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CHARTER

CITY OF TERRELL HILLS, TEXAS

PREAMBLE

We, the people of Terrell Hills, Texas being grateful for the blessings we have received, and humbly seeking the continued favor of Almighty God, do ordain and establish this charter for our city.

**ARTICLE I
NAME, BOUNDARIES AND POWERS OF CITY**

SECTION 1. CORPORATE NAME

The inhabitants of the City of Terrell Hills, Bexar County, Texas, within the boundaries as now established or as hereafter established in any manner provided by law, shall continue to be a body politic and corporate, the name of which shall be: CITY OF TERRELL HILLS.

SECTION 2. BOUNDARIES ESTABLISHING CITY LIMITS

The boundaries and limits of the City of Terrell Hills shall be as follows, to-wit:

Beginning at a point at the intersection of the North line of Burr Road and the East line of North New Braunfels Avenue, thence in an Easterly direction along the North line of Burr Road to a point on the West side of Wurzbach Military Highway for a corner; thence in a Northerly direction along the West line of Wurzbach Military Highway to a point on the South side of Rittiman Road for a corner; thence in a Westerly direction along the South line of Rittiman Road to a point on the East line of North New Braunfels Avenue for a corner thence Southerly along the East line of North New Braunfels Avenue to the North line of Burr Road and the East line of North New Braunfels Avenue, the point of beginning, said territory being located in Bexar County, Texas.

SECTION 3. POWERS OF THE CITY

The City shall have all the powers granted to Municipal Corporations and to cities by the constitution and laws of the State of Texas, together with all the implied powers necessary to carry into execution all the powers granted. The City may acquire property within or outside its corporate limits for any city purpose in fee simple or any lesser interest or estate by purchase, gift, devise, lease or condemnation and may sell, lease, mortgage, hold, manage and control such property as its interest may require; and, except as prohibited by the Constitution of this State or restricted by this charter, the City shall and may exercise all municipal powers, functions, rights, privileges and immunities of every name and nature whatsoever. The City may use a corporate seal; may be sued and may sue, may contract and be contracted with, may implead and be impleaded in all courts

and places and in all matters whatsoever may cooperate with the government of the State of Texas, or any agency thereof, or any political subdivision of the State of Texas to accomplish any lawful purpose for the advancement of the interest, welfare, health, morals, comfort, safety and convenience of the City and its inhabitants; and may pass such ordinances as may be expedient for maintaining the peace, welfare of the city and for the performance of the functions thereof. The enumeration of particular powers by this charter shall not be deemed to be exclusive and in addition to the powers enumerated therein or implied thereby or appropriate to the exercise of such powers it is intended that the City of Terrell Hills shall have and may exercise all powers of local self-government and all powers enumerated in the Texas Local Government Code and amendments thereto and hereafter enacted or any other powers which under the Constitution and Laws of the State of Texas it would be competent for this charter to specifically enumerate.

**ARTICLE II
FORM OF GOVERNMENT, ELECTED OFFICIALS AND ELECTIONS**

SECTION 1. FORM OF GOVERNMENT

The municipal government provided by this Charter shall be known as the "Mayor-Council Form of Government." Pursuant to its provisions and Subject only to the limitations imposed by the State Constitution and by this Charter, all powers of the City shall be vested in an elected Mayor and four elected Councilmembers, all five of which shall compose the City Council, which shall enact local legislation, adopt budgets, determine policies, and employ the City officials and shall execute the laws and administer the government of the City. All powers of the City shall be exercised in the manner prescribed by this Charter or, if the manner be not prescribed, then in such manner as may be prescribed by ordinance.

SECTION 2. CITY OFFICIALS

The municipal government of the City shall consist of a City Council, composed of a Mayor and four Councilmembers. Said Mayor and Councilmembers shall be elected from the City at large. The above named officers shall be elected by the qualified electors of the city, other officers and employees of the City shall be a Secretary-Manager, a Treasurer, a City Attorney, a Judge of the Municipal Court, Police Chief, a City Engineer, Fire Chief and such other officers and employees as the City Council may from time to time direct, who shall be appointed and dismissed by the Council. The Council may abolish or consolidate such offices and positions as it may deem to the best interests of the City and may divide the administration of any such offices or positions as it may deem advisable; create new offices and positions and discontinue any office or position at its discretion, except the office of Secretary-Manager.

SECTION 3. QUALIFICATION OF OFFICERS

No person shall be eligible to the office of Mayor or the office of Councilmember unless he/she is a qualified elector and has been a bona fide resident and citizen in the City one year preceding the election. If the Mayor or any Councilmember moves from the City during the term of office for which he/she is elected, or if he/she is convicted of any felony or of any misdemeanor involving moral turpitude, he/she shall automatically forfeit his/her office and it shall be deemed vacant.

SECTION 4. TERMS OF OFFICE OF ELECTED OFFICERS

The present Mayor and City Councilmembers of the City, or their successors in office at the time of the adoption of this Charter, shall continue to act until their successors are elected and take office, under the provisions of this Charter. The term of office for elective officers shall be for a period of two (2) years, or until their successors are duly elected and qualified. , Places 3 and 4 shall be filled by election in May of each odd numbered calendar year thereafter, and the office of Mayor and of Councilmembers for Places 1 and 2 shall be filled by election in May of each even numbered calendar year thereafter, or when their successors are elected and qualified.

SECTION 5. DATE OF ELECTION

The regular municipal elections of the City of Terrell Hills shall be held on the dates fixed by the Texas Election Code and the same shall be conducted and the results canvassed and announced by the election authorities prescribed by the general election laws of the State of Texas, and said general laws shall control in all municipal elections.

SECTION 6. HOURS OF ELECTION

The polls shall be open for early voting and on election day as required by the Texas Election Code.

