

CHARTER OF THE CITY OF HARLINGEN

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HARLINGEN, TEXAS

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CHARTER

HARLINGEN CHARTER

Editor's note: *The original Home Rule Charter was adopted February 24, 1927. It was thereafter amended June 2, 1947, May 13, 1950, and August 12, 1954. One of the amendments adopted August 12, 1954, authorized the reorganization and rearrangement of the entire Charter by ordinance for that purpose adopted by the Elective Commission of the City of Harlingen. This was done and confirmed by an ordinance adopted March 2, 1955. The Charter set out in this volume is that as rearranged by such ordinance of March 2, 1955, and as subsequently amended.*

ARTICLE I. ACT OF INCORPORATION, CORPORATE NAME AND GENERAL POWERS

SECTION 1. INCORPORATION AND NAME.

All the inhabitants of the City of Harlingen, in Cameron County, Texas, as the boundaries and limits of said City are herein established, or may be hereafter established, shall be a body politic, incorporated under and be known by the name and style of the "City of Harlingen" with such powers, rights and duties as are hereinafter provided, and all other powers not herein specifically designated that are granted by the Constitution and laws of Texas to such cities.

SECTION 2. GENERAL POWERS.

The City of Harlingen made a body politic and corporate by the adoption of this Charter, shall have perpetual succession, may use a common seal, may sue and be sued, may contract and be contracted with, implead and be impleaded in all courts and places and in all matters whatever; may take, hold, and purchase personal and real property within or without the city limits, as may be needed for the corporate purposes of said City, and may sell any real or personal property owned by it; perform and render all public services and, when deemed expedient, may condemn property within or without the city limits for corporate use, and may hold, manage and control same; and shall enjoy all the rights, immunities, powers, privileges and franchises possessed by said City in its original and previous capacity as a general law municipal corporation, where not in conflict with the provisions of this Charter; and shall be subject to all the duties and obligations and shall have the rights, immunities, powers, privileges and franchises herein conferred and granted, and as specified in the statutes and Constitution of the State of Texas and the United States Government, including the application of the City's zoning and subdivision powers and other powers to its extraterritorial jurisdictional area as specified by TEX. REV. CIV. STAT., Art. 970a, and subsequent amendments thereto.

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(Res. 79-R-7, passed 2-24-79)

Editor's Note: *TEX. REV. CIV. STAT., Art. 970a is now located at TEX. LOC. GOV'T CODE §§ 43.001 et seq.*

ARTICLE II. BOUNDARY LIMITS AND EXPANSION

SECTION 1. BOUNDARIES.

The boundaries and limits of the City of Harlingen shall be as established in original Charter of the City of Harlingen, dated May 16, 1927, and duly recorded in Book 6 at pages 599-629 inclusive, Record of City Charters and Amendments, Office of the Secretary of State, Austin, Texas, and as extended by ordinances of the City of Harlingen enacted subsequent thereto.

SECTION 2. EXPANSION OF BOUNDARIES.

The City Commission shall have power by ordinance to fix the boundary limits of the said City of Harlingen and to provide for the extension of said boundary limits and the annexation of additional territory lying adjacent to said City, all pursuant to and in compliance with the procedure provided for in *TEX. REV. CIV. STAT., Art. 970a*, including all subsequent amendments thereto, and any other applicable state statutes. The City Commission shall also have the power to disannex by ordinance territory previously annexed upon the initiative of the City of Harlingen or upon the petition of the residents of said area as provided in *TEX. REV. CIV. STAT., Art. 970a, Section 10*, as amended. Upon additional territory being so annexed, the inhabitants thereof shall be entitled to all rights and privileges of other citizens, and shall be bound by the acts, ordinances, resolutions and regulations of the City. (Ord. 73-30, passed 11-7-73; Am. Ord. 84-83, Amend. No. 1, passed 12-5-84)

Editor's Note: *TEX. REV. CIV. STAT., Art. 970a is now located at TEX. LOC. GOV'T CODE §§ 43.001 et seq.*

ARTICLE III. ELECTIONS

SECTION 1. REGULAR AND SPECIAL ELECTIONS.

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Regular municipal elections of the City of Harlingen to elect a Mayor and/or Commissioner shall be held on the third Saturday in May. All other municipal elections provided for in this Chapter or by state or federal law shall be special elections. All such special elections shall be called for dates in accordance with state election laws. (Ord. 73-30, passed 11-7-73; Am. Ord. 75-44, passed 11-11-75; Res. 87R-10, passed 4-9-87)

SECTION 2. ELECTION CONTROLLING LAWS.

All elections shall be conducted, and results canvassed, and announced by the election authorities, as prescribed by the general election laws of the State of Texas, and said general election laws shall control in all municipal elections, except as otherwise herein provided.
(Ord. 75-44, passed 11-11-75)

SECTION 3. ELECTION RETURNS.

The Commission shall at the next regular meeting day of said commission, after each regular and special election, canvass the returns and declare the result of such election. At such meetings canvassing and declaring those elections held for the purpose of electing a Mayor and/or Commissioners, the Mayor and/or Commissioners declared elected shall qualify and assume the duties of their offices.

ARTICLE IV. MUNICIPAL GOVERNMENT

SECTION 1. MAYOR AND COMMISSIONERS.

The governing body of the City of Harlingen shall consist of the commission, which shall be composed of five (5) commissioners, and the mayor, the same being the elective officers of the City.
(Ord. 73-30, passed 11-7-73)

SECTION 2. QUALIFICATIONS.

The Mayor and each Commissioner shall be citizens of the United States, and have resided in the State of Texas for a continuous period of twelve (12) months and in the City of Harlingen for a continuous period of twelve (12) months, and have attained the age of twenty-one (21) years at the time of filing as a candidate for such position; and have the other qualifications of an elector of the City and as provided for

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candidates in the State election code. The Mayor, Commissioners and other officers and employees shall not be indebted to the City, save and except for ad valorem taxes and other indebtedness incurred in the ordinary course of City government, but with such ad valorem taxes and other indebtedness to be timely paid (otherwise constituting a disqualifying indebtedness hereunder); shall not hold any other public office of emolument, except the office of Notary Public, and shall not be interested in the profits or emoluments or any contract, job, work or service for the municipality, or interested in the sale to or by the City of any property, real or personal. All such qualifications and requirements shall be fully complied with by any prospective candidate for the position of Mayor or Commissioner at the time of the filing for election. Any officer or employee of the City who shall cease to possess any of the qualifications herein required shall forthwith forfeit his office and any such contracts in which any officer or employee is or may become interested may be declared void by the Commission. No officer or employee shall directly or indirectly accept any compensation, public or private, in consideration for or as a consequence of his status as an officer or employee other than such compensation as may be provided in this Charter or by ordinance as authorized herein and no officer or employee shall directly or indirectly solicit or accept any gift, service, or discount in the purchase of any service or real or personal property offered as a consequence of his status as an officer or employee of the City. Any violation of this section shall be a misdemeanor, and on conviction for such violation, such office or employment shall be forfeited.

The Mayor and each Commissioner shall fully comply with TEX. REV. CIV. STAT., Art. 988b, and any subsequent amendments thereto pertaining to disclosure of local officials conflicts of interest, and upon conviction of an offense thereunder, said office of mayor or Commissioner shall forthwith be forfeited.

(Ord. 75-44, passed 11-1-75; Res. 79-R-7, passed 2-24-79; Am. Ord. 84-83, Amend. Nos. 2, 7, passed 12-5-84)

Editor's Note: TEX. REV. CIV. STAT., Art. 988b is now located at TEX. LOC. GOV'T CODE §§ 171.001 through 171.008.

SECTION 3. ELECTION AND TERM OF OFFICE.

At the regular municipal election of the City of Harlingen to be held in 1988 and every three (3) years thereafter an election shall be held for the election of candidates to hold the office of Commissioner-Place One, Commissioner-Place Two and Commissioner-Place Three. At the regular municipal election to be held in 1989 and every three (3) years thereafter, an election shall be held for the election of the mayor and for the offices of Commissioner-Place Four and Commissioner-Place Five. At all elections held pursuant to this section each candidate shall designate in writing on or before [the] applicable filing deadline prescribed by the Texas Election Code which one of the aforementioned offices the candidate seeks. The candidate for each of the five

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(5) places, respectively, receiving a majority of the votes cast for commissioner of such place at such elections shall be elected commissioner of such place and each shall hold office for a term of three (3) years and until his or her successor is elected and qualifies. The candidate for mayor receiving a majority of the votes cast for mayor at such elections shall be elected mayor and shall hold office for a term of three (3) years and until his or her successor is elected and qualifies. As used in this section, the word "majority" shall be defined as any percentage of all votes cast for a particular office which exceeds fifty (50) per cent of all votes cast for that office. In the event no candidate for mayor receives a majority of votes cast and/or in the event no candidate for commissioner of a particular place receives a majority of votes cast or in the event of a tie vote for mayor and/or a tie vote for commissioner of any place, there shall be a run-off election, to be conducted in accordance with the Texas Election Code, between the two candidates receiving the highest number of votes or tied for mayor and/or commissioner of a particular place. The candidate receiving the majority of votes for the respective office at such runoff election shall be elected. Nothing herein shall be construed as prohibiting any such office holder from being a candidate for re-election. The commission shall be the judge of the election and the qualification of its members.

Each candidate elected to the office of mayor or commissioner at the regular municipal election of the City of Harlingen to be held in 1988 and at every regular municipal election thereafter shall serve for a term of three (3) years and until his or her successor is elected and qualifies; unless sooner removed from office as herein provided. Nothing herein shall alter the term of office of any such office holder elected prior to the regular municipal election of 1988.
(Res. 87R-10, passed 4-9-87)

SECTION 4. VACANCIES OF MAYOR OR COMMISSIONERS.

Vacancies in the office of Mayor or Commissioner shall be filled for the remainder of the unexpired term by a majority vote of the qualified electors of said City at a special election duly called by ordinance. Provided, however, if such a vacancy occurs within ninety (90) days of the end of the term of the vacated office, the remaining Commissioners, by a majority vote, shall appoint a qualified person to fill such unexpired term.

(Ord. 73-30, passed 11-7-73)

SECTION 5. DUTIES AND POWERS OF MAYOR.

The Mayor of the City shall be the presiding officer of the Commission. He shall not be entitled to vote as a member of the commission except in the case of a tie. He shall sign all bonds, ordinances, resolutions, proclamations, deeds and conveyances, and he shall exercise all powers and perform all duties as chief executive officer of the City Commission imposed upon him by this Charter and by the ordinances of the City.

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(Ord. 73-30, passed 11-7-73; Am. Ord. 84-83, Amend. No. 3, passed 12-5-84)

SECTION 6. DUTIES AND POWERS OF MAYOR PRO-TEMPORE.

In the absence of the Mayor, a Mayor Pro-tempore shall act in his place and stead. At the second regular meeting of the City Commission after each election of a Mayor and/or Commissioners, one of such Commissioners shall be elected Mayor Pro-tempore by a majority vote of the Commissioners. In the absence of both the Mayor and Mayor Pro-tempore, a presiding Mayor Pro-tempore shall be elected by a majority vote of the Commissioners. In the absence of the Mayor, the Mayor Pro-tempore shall be charged with the same duties of the Mayor, shall be entitled to the same rights and privileges of the Mayor and shall be subject to the same restrictions and limitations of the Mayor as provided for in this Charter.

