



CHARTER OF THE CITY OF HARLINGEN

(As Amended by Charter Election, May 13, 2006)

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HARLINGEN, TEXAS**

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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 elected City 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 the City are established by this Charter, or may be established in the future, shall be a body politic, incorporated under and be known by the name of the "City of Harlingen" with such powers, rights and duties as are provided in this Charter, and all other powers not specifically designated here 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 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 consistent with current state law inside or outside 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 the 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 conferred and granted in this Charter, 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 the TEX. LOC. GOV'T CODE §43.001 et seq., and subsequent amendments thereto.

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

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 to that date.

SECTION 2. EXPANSION OF BOUNDARIES.

The City Commission shall have power by ordinance to fix the boundary limits of the City of Harlingen and to provide for the extension of the boundary limits and the annexation of additional territory lying adjacent to the City, all pursuant to and in compliance with the procedure provided for in the TEX. LOC. GOV'T. CODE §43.001 et seq., including all subsequent amendments to it, 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 the TEX. LOC. GOV'T. CODE §43.056, as amended. Upon additional territory being annexed, the inhabitants of those areas 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)

ARTICLE III. ELECTIONS

SECTION 1. REGULAR AND SPECIAL ELECTIONS.

Regular municipal elections of the City of Harlingen to elect a Mayor and/or City Commissioners shall be held in May in accordance with applicable state law. All other municipal elections provided for in this Chapter or by state or federal law shall be special elections. All 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 the general election laws shall control in all municipal elections, except as otherwise provided in this Charter.

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

SECTION 3. ELECTION RETURNS.

The City Commission shall at its next regular meeting, after a regular and special election, or within the time frame prescribed by state election law canvass the returns and declare the result of such election. At those meetings canvassing and declaring those elections held for the purpose of electing a Mayor and/or City Commissioners, the Mayor and/or City Commissioners declared elected shall qualify and assume the duties of their office.

ARTICLE IV. MUNICIPAL GOVERNMENT

SECTION 1. MAYOR AND CITY COMMISSIONERS.

The governing body of the City of Harlingen shall be called the City Commission which shall be composed of five (5) City Commissioners, and the Mayor, who are the elective officers of the City. (Ord. 73-30, passed 11-7-73)

SECTION 2. QUALIFICATIONS.

The Mayor and each City Commissioner shall be citizens of the United States, and have resided in the State of Texas 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; must be a qualified/registered voter; and have the other qualifications of an elector of the City and as provided for candidates in the State election code. The Mayor, City Commissioners and other officers and employees shall not be indebted to the City, except for ad valorem taxes and other indebtedness incurred in the ordinary course of City government, with such ad valorem taxes and other indebtedness to be paid but in no event later than the deadline for filing for office (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 of 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 City 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 immediately forfeit his office and any such contracts in which any officer or employee is or may become interested may be declared void by the City 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 City Commissioner shall fully comply with TEX. LOC. GOVT. CODE §§ 171.001 – 171.008, and any future amendments pertaining to disclosure of local officials conflicts of interest, and upon conviction

of an offense under this statute, said office of Mayor or City Commissioner shall immediately 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)

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 City Commissioner-Place One, City Commissioner-Place Two and City 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 City Commissioner-Place Four and City 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 office the candidate seeks. The candidate for each of the five (5) places, respectively, receiving a majority of the votes cast for City Commissioner of that place at the elections shall be elected City Commissioner of that 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 the 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 is sworn into office. 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 City 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 City 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 City Commissioner of a particular place. The candidate receiving the majority of votes for the respective office at the runoff election shall be elected. Nothing written here shall be construed as prohibiting any office holder from being a candidate for re-election. The City Commission shall be the judge of the election and the qualification of its members.

Each candidate elected to the office of Mayor or City 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 described in this Charter. Nothing here 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 CITY COMMISSIONERS.

Vacancies in the office of Mayor or City Commissioner shall be filled for the remainder of the unexpired term by a majority vote of the qualified voters of the City at a special election duly called by ordinance. However, if such a vacancy occurs within ninety (90) days of the end of the term of the vacated office, the remaining City Commissioner, by a majority vote, shall appoint a qualified person to fill the 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 City Commission. He shall not be entitled to vote as a member of the City Commission except in the case of a tie. He shall sign all bonds, ordinances, resolutions, proclamations, deeds and conveyances except those documents which the City Commission has authorized the City Manager to sign. 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. (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. At the first meeting following the election date as set by Texas Election Code in May (whether or not there is a City election), one of such City Commissioners shall be elected Mayor Pro-tempore by a majority vote of the City 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 City 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 CITY COMMISSION.

The City Commission shall enact all ordinances and resolutions and adopt all regulations and constitute the legislative body of the City. The City Commission and the Mayor shall constitute the governing body of the City with

all the powers and authority granted under this Charter; provided, however, that the Mayor and City 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 CITY COMMISSION.