SECTION 7. OFFICIAL BALLOT

Names of candidates for places on the City Council and for Mayor shall be placed on the official ballot upon the sworn application of the candidates filed with the Secretary-Manager in accordance with Texas Election Code, stating the office for which he/she is a candidate, and if for Councilmember, the place for which he/she is running, and stating that the candidate has resided in the City and has been a bona fide citizen thereof for at least one year prior to the election; and, thereupon, the names of such candidates shall be printed upon the official ballot in the order to be determined by drawing of lots, said drawing to be conducted by the Secretary-Manager in accordance with the Texas Election Code.

SECTION 8. CANDIDATES TO RUN FOR PLACES

Candidates for City Council shall run for Place No. One, Place No. Two, Place No. Three, and Place No. Four, or for Mayor, as the case may be, and shall be voted on and elected accordingly by the vote of the qualified votes of the City at large..

SECTION 9. CANDIDATES, HOW ELECTED

The candidate receiving the largest number of votes cast for the place which he/she seeks shall be elected to the respective office for which he/she is a candidate.

SECTION 10. JUDGE OF ELECTION

The City Council shall be the judge of the election and of the qualification of its own members and of the Mayor, subject to review of the courts in the case of contest. The City Council shall, in accordance with the Texas Election Code, either at a called meeting or at its next regular meeting, canvass the returns and declare the results of such election. The candidate receiving the largest number of votes for an office shall be declared elected.

If such election results in a tie for first place, and if the election is still determined to be tied after a recount of all votes, it shall be the duty of the Mayor to order a second election for the office or offices in which candidates tie for first place in accordance with the Texas Election Code. In said election, only those can run who were tied for first place in the first election. In the event one of the candidates who ties for first place shall withdraw or die, a second election shall not be held for that office, and the other candidate for such office shall be declared elected.

SECTION 11. INSTALLATION OF OFFICERS

The newly elected officers shall enter upon their duties *immediately* following canvass of the returns and declaration by the City Council of the results of each regular and special election. If any of such officers fails to qualify within thirty days after his/her election, his/her office shall be deemed vacant, and a new election held to fill the same.

SECTION 12. LIMITATIONS OF COUNCILMEMBERS' OUTSIDE INTERESTS

No member of the City Council shall hold any other employment or office under city government while he/she is a member of said Council, unless herein otherwise provided. No member of the City Council, or any other officer of the City, shall be directly or indirectly interested in any work, business or contract, the expense, price or consideration of which is paid from the City treasury, nor be the surety of any person having a contract, work or business with said City, for the performance of which security may be required, nor be the surety on the official bond of any city officer.

If any member of the City Council shall violate the foregoing, then the City's contract or agreement in connection therewith shall be null and void; and, if the City shall have made any expenditure of money or other thing of value under or by virtue of such contract, it shall be entitled to recover such consideration upon the institution of suit for such purpose in any court of competent jurisdiction in Bexar County, Texas, and, further if any member of the City Council shall so violate the foregoing he/she shall forfeit all right or claim to the office which he/she holds in the City and he/she shall be expelled from the City Council and, if the City Council should fail to so expel him, then he/she shall be subject to removal upon suit being brought by any five citizens of the City for such purpose, in any of the District Courts of Bexar County, Texas.

SECTION 13. VACANCY

Vacancies in the City Council other than Mayor arising from any cause (other than recall) shall be filled by a majority vote of the remaining members for the unexpired terms only, and the remaining Councilmembers, in the event of a vacancy in the office of Mayor, shall elect a person from among themselves by majority vote to serve as Mayor for the unexpired term.

SECTION 14. MAYOR PRO TEMPORE

At the first meeting of each new Council, or as soon thereafter as practicable, one of the Councilmembers shall be elected Mayor Pro Tempore, who shall hold his/her office for one year. In case of the failure, inability or refusal of the Mayor to act, the Mayor Pro Tempore shall perform the duties of the Mayor. When serving as Mayor as the presiding officer at City Council meetings, the Mayor Pro Tempore shall have the same rights and privileges as provided for by Article IV, Section 1, of this Charter. In the case of absence from the City or the failure, inability or refusal of both the Mayor and Mayor pro tempore to perform the duties of Mayor, the City Council may, at a Council meeting, by a vote of two affirmative votes, elect an Acting Mayor Pro Tempore, who shall serve as Mayor with all of the powers and privileges of Mayor until either the Mayor or Mayor Pro Tempore shall resume the duties of office. When such Acting Mayor Pro Tempore is serving as the presiding officer at Council meetings, he/she shall have all of the powers set forth in Article IV, Section 1, of this Charter.

SECTION 15. COMPENSATION OF MAYOR AND COUNCILMEMBERS

The Mayor and Councilmembers shall receive \$1.00 per year as compensation and may be reimbursed for their expenses incurred in their official duties, when said expenses have been presented at a regular meeting of the Council and their payment authorized by ordinance duly enacted.

SECTION 16. TERMS OF OFFICE OF APPOINTED OFFICERS

The City Council shall appoint officers to fill all positions created by this Charter or hereafter created by ordinances, and fix their compensation. All appointments shall be for and during the will of the Council unless controlled by state law. A corporation, private or municipal, may be appointed to perform any duties of any office provided for in this Charter or hereafter created by law or ordinance.

**ARTICLE III
DUTIES, POWERS AND RECALL OF OFFICERS OF THE CITY COUNCIL**

SECTION 1. OATH

All officers of the City, whether elective or appointive shall qualify by taking the oath prescribed by the Constitution of this State and by executing such bond as may be required under the provisions of this Charter and the ordinances and resolutions of the City.

SECTION 2. DUTIES OF MAYOR

The Mayor shall preside at all meetings of the Council and shall appoint all committees and subcommittees of the Council; he/she shall have the power to conduct hearings, summon witnesses and conduct investigations and do any and all other acts authorized by the City Council. He/She shall be the official representative of the City and shall do all in his/her power to further its best interests.

