percent of the number of votes cast at the last regular election, or three hundred (300), whichever is greater.
- (B) The City Secretary shall immediately notify by registered mail the officer whose removal is sought.

- (C) If the petition is certified by the City Secretary to be sufficient, the City Council shall order and hold, or cause to be held, an election to determine whether such officer shall be recalled,

SECTION 7.09 Form of Recall Petition

The recall petition must be addressed to the City Council and must distinctly and specifically point out the ground or grounds upon which such petition for removal is predicated. The signatures shall be verified by oath in the following form;

STATE OF TEXAS
COUNTY OF HIDALGO

I, _____, being first duly sworn, on oath depose and say that I am one of the signer of the above petition, that the statements made therein are true, and that each signature appearing thereto was made in my presence on the day and date it purports to have been made, and solemnly swear that the same is the genuine signature of the person whose name it purports to be.

Sworn and subscribed to before me this _____ day of _____, 20____.

Notary Public in and for
Hidalgo County, Texas

SECTION 7.10 Public Hearing on Recall Petition

The officer whose removal is sought by a recall petition may, within five (5) days after such recall petition has been presented to the City Council, request that a public hearing be held to permit him or her to present facts pertinent to the charges specified in the recall petition. In this event, the City Council shall order such public hearing to be held not less than five (5) days nor more than fifteen (15) days after receiving such request for a public hearing from said officer.

SECTION 7.11 Recall Election

- (A) If the officer whose removal is sought does not resign, and if the recall petition is certified by the City Secretary to be sufficient, the City Council shall order and hold, or cause to be held, an election to determine whether the officer shall be recalled.

- (B) A recall election shall be held within thirty (30) days from the date the petition was submitted to the City Council or from the date of public hearing if one was held, whichever is later, or at the earliest date thereafter permitted by the Texas Election Code.

SECTION 7.12 Ballots for Recall Election

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

- (A) 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?”

- (B) 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)

SECTION 7.13 Results of Recall Election

If the majority of the legal votes cast at a recall election is for the recall of the officer named on the ballot, the City Council shall immediately declare that office vacant. Such vacancy shall be filled in accordance with the provisions of this Charter.

SECTION 7.14 Limitation on Recall

No recall petition shall be filed against an officer within six (6) months after he or she takes office, nor within six (6) months after an election for such officer's recall.

SECTION 7.15 Failure of Council to Call an Election

In case all of the requirements of this Charter shall have been met and the City Council shall fail or refuse to receive the recall petition or order such recall election or discharge any other duties imposed upon said Council by the provisions of this Charter with reference to such recall, any citizen may seek recourse in District Court.

SECTION 7.16 Forms of Petition

- (A) All papers necessary for the filing of petitions to be circulated for initiative, referendum, or recall must be obtained from the City Secretary. The petition forms shall be available at the City Secretary's office at all reasonable times and will be dated and signed by that City official when issued.

- (B) The signatures to initiative, referendum, or recall petitions need not be appended to one paper, but all papers constituting a single petition shall be assembled and filed with the City Secretary as one (1) instrument. The petition must be accompanied by an affidavit made by the person filing such petition that the petition bears a stated number of signatures, and that all the signatures appended thereto are, in his or her belief, the genuine signatures, and that all the signatures are of the persons whose name they purport to be. All signatures must be in compliance with the requirements set out in the Texas Election Code.
- (C) Petitions for initiative, referendum, or recall shall be filed with the City Secretary. Within twenty (20) days after a petition is filed, the City Secretary shall determine whether it has a proper affidavit attached of the person filing same. After completing examination of such petition and determining that the petition meets the requirements of this Charter, the Texas Election Code and any other applicable state law, the City Secretary shall certify the result thereof to the City Council at its next regular meeting. If such petition is insufficient, the City Secretary shall set forth the particulars in which it is defective, and shall at once notify the person who filed it.

SECTION 7.17 Amendment of Petition

An initiative, referendum, or recall petition may be amended as provided for in the Texas Election Code. The finding of insufficiency of a petition shall not prejudice the filing of a new petition for the same purpose provided that the requirements of this Charter, the Texas Election Code and any other applicable state law allows for such filing.

ARTICLE VIII. FRANCHISES AND PUBLIC UTILITIES

SECTION 8.01 Power to Grant Franchise

The City Council may by ordinance, grant, amend, renew, cancel for cause, and extend franchises of all public utilities, including cable television, operating in the City. No franchise may be granted for an indefinite term.