The City 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 City Commission may use the City's Internal Auditor, 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 City Commission, the City Commission shall have the power to cause the witness to be punished for contempt, not exceeding a fine of one hundred dollars (\$100.00) and three (3) days in the City jail. No witness shall be excluded from testifying about his knowledge of the matter under investigation in any inquiry, but this testimony shall not be used against him in any criminal prosecution except for perjury committed in the inquiry.

SECTION 9. COMPENSATION OF MAYORS AND CITY COMMISSIONERS.

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

SECTION 10. RECALL OF MAYOR OR CITY COMMISSIONERS.

The people of the City may recall and remove from office any member of the City Commission or Mayor by filing with the City Secretary a petition, signed by qualified voters of the City equalling at least fifteen (15) per cent of the qualified voters of the City, demanding the removal of a City Commissioner or Mayor.

The signatures on the recall petition need not all be appended to one paper, but each signer shall sign his or her name in ink or indelible pencil and shall add to his or her signature his or her place of residence by street and number. Each page of the petition shall contain the words: each signer

represents that he or she is a registered and qualified voter of the City of Harlingen, and shall place his/her voter registration number on the petition. One of the signers of each separate petition shall make an affidavit that he or she only, personally circulated such petition and that each signature on the page was made in his or her presence and is the genuine signature of the person whose name is on the page and each person represented to him or her that he or she was a registered and qualified voter of the City of Harlingen.

Within twenty (20) days after a recall petition is filed, the City Secretary shall examine it. 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 City Commissioner or Mayor, whose removal is sought, does not resign within five (5) days after the certification to the City Commission, the City Commission shall order and hold a recall election 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 City 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 order indicated:

"To remove _____(name) from the office of _____."

"To continue _____ (name) in the office of _____"

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

No recall petition shall be filed against a City Commissioner or Mayor within six (6) months after he takes office and no City 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, by a minimum of three affirmative votes, 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 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 appoint an Interim City Manager who shall have and exercise all powers and duties of the City Manager during the vacancy. No member of the governing body shall be eligible to serve as City Manager or Interim City Manager.

The City Manager may authorize any administrative officer who is subject to the City Manager's direction and supervision to exercise these powers with respect to subordinates in that officer's department.

The City Manager shall:

- (a) Appoint, and when he deems it necessary for the good of the City, suspend or remove at will any/all city employees and appointive officers provided for by or under this Charter except as otherwise provided by law or this Charter.
- (b) Attend all City Commission meetings and shall have the right to take part in discussion but may not vote.
- (c) See that all laws, the provisions of this Charter and legislative enactments of the City Commission, subject to enforcement by the City Manager or by officers subject to the City Manager's direction and supervision are faithfully executed.
- (d) Prepare and submit the annual budget to the City Commission.
- (e) 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.
- (f) Make such other reports as the City Commission may require concerning the operation of City departments and offices subject to the City Manager's direction and supervision.
- (g) 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 the City Manager deems desirable.

- (h) Perform such other duties as are specified in this Charter or may be required by the *(Mayor and) City Commission. (I added the emphasized part.)*

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

Any references to the City Manager in the male form of the word shall also include the female form.

SECTION 12. MUNICIPAL COURT.

The 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 court to have one or more Municipal Judges, and with the powers and duties as are refined and prescribed in TEX. GOVT. CODE CHAPTER 29 inclusive (including amendments and lettered additions and amendments thereto) 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 the court, and subject to the provisions of this Charter; and to appoint a Clerk and other officer or officers of the court.

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

SECTION 13. DEPARTMENTS.

The City 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 City Attorney and Internal Auditor are to be recommended by the City Manager, but hired or fired by three affirmative votes of the City Commission. The duties of these officers shall be set out by separate Ordinance.

The elected Mayor and City 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 Harlingen, including the buying and selling of property, 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 City 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 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 to it pertaining to disclosure of local officials conflicts of interest and upon conviction of an offense the officer or employment shall be immediately 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 provided here.

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

No person related within the second degree by affinity or within the third degree by consanguinity to the Mayor, to any of the City 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 City 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.

In the event of the occurrence of a vacancy, prior to the normal expiration 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. The interim appointments are to be under the same terms and conditions as provided for the original appointments.

ARTICLE V. LEGISLATION (ORDINANCES AND RESOLUTIONS)

SECTION 1. MEETINGS OF CITY COMMISSION.