SECTION 3. POWERS OF MAYOR

The Mayor shall have power to administer oaths of office. He/She shall have authority in case of a natural disaster or riot or any unlawful assemblage, or with a view of preserving peace and good order in said city, to act in accordance with Chapter 418 of the Texas Government Code. . He/She shall perform such other duties and possess and exercise such other power and authority as may be prescribed and conferred by the City Council.

SECTION 4. SECRETARY-MANAGER

The Secretary-Manager shall be the chief administrative officer of the City and shall see that its laws and ordinances are enforced. He/She shall supervise all appointed city officials, their conduct and the performance of their duties, and report thereon to the City Council. He/She, or a duly authorized assistant, shall attend all meetings of the Council and keep accurate minutes of all proceedings, engross and enroll all laws, resolutions and ordinances, keep the corporate seal, keep and preserve all books, records and archives of the City, countersign all commissions issued to City officials, and all licenses issued by the City, and keep a record thereof, issue all notices required by law or by ordinance.

He/She shall oversee the general accounting of the City, and shall ensure that the City maintains regular accounts of the receipts and disbursements for the City, and separately, under proper heads, each cause of receipt and disbursement, and also accounts with each person, including officers who have money transactions with the City, crediting accounts allowed by proper authority and specifying any particular transaction to which such entries apply. He/She shall keep a register of bonds and bills issued by the City, and all evidence of debt due and payable to it, noting the particulars thereof, and all facts connected therewith, as they occur. He/She shall carefully keep all contracts made by the City Council and he/she shall perform all such other duties as may be required of him by law, ordinance, resolution or order of the City Council.

SECTION 5. FINANCE DIRECTOR

The Finance Director shall give bond in favor of the City in such amount and in such form as the City Council may require, with sufficient security to be approved by the City Council, conditioned for the faithful discharge of his/her duties. He/She shall receive and securely keep all moneys belonging to the City, and make all payments from the same upon authorization of the City Council. He/She shall render a full and correct statement of his/her receipts and payments to the City Council at their first regular meeting in every quarter and whensoever, at other times, he/she may be required by them to do so. On the 30th of April of each year, or as soon thereafter as practicable, he/she shall cause to be published, at the expense of the City, a statement showing the amount of receipts and expenditures for the city for the twelve months next preceding; and the general condition of the treasury. He/She shall do and perform such other acts and duties as the City Council shall require.

SECTION 6. POLICE CHIEF

The Police Chief shall be in charge of the police department and shall have all of the powers and duties as is provided for under state law, provided that the power to appoint police officers or other police department employees shall be vested in the City Council and provided further that the police chief shall have such other duties and responsibilities as the Secretary-Manager from time to time may assign to him.

SECTION 7. CITY ATTORNEY

The city attorney shall be the legal adviser and counsel of the Mayor, City Council, department heads and city boards and commissions. He/She shall prepare or approve all City ordinances and resolutions and shall attend all meetings of the City Council and may be the City Prosecutor. He/She shall be employed or contracted and shall have such other duties and responsibilities as may from time to time be assigned to him by the City Council. The City Council shall have the authority to employ and compensate special counsel to represent the City in collecting taxes, or to represent the City in legal proceedings filed by or against the City and in any extraordinary legal matters.

SECTION 8. CITY ENGINEER

The city engineer shall be responsible for overseeing all engineering work to be done by the City. He/She shall be the adviser to the Mayor and City Council and to all boards and commissions of the City on all engineering matters and shall have such other responsibilities as the City Council may assign to him from time to time.

SECTION 9. FIRE CHIEF

The fire chief shall be responsible for the City's fire prevention program and shall be in charge of the Fire Department, if any.

SECTION 10. ASSESSOR AND COLLECTOR

If, as and when a taxing program shall be instituted and an assessor and collector of taxes shall have been appointed or contracted by the City Council, he/she shall have the responsibility of assessing and collecting all ad valorem taxes and keeping complete and accurate records of the same, and shall have such other duties as may be hereafter assigned to him by the City Council.

SECTION 11. JUDGE OF THE MUNICIPAL COURT

The judge of the Municipal Court shall preside over the Municipal Court as provided for herein. He/She shall be a competent, duly qualified and a licensed attorney in the State of Texas and a qualified elector and be a resident of the City.

SECTION 12. CONTROL OF OFFICERS

The City Council shall have power from time to time to require other and further duties of all officers whose duties are herein prescribed, and to define and prescribe the powers and duties of all officers appointed or elected to any office under this Charter whose duties are not herein specially mentioned, and fix their compensation.

SECTION 13. BOND FOR APPOINTIVE OFFICERS

The City Council shall have the right to require bond from any appointive officers or employees of the City in such amounts as the City Council from time to time may fix by ordinance or resolution and conditioned for the faithful discharge of the duties of his/her office and accounting for all moneys, credits and things of value coming into the hands of such officers or employees, and all such bonds shall be signed as surety by some surety company authorized to do business under the laws of the State of Texas, and the premiums accruing thereon shall be paid by the City.

SECTION 14. RESIGNATION OF OFFICERS

The Mayor and Council members may resign upon written application to the City Council, such resignation shall be effective at the time indicated in the application and if no time is indicated, it shall be effective in accordance with the Texas Election Code. Any appointed officer or employee of the City may resign by filing a written resignation with the Secretary-Manager.

**ARTICLE IV
THE CITY COUNCIL**

SECTION 1. PRESIDING OFFICER

The Mayor shall preside over all meetings of the City Council. He/She may participate in the discussion of all matters coming before the Council and shall be entitled to vote, but he/she shall have no veto power. If he/she and the Mayor pro tem are absent, an acting Mayor pro tem may be appointed to preside, as set forth in Section 14 of Article II above.