SECTION 7. DUTIES AND POWERS OF COMMISSION; [GOVERNING BODY CONSTITUTED].

The commission shall enact all ordinances and resolutions and adopt all regulations and constitute the legislative body of the City. The Commission and the Mayor shall constitute the governing body of the City with all the powers and authority herein granted; provided, however, that the Mayor and Commissioners shall have no administrative responsibilities.

(Res. 79-R-7, passed 2-24-79; Ord. 84-83, Amend. No. 4, passed 12-5-84)

SECTION 8. INVESTIGATIONS BY COMMISSION.

The Commission may investigate the financial transaction of any office or department of the city government, and the acts and conduct of any official or employee. In conducting such investigation, the Commission may compel the attendance of witnesses, the production of books and papers, and other evidence, and for that purpose may issue subpoenas or attachments which shall be signed by the Mayor; which may be served and executed by any officer authorized by law to serve subpoenas or other process, or any peace officer of the City. If any witness shall refuse to appear or to testify to any facts within his knowledge, or to produce any papers, or books in his possession, or under his control, relating to the matter under investigation before the Commission, the Commission shall have the power to cause the witness to be punished as for contempt, not exceeding a fine of one hundred dollars (\$100.00) and three (3) days in the City prison. No witness shall be excluded from testifying,

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touching his knowledge of the matter, under investigation in any such inquiry, but such testimony shall not be used against him in any criminal prosecution except for perjury committed upon such inquiry.

SECTION 9. COMPENSATION OF MAYORS AND COMMISSIONERS.

The Mayor and Commissioners shall receive such salaries as may be fixed by the Commission, provided that in the absence of an ordinance fixing such salaries, the Mayor and Commissioners shall serve without compensation, and provided further that the salary of the Mayor shall not exceed five thousand dollars (\$5,000.00) per year, and the salary of each Commissioner shall not exceed three thousand dollars (\$3,000.00) per year.

SECTION 10. RECALL OF MAYOR OR COMMISSIONERS.

The people of the City reserve the power to recall any member of the Commission or Mayor and may exercise such power by filing with the City Secretary a petition, signed by qualified voters of the City equal in number to at least fifteen (15) per cent of the qualified voters of the City, demanding the removal of a Commissioner or Mayor. The petition shall be signed and verified in the manner required for an initiative petition, shall contain a general statement of the grounds for which the removal is sought, and one of the signers of each petition paper shall make an affidavit that the statements therein made are true.

Within twenty (20) days after a recall petition is filed, the City Secretary shall examine the same. The provisions regulating examination, certification and amendment of initiative petitions shall apply to recall petitions. If the petition is certified by the City Secretary to be sufficient and the Commissioner or Mayor, whose removal is sought, does not resign within five (5) days after the certification to the Commission, the Commission shall order and hold a recall election within not less than thirty (30) nor more than sixty (60) days from such certification.

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

(1) With respect to each person whose removal is sought, the question shall be submitted: "Shall (name of Commissioner or Mayor) be removed from the office of City Commissioner (or Mayor)?"

(2) Immediately below each such question there shall be printed the two following propositions, one above the other, in the

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order indicated:

"For the recall of (name of Commissioner or Mayor)."

"Against the recall of (name of Commissioner or Mayor)."

If a majority of the votes cast at a recall election shall be against removal of the Commissioner or Mayor named on the ballot, he shall continue in office. If the majority of the votes cast at such election be for the removal of the Commissioner or Mayor named on the ballot, the Commission shall immediately declare his office vacant and such vacancy shall be filled in accordance with the provisions of this Charter for the filling of vacancies. A Commissioner or Mayor thus removed shall not be a candidate to succeed himself in an election called to fill the vacancy thereby created.

No recall petition shall be filed against a Commissioner or Mayor within six (6) months after he takes office and no Commissioner or Mayor shall be subjected to more than one recall election during a term of office.

SECTION 11. CITY MANAGER.

The City Commission of the City of Harlingen, Texas, shall appoint a City Manager on the basis of his executive and administrative qualifications and experience in municipal administration who shall be the chief administrative officer of the municipal government. He shall direct and supervise the administration of all departments, offices, and employees of the City except as otherwise provided by this Charter or by law. He may or may not, at the time of his appointment, be a resident but shall immediately establish his residence within the City upon accepting the office. He shall receive a salary as shall be determined by the City Commission and shall serve at the will of the City Commission. Whenever the office of City Manager is vacant, the City Commission shall forthwith appoint an acting City Manager who shall during such vacancy have and exercise all powers and duties of the City Manager. No member of the governing body shall be eligible to serve as City Manager or acting City Manager. He shall appoint and, when he deems it necessary for the good of the City, suspend or remove at will all City employees and appointive officers provided for, by or under this Charter, except as otherwise provided by law or this Charter. He may authorize any administrative officer who is subject to his direction and supervision to exercise these powers with respect to subordinates in that officer's department. He shall attend all City Commission meetings and shall have the right to take part in discussion but may not vote. He shall see that all laws, provisions of this Charter and legislative enactments of the City Commission, subject to enforcement by him or by officers subject to his direction and supervision, are faithfully executed. He shall prepare and submit the annual budget to the City

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Commission. He shall submit to the City Commission and make available to the public a complete report on the finances of the City as of the end of each fiscal year. He shall make such other reports as the City Commission may require concerning the operations of City departments and offices subject to his direction and supervision. He shall keep the City Commission fully advised as to the financial condition and future needs of the City and make such recommendations to the City Commission concerning the affairs of the City as he deems desirable. He shall perform such other duties as are specified in this Charter or may be required by the City Commission. (Ord. 73-30, passed 11-7-73; Am. Ord. 84-83, Amend. No. 11, passed 12-5-84)

SECTION 12. MUNICIPAL COURT.

Said City shall have the power to provide for one or more courts for the trial of misdemeanor offenses, each known as a "municipal court," and with each such court to have one or more Municipal Judges, and with such powers and duties as are refined and prescribed in TEX. REV. CIV. STAT., Arts. 1194 - 1200 inclusive (including amendments and lettered additions and amendments thereto) in Ch. 16, Title 28; and to appoint, as soon as practicable after the adoption of this Charter, suitable persons for the position and/or positions of Judge or Judges of the municipal court or courts, who shall discharge the duties of said office under the terms and provisions of the State law creating said court, and subject to the provisions of this Charter; and to appoint a Clerk and other officer or officers of such court.

(Ord. 75-44, passed 11-11-75; Res. 79-R-7, passed 2-24-79)

Editor's Note: TEX. REV. CIV. STAT., Arts. 1194-1200 is now located at TEX. GOV'T CODE §§ 29.002 et seq.

SECTION 13. DEPARTMENTS.

The Commission shall create and consolidate such offices and may divide the administration of the City's affairs into such departments as they may deem advisable and may discontinue any such office or department at their discretion.

SECTION 14. APPOINTIVE OFFICERS AND EMPLOYERS; QUALIFICATIONS, SALARIES, AND SERVICES IN GENERAL.

The elected Mayor and Commissioners and full-time salaried employees of the City of Harlingen shall have no other office of public emolument (except that of notary public) nor be interested in any contract work, service or other business with the City of

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Harlingen, including the buying and selling of property, save and except for the services for which such elected official and/or full-time salaried employee is elected and/or hired; and further providing that appointive, part-time, unpaid officials of the City, may do business with other departments of the City other than the department in which such unpaid, part-time appointive official is actually appointed and a member; with additional safeguards to be determined by the City Manager and Elective Commission that any such business negotiated and consummated by any such part-time, unpaid and appointive official of the City with any other than that in which he is appointed and a member; shall in no way be influenced by the department and his position therein of which he is an appointed member. All officers and employees of the City whether appointed or elected, paid or unpaid, who exercise responsibilities beyond those that are merely advisory in nature shall fully comply with TEX. REV. CIV. STAT., Art. 988B, and any amendments thereto pertaining to disclosure of local officials conflicts of interest and upon conviction of an offense there under such officer or employment shall forthwith be forfeited.

No contract shall ever be made which binds the City to pay for personal services to be rendered, for any stated period of time, but all appointive officers and employees shall be subject to preemptory discharges as herein provided.

The commission shall fix and determine the wages and salaries of all appointive officers and employees of the City, and provide for the payment thereof.

No person related within the second degree by affinity or within the third degree by consanguinity to the Mayor, to either of the Commissioners or to the City Manager shall be appointed to any office, position, clerkship or service of the City. (Ord. 75-44, passed 11-11-75; Am. Ord. 79-39, passed 8-1-79; Am. Ord. 82-79, Amend. No. 5, passed 1-15-83; Am. Ord. 84-83, Amend. No. 5, passed 12-5-84)

Editor's Note: TEX. REV. CIV. STAT., Art. 988B is now located at TEX. LOC. GOV'T CODE §§ 171.001 through 171.008.

SECTION 15. OATHS OF OFFICE.

Each elective commissioner and Mayor, the City Manager, each police officer, and other city officials as may be prescribed by City ordinance from time to time, before entering upon the duties of his or her office, shall take and subscribe to the oath prescribed by the Constitution of the State of Texas for County officials. (Res. 79-R-7, passed 2-24-79; Ord. 84-83, Amend. No. 6, passed 12-5-84)

SECTION 16. VACANCIES; APPOINTIVE OFFICERS.

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In the event of the occurrence of a vacancy, prior to the normal expiration thereof, of any position provided to be filled by appointment by the Mayor and/or City Commission in this Charter, the Mayor and/or Commission, as the case may be, shall fill the vacancy by interim appointment; said interim appointments to be under the same terms and conditions as provided for such original appointments.

ARTICLE V. LEGISLATION (ORDINANCES AND RESOLUTIONS)

SECTION 1. MEETINGS OF COMMISSION.

The Commissioners shall meet at such time as may be prescribed by the ordinance or resolution, but they shall meet at least once a month. The Mayor, any two Commissioners or the City Manager (hereinafter provided for) may call special meetings of the Commission at any time deemed advisable. All meetings of the Commission shall be public except such executive sessions as may be provided for by law, and any such citizen shall have access to the minutes and records thereof at all reasonable times. The Commission shall determine its own rules and order of business and shall keep a journal of its proceedings.
(Res. 79-R-7, passed 2-24-79)

SECTION 2. LEGISLATIVE AND BUSINESS PROCEDURE.

Three (3) Commissioners and a presiding Mayor or Mayor Pro tempore shall constitute a quorum to do business. The Commission shall conduct its business by adoption or rejection of ordinances or resolutions or motions.
(Ord. 73-30, passed 11-7-73)

SECTION 3. POWERS OF ORDINANCE.

The City of Harlingen shall have the power to enact and enforce all ordinances necessary to protect health, life and property, and to prevent and summarily abate and remove all nuisances, and to preserve and enforce the good government, order and security of the City and its inhabitants, and to enact and enforce ordinances on any and all subjects, provided that no ordinance shall be enacted inconsistent with the provisions of this Charter or the general laws or Constitution of the State of Texas.

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SECTION 4. STYLE OF ORDINANCES.

The style of all ordinances of the City of Harlingen, shall be: "Be It Ordained by the City of Harlingen," but the same may be omitted when published in book or pamphlet form by the City of Harlingen.