The City Commissioner shall meet at such time as may be prescribed by the ordinance or resolution, but at least once a month. The Mayor, any two City Commissioners or the City Manager (hereinafter provided for) may call special meetings of the City Commission at any time deemed advisable. The City Commission shall establish by ordinance how an item may be placed on the agenda. All meetings of the City Commission shall be public except such executive sessions as may be provided for by law, and any citizen shall have access to the minutes and records of meetings at all reasonable times in accordance with the Open Meetings Act, the Public Information Act and/or any other applicable laws, all as may be amended in the future. The City Commission shall determine its own rules and order of business and shall keep a journal of its proceedings. However, if the City Commission has not determined its own rules and order of business for any matter, then parliamentary procedures shall be followed in accordance with Robert's Rules of Order.

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

SECTION 2. LEGISLATIVE AND BUSINESS PROCEDURE.

Three (3) City Commissioners and a presiding Mayor or Mayor Pro tempore shall constitute a quorum to do business. The City 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 citizens, and to enact and enforce ordinances on any and all subjects, except that no ordinance shall be enacted inconsistent with the provisions of this Charter or the general laws or Constitution of the State of Texas.

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 City Commission. Each ordinance shall have a summary caption and generally state the provisions included. 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 City Commission. To be adopted, an ordinance must be presented and approved at two (2) separate City Commission meetings. To approve any ordinance or adopt any resolution shall require three (3) affirmative votes. Motions may be adopted by simple majority. 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 City Commission. Enactment of ordinances, resolutions and motions, by providing that City 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 City Commission for determination except in the event of the existence of a conflict of interest as that term is defined in this Charter and by applicable state law. 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 City Commissioner or the Mayor or to any entity, firm or corporation of which a City Commissioner or the Mayor is an owner, partner or stockholder. In the event of such conflict of interest, the affected City 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. 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 Secretary shall give notice of the passage of every ordinance imposing a penalty, fine, imprisonment, or forfeiture for the violation of its

provisions, by causing the caption or title of the ordinance to be published in some daily newspaper in the City of Harlingen, at least once within ten (10) days after the passage of the ordinance, and shall note on every such ordinance, the caption which is required to be published, and on the record, the fact that it has been published as required by the Charter, and the date of the publication, which shall be prima facie evidence of the publication; provided, that the provisions of this section shall not apply to revision and codification of the ordinances of the city, as the City 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 Secretary.

SECTION 9. INITIATIVE AND REFERENDUM.

The citizens of the city reserve the power of direct legislation by initiative, and in the exercise of that 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 City Commission by a petition signed by at least fifteen (15) per cent of the qualified voters of the city.

The citizens reserve the power to approve or reject at the polls any legislation enacted by the City 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 City Commissioners. Prior to the effective date 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 ordinance be either repealed or submitted to a vote of the people. When 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 shall be suspended if it shall have gone into effect, until and unless it is approved by the voters as provided in this Charter.

SECTION 10. PETITIONS.

Initiative petition papers shall contain the full text of the proposed legislation in the form of an ordinance including a descriptive caption. The signatures to the initiative or referendum petition need not all be appended to one paper, but each signer shall sign his or her name in ink or indelible pencil and

shall add to his or her signature his or her place of residence by street and number. Each page of the petition shall contain the words: each signer represents that he or she is a registered and qualified voter of the City of Harlingen, and shall place his/her voter registration number on the petition. One of the signers of each separate petition shall make an affidavit that he or she only, personally circulated such petition and that each signature on the page was made in his or her presence and is the genuine signature of the person whose name is on the page and each person represented to him or her that that he or she was a registered and qualified voter of the City of Harlingen.

Within thirty (30) days after an initiative or referendum petition is filed, the City Secretary shall determine whether the petition 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 to it as 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 City Secretary shall certify the result to the City 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 City Secretary shall notify the person filing the petition, and it may be amended within ten days from the date of the notice by filing a supplementary petition with additional papers signed and filed as provided for an original petition. Within fifteen (15) days after the amendment is filed, the City Secretary shall examine the amended petition and certify as to its sufficiency. If the amended petition is found to be insufficient, the City Secretary shall return the petition to the person filing it, without prejudice to the filing of a new petition for the same purpose.

When the City Commission receives an authorized initiative petition certified by the City Secretary to be sufficient, the City Commission shall either: (a) pass the initiated ordinance without amendment within sixty (60) days after the date of the certification to the City Commission; or (b) submit the 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 City Commission; or (c) at the election, submit to a vote of the qualified voters of the city the initiated ordinance without amendment, and an alternative ordinance on the same subject proposed by the City Commission.

When the City Commission receives an authorized referendum petition certified by the City Secretary to be sufficient, the City Commission shall reconsider the referred ordinance, and if upon the reconsideration the 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 City

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 that election.

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

Where an initiated ordinance or an alternative ordinance proposed by the City 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 list 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 immediately 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 City Commission. A referred ordinance which is not approved by a majority of the votes cast shall be deemed immediately repealed.

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

SECTION 11. CODIFICATION OF ORDINANCES.