SECTION 2. MEETINGS

Petitions and remonstrances may be presented to the City Council either orally or in writing at any time by any citizen of the City. The City Council shall hold stated meetings at such times and places as they shall determine from time to time. The Mayor, on his/her own motion or on the application of any two Councilmembers, must call a special meeting by notice to each member of said Council, the Secretary-Manager and the City Attorney, such notice to be served personally or by registered or certified mail, return receipt requested.

SECTION 3. CITY COUNCIL RULES OF PROCEDURE

The City Council shall determine its own rules of procedure and may compel the attendance of its members.

SECTION 4. GENERAL AUTHORITY

The City Council shall have power to pass, publish, amend or repeal all ordinances, rules and police regulations not contrary to the Constitution or laws of this State, for the good government, peace and order of the City and the trade and commerce thereof, that may be necessary or proper to carry into effect the powers vested by this Charter in the City, the City government or in any department or office thereof; to enforce the observance of all such rules, ordinances and policy regulations, and to establish penalties for violations thereof; to appoint and to fix the compensation of all appointed officers and employees provided by this Charter, or hereafter provided for by ordinance.

SECTION 5. POWERS

Any powers given to the City that are not specifically placed in the Mayor, Secretary-Manager or some other official, either by statutes or this Charter, shall be exercised in behalf of the City by the City Council. All powers so exercised shall be by ordinance or resolution duly passed.

SECTION 6. QUORUM

A quorum of the City Council for the transaction of business shall consist of three members. A number less than a quorum may adjourn from time to time and compel the attendance of absent members. If the Council is reduced to less than three members, on account of vacancies, the remaining members shall constitute a quorum for the sole purpose of calling an election as set out in Section 13, Article II hereof.

SECTION 7. LEGISLATIVE PROCEDURE

All meetings of the City Council shall be public in accordance with the Texas Open Meetings Act and minutes of all proceedings shall be kept, to which any citizen may have access at all reasonable times and which shall constitute one of the archives of the City. The vote upon the passage of all ordinances and resolutions shall be taken by the "ayes" and "nays" and entered upon the minutes and every ordinance or resolution, upon its final passage shall be recorded in a book kept for that purpose and shall be authenticated by the signature of the presiding officer and the Secretary-Manager. Every ordinance hereafter adopted shall be systematically numbered and it shall only be necessary to record the number and caption or title of ordinances in the minutes of the Council meeting. Each member of the City Council present at any meeting shall be required to announce his/her vote upon each question, ordinance or resolution except on matters involving the consideration of his/her own official conduct or where his/her financial interests are involved, in which event, such member shall not vote but shall give his/her reason for not voting, and such reason shall be entered upon the minutes of the City Council.

SECTION 8. STYLE OF ORDINANCES

The style of all ordinances of the City shall be: "Be it ordained by the City Council of the City of TERRELL HILLS, TEXAS," but the same shall be omitted when the ordinances of the City are codified and published in book or pamphlet form by the City, or under the authority of its governing body.

SECTION 9. ORDINANCES NOW IN EFFECT

All ordinances of the City now in existence and not inconsistent with the provisions of this Charter shall remain in full force and effect until altered, amended or repealed by the City Council.

SECTION 10. ORDINANCES, PUBLICATION THEREOF

Every ordinance imposing any penalty fine or forfeiture, shall, after passage thereof, be published in one issue of a newspaper that has been continuously circulated in the City for at least one year prior to such publication, or, in the alternative, the City Council may publish a descriptive caption or title stating in summary the purpose of the ordinance and penalty for violation thereof, as is provided in the Texas Local Government Code, and proof of such publication shall be made by the printer or publisher of such paper, making affidavit before some officer authorized by the law to administer oaths, and filed with the Secretary-Manager, and shall be prima facie evidence of such publication, and promulgation of such ordinance so published shall take effect and be in force from and after five days after the publication thereof, unless otherwise expressly provided. Ordinances not required to be published shall take effect and be in force from and after the passage thereof, unless otherwise provided. It shall not be necessary to the validity of any ordinance that it shall be read more than one time or considered at more than one session of the City Council, except in an ordinance granting a franchise.

SECTION 11. ORDINANCES, PLEADING OF AND ADMISSIBILITY IN EVIDENCE

It shall be sufficient in all judicial proceedings to plead any ordinance of the City by caption without embodying the entire ordinance in the pleadings, and all pleaded ordinances or codes of ordinances shall be admitted in evidence in any suit and shall have the same force and effect as the original ordinance. Certified copies of the ordinances may also be used in evidence in lieu of original ordinances.

SECTION 12. RECALL OF ELECTED OFFICERS

The Mayor or any member of the City Council shall be subject to recall and removal from office by the qualified electors of the City as in this Charter provided.

SECTION 13. PETITIONS FOR RECALL

Before the question of recall of such officer shall be submitted to the qualified electors of the City, a petition demanding such question to be so submitted shall first be filed with the person performing the duties of Secretary-Manager, which said petition shall be signed by qualified voters of the City equal in number to at least 20% of the number of votes cast at the last regular municipal election of the City, but in no event less than 300 such petitioners. Each signer of such recall petition shall personally sign his/her name thereto in ink or indelible pencil, and shall write after his/her name, his/her place of residence, giving name of street and number of place of residence, and shall also write thereon the day of the month and year his/her signature was affixed.