SECTION 5. ENACTMENT OF ORDINANCES, RESOLUTIONS AND MOTIONS.

Each proposed ordinance or resolution shall be in written or printed form when presented to the Commission. Each ordinance shall have a caption summarily and generally stating the provisions thereof. Ordinances shall be adopted on their first presentation by reading of the caption only and resolutions shall be adopted by abbreviated oral description except where reading of an ordinance or resolution in full is supported by a four-fifths vote of the Commission. To be adopted, an ordinance must be presented and approved at two (2) separate Commission meetings. To approve any ordinance or adopt any resolution shall require three (3) affirmative votes. Motions may be adopted by simple majority. Provided, however, an ordinance declared an emergency measure may be finally adopted at the meeting at which it is introduced and presented, upon favorable and supporting four-fifths vote of the Commission. Enactment of ordinances, resolutions and motions, by providing that Commissioners and the Mayor when required to vote, shall not abstain from voting aye or nay on any ordinance, resolution or motion presented to the Elective Commission for determination except in the event of the existence of a conflict of interest as that term is defined herein. For purposes of this section, a conflict of interest shall be deemed to exist when the outcome of a vote on an ordinance, resolution or motion shall result in a direct pecuniary benefit or loss to a Commissioner or the Mayor or to any entity, firm or corporation of which a Commissioner or the Mayor is an owner, partner or stockholder. In the event of such conflict of interest, the affected Commissioner or Mayor shall abstain from voting aye or nay on the ordinance, resolution or motion. (Ord. 73-30, passed 11-7-73; Res. 79-R-7, passed 2-24-79; Am. Ord. 82-97, Amend. Nos. 1, 2, passed 1-15-83; Am. Ord. 84-83, Amend. No. 8, passed 12-5-84)

SECTION 6. EMERGENCY ORDINANCES.

An emergency measure is an ordinance for the immediate preservation of the public peace, property, health or safety and providing for the usual daily operation of a municipal department, in which the emergency is set forth and defined therein.

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Ordinances making a grant, renewal, extension of a franchise, or other special privileges or regulating the rate to be charged for its service by any public utility, shall never be passed as an emergency measure.

(Ord. 73-30, passed 11-7-73; Am. Ord. 84-83, Amend. No. 9, passed 12-5-84)

SECTION 7. PUBLICATION OF ORDINANCES.

The City Clerk shall give notice of the passage of every ordinance imposing a penalty, fine, imprisonment, or forfeiture for the violation of the provisions thereof, by causing the caption or title of any such ordinance to be published in some daily newspaper in the City of Harlingen, at least once within ten (10) days after the passage of said ordinance, and shall note on every such ordinance, the caption of which is hereby required to be published, and on the record thereof, the fact that same has been published as required by the Charter, and the date of such publication, which shall be prima facie evidence of such publication; provided, that the provisions of this section shall not apply to revision and codification of the ordinances of the city, as the commission may from time to time adopt.

SECTION 8. RECORDING OF ORDINANCES.

Every ordinance or resolution, upon its becoming effective, shall be recorded in a book kept for that purpose and shall be authenticated by the signature of the mayor and the party exercising the duties of city clerk or city secretary.

SECTION 9. INITIATIVE AND REFERENDUM.

The people of the city reserve the power of direct legislation by initiative, and in the exercise of such power may propose any ordinance, not in conflict with this Charter, the state constitution, or the state laws except an ordinance appropriating money or authorizing the levy of taxes. Any initiated ordinance may be submitted to the commission by a petition signed by qualified voters of the city equal in number to at least fifteen (15) per cent of the qualified voters of the city.

The people reserve the power to approve or reject at the polls any legislation enacted by the commission which is subject to the initiative process under this Charter, except an ordinance which is enacted for the immediate preservation of the public peace, health or safety, which contains a statement of its urgency, and which is adopted by the favorable votes of four or more of the commissioners. Prior to the effective date

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of any ordinance which is subject to referendum, a petition signed by qualified voters of the city equal in number to at least fifteen (15) per cent of the qualified voters of the city may be filed with the city secretary requesting that any such ordinance be either repealed or submitted to a vote of the people. When such a petition has been certified as sufficient by the city secretary, the ordinance specified in the petition shall not go into effect, or further action thereunder shall be suspended if it shall have gone into effect, until and unless it is approved by the voters as herein provided.

Initiative petition papers shall contain the full text of the proposed legislation in the form of an ordinance including a descriptive caption. The signature to the initiative or referendum petition need not all be appended to one paper, but each signer shall sign his name in ink or indelible pencil and shall add to his signature his place of residence by street and number. One of the signers of each separate petition shall make an affidavit that he, and he only, personally circulated such petition and that each signature appended thereto was made in his presence and is the genuine signature of the person whose name it purports to be.

Within thirty (30) days after an initiative or referendum petition is filed, the city secretary shall determine whether the same is signed by the requisite number of qualified voters. The city secretary shall declare void any petition paper which does not have an affidavit attached thereto as heretofore required. In examining the petition, the city secretary shall write the letters "D.V." in red ink opposite the names of signers found not qualified to vote.

After completing examination of the petition, the secretary shall certify the result thereof to the commission at its next regular meeting, stating the number of persons found on the petition who are qualified to vote and the number of persons found on the petition who are not qualified to vote. If the certificate of the city secretary shall show an initiative or referendum petition to be insufficient, the secretary shall notify the person filing the petition, and it may be amended within ten days from the date of such notice by filing a supplementary petition upon additional papers signed and filed as provided for an original petition. Within fifteen (15) days after such amendment is filed, the secretary shall examine the amended petition and certify as to its sufficiency. If the amended petition is found to be insufficient, the secretary shall return the petition to the person filing the same, without prejudice to the filing of a new petition for the same purpose.

When the commission receives an authorized initiative petition certified by the city secretary to be sufficient, the commission shall either: (a) pass the initiated ordinance without amendment within sixty (60) days after the date of the certification to the commission; or (b) submit said initiated ordinance without amendment to a vote of the qualified voters of the city at a regular or special election to be held within ninety (90) days after the date of the certification to the commission; or (c) at such election, submit to a vote of the qualified voters of the city said initiated ordinance without amendment,

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and an alternative ordinance on the same subject proposed by the commission.

When the commission receives an authorized referendum petition certified by the city secretary to be sufficient, the commission shall reconsider the referred ordinance, and if upon such reconsideration such ordinance is not repealed, it shall be submitted to the voters at a regular or special election to be held not more than ninety (90) days after the date of certification to the commission. Special elections on initiated or referred ordinances shall not be held more frequently than once each six (6) months, and no ordinance on the same subject as an initiated ordinance which has been defeated at any election may be initiated by the voters within two years from the date of such election.

The ballot used in voting upon an initiated or referred ordinance shall state the caption of the ordinance and below the caption shall set forth on separate lines the words, "For the Ordinance," and "Against the Ordinance."

Where an initiated ordinance or an alternative ordinance proposed by the commission is submitted, the ballot shall state the caption of each ordinance, clearly designating them "Ordinance No. 1" and "Ordinance No. 2," respectively, and shall set forth below the captions on separate lines the words "For Ordinance No. 1," "For Ordinance No. 2" and "Against Both Ordinances." Where an initiated ordinance and an alternative ordinance are submitted, each voter shall vote "For" only one ordinance or "Against Both Ordinances," and a vote for one ordinance shall be counted as a vote against the other ordinance.

Any number of ordinances may be voted on at the same election in accordance with the provisions of this article. If a majority of the votes cast is in favor of a submitted ordinance, it shall thereupon be effective as an ordinance of the city. An ordinance so adopted may be repealed or amended at any time after the expiration of two years by a four-fifths (4/5) vote of the commission. A referred ordinance which is not approved by a majority of the votes cast shall be deemed thereupon repealed.
(Ord. 75-44, passed 11-11-75)

SECTION 10. CODIFICATION OF ORDINANCES.

The commission shall have all general ordinances of the city compiled and printed in code form; the commission is empowered to thereafter recodify said general ordinances as may be deemed necessary, from time to time. For the purpose of this section, general ordinances shall be deemed to be those ordinances of a permanent or continuing nature which affect the residents of the city at large. Every general ordinance enacted subsequent to the original codification provided for above shall be enacted as an amendment to the code. When adopted by the commission, the printed codes of general ordinances contemplated by this section shall be in full force and effect without

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the necessity of such codes or any part thereof being published in any newspapers.

An ordinance of the City of Harlingen may be proved prima facie by a printed code of ordinances purporting to be printed by authority of the city, or by a copy of the ordinance certified by the city secretary to be a true copy of the same, or by the city secretary's official record thereof.

ARTICLE VI. FINANCE

SECTION 1. GENERAL.

The city shall have the power to control and manage the finances of the city; to provide its fiscal year and fiscal arrangements.

SECTION 2. TAXATION.

The City shall have the power and is hereby authorized annually to levy and collect taxes, not exceeding two dollars and fifty cents (\$2.50) on each one hundred dollars (\$100.00) of assessed valuation of all real and personal property within the City limits, not exempt from taxation by the Constitution and laws of the State, for any purpose not inconsistent with the Constitution of the State of Texas.

Shall authorize the granting and issuance of licenses and shall direct the manner of issuing and registering the same and fix the fees therefor; but no license shall issue for a longer period than one (1) year and shall not be assignable except by permission of the governing authority of the City.

Shall have the power, annually, to levy and collect a franchise tax against any public corporation using and occupying the public streets or grounds of the City, separately from the tangible property of such corporation, and to levy and collect, annually, upon the property and shares of corporations, companies and corporate institutions, as the same are now or may be assessed by the State laws, and shall have full power to enforce the collection of such taxes.

Shall have the power to regulate the manner and mode of making out tax lists, inventories and appraisements of property therein, and to prescribe the oath that shall be administered to each person rendering property for taxation, and to prescribe how, when and where property shall be rendered and to prescribe the number and form of assessment rolls, and to adopt such measures as may be deemed advisable to secure

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the assessment of all property within the city limits and to collect taxes thereon, and may provide a fine upon all persons failing, neglecting or refusing to render their property for taxation, and to do any and all other things necessary or proper to render effectual the collection of monies by taxation.

Shall have the power to provide for the rendition of unrented property for taxation and levy and assess taxes thereon, annually, and provide for rendition, levy and assessment of taxes for previous years on property omitted from taxation, and to provide interest at the rate of six (6) per cent per annum upon such unrendered or omitted property, and to change and provide for correction and reassessment of property erroneously assessed.

All real, personal or mixed property held, owned or situated in the City of Harlingen shall be liable for all municipal taxes, due by the owner thereof, including taxes on real estate, franchises, personal and mixed property, and all other municipal taxes, of whatsoever character. Such municipal taxes are hereby declared to be a lien, charge and encumbrance upon the property so taxed and shall be a prior lien to all other claims, sales, assignments, transfers, gifts and judicial writs. Said lien shall exist from the first day of January of each year until all such taxes have been paid, and against any real estate which, for any cause, has failed to be assessed for one or more years, and such lien shall be good and effective for every year for which assessment has so failed.

Personal property of all persons, firms or corporations owing any such taxes to the City of Harlingen, is hereby made liable for all such taxes whether same be upon personal or real property or upon both.