The City Secretary shall have all general ordinances of the city compiled and printed in code form; the City Commission is empowered to recodify the 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 citizens of the city at large. Every general ordinance enacted after the original codification provided for above shall be enacted as an amendment to the code. When adopted by the City Commission, the printed codes of general ordinances contemplated by this section shall be in full force and effect without the necessity of the codes or any part 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, or by the City Secretary's official record.

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 to levy and collect taxes annually, not exceeding two dollars and fifty cents (\$2.50) on each one hundred dollars (\$100.00) of assessed valuation on 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.

The City shall authorize the granting and issuance of licenses and shall direct the manner of issuing and registering of licenses and to set fees for them. No license shall be issued for longer than one (1) year and they shall not be assignable except by permission of the City Commission.

The City shall have the power to levy and collect a franchise tax annually 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 may be assessed by the State laws, and shall have full power to enforce the collection of such taxes.

The City shall have the power to regulate the manner and mode of making tax lists, inventories and appraisals of property, 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 deemed advisable to secure the assessment of all property within the city limits and to collect taxes, 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 collect monies for taxation.

The City shall have the power to provide for the rendition of unrented property for taxation and levy and assess taxes on it annually, and provide for rendition, levy and assessment of taxes for previous years on property omitted from taxation, and to charge interest at the highest rate allowed by the Texas Property Tax Code annually 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, including taxes on real estate, franchises, personal and mixed property, and all other municipal taxes. Such municipal taxes are hereby declared to be a lien, charge and encumbrance upon the taxed property and shall be a prior lien to all other claims, sales, assignments, transfers, gifts and judicial writs. This 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 made liable for all 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 any 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 any time the governing body may determine.

The City shall have full power to provide for the prompt collection, by suit or otherwise, of taxes assessed, levied and imposed and is authorized to that end to 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 they 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 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 City Commission 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 tax not to exceed the maximum percentage allowed by state law of the consideration paid by the occupant or occupants of 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 City Commission 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 City Commission may, from time to time, deem expedient; and to fund these projects 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, 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 the bonds. This fund shall not be diverted or drawn upon for any purposes, and the person acting as Finance Director shall honor no drafts, upon said fund except to pay interest upon or redeem the bonds for which it was provided.

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 Secretary, and shall be payable at such places and times as may be fixed by the ordinance of the City Commission. All such bonds shall be submitted to the attorney general of the State of Texas for approval and the comptroller for registration, as provided by the State law;

provided, that any bonds, after approval, may be issued by the City either optional or serial, or otherwise, as may be deemed advisable by the City Commission.

Before the issuance of general obligation bonds, they 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, they shall be issued as provided in this Charter; 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. The notice shall state the nature and purpose of the election. Nothing in this Charter shall prohibit the City Commission from issuing certificates of obligation or warrants, but only upon the affirmative vote of four-fifths (4/5) of the City 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 to record in adequate detail all transactions affecting the acquisition, custodianship and disposition of values, including cash receipts, credit transactions and disbursements. The recorded facts shall be presented periodically to officials and to the public in such summaries and analytical schedules with sufficient detail 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, including summaries and schedules for each public utility owned and operated.

SECTION 5. PAYMENT OF ACCOUNTS AND CLAIMS.

The Finance Director shall audit and approve, before payment, all bills, invoices, payrolls, and other evidences of claims and demands or charges against the City. 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, 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 the written notice when, where and how the death, injury, damage or destruction occurred, and the apparent extent of any 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. The failure to 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 City Commission, made and passed before the expiration of the ninety (90) day period herein provided, and evidenced by minutes of the City 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 City Commission in accordance with such regulations and subject to such requirements for security on deposits and interest 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 Finance Director or Assistant Finance Director and countersigned by the City Manager or Assistant City Manager or their facsimile signature.

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, shall be a certified public accountant, to be designated and employed by the City Commission from time to time. The City 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 the audit shall be available in full to the public.

ARTICLE VII. ACQUISITION AND OWNERSHIP OF PROPERTY

SECTION 1. 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, rights and privileges of every kind and character, and all property of whatever character and description which may have been held or is now held, controlled or used by the City of Harlingen for public ways or in trust for the public shall vest in and remain in and inure to the corporation of the City of Harlingen by the legal adoption of this Charter.

SECTION 3. PROPERTY EXEMPT FROM EXECUTION.

No public property or any other character of property owned or held by the City shall be subject to any execution of any kind or nature.

SECTION 4. EMINENT DOMAIN.