SECTION 14. FORM OF RECALL PETITION

The recall petition mentioned above must be addressed to the City Council of the City of Terrell Hills and must distinctly and specifically point out the ground or grounds upon which such petition for removal is predicated, and if there be more than one ground, such as for incompetency, misconduct, or malfeasance in office, shall specifically state each ground with such certainty as to give the officer sought to be removed notice of the matters and things with which he/she is charged. The signatures shall be verified by oath in the following form:

"STATE OF TEXAS
COUNTY OF BEXAR

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

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

Notary Public in and for Bexar County, Texas"

SECTION 15. VARIOUS PAPERS CONSTITUTING PETITION

The petition may consist of one or more copies, or subscription lists, circulated separately, and the signatures thereto may be upon the paper, or papers containing the form of petition, or upon other papers attached thereto. Verification provided for in the next preceding section of this Article may be made by one or more petitioners, and the several parts, or copies of the petition may be filed separately and by different persons; but no signatures to such petition shall remain effective or be counted which were placed thereon more than thirty days prior to the filing of such petition or petitions with the person performing the duties of Secretary-Manager. All papers and documents comprising a single petition, that is, all papers comprising a recall petition, shall be filed with the person performing the duties of Secretary-Manager on the same day, and said Secretary-Manager shall immediately notify, in writing, the officer sought to be removed.

SECTION 16. CERTIFICATE TO PETITION

At the next regular meeting of the Council after the date of the filing of the papers constituting the recall petition, the person performing the duties of Secretary-Manager shall present such petition to the City Council of the City of Terrell Hills.

SECTION 17. ELECTION TO BE CALLED

If the officer whose removal is sought, does not resign within five days after such recall petition shall have been duly presented to the City Council of the City of Terrell Hills, as provided in the next preceding section of this Article, then it shall become the duty of said Council to order an election and fix a date for holding such recall election and the date of the election shall be in accordance with the Texas Election Code.

SECTION 18. RECALL ELECTION FORM OF BALLOT

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

"Shall (name of person) be removed from the office of (name of office) by recall?"

Immediately following the above question there shall be provided on the ballot, in separate lines, in the order here set out, the words:

"FOR the recall of (name of person)"
"AGAINST the recall of (name of person)"

Should a majority of the votes cast at such recall election be for the recall of such officer named on the ballot, he/she shall be deemed removed from office. Should a majority of the votes cast at such recall election, however, be against the recall of the officer named on the ballot, such officer shall continue in office for the remainder of his/her term.

SECTION 19. RECALL, RESTRICTIONS THEREON

No recall petition shall be filed against any elective officer of the City of Terrell Hills within six months after his/her election, nor within six months following an election for such officer's recall.

SECTION 20. FAILURE OF CITY COUNCIL TO CALL AN ELECTION

In case all of the requirements of this Charter shall have been met and the City Council shall fail or refuse to receive the recall petition, or order such recall election, or discharge any other duties imposed upon said City Council by the provisions of this Charter with reference to such recall, then the County Judge of Bexar County, Texas, shall discharge any of such duties herein provided to be discharged by the City Council.

SECTION 21. ONE OR MORE OFFICERS MAY BE RECALLED AT SAME ELECTION

The Mayor and/or one or more Councilmembers may be recalled at the same election and, if in such recall election there shall, as a result of such election, remain the Mayor or one or more Councilmembers who are not recalled, then the Mayor, Councilmember or Councilmembers not recalled shall discharge all of the duties incumbent upon the governing body of said City until the vacancy or vacancies created at such recall elections are filled by an election for that purpose; but if in any proposed recall election it is proposed and submitted to recall all the members constituting said City Council, then there shall be submitted in the recall petition the names of candidates to fill the vacancies proposed to be created by such election and their names shall be placed upon the ballot; but the name of such officers proposed to be recalled shall not appear on the ballot as candidates.

SECTION 22. VACANCIES IN COUNCIL DUE TO RECALL, HOW FILLED

If at any recall election it is not proposed and submitted to recall all of the members constituting said City Council, but only one or more and fewer than all, and such election shall result in favor of the recall of one or more of said officers proposed to be recalled, then it shall be the duty of the remaining member or members not recalled and constituting the governing body of the City, within five days after such election is held, to meet, canvass the returns, declare the result of the election, and on the same date order an election to fill such vacancy or vacancies; which election shall be held within not less than 30 or more than 60 days after the same shall have been ordered. No vacancy caused by recall shall be filled by the City Council of the City of Terrell Hills, but only by election.

**ARTICLE V
FINANCES, TAXES AND TAXATION**

SECTION 1. FISCAL YEAR

The fiscal year of the City is hereby designated as beginning the 1st day of January of each year and closing with the 31st day of December next ensuing thereafter.

SECTION 2. BUDGET

The City Council shall on the 1st day of October of each fiscal year, or as soon thereafter as practicable, prepare a budget to cover all proposed expenditures of the City for the succeeding year. Such budget shall be prepared in conformity with the Texas Local Government Code.

SECTION 3. DEPOSITORY

The City Council is authorized to select a depository for City funds in accordance with the Texas Local Government Code.

SECTION 4. BONDS, WARRANTS, ETC.

(a) The City Council shall have the power and authority by ordinance duly passed, and it is hereby expressly authorized to issue bonds for the purpose of refunding bonds of the City previously issued, or for any other lawful purpose.

(b) In keeping with the Constitution of Texas, and not contrary thereto, the City shall have the power to issue all tax bonds, revenue bonds, funding and refunding bonds, warrants, time warrants, revenue warrants, notes, securities and other evidence of indebtedness as now authorized or as may be hereafter authorized to be issued by cities and towns under the provisions of the Texas Government Code, or by the General Laws of the State of Texas.

(c) In all elections to determine the expenditures of money or the assumption of debt of any nature, qualified voters shall be deemed to be those who are qualified under the general laws of the State of Texas.

(d) Ordinances authorizing any bonds, warrants, revenue warrants, notes or other evidences of indebtedness to be issued shall provide for the creation of a sinking fund sufficient to pay the principal and interest of such bonds when and as the same become due and payable. Such sinking fund, in excess of the amount necessary to pay the principal and interest of the bonds when and as the same become due and payable, may each year be invested, as provided for by the Texas Government Code, or by the General Laws of the State of Texas.