The governing authority of the City, at its first meeting in June of each year, or as soon thereafter as practicable, shall levy the annual tax for each year, but special taxes or assessments allowed by this Charter may be levied, assessed and collected at such time as the governing authority may determine; provided, that should the governing authority fail or neglect to levy the annual tax herein provided for, for any one (1) year the annual tax levy for the preceding year last made by such governing authority shall and will be considered in force and effective as the tax levy for the year for which no annual tax levy was made.

The annual levy of ad valorem tax and other taxes subject to the State of Texas Tax Code shall be levied each year at the earliest date possible commensurate with the beginning of the city fiscal year. Any special taxes or assessments not specifically regulated and controlled by the Texas Tax Code may be levied, assessed, and collected at such time as the governing body may determine.

Said City shall have full power to provide for the prompt collection, by suit or otherwise, of taxes assessed, levied and imposed and is hereby authorized, and to that

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end shall have full power and authority to sell, or cause to be sold, all kinds of property, real and personal, and shall make such rules and regulations and enact all such taxes whether same be upon personal or real property or any taxes provided in this Charter.

All monies arising from the collection of taxes by the City shall be divided into two funds, and designated as a "General Fund" and an "Interest and Sinking Fund."

No irregularities in the time or manner of making or returning the City assessment rolls or the approval of such rolls, shall invalidate any assessment.

The governing body of the City of Harlingen shall have the power to create a Board of Equalization if required under State law.

The City shall have the power, by ordinance, to levy and collect a tax on occupancy of hotel rooms (comprehensively defined in such ordinance) in the City of Harlingen such tax not to exceed the maximum percentage allowed by state law of the consideration paid by the occupant or occupants or each such room.
(Res. 79-R-7, passed 2-24-79; Am. Ord. 82-97, Amend. No. 3, passed 1-15-83; Am. Ord. 80-101, Amend. No. 2, passed 1-21-81; Am. Ord. 84-83, Amend. No. 10, passed 12-5-84)

SECTION 3. MUNICIPAL BONDS.

The governing authority of the City shall have the power to appropriate so much of the general revenue of the City as may be necessary for the purpose of retiring and discharging the accrued indebtedness of the City, and for the purpose of improving the streets, purchasing and constructing sewers, erecting and maintaining public works of every kind and for purchasing or constructing waterworks plants and systems, and for the purpose of erecting, maintaining, and operating an electric light and power plant and such other public utilities as the governing authority may, from time to time, deem expedient; and in furtherance of any and all of these subjects, the City shall have the right and power to borrow money upon the credit of the City, within the limits provided by law, and to issue coupon bonds of the City therefor, in such sum or sums as may be deemed expedient; to bear interest not to exceed the amount specified and provided for by the applicable statutes of the State of Texas, from time to time; payable annually or semiannually, at such place or places as may be designated by the City ordinance.

All bonds shall specify for what purpose they are issued, and shall be invalid if sold for less than their par value, and when any bonds are issued by the City, a fund shall be provided to pay the interest and create a sinking fund to redeem said bonds which fund shall not be diverted or drawn upon for any purposes, and the person acting as City Treasurer shall honor no drafts, upon said fund except to pay interest upon or

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redeem the bonds for which it was provided.

Said bonds may be issued serially and shall be issued for a period of time not to exceed forty (40) years; shall be signed by the Mayor, countersigned by the person acting in the capacity of City Clerk or Secretary, and shall be payable at such places and times as may be fixed by the ordinance of the governing authority. All such bonds shall be submitted to the attorney general of the State of Texas for his approval and the comptroller for registration, as provided by the State law; provided, that any such bonds, after approval, may be issued by the city either optional or serial, or otherwise, as may be deemed advisable by the governing body.

Before the issuance of general obligation bonds, the same shall be submitted to a vote of the qualified voters of the City of Harlingen, Texas, and should a majority of the votes cast at such election be in favor of issuing such general obligations bonds, the same shall be issued as provided herein; but should said election fail to carry, such general obligation bonds shall not be issued. The election provided for herein shall be conducted as other elections under the state law, after due notice by publication, on the same day in each of two (2) successive weeks in a newspaper of general circulation published in said city, the date of first publication to be not less than fourteen (14) days prior to the date set for said election; which said notice shall state the nature and purpose of said election. Nothing herein shall prohibit the elective commission from issuing certificates of obligation or warrants, but only upon the affirmative vote of four-fifths (4/5) of the elective commission.
(Ord. 75-44, passed 11-11-75; Res. 87R-10, passed 4-9-87)

SECTION 4. ACCOUNTING PROCEDURE.

An accounting procedure shall be devised and maintained for the city adequate to record in detail all transactions affecting the acquisition, custodianship and disposition of values, including cash receipts, credit transactions and disbursements; and the recorded facts shall be presented periodically to officials and to the public in such summaries and analytical schedules in detailed support thereof as shall be necessary to show the full effect of such transactions for each fiscal year, upon the finances of the city and in relation to each department of the city government, including district summaries and schedules for each public utility owned and operated.

SECTION 5. PAYMENT OF ACCOUNTS AND CLAIMS.

The city treasurer shall audit and approve, before payment, all bills, invoices, payrolls, and other evidences of claims and demands or charges against the city

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government; any such claims against the City of Harlingen for damages for the death or personal injury of any person or for damages to or destruction of property of any kind, which does not constitute a taking or damage of property under Article 1, Section 17, Constitution of Texas, shall be submitted in writing to the city manager, the same to be duly verified by affidavit, and to be submitted within ninety (90) days after said death, personal injury or property damage has been sustained; stating specifically in such written notice when, where and how the death, injury, damage or destruction occurred, and the apparent extent of any such injury, the amount of damages sustained, the actual residence of the claimant by street and number, at the date the claim is presented, the actual residence of such claimant for six (6) months immediately preceding the occurrence of such death, injury, damage, or destruction, and the names and addresses of all witnesses upon whom it is relied to establish the claim for damages; and the failure to so notify the city manager within the time and manner specified herein shall exonerate, excuse and exempt the city from any liability whatsoever. No act of any officer or employee of the city shall waive compliance, or stop the city from requiring compliance, with the provisions of this section as to notice, but such provisions may be waived by resolution of the commission, made and passed before the expiration of the ninety (90) day period herein provided, and evidenced by minutes of the commission.

SECTION 6. DEPOSITORIES.

All monies received by any person, department, or agency of the city for or in connection with affairs of the city shall be deposited promptly in city depositories, which shall be designated by the commission in accordance with such regulations and subject to such requirements as to security for deposits and interest thereon as may be established by ordinance. All checks, vouchers or warrants for the withdrawal of money from the city depositories shall be signed by the city treasurer or his deputy and countersigned by the city manager.

SECTION 7. AUDIT AND EXAMINATION.

All accounts and fiscal records of the City of Harlingen shall be audited on a perpetual basis by a continuous, independent audit, the independent auditor for such purposes, who shall be a certified public accountant, to be designated and employed by the commission from time to time. The commission may require a full audit report of the fiscal affairs of the City of Harlingen as often as it sees fit, provided that it shall have one such full audit report at least once each year; and such audit shall be available in full to the public.

ARTICLE VII. ACQUISITION AND OWNERSHIP OF PROPERTY

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SECTION I. ACQUISITION OF PROPERTY.

The City of Harlingen shall have the power and authority to acquire by purchase, gift, devise, condemnation or otherwise any character of property including any charitable or trust fund.

SECTION 2. PROPERTY PREVIOUSLY ACQUIRED.

All real estate owned in fee simple title or held by lease, sufferance, easement or otherwise; all public buildings, fire stations, parks, public squares, streets, alleys and all property of whatever kind, character or description, whether real or personal, which has been granted, donated, purchased or otherwise acquired by the City of Harlingen, through any means or agency, and all causes of action, choses in action, rights and privileges of every kind and character, and all property of whatsoever character and description which may have been held or is now held, controlled or used by the said City of Harlingen for public ways or in trust for the public shall vest in and remain in and inure to the said corporation of the City of Harlingen by the legal adoption of this Charter.

SECTION 3. PROPERTY EXEMPT FROM EXECUTION.

Said City shall have the power to provide that no public property or any other character of property owned or held by said City shall be subject to any execution of any kind or nature.

SECTION 4. EMINENT DOMAIN.

Said City shall have the right of eminent domain and the power to appropriate private property for public purposes whenever the governing authority shall deem it necessary; and to take any private property, within or without the City limits, for any of the following purposes to-wit: city halls, police stations, jails, calabooes, fire stations and fire alarm systems, libraries, hospitals, sanitariums, auditoriums, market houses, slaughter houses, reformatories, abattoirs, streets, alleys, parks, highways, playgrounds, sewer systems, storm sewers, sewage disposal plants, filtering beds and emptying grounds for sewer systems, drainages, drainage water, water supply sources, wells, water and electric light and power systems, street car systems, telephone and telegraph systems, gas plants or gas systems, cemeteries, crematories, prison farms,

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pest houses, and to acquire lands, within or without the City, for any other municipal purpose that may be deemed advisable. That the power herein granted for the purpose of acquiring private property shall include the power of improvements and enlargements of waterworks, including water supply, riparian rights, standpipes, filtration plants, watersheds, and the construction of supply reservoirs. That in all cases wherein the City exercises the power of eminent domain, it shall be controlled, as nearly as practicable, by the laws governing the condemnation of property by railroad corporations in this State; the City taking the position of the railroad corporation in any such case.

SECTION 5. CONTRACTS TO PURCHASE PROPERTY.

All contracts for public printing, public improvements, public work and the purchase of supplies or other personal property, for use in any department of the city, exceeding the maximum expenditure allowed by state law shall be let on sealed competitive bids after advertisement by publication thereof at least once in some newspaper published in the city, the first publication of such advertisement to be at least ten (10) days before such contract be let, but the commission may permit or require proposals to be filed for doing such work, or furnishing such materials upon alternative or different plans and methods or for different materials or upon proposals and specifications of different characters adopted by the city or submitted by bidders with their bids; and the commission may reject all such bids or select and adopt such bid and let the work to or purchase the supplies in question from the lowest bidder whose bid, in the opinion of the commission, is most advantageous to the city. All purchases or contracts for public printing, public improvements, public work or supplies or other personal property for the use in any department of the city of less than the amount allowed by state law shall be competitive and shall be purchased or let at the discretion of the city manager.

No member of the City Commission, or any other officer or employee of the Corporation, shall be directly or indirectly interested in any work, business or contract, the expense, price or consideration of which is paid, in whole or in part, from the City Treasury, or by an assessment levied by an ordinance or resolution of the City Commission, nor be the surety of any person having a contract, work or business with the City, for the performing of which security may be required. Any contract which violates the foregoing provision shall be void, and no legal right or advantage shall ever be acquired by any person by reason of any act or thing done in violation thereof; and any member of the City Commission or other office of the corporation, who knowingly shall be or become interested in any work, business or contract in violation of this section shall immediately forfeit his office.

(Ord. 73-30, passed 11-7-73; Res. 79-R-7, passed 2-24-79; Am. Ord. 82-97, Amend. No. 4, passed 1-15-83)

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ARTICLE VIII. PERMANENT PUBLIC IMPROVEMENTS AND PARKS

SECTION 1. STREET, SIDEWALK AND ALLEY IMPROVING AND ASSESSING.