SECTION 8.02 Franchise Extensions

All extensions of public utilities within the City limits shall become a part of the aggregate property of the public utility, shall be operated as such, and shall be subject to all the obligations and reserved rights contained in this Charter and in any original grant hereafter made. The right to use and maintain any extension shall terminate with the original grant.

SECTION 8.03 Transfer of Franchise

No public utility franchise may be transferred or assigned by the holder except with the approval of the City Council.

SECTION 8.04 Option to Purchase

Any public utility franchise may be terminated by ordinance after ten (10) years after the beginning of operation, whenever the City Council determines to acquire by condemnation or otherwise the property of such utility necessarily used in or conveniently useful for the operation of the City within the city limits of same.

SECTION 8.05 Regulation of Franchise

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 to:

- (A) repeal the same by ordinance at any time for failure to begin construction or operation within the time prescribed or for failure otherwise to comply with the terms of the franchise, such power to be exercised only after due notice and hearing;
- (B) require an adequate and reasonable extension of plant and service, and the maintenance of plant and fixtures at the standard necessary to render the highest reasonable quality of utility service to the public;
- (C) establish reasonable standards of service and quality of products and prevent unjust discrimination in service or rates;
- (D) prescribe, for each franchised utility, the form of accounts to be kept, or that the system of accounts conforms to those prescribed by the appropriate State and/or federal utility regulatory agencies;
- (E) impose such reasonable regulations and restrictions as may be deemed desirable or conducive to the safety, welfare, and accommodation of the public;
- (F) require franchise holders to furnish the City, without cost to the City, full information regarding the location and precise description of all facilities of the franchise holder in, over, or under the City, and to regulate and control the location, relocation, and removal of the facilities;
- (G) examine and audit at any time during normal business hours the accounts and records of the franchise holder; and,
- (H) require, at any time, such compensation, rental, and franchise fee as may be permitted by the laws of the State of Texas.

SECTION 8.06 Franchise Records

The City shall compile and maintain a public record of all franchises granted by the City, including any extensions or amendments to such franchise grants.

ARTICLE IX. GENERAL PROVISIONS

SECTION 9.01 Conflict of Interest

- (A) No officer or employee of the City shall have a financial interest, direct or indirect, in any contract with the City except as allowed under Chapter 171, Texas Local Government Code and any other applicable state law. Any violation of this provision with the knowledge, express or implied, of the person or corporation contracting with the City shall render the contract voidable by the City Manager or the City Council.
- (B) The City Council shall adopt an ethics code.

SECTION 9.02 Nepotism

No person related within the second degree by affinity or the third degree by consanguinity to the Mayor, a member of the Council, or to the City Manager shall be appointed to any paid office, position or other service of the City. This prohibition shall not apply, however, to any person who shall have been employed by the City prior to and at the time of the election of the Mayor and/or Council member, or appointment of the City Manager, so related to him/her, in accordance with Texas Government Code section 573.042.

SECTION 9.03 Oath of Office

Every person elected or appointed to any office of the City shall, before entering upon the duties of that office, take and subscribe to the oath of office prescribed by state law.

SECTION 9.04 Planning and Zoning Commission

The Mayor and City Council shall have the authority to create and appoint a Planning and/or Zoning Commission in accordance with the general laws of the State of Texas as provided for in the Texas Local Government Code, as now or hereafter amended.

SECTION 9.05 Prohibition

- (A) The following activities are prohibited:
1. No person shall be appointed to, removed from, or in any way favored or discriminated against with respect to any City position or appointive City administrative office because of race, gender, age, handicap, religion, country of origin, or political affiliation.
 2. No person who seeks appointment or promotion with respect to any City position or appointive City administrative office shall directly or indirectly give, render, or pay any money, service, or other valuable thing to any person for or in connection with his or her test, appointment, promotion, or proposed promotion.

- (B) Any person convicted of a violation of this Section shall be ineligible for a period of five (5) years following such conviction to hold any City office or position and, if an officer or employee of the City, shall immediately forfeit his or her office or position. The City Council shall establish by ordinance such further penalties as it may deem appropriate.

SECTION 9.06 Public Records

All records and accounts of every office, department, or agency of the City shall be open to inspection by any citizen or by any representative of the press at all reasonable times and under such reasonable regulations as may be established by the City Council, except those records and documents the disclosure of which may be exempted under the Texas Open Records Act.