(e) Any officer or agent of the City who shall unlawfully or knowingly divert or use said funds or cause or permit same to be diverted or used for any other purpose except that for which the fund is created or herein expressly authorized to be invested shall be deemed guilty of a felony and subject to prosecution as provided under the general laws of the State of Texas.

(f) *The City shall have the power to borrow money on the faith and credit of the City by the issue or sale of bonds or notes of the City. In any tax year, in anticipation of the collection of the ad valorem property tax for such year, whether levied or to be levied in such year, the Council may by resolution authorize the borrowing of money by the issuance of negotiable notes of the City each of which shall be designated "tax anticipation note for the year _____" (stating the tax year). Such notes shall mature and be payable not later than the end of the tax year in which issued, and may be secured by pledge of the ad valorem property taxes for such year.*[#]

[#](amended 4-3-76)

SECTION 5. AUDIT AND EXAMINATION OF CITY BOOKS AND ACCOUNTS

The City Council shall cause an annual audit to be made of the books of accounts of each and every department of the City. Such audit shall be made by public accountants who shall be selected by the City Council, and a contract entered into from year to year, and such contract shall provide that the books of the City shall be audited at least annually, and such auditors' report to the City Council shall be accessible to the public or for publication.

SECTION 6. TAXABLE PROPERTIES

All real, personal and mixed property held, owned or situated in the City, which is not exempt by the Constitution or General Laws of the State of Texas, shall be liable for all taxes due by the owner thereof, including taxes on real estate, franchise, gross receipts of Public Utilities, personal and mixed property.

SECTION 7. TAX LEVIES

(a) If, as and when the City Council shall deem it necessary, the City Council shall have the power to levy annually for general purposes and for the purpose of paying interest and providing the sinking fund on the bonded indebtedness of the City, now in existence or which may hereafter be created, an ad valorem tax on all real, personal or mixed property within the territorial limits of said City and upon all franchises granted by the City to any individuals or corporations of not exceeding a total of two dollars and fifty cents (\$2.50) on the one hundred dollars (\$100.00) assessed valuation of said property. If for any cause the City Council shall fail, neglect or refuse to pass a tax ordinance for any one year, levying taxes for that year, then, and in that event, the tax levying ordinance last passed shall and will be considered in force and effect as the tax levying ordinance for the year for which the City Council failed, neglected or refused to pass such ordinance, and the failure so to pass such ordinance for any year shall in no wise invalidate the tax collections for that year.

(b) The City Council may determine and provide when taxes shall be due and payable by corporations and all persons owning property. It shall have the right to fix the time and terms of payments of taxes, prescribe penalties for the nonpayment thereof upon the expiration of the time fixed by said City Council, and may provide discounts for advance payments of taxes.

(c) The City Council or any other officer of the City shall never extend the time for the payment of taxes, or remit discount or compromise any tax legally due the City, nor waive the penalty that may be due thereon to any person, but the City Council may provide for the discount, compromise or waiver of penalty to persons legally owing any taxes where such discount, compromise or waiver of penalty is for any particular and specified year or years and is deemed necessary to correct obvious errors in assessment or to join other taxing bodies in adjusting taxes to the value of the property; provided, however, that this provision shall not prevent the compromise of any tax suit.

SECTION 8. LIENS

(a) Tax levied by the City Council is hereby declared to be a lien, charge or encumbrance upon the property upon which the tax is due, which lien, charge or encumbrance the City is entitled to enforce and foreclose in any court having jurisdiction over same, and the lien, charge and encumbrance on the property in favor of the City for the amount of the taxes due on such property is such as to give the State Courts jurisdiction to enforce and foreclose said lien on the property on which the tax is due, not only as against any resident of this State or person whose residence is

unknown, but also as against the unknown heirs of any person who owns the property upon which the tax is due and also as against non-residents. All taxes upon real estate shall especially be a lien and a charge upon the property upon which the taxes are due, which lien may be foreclosed in any court having jurisdiction.

(b) Tax liens shall take effect on property as of the beginning of the tax year, and such liens shall be prior to all other claims or liens, and no gift, sale, assignment, or transfer of any kind, or judicial writ shall defeat such liens. The assessor-collector of taxes shall by virtue of his/her tax rolls have power and authority to seize and levy upon all personal property and sell the same to satisfy all taxes, together with all penalty interest, and costs, due by a delinquent taxpayer to the City on personal property.

SECTION 9. RENDITION

(a) If, as and when the City Council has levied an ad valorem tax under Section 7 of Article V of this Charter, it shall be the duty of every person or corporation owning or holding property within the City to render under oath to the assessor of taxes or such other person as may be provided for by ordinance at his/her office in said City annually within the time prescribed by ordinance of said City a full and complete inventory of all property so owned or held by him, whether real, personal or mixed, and to take and subscribe to an oath to the correctness of such inventory, which oath may be administered by the assessor or such other officer as aforesaid, acting in person or by deputy.

(b) The definitions of property and terms as defined by the General Laws of the State under the head of Taxation shall apply to the taxation of property in this city.

SECTION 10. UNRENDERED PROPERTY

If, as and when the City Council has levied an ad valorem tax under Section 7 of Article V of this Charter the City Council shall provide by ordinance for the listing and valuation of all property, real, personal and mixed, situated, owned or held within the City Limits, and which has not been rendered by the owner thereof each year, upon a date to be specified by the City Council, by ordinance, by the assessor or other officer designated for that purpose, which list of property so unrendered and assessed shall be placed upon the tax roll of the City and submitted along with the rendered roll to the Appraisal Review Board and be subject to the same tax levy as the rendered property within the City.