The City shall have dominion, control and jurisdiction in, upon and over and under its public streets, squares, avenues, alleys and highways and to provide for the improvement thereof, upon the initiative of the Commission, or upon petition of property owners, as hereinafter provided by paving, repaving, raising, grading, and draining openings, widening, narrowing or straightening, and by construction of sidewalks, and curbs or culverts, or otherwise. The word "highway" as used herein shall include all streets, alleys, sidewalks, public places, avenues and squares in the City. The City shall have the power to assess the whole cost of sidewalks and curbs and not more than three-fourths of the cost of other street improvement work, except the cost to be paid owners of railroads and street railroads, against the owners of property abutting the highway or section thereof improved, and against said property, and to fix a lien against said property which shall be superior to all other liens and claims, except City, State and County and other taxes, and a charge of personal liability against owners of said property. The portion of the cost assessed against said owners of abutting property may be made payable in deferred installments, the last maturing of which shall become due not more than five (5) years from the completion of the improvements and which shall bear interest at the rate of not exceeding eight (8) percent per annum. Said assessments may include reasonable attorney's fees and cost of collection, if incurred, and the Commission shall have power to fix the terms of payment, maturity and conditions of said assessments and of the assignable certificates hereinafter provided for.

The entire cost of making such improvements between or under the rails, tracks and switches or railroads or street railroads, occupying any highway or intersection improved, and for two (2) feet on the outside of said tracks, shall be paid by the owners thereof, and secured by a lien assessed on the road beds, ties, tracks, franchise and other property of said owners, which lien shall be superior to all other liens, claims or interests in or upon said property, except City, State, and County or other taxes. The ordinance making such assessment shall provide the time and terms of payment thereof and for the payment of interest, costs and attorney's fees as above set out.

No assessments shall be made against owners of abutting property or against railroads, or street railroads, or their property, until after a hearing to said owners, and to lien holders or other interested parties before the Commission,

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preceding by reasonable notice thereof which shall consist of a general notice published at least three (3) times prior to the hearing in some newspaper of general circulation published in the City of Harlingen, the first publication to be at least ten (10) days before the date of hearing. The commission shall have authority to give other additional notice in its discretion, but the published notice shall be sufficient and binding upon lien holders and other interested parties and owners.

At said hearing owners and other interested parties shall have the right to contest said assessments, the legality or regularity of any proceeding with reference thereto, or the special benefits arising from said improvement.

No assessment shall be made against any owner of abutting property or his property in excess of special benefits thereto in enhanced value thereof arising from said improvements.

All protests, contests and objections at said hearing shall be in writing, and the Commission shall have power to hear evidence, summon witnesses and take testimony with reference thereto.

Said assessments may be enforced, either by suit in any court having jurisdiction, brought by the City for the benefit of the holder and owner of said assessments or the certificates evidencing same, or brought by said owner and holder, or by sale of the property assessed in the same manner, or as near as possible, as is prescribed for sale of real estate for municipal taxes.

The lien of the assessments herein mentioned shall relate back and take effect as to all subsequent purchasers and creditors from the date of the ordinance of resolution ordering the improvement.

Subsection 1. The Commission shall have power to cause to be issued in the name and on behalf of the City assignable certificates in writing, declaring the liability of owners and their property for the payment of assessments and to fix the terms and conditions of such certificates. If any such certificates shall recite that the proceedings with reference to making such improvements have been regularly had in compliance with law, and that prerequisites to the fixing of the assessment lien against the property, and the personal liability of the owner, have been performed, such recitals shall be prima facie evidence of the facts so recited, and no further proof therefor shall be required in any court.

Subsection 2. Nothing herein contained shall empower the City to fix a lien by assessment against any property exempt by law from sale under execution, but the owner of such exempt property shall nevertheless be personally liable for the pro rata portion of laid cost which would hereunder be assessed

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against such property were it not exempt, and such cost shall be assessed against said owner.

The fact that any improvement is omitted in front of exempt property shall not invalidate the lien of assessment made against other property.

Subsection 3. In apportioning costs of improvements among owners of the abutting property, the Commission shall act in accordance with the front foot rule, in proportion as the front feet of property of each owner abutting the highway to be improved is to the whole frontage thereof. But if in particular cases the application of this rule would be unequal or unjust, the Commission shall adopt such rule as shall effect substantial justice and equality, in view of special benefits received and burdens imposed.

Subsection 4. No error, mistake or informality in the ordinance of assessment or in any other step or proceeding prerequisite to said assessment shall invalidate the same, but the Commission shall at any time correct the same.

No error or mistake in describing any parcel of abutting property or the name of its owner shall invalidate an assessment, but it shall notwithstanding have full force and be in effect against said premises and the real and true owner thereof.

Whenever in the opinion of the Commission any error, mistake or invalidity exists in any proceeding with reference to said improvements or assessments, it shall correct said error, mistake or invalidity and reassess said property and the owners thereof, with reference to which same exists. Such reassessments shall be made after a notice and hearing as herein provided, and not in excess of benefits in enhanced value of the property assessed, and otherwise as near as possible in accordance with the provisions hereof with reference to original assessments. After such reassessments the City shall have power to issue assignable certificates evidencing the same, as hereinbefore provided, which may be payable in deferred installments, the last maturing not over five (5) years from date of said reassessment, and the terms and conditions of said certificates shall as near as possible comply with the preceding provisions hereof having reference to assignable certificates.

No reassessments shall be made unless proceedings therefor are begun within three (3) years from the date of the original assessments, provided that if the validity of any assessment shall be involved in litigation, the period of time consumed therein shall not be considered in computing said three (3) years.

The Commission shall have power to adopt rules, regulations, and ordinances not inconsistent herewith for the purpose of carrying into effect every

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part of this section and its subsections, and to effect said assessments and reassessments.

Subsection 5. Whenever the owners of more than fifty (50) per cent of the front feet of property abutting any highway or section thereof which they desire improved, shall petition the Commission in writing (which may be one or more separate petitions) and shall state the limits within which the work is to be done, the general description thereof and the materials and methods or alternate materials and method with which it is desired said improvements shall be made, and the signers of said petition shall agree therein to pay the several amounts which may be assessed against them respectively under the terms thereof, the said petition shall be filed with the Commission, and shall be by it examined and in its discretion approved or disapproved by resolution.

The approval of such petition by the Commission shall be conclusive of its regularity and validity, and if so approved, the Commission shall order the work done as nearly as possible with the materials and in accordance with the methods, or if alternative materials or methods shall be set out in said petition, in accordance with some method and with some material or materials therein specified.

When the procedure is under this subsection, the Commission shall make said improvements and assess and apportion the cost hereof, after notice and hearing as hereinbefore provided, and shall take all steps and do all things with reference thereto in strict accordance with the provisions of this section. Provided that when said work is done pursuant to petition the City, shall pay the whole cost of improvement of intersections of other streets and alleys with the highways named to be improved, except the portion thereof assessable against railroads and street railroads so occupying said highway and intersection; said railroads and street railroads shall pay the whole cost of such improvements of said highway or portion thereof between and under their rails and tracks and two (2) feet on the outside thereof, which cost shall be assessed against owners thereof and their property, and collected in the manner provided in this article; and the owners of property abutting the highway or section thereof to be improved shall pay the whole remaining cost of such improvements, and the same shall be apportioned among them and assessed against them, and their property in the manner provided in this article.

Subsection 6. In any suit brought for the enforcement of an assessment, reassessment or personal liability, the allegation in the petition or other pleading that all proceedings with reference to making such improvements have been regularly had in compliance with the law and that all prerequisites to the fixing of the assessment lien upon the property assessed and the personal liability of the owner, or the insurance of the assignable certificates have been performed, shall be deemed a sufficient allegation of every proceeding required by

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law, the City Charter or its ordinances with reference to such improvements or prerequisites to the fixing of such lien or liability and insurance of said certificates, and shall dispense with the necessity of pleading each of said preceding steps or prerequisites specifically, and shall in all courts be taken as if each of said steps, proceedings, or prerequisites had been alleged and set out in full.

Any property owner against whom or whose property an assessment or reassessment has been made shall have the right within twenty (20) days thereafter to bring suit in any court having jurisdiction to set aside or correct the same or any proceeding with reference thereto, on account of any error or invalidity therein. But thereafter such owner, his heirs, assigns or successors shall be barred from any such action or any defense of invalidity in such proceedings or assessments in any action in which the same may be brought in question.

Subsection 7. All contracts for street improvements heretofore entered into by the City and not fully performed and all proceedings had by it with reference thereto, are hereby ratified, confirmed and validated, and all powers heretofore enjoyed by the City whereby it was empowered to provide for the execution of said contracts, and for the assessment of any portion of the cost of said improvements against owners of property abutting same, and their said property, or against the owners of railroads and street railroads and their property, and also all powers of the said City for the enforcement of said assessments and collections thereof, are hereby extended and preserved in full force for the purpose of making said assessments and enforcing said existing contracts, and it shall be the duty of said Commission to pass all ordinances and resolutions and take all steps necessary or proper to fully execute said contracts or validate or ratify the same and to make and enforce said assessments.

Subsection 8. The City Commission, in carrying out and exercising the powers granted by this section and its subsections may proceed by resolution, except that no assessment or reassessment shall be finally levied otherwise than by ordinance.

All the powers granted by this section and its subsections, when adopted shall be applicable to the enforcement of said existing contracts and to the making and enforcement of the assessments therein provided to be made against owners of abutting property, and their property, and against the owners of railroads and street railroads and their property, and to the issuance of assignable certificates as herein provided; and the Commission shall fully exercise said powers to make and enforce said assessments, and to issue said certificates, under and in accordance with terms of this section and its subsections, when adopted.

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SECTION 2. DEFECTIVE SIDEWALKS AS NUISANCES.

Said City shall have the power to provide for the construction, improvement or repair of any such sidewalk or the construction of any such curb, by penal ordinance, and to declare defective sidewalks to be a public nuisance.

SECTION 3. OPENING, EXTENDING, STRAIGHTENING AND WIDENING STREETS AND ALLEYS.

Said City shall have the power to open, extend, straighten and widen any public street, avenue, boulevard or alley and for such purpose to acquire the necessary land, by purchase or condemnation, and to provide that the cost of improving such street, avenue, boulevard or alley by opening, extending, straightening, or widening the same shall be paid by the owners of property lying in the territory of such improvement to the extent they are especially benefited thereby, and to provide that the cost shall be charged by special assessment against such owners and their property for the amount due by them, and three (3) Special Commissioners shall be appointed by the County Judge of Cameron County, Texas, for the purpose of condemning said land and apportioning said cost, and such apportionment shall be specially assessed by the governing authority of said City against the owners and their property lying in the territory so found by said Special Commissioners to be specially benefited in enhanced value, and said City may issue assignable certificates for the payment of any such cost against such property owners and their property and may provide for the payment thereof in deferred payments, which deferred payments shall bear interest at the rate of not exceeding eight (8) per cent per annum. Said City shall pay such portion of such cost as may be determined by said special commissioners to be due by it; provided the cost paid by the city shall never exceed one-third (1/3) of the cost of such improvement.

SECTION 4. STREET AND ALLEY OBSTRUCTIONS, ALTERATIONS AND CLOSING.