SECTION 9.07 Claims Against the City

- (A) **Notice of Claim.** Before the City shall be liable for a damage claim, suit for personal injury, or damage to property, the person who is injured or whose property has been damaged or someone on behalf of that person shall give the City Manager or the City Secretary notice in writing, duly verified, within sixty (60) days after the date of the alleged injury or damage. The notice shall state specifically when, where, and how the injury or damage was sustained, setting forth the extent of the injury or damage as accurately as possible, and giving the names and addresses of all witnesses known to claimant upon whose testimony claimant is relying to establish the injury or damage. In case of injury resulting in death, the person or persons claiming damage shall within sixty (60) days after the death of the injured person give notice as required above. Nothing in this Section shall be construed to mean the City waives any rights, privileges, defenses, or immunities in tort action which are provided under the common law, the laws of the State of Texas, and the State Constitution,
- (B) **Security and 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 of the State Courts, but in all such actions, suits, appeals and proceedings, the same shall be conducted in the same manner as if such bonds, undertaking or security had been given as required by law.

SECTION 9.08 Liens; Assignment; Execution; and Garnishment

The real and personal property belonging to the City shall not be liable for sale or appropriation under any writ or execution or cost bill, and no lien of any kind shall ever exist against any such property owned by the City except a lien created or authorized by this Charter or state law. The funds belonging to the City in the hands of any person, firm, or corporation shall not be liable to garnishment, attachment, or sequestration. The City shall not 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 or 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 except by court order,

SECTION 9.09 Severability and Translation

- (A) If any provision of this Charter is held invalid, the other provisions of the Charter shall not be affected thereby. If the application of the Charter or any of its provisions to any person or circumstance is held invalid, the application of the Charter and its provisions to other persons or circumstances shall not be affected thereby.
- (B) This Charter is translated into Spanish. For purposes of interpretation and enforcement, the English versions of the Charter shall prevail.

SECTION 9.10 Charter Amendment

This Charter may be amended every five (5) years by a vote of the qualified voters of this City in compliance with the laws and Constitution of the State of Texas. The election may be called directly by the City Council as the result of a petition submitted by qualified voters of the City as specified by state law, or by any other means permitted by the laws and Constitution of the State of Texas.

ARTICLE X. TRANSITIONAL PROVISIONS

SECTION 10.01 Officers and Employees

Nothing in this Charter except as otherwise specifically provided shall affect or impair the rights or privileges of persons who are City officers or employees at the time of its adoption.

SECTION 10.02 Pending Matters

All rights, claims, actions, orders, contracts, and legal administrative proceedings shall continue except as modified pursuant to the provisions of this Charter.

SECTION 10.03 Effect on Existing Law

- (A) All City ordinances, rules, and regulations in force on adoption of this Charter and not in conflict with it shall remain in force until altered, amended or repealed by the City Council. All rights of the City under existing franchises and contracts are preserved in full force and effect.
- (B) Any ordinances, rules, or regulations inconsistent with this Charter are repealed as of the date of adoption of the Charter.

- (C) Any laws, ordinances, rules, or regulations applicable to Type C General Law Municipalities and not also applicable to Home Rule Municipalities in the State of Texas shall be superseded upon adoption of this Charter. Any such ordinances, rules, or regulations are repealed as of the date of this Charter.

SECTION 10.04 Temporary Ordinances

- (A) To deal with cases in which there is an urgent need for prompt action in connection with the transition of government and in which the delay incident to the appropriate ordinance procedure would probably cause serious hardship or impairment of effective City government, the City Council may, at any meeting held within sixty (60) days following adoption of this Charter, adopt temporary ordinances- Every temporary ordinance shall be plainly labeled as such but shall be introduced in the form and manner prescribed for ordinances generally.
- (B) After adoption of a temporary ordinance, the City Council shall cause it to be printed and published as prescribed for other adopted ordinances.
- (C) Every temporary ordinance, including any amendment made thereto after adoption, shall automatically stand repealed as of the ninety-first (91st) day following the date on which it was adopted.
- (D) Temporary ordinances are not subject to referendum.

ARTICLE XI. SUBMISSION OF CHARTER TO VOTERS

The Charter Commission in preparing this Charter has decided that it is impracticable to segregate subjects so as to permit voting on individual subjects separately. Accordingly, the Charter Commission directs that this Charter be submitted to qualified voters of the City to be voted on as a whole at the General City Election on November 2008.