SECTION 11. COLLECTION OF TAXES

(a) The City Council shall have full power, by ordinance, to provide for the prompt collection of all taxes levied, assessed and due or becoming due to said City, and prescribe where property shall be assessed or rendered for taxes and when the taxes thereon shall become due and payable, and to that end may and shall pass all ordinances and make all provisions as may be necessary for levying, imposing, assessing and collecting said taxes, regulating the methods of making out tax lists and inventories, and fixing the duties and defining the powers of the assessor and collector of

taxes or such other officer as may be designated therefor by the City Council.

(b) Taxes shall be payable at the office of the assessor and collector or such other office as the City Council may prescribe, and no demand for payment thereof shall be requisite or necessary to enforcement of the collection thereof, nor for the collection of any taxes due, before the adoption of the Charter.

(c) All property which the owner thereof may have failed or refused to inventory, assess or render for taxation as required so to do, shall be by the officer designated by the City Council inventoried, and assessed and rendered for taxes for the year or years for which the same was not so rendered, inventoried and assessed by the owner thereof, and such officer designated by the City Council shall have the right and it shall be his/her duty at any time to revise, correct and reassess and properly describe any property incorrectly rendered or assessed or improperly described, without the necessity of giving notice to the owner thereof; provided, however, that the valuation as fixed by the Appraisal Review Board shall not be changed, and such inventory and assessment when revised and worked over shall be as valid and effective as if on such assessment sheets and tax rolls and as if regularly and duly rendered and assessed by the owner for the year for which rendered, assessed, and inventoried, as above provided for, by the officer of the City designated by the City Council, and said tax rolls and assessment sheets shall be prima facie evidence that said property was regularly and duly rendered, inventoried, assessed and properly described in all respects as if done duly and regularly by the owner in the first instance.

SECTION 12. PAYMENT OF TAXES

Ad valorem taxes due or to become due upon real, personal or mixed property or upon franchises granted by the City to individuals or corporations, and license taxes, occupation taxes, permit fees, fines, forfeitures, penalties and other amounts of taxes accruing to the City shall be collectible and payable only in current money of the United States.

SECTION 13. DELINQUENT TAXES

All ad valorem taxes that are due or to become due to the City that are not paid within the time specified by the City Council in the ordinance providing the date of payment of said taxes shall be declared delinquent and shall be subject to the penalties prescribed by ordinance from time to time and may be collected by suit from delinquents, and foreclosure of the lien thereon may be had in any court having jurisdiction of the same or personal property may be levied upon and sold for taxes by the assessor and collector. Any person who shall purchase or shall have purchased property encumbered by a lien for taxes or upon which taxes are due shall be deemed as to such taxes a delinquent taxpayer, and such purchaser shall take the property charged with lien, and he/she cannot interpose any defense which the person or corporation owing the property at the time of the assessment of said taxes so delinquent might not have interposed had he/she or it continued to be the owner, except that no personal judgment shall be rendered for same against such purchaser.

SECTION 14. APPRAISAL REVIEW BOARD

*An Appraisal Review Board shall review appraisals and assessments as provided by the Tax Code of the State of Texas.**

**(amended 92)*

SECTION 15. OCCUPATION TAX

The City Council shall have the power to levy and collect taxes upon trades, professions or other businesses carried on to the full extent permitted by the Constitution and the General Laws of the State of Texas, and to prescribe penalties for nonpayment thereof.

SECTION 16. CONTRACT FOR COLLECTION OF DELINQUENT TAXES

The City Council shall have the power to contract with any competent attorney at law for the collection of delinquent taxes owing to the City. Where the City has a part time city attorney, he/she may be employed and compensated to collect delinquent taxes owing to the City.

**ARTICLE VI
DEPARTMENTS**

SECTION 1. GENERAL

The City Council may create or establish, abolish or consolidate, as many departments or offices as it may deem necessary for the best interest of the City. It may control the internal organization table of such departments or offices.

SECTION 2. RULES AND REGULATIONS FOR DEPARTMENTS

The City Council may establish by ordinance such rules and regulations covering the conduct and performance, employment and discharge of personnel in the departments and may from time to time amend such rules and regulations.

SECTION 3. POLICE DEPARTMENT

The City shall have, and there is hereby established, a police department which shall be under the general supervision of the Police Chief. The City Council shall by ordinance provide for the number of police officers and their qualifications; shall fix their salaries and their terms of office; shall make provisions for their removal from office; shall provide for the giving of bonds for faithful performance of their duties in office; and shall make such other regulations as might be deemed necessary for the control and operation of the police department. Such officers shall have similar powers, rights and authorities as are vested in police officers under the laws of the State of Texas.

SECTION 4. FIRE DEPARTMENT

The City shall have, and there is hereby established, a fire department which shall be under the general supervision of the Fire Chief. The City Council by ordinance shall provide for the number of paid fire fighters or volunteer fire fighters, or a combination of paid fire fighters and volunteer fire fighters. If paid fire fighters are to be employed, the City Council shall provide by ordinance for the number of paid fire fighters, their pay, their term of office, provisions for removal of fire fighters and such other provisions as might be necessary for supervision and control of fire fighters. The City Council shall by ordinance establish such other rules and regulations for a fire department as might be necessary for the proper control and operation of same.

SECTION 5. MUNICIPAL COURT

There is hereby created and established a Municipal Court, which Court shall have jurisdiction within the corporate limits in all criminal cases arising under the ordinances of the City, and shall have concurrent jurisdiction with any justice of the peace in any precinct in which said City is situated in all criminal cases arising under the criminal laws of this state, in which punishment is by fine only, and where the maximum of such fine may not exceed \$2,000 in cases arising under municipal ordinances that govern fire safety, zoning or public health and sanitation or may not exceed \$500.00 for all other matters arising under municipal ordinances, and arising within such corporate limits.