Said city shall have the power:

- (1) To control, regulate and remove all obstructions, encroachments and incumbrances on any public street,

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avenue, boulevard or alley and to narrow, alter, widen, straighten, vacate, abandon and close same; provided that the closing of all or any portions of any street or alley shall be by ordinance adopted by the elective Commission; said city may close for the exclusive use temporarily or perpetually by any railroad company or other corporation having power of eminent domain, any part or parts, of any street or streets, alley or alleys, and to ratify and confirm any prior ordinances closing any street or streets, alley or alleys, or any part or parts thereof, for the use of any railroad company or any such other corporation; to provide for sprinkling and cleaning same and to regulate and control the moving of buildings and structures of every kind and character upon and along the same. Provided further, that when an ordinance to abandon or close any public street as set forth hereinabove is considered by the elective commission, the entire elective commission or a quorum thereof may consider and pass said ordinance on first reading, but said ordinance shall not be passed or approved on final reading unless the entire elective commission is present for the vote on said ordinance.

- (2) To require property owners, their agents and lessees to remove, within a reasonable time, ice, slush, snow and other debris from sidewalks fronting on property owned, occupied or controlled by such owner, agent or lessee, and to require such owner, agent or lessee to remove all low hanging limbs from trees adjacent to sidewalks in said city.

(Ord. 73-30, passed 11-7-73; Am. Ord. 75-44, passed 11-11-75)

SECTION 5. FRANCHISE FOR USE OF STREETS.

Said city shall have the power and authority to grant franchises for the use, or occupancy of streets, avenues, alleys and any and all public grounds belonging to or under the control of the city. No telegraph, telephone, electric light or power, street railway, gas company, waterworks, water systems or any other character of public utility shall be granted any franchise or permitted the use of any street, avenue, alley, highway or grounds of the city without first making application to and obtaining the consent of the governing authorities thereto, expressed by ordinance, and upon paying such compensation as may be prescribed, and upon such conditions as may be provided for any such ordinance, and before such ordinance proposing to make any grant for franchise or privilege to any applicant to use or occupy any street, avenue, alley or any other public ground belonging to

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or under control of the city, shall become effective, publication of said ordinance, as finally proposed to be passed, shall be made in some newspaper published in the City of Harlingen, once a week for three (3) consecutive weeks, which publication shall be made at the expense of the applicant desiring said grant, and said proposed ordinance shall not be thereafter changed unless again republished as in the first instance, nor shall any such ordinance take effect or become a law or vest any rights in the applicant therefor, until after the expiration of thirty (30) days from the last publication of said ordinance, as aforesaid.

Pending the time such ordinance may become effective, it is hereby made the duty of the governing authority of the city to order an election if requested so to do by written petition signed by at least ten (10) per cent of the legally qualified voters, as determined by the number of votes cast in the last regular municipal election; at which election the qualified voters of said city shall vote for or against the proposed grant, as set forth in detail by the ordinance conferring the rights and privileges upon the applicant therefor. Such election shall be ordered not less than thirty (30) days nor more than ninety (90) days from the date of filing said petition and if at said election the majority of the votes cast shall be for the granting of such franchise or privilege, said ordinance and the making of said proposed grant shall thereupon become effective, but if a majority of the votes cast at said election shall be against the granting of such franchise or privilege, such ordinance shall be ineffective and the making of such proposed grant shall be null and void.

SECTION 6. PARKS AND PLAYGROUNDS.

Said city shall have exclusive control over all city parks and playgrounds and to control, regulate and remove all obstructions and prevent encroachments thereupon; and to provide for raising, grading, filling, terracing, landscape gardening, erecting buildings, providing amusements therein, for establishing walks and paving driveways around, in and through said parks, playgrounds and other public grounds.

SECTION 7. SANITARY SEWERS.

Said city shall have exclusive control to provide for a sanitary sewer system and for the maintenance thereof; to require property owners to make connection to such sewers with their premises and to provide for fixing a lien against any property owner's premises who fails or refuses to make sanitary sewer connections and to charge the cost against the said owner and make a personal liability, and to fix penalties for failure to make sanitary sewer connections.

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SECTION 8. RESERVED.

Editor's note. Ord. 75-44, adopted Nov. 11, 1975, provided, in proposed charter amendment number 10, for the repeal of Art. VIII, § 8, which pertained to hours of municipal laborers. Said amendment was approved at a referendum of the electorate held Dec. 9, 1975. Formerly, § 8 was derived unamended from the charter reorganization ordinance of March 2, 1955.

ARTICLE IX. MUNICIPAL AIRPORT

SECTION 1. OWNERSHIP AND OPERATION.

Said city shall have the power to provide for the ownership, establishment, operation and maintenance of a public municipal airport, provided that the operation and maintenance of said airport and all supporting properties appurtenant thereto shall be under the exclusive supervision, control and authority of a special board to be known as the "Harlingen Airport Board" which shall be composed of five (5) resident citizens of the City of Harlingen, Texas, to be appointed by the mayor of the City of Harlingen, Texas, and approved by the city commission of the City of Harlingen, Texas, the present seven (7) members of such board at the time of adoption of this amendment to serve the balance of their present appointive terms, with the expiration of the first two (2) such appointive terms to terminate such positions on the board, and with the termination of each of the succeeding five (5) term expirations to be succeeded by the appointment of a respective succeeding member to serve a term of five (5) years, such expiration and succeeding appointive procedure to continue, provided that the city commission of the City of Harlingen, Texas, shall by ordinance establish such rules and regulations as shall be deemed necessary to enable such board to administer the business and operation of such airport for the best interests of the City of Harlingen, Texas, and its inhabitants and further provided that the Harlingen Airport Board shall annually submit a budget to the city commission of the City of Harlingen, Texas, for approval and no expenditure of airport funds shall be made except in accordance with such approved budget or approved amendment thereto, and shall make detailed monthly reports covering all phases of the operation and maintenance of said airport and supporting properties to the city commission of the City of Harlingen; that the city manager shall be an ex officio member of the Harlingen Airport Board; and that no provision hereof shall

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be construed to delegate to the Harlingen Airport Board any power not capable of being so delegated by law, and all powers delegated hereunder shall be subject to any restrictions otherwise imposed by the laws of the State of Texas and the Charter of the City of Harlingen.
(Ord. 73-30, passed 11-7-73)

ARTICLE X. PUBLIC UTILITIES

SECTION 1. MUNICIPAL OWNERSHIP AND OPERATION.

Said city shall have the power to buy, own or construct, and to maintain and operate, within or without the city limits, complete water system or systems, gas or electric lighting or power plant or plants, fertilizing plants, abattoirs, municipal railway terminals, ice plants or any other public service utility, and to demand and receive compensation for services furnished by the city for private purposes or otherwise, and to have file original jurisdiction to regulate by ordinance the collection or compensation for services rendered by all of such municipally owned and operated public utility services save and except telephone systems (the collection and compensation for same to be regulated by the state). That said city shall have power to acquire by lease, purchase or condemnation, the property of any person, firm or corporation now or hereafter conducting any such business, for the purpose of operating such public utility or utilities for the purpose of distributing such service throughout the city, or any portion thereof.
(Ord. 75-44, passed 11-11-75)

SECTION 2. FUNDS FOR ACQUISITION.

Should the city determine to acquire any public utility by purchase, condemnation or otherwise as herein provided, said city shall have the power to obtain funds for the purpose of acquiring said public utility and paying the compensation therefor, by issuing bonds or notes, or other evidences of indebtedness, and shall secure the same by fixing a lien upon the property constituting the public utility so acquired and said security shall apply alone to said property so pledged.

SECTION 3. MANUFACTURE OR PURCHASE OF PUBLIC UTILITY PRODUCTS.

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Said city shall have the authority to manufacture its own electricity, gas or anything else that may be needed or used by it or the public; to make contracts with any person, firm or corporation for the purchase of gas, water, and electricity or any other commodity or articles used by it or the public, and to sell same to the public as may be determined by the governing authority.

SECTION 4. MUNICIPAL OWNERSHIP AND OPERATION MADE EXCLUSIVE.

In the event said city shall acquire by purchase, gift, devise, deed, condemnation or otherwise, any waterworks system, electric light or power system, gas system, street railway system, telephone system, or any other public service utility to operate and maintain for the purpose of serving the inhabitants of said city, the right to operate and maintain such public service utility, so acquired, shall be exclusive.

SECTION 5. FRANCHISING AND REGULATING PRIVATE UTILITY COMPANIES.

Said city shall have the original jurisdiction to determine, fix and regulate the charges, fares and rates of any person, firm or corporation exercising, or that may hereafter exercise any right or franchise and/or public privilege (save and except for any such entity furnishing telephone or other telecommunications services) in said city and to prescribe the kind of service to be furnished, the equipment to be used and manner in which services shall be rendered and to change such regulations from time to time; that in order to ascertain all of the facts necessary for a proper understanding of what is or should be reasonable rate of regulation, the governing authority shall have full power to inspect the books and other records of such person, firm or corporation and compel the attendance of witnesses for such purpose; provided that in adopting such regulations and in fixing or changing such compensation, no stock or bond authorized or issued by any person, firm or corporation exercising such franchise or privilege shall be considered unless proof be made that the same have been actually issued by such person, firm or corporation for money, or its equivalent, paid and used for the development of the property under investigation. The city may delegate its rate-making authority in all franchised public utilities within the city to the Public Utilities Commission of Texas as prescribed by state statutes.

To require waterworks corporations, gas companies, street car companies, telephone companies, electric light and power companies or other companies, or

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individuals, exercising franchises, now or hereafter, from the city, to make and furnish extensions of their service to such territory as may be required by ordinance.

(Ord. 75-44, passed 11-11-75)

SECTION 6. PUBLIC UTILITIES; [FUNDS TO BE KEPT SEPARATE.]

(A) No funds collected from the furnishing of water and sanitary sewer services by the city, or federal, state or other grants proceeds applied for and funded for sanitary sewer and water projects or needs, shall ever be commingled with other city funds. None of said collected funds or grant proceeds shall be used for any purposes other than for the expansion, extension, operation, or maintenance of sewer and waterworks systems of the city, or to retire indebtedness for same, except in the event of a bona fide natural disaster, and then only upon the affirmative vote of four-fifths (4/5) of the city commission.

(B) Except as hereinafter provided in paragraph (C), neither of said systems shall receive funds from other departments of the city except in the event of a natural disaster, or as hereinabove referenced, resulting from unforeseen conditions, in which event said water and sanitary sewer systems may seek and receive emergency advancements and loans from any one or more of other city revenue sources, or from the city regular administrative government general fund, or other city sources. Such justifiable extreme emergency conditions shall be those under which it is necessary to obtain such emergency funds in order to avoid curtailing water and sewer service by such city owned department, to the injury of the citizens of the City of Harlingen. Any such emergency loans or advancements shall be duly reimbursed by the funds [system] borrowing such funds to the department lending such funds, from future revenues of such system, with such reimbursement to be budgeted therefor as a part of the standard budgetary procedure.

(C) Nothing contained hereinabove shall prohibit:

(1) The elective commission from issuing general obligation bonds pursuant to the Charter of the city, required for water and sewer capital improvements, provided that such bonds shall be retired from surplus revenues of the water and sewer departments to the extent available; or

(2) The use of funds received by the city from grants including but not limited to revenue sharing grants and community development grants, for water and sanitary sewer system capital improvements.