The 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: city halls, police stations, jails, calaboooses, 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, 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 at least once in some newspaper published in the city, the first publication of such advertisement to be at least ten (10) days before the contract is to be let. The City Commission may permit or require proposals to be filed for doing such work, or furnishing alternative materials, plans, specifications or methods as adopted by the City or submitted by bidders with their bids. The City Commission may reject all bids or select and adopt a bid and let the work to, or purchase the supplies in question from, the lowest bidder whose bid, in the opinion of the City 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 City funds, 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 this 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 of this Charter. 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 the 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)

ARTICLE VIII. PERMANENT PUBLIC IMPROVEMENTS AND PARKS

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

The City shall have dominion, control and jurisdiction in, on, over and under its public streets, squares, avenues, alleys and highways and to provide for the improvement of these, upon the initiative of the City Commission, or upon petition of property owners, as provided in this Charter by paving, repaving, raising, grading, and draining openings, widening, narrowing or straightening, and by construction of sidewalks, and curbs or culverts, or other public improvements. The word "highway" as used here 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 the property, and to fix a lien against the 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 the property. The portion of the cost assessed against the owners of abutting property may be made payable in deferred installments, the last due not more than five (5) years from the completion of the improvements and with interest at a rate not exceeding eight (8) percent per annum. The assessments may include reasonable attorney's fees and cost of collection, if incurred, and the City Commission shall have power to fix the terms of payment, maturity and conditions of the assessments and of the assignable certificates provided for here.

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, and secured by a lien assessed on the road beds, ties, tracks, franchise and other property of the owners, which lien shall be superior to all other liens, claims or interests in or upon the property, except City, State, and County or other taxes. The ordinance making the assessment shall provide the time and terms of payment and for the payment of interest, costs and attorney's fees as set out above.

No assessments shall be made against owners of abutting property or against railroads, or street railroads, or their property, until after a hearing for the owners, and lien holders or other interested parties before the City Commission, with reasonable advance notice 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 City

Commission shall have authority to give other additional notice, but the published notice shall be sufficient and binding upon lien holders and other interested parties and owners.

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

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

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

The 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 the assessments or the certificates, or brought by the 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 mentioned here shall relate back and take effect on all subsequent purchasers and creditors from the date of the ordinance or resolution ordering the improvement.

Subsection 1. The City 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 the certificates. If any of these certificates shall recite that the proceedings with reference to making such improvements have been 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, and no further proof shall be required in any court.

Subsection 2. Nothing contained here shall empower the City to fix a lien by assessment against any property exempt by law from sale under execution, but the owner of the exempt property shall nevertheless be personally liable for the pro rata portion of the cost which would be assessed against the property were it not exempt, and this cost shall be assessed against the owner.

The fact that any improvement is omitted in front of an 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 City 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. But if in particular cases the application of this rule would be unequal or unjust, the City Commission shall adopt a rule that 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 the assessment shall invalidate it, but the City Commission shall at any time correct the error.

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

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

No reassessments shall be made unless proceedings for it 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 with that shall not be considered in computing the three (3) years.

The City Commission shall have power to adopt rules, regulations, and ordinances consistent with this Charter for the purpose of carrying into

effect every part of this section and its subsections, and to effect the 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 highway section which they desire improved, shall petition the City 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 of it and the materials and methods or alternate materials and method with which it is desired the improvements shall be made. The signers of the petition shall agree in it to pay the several amounts which may be assessed against them respectively under the terms of the agreement, the petition shall be filed with the City Commission, and shall be examined by it and in its discretion approved or disapproved by resolution.

The approval of a petition by the City Commission shall be conclusive of its regularity and validity, and if approved, the City 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 the petition, in accordance with some method and with some material or materials specified in it.

When the procedure is under this subsection, the City Commission shall make the improvements and assess and apportion the cost for them, after notice and hearing as provided for here, and shall take all steps and do all things in strict accordance with the provisions of this section. Provided that when the 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 assessable against railroads and street railroads occupying the highway and intersection; the railroads and street railroads shall pay the whole cost of the improvements of the highway or portion that is between and under their rails and tracks and two (2) feet on the outside, which cost shall be assessed against owners and their property, and collected in the manner provided in this article. The owners of property abutting the highway or section to be improved shall pay the whole remaining cost of the improvements, and it 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 the improvements have been 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 law, the City Charter or its ordinances with reference to the improvements or prerequisites to the fixing of the lien or liability and insurance of the certificates, and shall dispense with the necessity of pleading each of the preceding steps or prerequisites specifically, and shall in all courts be taken as if each of the 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 of the assessment to bring suit in any court having jurisdiction to set aside or correct the action or any proceeding related to it, on account of any error or invalidity occurring. But after that an owner, his heirs, assigns or successors shall be barred from any action or any defense of invalidity in the proceedings or assessments in any action in which the action may be brought in question.

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

All the powers granted by this section and its subsections, when adopted shall be applicable to the enforcement of the existing contracts and to the making and enforcement of the assessments provided there 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 provided here; and the City Commission shall fully exercise the powers to make and enforce the assessments, and to issue the certificates, under and in accordance with terms of this section and its subsections, when adopted.