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(3) The elective commission from issuing certificates of obligation, but only upon the affirmative vote of four-fifths (4/5) of the elective commission.

(D) There shall be not less than one annual independent audit of the water and sewer department, independent of any other audit of other departments of the city, furnished to the elective commission. Said audit may or may not be a fraud audit at the direction of the elective commission.

(Res. 79-R-7, passed 2-24-79)

SECTION 7. UTILITY TRUSTEES.

(A) *The trustees.* The trustees shall consist of five (5) appointive members and the mayor and city manager of the city as ex-officio, nonvoting members. Each voting member shall be an adult, lawful and actual resident of the City of Harlingen. The appointment of the initial utility trustees shall be by each elective commissioner of the City of Harlingen nominating one member for the said utility trustees, with each trustee to be approved by three affirmative votes of the elective commission of the city. Subsequent voting members shall be appointed by the city commissioners drawing lots to determine the nominating commissioner, who shall then nominate a succeeding trustee, with such succeeding trustee to be approved by three affirmative votes of the elective commission of the city. Each elective commissioner shall be limited to the appointment of one trustee per two-year commissioner's term. One each of the original five (5) appointed voting members shall serve for terms of one (1), two (2), three (3), four (4) and five (5) years, respectively, as determined by an initial drawing of lots by the original trustees. All successor appointees shall serve four-year terms, save and except for vacancies resulting from death, resignation, failure to remain a resident of the City of Harlingen, or other causes, to also be filled by appointment by a majority of the elective commission and to serve for the remainder of such vacant term. The nomination for a trustee to fill an unexpired term shall be submitted to the commission by the mayor.

(B) *Removal.* Any appointed trustee may be removed by a four-fifths (4/5) vote of the elective commission for any one or more of the following reasons: unexcused substantial absences from regular meetings, conflict of interest or conduct reasonably construed to be or become damaging to the public and efficient operation of the water and sewer system under the provisions hereof.

(C) *Effective date.* Whereas, the City of Harlingen Waterworks System and Sanitary Sewer System are presently managed, controlled and operated by the current Board of Trustees of the City of Harlingen Waterworks System as duly and previously constituted, which board shall be dissolved and terminated under the terms of the provisions of the trust indenture establishing same, with such

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termination date being hereby declared by the passage of this amendment to be determined by resolution of the city commission but in no event later than July 1, 1979, with said bonded indebtedness to be prepaid as of that date by the current board and said current board to cease to exist upon the passage of the hereinabove resolution; now, therefore, the City of Harlingen Utility Trustees, created by the adoption of this charter amendment [section], shall begin and become effective upon the dissolution and termination date of such board of water trustees, provided that between January 20, 1979, and the date of the above referenced resolution (but not later than July 1, 1979); the said current board and newly appointed utility trustees shall act concurrently to effect a smooth transition of the water and sewer department to the new utility trustees. The elective commission may appoint one or more members of such board of water trustees to continue to serve for one year, in an advisory and consulting capacity, to and with such utility trustees, effective upon the inception date of the latter.

(D) *Authority and duties.* The utility trustees shall have the managing control and operation of the city waterworks system and city sewer system owned and operated by the city as above provided for; save and except for (1) the final adoption of rates for such city-owned utility systems (to be adopted by the elective commission); (2) any bond issue request shall be submitted to the elective commission for approval as hereinbelow provided. Sewer, sewerage, and sewer systems as used herein shall mean the sanitary sewer collection, treatment and disposal system, which may on occasion be referred to as wastewater or wastewater facilities. Nothing contained herein shall be construed to mean the storm sewer or drainage system of the city. The utility trustees shall constitute a separate and independent section of the city administrative government subject only to its appointment by and accountability to the elective commission of the city as herein provided for.

In the management, operation and control of the city-owned water and sewer utilities systems, the trustees are empowered to employ a water and sewer utilities manager with the prior approval and consent of the elective commission as the full-time manager and operator of the city-owned water and sewer utilities systems. The trustees shall determine the qualifications and compensation of such water and sewer utilities manager upon the prior approval and consent of the elective commission. Such water and sewer manager shall serve at the discretion of the utility trustees.

The trustees shall adopt rules and regulations for its meetings and operation.

It shall be the duty of such trustees to plan for and provide for the installation of water and sewer lines; provide for the expansion and maintenance of the water and sewer system; to provide for the acquisition and supply of water;

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and to provide for expansion of sewer and water treatment facilities.

The utility trustees shall otherwise determine the administrative personnel and organization of the department. The personnel policy of the City of Harlingen shall apply to all water and sewer department employees. The utility trustees shall, in all things, comply with the Charter of the City of Harlingen, statutes and constitution of the State of Texas, and all federal laws, rules and regulations, including but not limited to provisions covering competitive bidding, open meetings, affirmative action plans, and rules and regulations of appropriate governmental agencies.

(E) *Financing.* The trustees may obtain capital improvements and operating capital from bonds and other borrowed money, provided that such requests be approved by and issued by the elective commission, and such bond funds and other borrowed money shall be funded by revenues from the said city-owned water and sewer utilities systems.

(F) *Fiscal year and budget.* The trustees shall operate the city-owned water and sewer utilities systems by the city fiscal year and shall preplan its operations by annual budgets fully adopted prior to the inception of such fiscal year of operation. Such budgets shall be presented to the elective commission for the latter's approval.

(G) *Coordination.* The water and sewer utilities manager shall attend elective commission meetings at the direction of said commissioners for the purpose of furnishing information and reports as requested by the elective commission with reference to the operations of the utility trustees from time to time. In matters of coordination between the water and sewer utilities and other city departments where conflict arises, the city manager shall be the final authority. In all other matters said utility manager shall be answerable directly to the trustees.

(H) *Appeal.* Any citizens of the City of Harlingen including city commissioners individually, or acting as the elective commission, shall be entitled to appeal, in writing, any decision of the utility trustees directly to the elective commission within ten (10) days of such decision by said utility trustees. Within ten (10) days after such written appeal is filed with the city secretary, a date for a hearing shall be set by the elective commission. The elective commission of the City of Harlingen shall have full, complete and total authority to overrule or reverse such appealed decision, by an affirmative vote of not less than four (4) commissioners. The decision of the elective commission shall be final. If an affirmative decision of the utility trustees is overruled by the elective commission, there need be no further action taken by the utility trustees. If a negative decision of the utility trustees is overruled by the elective commission, said elective

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commission shall then prescribe what action shall be taken by the utility trustees and/or the water and sewer department. Such action, as prescribed by the elective commission, shall be carried out by the personnel of the water and sewer department.

(I) *Conflicts*. The water and sewer systems and departments administering same, shall be exempt from the provisions of Article IV, Section 11 of this Charter, and this section shall not be considered to be in conflict therewith.

(J) *Policy*. Any extension policies of the sewer department or the water department of the City of Harlingen shall be set forth, in writing, as an ordinance of the City of Harlingen, to be approved by the elective commission, as in the manner of other ordinances codified in the Code of the City of Harlingen.
(Res. 79-R-7, passed 2-24-79)

ARTICLE XI. PEACE, GOOD ORDER AND GENERAL WELFARE CONTROL

SECTION 1. ANIMALS (DOMESTIC).

Said city shall have the power:

(1) To prohibit the driving of herds of horses, mules, cattle, hogs, sheep, goats and all herds of domestic animals along or upon the streets, avenues or alleys of said city.

(2) To establish and regulate public pounds, to regulate, restrain and prohibit the running at large of horses, burros, mules, cattle, sheep, swine, goats, geese, chickens, pigeons, ducks and all other domesticated animals and fowls, and to authorize the restraining, impounding and sale of the same for the cost of the proceedings and the penalty incurred, and to order their destruction when they cannot be sold, and to impose penalties upon the owner thereof for the violation of any ordinances regulating or prohibiting the same and to tax, regulate, restrain and prohibit the running at large of dogs and to authorize their destruction and impose penalties on the owner or keeper thereof.

(3) To prohibit the inhumane treatment of animals and provide punishment thereof.

SECTION 2. AUXILIARY FUNCTIONS FINANCING.

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The city commission may annually appropriate monies from the general fund of the city to the aggregate amount of not more than two (2) mills on each one dollar valuation of the taxable property within the city in any one year, for the purpose of establishing and maintaining the following enumerated services or any one or more of them, to wit:

- (1) Chamber of commerce
- (2) City library
- (3) Public hospital
- (4) General welfare

SECTION 3. BUILDING (PRIVATE) CONSTRUCTION.

Said city shall have the power to provide for the issuance of permits for erecting all buildings; for the inspection of the construction of all buildings in respect to proper wiring for electric lights and other electric appliances; piping for gas, flues, chimneys, plumbing and sewer connections and to enforce proper regulations in regard thereto.

SECTION 4. BUILDING (USE) SAFETY.

Said city shall have the power:

- (1) To enact and enforce all ordinances and resolutions necessary to regulate the safety of all office buildings, hotels, apartment houses, rooming houses, hospitals, theaters, store buildings and all public buildings.
- (2) To require the construction of fire escapes in connection with public buildings, and to determine the sufficiency and regulate the safety of all exits and fire escapes provided on public buildings of every kind and character.

SECTION 5. RESERVED.

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Editor's note. Ord. No. 75-44, adopted Nov. 11, 1975, proposed amendment number 12 which provided for the repeal of § 5 of Art. XI. Said amendment was approved by a referendum of the electorate Dec. 9, 1975. Former § 5, which pertained to fines and collection, had been contained in the charter reorganization ordinance of March 2, 1955.

SECTION 6. FIRE DEPARTMENT.

Said city shall have the power to provide for establishing and maintaining the fire department of the city.

SECTION 7. FIRE LIMITS AND CONSTRUCTION.

Said city shall have the power to provide for the establishment and designation of fire limits; to prescribe the kind and character of structures to be erected therein; to provide for the erection of fireproof buildings within said limits and for the condemnation of dangerous or dilapidated structures which are calculated to increase fire hazards.

SECTION 8. FOOD: PRODUCTION, HANDLING AND DISTRIBUTION.

Said city shall have the power to provide for the inspection of dairies, cows and dairy herds, slaughter pens and slaughter houses and abattoirs, within or without the city limits from which meat, milk, butter or eggs from same are furnished to the inhabitants, of said city, and to provide for the inspection of meat markets, grocery stores, drug stores, confectioneries, fruit stands, ice cream factories, laundries, bottling plants, hotels, restaurants and bakeries; the source, storage and distribution of water, and all other places where food and drink for human consumption are manufactured, handled, sold or exposed for sale, and to regulate and inspect the character and standards of such articles of food and drink so sold or offered for sale.

SECTION 9. GARNISHMENT OF CITY FUNDS.

Said city shall have the power to provide that no funds of the city shall be subject to garnishment, and that the city shall never be required to answer in any

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garnishment proceedings.

SECTION 10. HEALTH (PUBLIC).

Said city shall have the power to provide for a health department and the establishment of rules and regulations protecting the health of the city; the establishment of quarantine stations, pest houses and hospitals and to provide for the adoption of necessary quarantine laws to protect the inhabitants against contagious and infectious diseases.

SECTION 11. LIBRARY (PUBLIC).

Said city shall have the power to provide for establishing and maintaining a public library.

SECTION 12. LICENSES: BUSINESS, OCCUPATIONS, SIGNS.