SECTION 2. DEFECTIVE SIDEWALKS AS NUISANCES.

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

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

The City shall have the power to open, extend, straighten and widen any public street, avenue, boulevard or alley and for the purpose to acquire the necessary land, by purchase or condemnation, and to provide that the cost of improving a street, avenue, boulevard or alley by opening, extending, straightening, or widening it shall be paid by the owners of property lying in the territory of the improvement to the extent they are especially benefited by it, and to provide that the cost shall be charged by special assessment against the 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 land and apportioning costs, and the apportionment shall be specially assessed by the governing authority of the City against the owners and their property lying in the territory so found by the Special Commissioners to be specially benefited in enhanced value, and the City may issue assignable certificates for the payment of any cost against the property owners and their property and may provide for the payment of it in deferred payments, which deferred payments shall bear interest at a rate not exceeding eight (8) per cent per annum. The City shall pay the portion of costs as may be determined by the 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 the improvement.

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

The City shall have the power:

- (1) To control, regulate and remove all obstructions, encroachments and incumbrances on any public street, avenue, boulevard or alley and to narrow, alter, widen, straighten, vacate, abandon and close them; provided that the closing of all or any portions of any street or alley shall be adopted by ordinance of the City Commission; the 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 of those, for the use of any railroad company or any other corporation; to provide for sprinkling and cleaning them and to regulate and control the moving of buildings and structures of every kind and character upon and along them. Provided further, that when an ordinance to abandon or close any public street as set forth above is considered by the City Commission, the entire City Commission or a quorum may consider and pass said ordinance on first reading, but the ordinance shall not be passed or approved on final reading unless the entire City Commission is present for the vote on the 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 the owner, agent or lessee, and to require the owner, agent or lessee to remove all low hanging limbs from trees adjacent to sidewalks in the City.

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

SECTION 5. FRANCHISES.

The City shall have the power and authority to grant franchises for the use, or occupancy of streets, avenues, alleys, rights-of-ways 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, expressed by ordinance, and upon paying compensation as may be prescribed, and upon the conditions as may be provided for in the ordinance, and before an ordinance proposing to make any grant for franchise or privilege to any applicant to use or occupy any street, avenue, alley, right-of-way or any other public ground belonging to or under control of the City, shall become effective, publication of the 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 shall be at the expense of the applicant desiring the grant, and the proposed ordinance shall not be

changed again unless republished as in the first instance, nor shall any ordinance take effect or become a law or vest any rights in the applicant, until after the expiration of thirty (30) days from the last publication of the ordinance, as described herein.

Pending the time the ordinance may become effective, it is 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 the 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 . The election shall be ordered not less than thirty (30) days nor more than ninety (90) days from the date of filing of the petition and, if at the election the majority of the votes cast shall be for the granting of such franchise or privilege, the ordinance and the making of the proposed grant shall become effective at that time, but if a majority of the votes cast at the election shall be against the granting of the franchise or privilege, the ordinance shall be ineffective and the making of the proposed grant shall be null and void.

SECTION 6. PARKS AND PLAYGROUNDS.

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

SECTION 7. SANITARY SEWERS.

The City shall have exclusive control to provide for a sanitary sewer system and for its maintenance; to require property owners to make connection to the 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 owner and make a personal liability, and to fix penalties for failure to make sanitary sewer connections.

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. The 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.

(a) The 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 the airport and all supporting properties appurtenant to it shall be under the supervision, control and authority of a special board to be known as the "Harlingen Airport Board" which shall be composed of nine (9) members with not less than five (5) being resident citizens of the City of Harlingen, and all being residents of 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. Expiration of each appointment is to be succeeded by the appointment of a respective succeeding member to serve a term of three (3) years, the expiration and succeeding appointive procedure to continue, provided that the City Commission of the City of Harlingen, Texas, shall establish by ordinance rules and regulations as shall be deemed necessary to enable the board to administer the business and operation of the airport for the best interests of the City of Harlingen, Texas, and its citizens 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 the approved budget or approved amendments to it, and shall make detailed monthly reports covering all phases of the operation and maintenance of the airport and supporting properties to the City Commission of the City of Harlingen; that the City Manager and the Mayor shall be ex officio members of the Harlingen Airport Board; and that no provision hereof shall be construed to delegate to the Harlingen Airport Board any power not capable of being so delegated by law, and all powers delegated 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)

(b) Personnel Policy. The personnel policy of the City of Harlingen shall apply to all airport employees except that any policy changes or amendments must be approved by a minimum of three affirmative votes of the City Commission before implementation.

(c) Real Property. Any acquisition or conveyance of real property by the Harlingen Airport Board shall be presented to the City Commission for its approval, which must be obtained for the proposed acquisition or conveyance. The Harlingen Airport Board shall take title to any real property it acquires as follows: Valley International Airport, a Department of the City of Harlingen, a municipal corporation.