Said city shall have the power to license any lawful business, occupation or calling that is susceptible to the control of the police power, and to license, regulate, control or prohibit the erection of signs or billboards.

SECTION 13. LIABILITY FOR DAMAGES.

The liability of the city on any claim for damages to any person or property shall be that as determined and established by the common law and applicable state and federal statutes, from time to time; and the city may establish procedural rules and regulations governing the city's liability in such cases, as may be deemed advisable, and as authorized by state or federal law.
(Ord. 75-44, passed 11-11-75)

SECTION 14. LITIGATION.

It shall not be necessary in any action, suit or proceedings in which the city

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shall be a party, for any bond, undertaking or security to be executed in behalf of the city.

SECTION 15. RESERVED.

Editor's note. Ord. No. 75-44, adopted Nov. 11, 1975, proposed amendment number 13 which provided for the repeal of § 15 of Art. XI. Said amendment was approved by a referendum of the electorate Dec. 9, 1975. Formerly § 15, which had pertained to marketplaces, abattoirs and slaughter pens, had been contained in the charter reorganization ordinance of March 2, 1955.

SECTION 16. MISCELLANEOUS ACTIVITIES.

Said city shall have the power to prohibit and restrain the flying of kites, firing of firearms, fire-crackers, rolling of hoops and the use of velocipedes, bicycles and skates or the use and practice of any amusement on the streets or sidewalks to the annoyance of pedestrians or persons using such streets or sidewalks, and to restrain, regulate and prohibit the ringing of bells, or blowing of horns, bugles and whistling, crying of goods and other noises, practices and performances tending to the collection of persons in the streets or tending, unnecessarily, to interfere with the peace and quietude of the inhabitants of said city; and to suppress and regulate all unnecessary noises.

SECTION 17. NUISANCES.

Said city shall have the power to define all nuisances, prohibit the same within the city and outside the city limits for a distance of five thousand (5,000) feet; to police all parks, grounds, speedways, streets, avenues, and alleys owned by said city, within or without the city limits; to prohibit the pollution of all sources or water supply of said city, and to provide for the protection of watersheds.

SECTION 18. PEDDLERS AND PAWNBROKERS.

Said city shall have the power to license, tax and regulate or suppress and prevent hawkers, peddlers and pawnbrokers.

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SECTION 19. PENAL ORDINANCES.

Said city shall have the power to provide for the enforcement of all ordinances enacted by it, by a fine not to exceed two hundred dollars (\$200.00), provided that no ordinance shall provide a greater or less penalty than is prescribed for a like offense by the laws of the state.

SECTION 20. PLATTING OF PROPERTY.

The provisions of the Chapter 231, Page 342, Acts of 1927, Fortieth Legislature providing for platting and recording subdivisions or additions; acknowledgment of plats; approval of plats or plans by planning commission or governing body and recording same; indorsement of approval of plats by planning commission or governing body; vacation of plats or plans and procedure of same; improvement to effect dedication; approval prior to connection of public utilities and disapproval of plats or plans, said statutes being also designated as TEX. REV. CIV. STAT., Art. 974A, together with all amendments thereof and hereby adopted.

Editor's Note: TEX. REV. CIV. STAT., An. 974A is now located at TEX. LOC. GOV'T CODE §§ 212.001 et seq.

SECTION 21. RESERVED.

Editor's note. Ord. 7544, adopted Nov. 11, 1975 proposed amendment number 14 which provided for the repeal of § 21 of Art. XI. Said amendment was approved by a referendum of the electorate Dec. 9, 1975. Formerly § 21, which pertained to plumbers, had been contained in the charter reorganization ordinance of March 2, 1955.

SECTION 22. POLICE DEPARTMENT.

Said city shall have the power to establish and maintain the city police department, prescribe the qualifications and duties of policemen and regulate their conduct.

SECTION 23. PRISONS, WORKHOUSES, HOSPITALS, ORPHANAGES, CHARITIES.

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The city shall have the power to establish, and/or maintain, and/or regulate the city jail, and such hospitals and other charitable institutions as may be deemed expedient by the governing authority.
(Ord. 75-44, passed 11-11-75)

SECTION 24. RESERVED.

***Editor's note.** Ord. 75-44, adopted Nov. 11, 1975 proposed amendment number 15 which provided for the repeal of § 24 of Art. XI. Said amendment was approved by a referendum of the electorate Dec. 9, 1975. Formerly § 24, which pertained to prostitutes and bawdy houses, had been contained in the charter reorganization ordinance of March 2, 1955.*

SECTION 25. SANITARY INSPECTION.

Said city shall have the power to provide for the inspection and regulation of the sanitary conditions of all premises and vacant lots within the city limits; for the removal of garbage, night soil, refuse and unsanitary vegetation; to provide for establishing a lien against the property for any expense incurred by the city enforcing this provision and further to provide for the making and enforcing of all proper and reasonable regulations, for the health and sanitation of said city and its inhabitants.

SECTION 26. TRANSPORTATION (PUBLIC).

Said city shall have the power:

To license, tax and regulate all charges or fares made by any person, firm or corporation owning, operating or controlling any vehicle operated for the carriage of passengers or freight for hire, on the public streets of the city.

To regulate the operation of railway trains and street cars operated on, along or across the streets, avenues or alleys of said city; to license and control the operation of automobiles, motorcycles, taxicabs, buses, cabs and carriages and all character of vehicles using the public streets and regulate the use and occupancy of the streets by any of such vehicles.

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SECTION 27. RESERVED.

***Editor's note.** Ord. 75-44, adopted Nov. 11, 1975, proposed an amendment number 16 which provided for the repeal of § 27 of Art. XI. Said amendment was approved by a referendum of the electorate Dec. 9, 1975. Formerly § 27, which pertained to vagrants and beggars, had been contained in the charter reorganization ordinance of March 2, 1955.*

SECTION 28. WEIGHTS AND MEASURES.

Said city shall have the power to provide for the inspection of weights, measures, and meters and fix a standard of such weights, measures, and meters and require conformity of such standards and provide penalties for failure to use or conform to the same, and to provide for inspection fees.

SECTION 29. ZONING.

Said city shall have the power to divide the city into zones for the regulation of buildings therein and in each zone to establish building lines and to regulate the location, height, dimensions and material of all buildings to be erected therein, with full power to make different regulations and building lines in different zones and thereafter to alter the same.

SECTION 30. GENERAL POWERS.

The enumeration of powers made in this Charter shall never be construed to preclude, by implication or otherwise, the city from exercising the powers incident to the enjoyment of local self government, nor to do any and all things not inhibited by the constitution and laws of the State of Texas except as herein expressly changed or limited, the City of Harlingen and its governing body, shall retain, possess and exercise all powers and privileges heretofore possessed by said city, and its governing body. If any part of this Charter shall, for any reason, be declared invalid by a court of competent jurisdiction, such judgment shall not affect nor impair the validity of the remaining provisions hereof, and the same shall continue in full force and effect.

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ARTICLE XII. GENERAL PROVISIONS

SECTION 1. RATIFICATION OF ORDINANCES.

All ordinances and resolutions in force at the time of the taking effect of this Charter, not inconsistent with its provisions, shall continue in force until amended or repealed.

SECTION 2. AMENDMENTS TO CHARTER.

This Charter, after its adoption, may be amended in accordance with the provisions of Chapter 13, Title 28, Revised Statutes of 1925, the State of Texas, and acts amendatory thereof.

SECTION 3. VOTE ON PROPOSED CHARTER.

This Charter shall be submitted to the qualified voters of the City of Harlingen, for adoption or rejection, on the fourth Wednesday in February A.D. 1927, at which election, if a majority of the qualified voters voting in such election shall vote in favor of the adoption of this Charter, then it shall become the Charter of the City of Harlingen, until amended or repealed.

The present city council of Harlingen shall call such election and the same shall be conducted and returns made, and results declared as provided by the laws of the State of Texas governing municipal elections, and in case a majority of the votes cast at such election shall be in favor of the adoption of such Charter, then an official order shall be entered upon the records of said city, by the city council of Harlingen, declaring the same adopted, and the City Secretary shall record, at length, upon the records of the City, in a separate book to be kept in his office for such purposes, such Charter so adopted and such Secretary shall furnish to the Mayor a copy of such Charter, so adopted, authenticated by his signature, and the seal of the City, which copy of the Charter shall be forwarded

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by the Mayor of the City of Harlingen to the Secretary of State and shall show the approval of such Charter by a majority vote of the qualified voters of the City of Harlingen at such election.

SECTION 4. ELECTION OF FIRST MAYOR AND COMMISSION.

The present City Council of Harlingen shall call an election to be held upon the same date as the election for the adoption of the Charter for the election of a Mayor and five (5) Commissioners, and if such election, shall not result in the choice of a Mayor and five (5) Commissioners, each by a majority of votes of the City at large, then the present City Council shall call a special election as provided for in this Charter, for the election of such officers failing to receive a majority vote, which election shall be held on the Second Wednesday in April, 1927, being the 13th day of April, A. D. 1927, which election or elections shall be held under the direction of the City Council, according to the laws of the State of Texas regulating municipal elections.

Within five (5) days after the election of the Mayor and all the Commissioners, they shall each take the oath of office and qualify as such Mayor and Commissioners, and shall hold their respective offices until the expiration of their respective terms of office, and until their successors are elected and qualified, unless sooner removed under the provisions of this Charter.

The existing Mayor and Councilmen shall continue in office after the election provided for in this Article, for the purpose of canvassing and declaring the results of said election and of exercising any other necessary functions pertaining to the city government until their successors have qualified.

SECTION 5. LITIGATION PENDING AT ENACTMENT OF CHARTER.

All suits and pending actions to which the City of Harlingen heretofore was or now is a party, plaintiff or defendant or intervener shall in no wise be affected or terminated by the provisions of this Charter or by the legal adoption of the same, but shall continue unabated.

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SECTION 6. REARRANGING OF ARTICLES AND SECTIONS.

The Commission shall have the power, by ordinance, to renumber and rearrange all articles, sections, and paragraphs of this Charter or any amendments thereto as it shall deem appropriate; provided that such renumbering and rearranging shall be in such manner as to in no way affect the intent or meaning of any of the provisions of this Charter; and upon the passage of any such ordinance, a copy thereof, certified by the City Secretary, shall be forwarded to the Secretary of State of the State of Texas for filing.

THE STATE OF TEXAS

Secretary of State

I, **ROGER TYLER**, Assistant Secretary of State of the State of Texas, **DO HEREBY CERTIFY** that the City of Harlingen, Texas, filed in this office on April 1, 1955, a certified copy of an Ordinance Rearranging the Charter of the City of Harlingen, together with certificate evidencing that said ordinance was duly passed by the City Commission.

I DO FURTHER CERTIFY that said Ordinance has been duly recorded in the Book of City Charters and Amendments, Book 15, Pages 516-565, and that the fee for recording such instrument has been paid to this office.

I DO FURTHER CERTIFY that the attached is a true and correct copy of the said instrument as filed in this office.

IN TESTIMONY WHEREOF, I have hereunto signed my name officially and caused to be impressed hereon the Seal of State at my office in the City of Austin, this 6th day of April A. D. 1955.

(SEAL)

/s/ Roger Tyler
Assistant Secretary of State