ARTICLE X. PUBLIC UTILITIES

SECTION 1. MUNICIPAL OWNERSHIP AND OPERATION.

The City shall have the power to buy, own or construct, and to maintain and operate, inside or outside 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 final 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 telephone to be regulated by the State). The City shall have power to acquire by lease, purchase or condemnation, the property of any person, firm or corporation now or hereafter conducting any business, for the purpose of operating a public utility or utilities for the purpose of distributing service throughout the City, or any portion of it.
(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 provided in this Charter, the City shall have the power to obtain funds for the purpose of acquiring the public utility and paying the compensation of it, by issuing bonds or notes, or other evidences of indebtedness, and shall secure the debt by fixing a lien upon the property constituting the public utility so acquired and the security shall apply alone to the property so pledged.

SECTION 3. MANUFACTURE OR PURCHASE OF PUBLIC UTILITY PRODUCTS.

The 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 them to the public as may be determined by the governing authority.

SECTION 4. MUNICIPAL OWNERSHIP AND OPERATION MADE EXCLUSIVE.

In the event the 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 citizens of the City, the right to operate and maintain the public service utility, so acquired, shall be exclusive.

SECTION 5. FRANCHISING AND REGULATING PRIVATE UTILITY COMPANIES.

The 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 the 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 those 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 the 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 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 those 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 those, 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 provided in paragraph (C), neither of the systems shall receive funds from other departments of the City except in the event of a natural disaster, or as referenced above, resulting from unforeseen conditions, in which event the 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 emergency funds in order to avoid curtailing water and sewer service by the 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 as a part of the standard budgetary procedure.

(C) Nothing contained hereinabove shall prohibit:

(1) The City 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.

(3) The City Commission from issuing certificates of obligation, but only upon the affirmative vote of four-fifths (4/5) of the City 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 City Commission. The audit may or may not be a fraud audit at the direction of the City 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 existing trustees at the time of this change shall continue to serve out their appointment term and each successor appointee shall be made by each City Commissioner of the City of Harlingen starting with Place 1 nominating one member for the utility trustees, with each trustee to be approved by majority of the City Commission of the City. Subsequent voting members shall be appointed by the City Commissioners replacing their appointment at the end of the term as provided below. 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 the Commissioner in the place making the original appointment and approved by a majority of the City Commission and to serve for the remainder of such vacant term. All appointees may serve no more than two consecutive four-year terms provided that no one Trustee may serve more than ten consecutive years.

(B) *Removal.* Any appointed trustee may be removed by a four-fifths (4/5) vote of the City 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 in this Charter.

(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 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 except for (1) the final adoption of retail rates and wholesale contracts for such city-owned utility systems (to be adopted by the City Commission); (2) any bond issue request shall be submitted to the City Commission for approval as provided below. Sewer, sewerage, and sewer systems as used here 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 City Commission of the City as provided for in this Charter.

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 City 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 City 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; 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 except that any policy changes or amendments must be approved by a minimum of three affirmative votes of the City Commission before implementation. 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 City Commission, and the bond funds and other borrowed money shall be funded by revenues from the 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 the fiscal year of operation. The budgets shall be presented to the City Commission for their approval.

(G) *Coordination.* Harlingen Waterworks System shall collaborate, cooperate and coordinate with the City as to expansion, operation and maintenance of the water and sewer systems. The water and sewer utilities manager shall attend City Commission meetings at the direction of the City Commissioners for the purpose of furnishing information and reports as requested by the City 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 the 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 City Commission, shall be entitled to appeal, in writing, any decision of the utility trustees directly to the City Commission within ten (10) days of such decision by the 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 City Commission. The City 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 City Commission shall be final. If an affirmative decision of the utility trustees is overruled by the City Commission, there need be no further action taken by the utility trustees. If a negative decision of the utility trustees is overruled by the City Commission, the City Commission shall then prescribe what action shall be taken by the utility trustees and/or the water and sewer department. Such action prescribed by the City Commission, shall be carried out by the personnel of the water and sewer department.

(I) *Conflicts.* The water and sewer systems and departments administering them, 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 City 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)

(K) *Real Property.* Any acquisition or conveyance of real property by the City of Harlingen Waterworks System and Sanitary Sewer System shall be presented to the City Commission for its approval, which must be obtained for the proposed acquisition or conveyance. The City of Harlingen Waterworks and Sanitary Sewer System shall take title to any real property it acquires as follows: City of Harlingen Waterworks System, a Department of the City of Harlingen, a municipal corporation.

ARTICLE XI. PEACE, GOOD ORDER AND GENERAL WELFARE CONTROL

SECTION 1. ANIMALS (DOMESTIC).

The City shall have the power:

(1) To prohibit the driving of herds of livestock and all herds of domestic animals along or upon the streets, avenues or alleys of the City.

(2) To establish and regulate public animal shelters, to regulate, restrain and prohibit the running at large and the keeping of livestock and all other domesticated animals and fowl, and to authorize the restraining, impounding and sale of them 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 for the violation of any ordinances regulating or prohibiting these activities 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.

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

SECTION 2. AUXILIARY FUNCTIONS FINANCING.

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 the following including:

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

SECTION 3. BUILDING (PRIVATE) CONSTRUCTION.

The 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 to these issues.

SECTION 4. BUILDING (USE) SAFETY.

The City shall have the power:

(1) To enact and enforce all ordinances and resolutions necessary to regulate the safety of all residential structures, 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.

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.

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

SECTION 7. FIRE DISTRICT LIMITS AND CONSTRUCTION.

The City shall have the power to provide for the establishment and designation of fire district limits; to prescribe the kind and character of structures to be erected in it; to provide for the erection of fireproof buildings within those limits and for the condemnation of dangerous or dilapidated structures which are calculated to increase fire hazards.

SECTION 8. FOOD: PRODUCTION, HANDLING AND DISTRIBUTION.

The City shall have the power to provide for the inspection of dairies, cows and dairy herds, slaughter pens and slaughter houses, inside or outside the city limits from which meat, milk, butter or eggs are furnished to the citizens of the 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 to the general public.

SECTION 9. GARNISHMENT OF CITY FUNDS.

No funds of the City shall be subject to garnishment, and the City shall never be required to answer in any garnishment proceedings.

SECTION 10. HEALTH (PUBLIC).

The 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 citizens against contagious and infectious diseases.

SECTION 11. LIBRARY (PUBLIC).

The City shall have the power to provide for establishing and maintaining a public library.

SECTION 12. LICENSES: BUSINESS, OCCUPATIONS, SIGNS.

The City shall have the power to license any lawful business, any occupation, or any 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, as amended; 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 shall be a party, for any bond, undertaking or security to be executed on 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.

The 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, skates, skateboards and other non-motorized and unlicensed motorized methods of conveyance or the use and practice of any amusement on the streets or sidewalks to the annoyance of pedestrians or persons using the streets or sidewalks, and to restrain, regulate and prohibit the ringing of bells, or blowing of horns, bugles and whistling, crying of goods, loudspeakers and other noises, practices and performances tending to collect persons in the streets or tending, unnecessarily, to interfere with the peace and quietude of the citizens of the City; and to suppress and regulate all unnecessary noises.

SECTION 17. NUISANCES.

The City shall have the power to define all nuisances, prohibit them 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 the City, inside or outside the city limits; to prohibit the pollution of all sources or water supply of the City, and to provide for the protection of watersheds.

SECTION 18. PEDDLERS AND PAWNBROKERS.

The City shall have the power to license, tax and regulate or suppress and prevent hawkers, peddlers, pawnbrokers, solicitors and beggars.

SECTION 19. PENAL ORDINANCES.

The City shall have the power to provide for the enforcement of all ordinances enacted by it, by a fine not to exceed the maximum allowable under state law.

SECTION 20. PLATTING OF PROPERTY.

The City shall have the power to adopt by ordinance local subdivision regulations, to promote the public health of the city's residents, provide for orderly safe and healthful development within and surrounding the City. These regulations may be amended by the City Commission from time to time. Local subdivision regulations shall not conflict with provisions of Chapter 212 of the Texas Loc. Govt. Code, as amended.

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.

The 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. JAILS, HOSPITALS, PUBLIC SHELTERS and CHARITABLE INSTITUTIONS.

The City shall have the power to establish, and/or maintain, and/or regulate the city jail, and such hospitals, public shelters 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.

The 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, sewage, 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 the City and its citizens.

SECTION 26. TRANSPORTATION (PUBLIC).

The 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 the 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 vehicles.

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.

The 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 those, and to provide for inspection fees.

SECTION 29. ZONING.

The City shall have the power to divide the City into zones for the regulation of land use in each zone to establish building lines and to regulate the location, height, dimensions and material of all buildings to be erected, with full power to make different regulations and building lines in different zones and to alter those in the future.

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 in this Charter, the City of Harlingen and its governing body, shall retain, possess and exercise all powers and privileges heretofore possessed by the City, and its governing body.

SECTION 31. SEVERABILITY

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 of the Charter, and those shall continue in full force and effect.

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 9, TEX. LOC. GOVT. CODE as amended.

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 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.

SECTION 6. REARRANGING OF ARTICLES AND SECTIONS.

The City Commission shall have the power, by ordinance, to renumber and rearrange all articles, sections, and paragraphs of this Charter or any amendments to it as it shall be deemed 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.

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