(a) The Judge of said Court shall be known as "Judge of the Municipal Court of Terrell Hills." In the absence or disability of said Judge, said Court may be presided over by the mayor or mayor pro tem, or by some Councilmember, as may be provided by ordinance of the City Council. The salary of said judge shall be fixed by ordinance.

(b) Additional procedure and operation of said Court in the dispatch of business shall be as provided by the Code of Criminal Procedure of the State of Texas, which statutes are hereby adopted.

(c) There shall be a Clerk of the Municipal Court of Terrell Hills, who shall have all of the power and authority and obligation provided by law, and shall have authority to receive and file complaints and to administer oaths in connection with the same. The City Council may from time to time appoint deputy clerks who shall have the same powers as herein provided for the Clerk of the Municipal Court of Terrell Hills.

(d) The City Council shall have the authority to adopt, amend or abandon such rules and regulations as it might deem necessary for the proper functioning of said Municipal Court.

**ARTICLE VII
CONTRACTS AND PUBLIC UTILITIES**

SECTION 1. GENERAL

All contracts that the City has at the time of the adoption of this Charter shall remain in full force and effect. This provision shall include, but not be limited to, all bonded indebtedness, contracts for professional services, contracts for improvements, lease contracts, or any other agreement binding upon the City of Terrell Hills, Texas, immediately prior to the adoption of this Charter.

SECTION 2. PERSONAL SERVICES

No contract shall ever be made which binds the City for personal services, except for professional services, to be rendered for any stated period of time, but all appointive employees shall be subject to preemptory discharge, any provision to the contrary in this Charter notwithstanding.

SECTION 3. GOODS, MATERIALS, SERVICES OR SUPPLIES

The City or any agent of the City acting for it shall not make any contract for goods, materials, services, or supplies for the current use of any department of the municipality for more than one year, except as in this Charter provided, unless said contract and the cost thereof has been included in the annual budget of the City and unless an appropriation has been made therefor, and no contracts or purchase shall exceed the amount appropriated. All contracts in excess of the amount in Section 252.021 of the Local Government Code, except for professional services, shall be made upon specifications, and no contract shall be binding until it has been signed by a designated representative of the City. Whenever the costs of any contracts charged to any appropriation equal the amount of such appropriation, no person representing the City shall sign or make any additional contracts chargeable to such appropriation. Any contract for current expenditures exceeding the amount set up in the budget or the appropriation must first be approved by the City Council and an appropriate budget amendment must be adopted by the Council or the contract is null and void.

SECTION 4. COMPETITIVE BIDDING

After approval of specifications by the City Council, advertisement shall be published in an official newspaper circulated in the City of Terrell Hills in accordance with the Texas Local Government Code, inviting competitive bids for labor and material embraced in the proposed contract. All bids received shall be sealed and delivered to the Secretary-Manager. At the time and place announced in said notice, the bids shall be opened and no award shall be made except to one of such bidders. The City Council shall determine the most advantageous bid for the City, and shall award the contract to such bidder, but the City Council shall always have the right to reject any and all bids, and in the event all bids are rejected may call for new bids which shall be advertised in like manner as the original bids. Pending advertisement of such proposed contracts,

the specifications shall be on file in the office of the Secretary-Manager subject to the inspection of all persons desiring to bid. No contract shall ever be authorized except by approval of the City Council; provided, however, such contracts are budgeted and are for less than the amount in Section 252.021 of the Local Government Code may be awarded without advertisement and bid, as herein required, if in the opinion of the City Council such advertisement and bid should be waived.

SECTION 5. UTILITIES: GENERAL

In addition to the City's power to buy, own, construct, maintain, and operate utilities and to manufacture and distribute electricity, gas, or anything else that may be needed or used by the public, the City shall have further powers as may now or hereafter be granted under the constitution and laws of the State of Texas.

SECTION 6. UTILITY FRANCHISES: POWER OF COUNCIL

The City Council shall have power by ordinance to grant, amend, renew and extend all franchises of all public utilities of every character operating within the City of Terrell Hills, and for such purposes is granted full power. All ordinances granting, amending, renewing, or extending franchises for public utilities shall be read at three separate regular meetings of the City Council and shall not be finally passed until thirty days after the first reading; and no such ordinance shall take effect until sixty days after its final passage, and pending such time, the full text of such ordinance shall be published once each week for four consecutive weeks in an official newspaper circulated in the City of Terrell Hills, and the expense of such publication shall be borne by the proponent of the franchise. No public utility franchise shall be transferable except with the approval of the Council expressed by ordinance.

SECTION 7. UTILITIES FRANCHISE: VALUE NOT TO BE ALLOWED

In fixing reasonable rates and charges for utility service within the City and in determining the just compensation to be paid by the City for public utility property which the City may acquire by condemnation or otherwise nothing shall be included as the value of any franchise granted by the City under this Charter.

SECTION 8. UTILITIES: RIGHT OF REGULATION

(a) The City Council shall have the power by ordinance, after notice to the utility and hearing before the Council, to fix and regulate the charges, fares or rates of compensation to be charged by any person, firm or corporation enjoying a franchise in the City, or engaged in furnishing a public utility service in the City, and shall in determining, fixing and regulating such charges, fares or rates of compensation, base the same upon the fair value of the property of such person, firm or corporation devoted to furnishing service to such city or the inhabitants thereof. The City Council may prescribe the character, quality and efficiency of service to be rendered, and shall have the power to regulate and require the extension of adequate lines or service of such public utility within

such city by such person, firm or corporation, taking into consideration the cost to the utility, and from time to time may alter or change such rules, regulations, and compensation, provided that, in adopting such regulations and in fixing or changing such compensation or determining the reasonableness thereof, no stock or bonds authorized or issued by any corporation enjoying such franchise shall be considered unless on proof that the same have been actually issued by the corporation for money paid and used for the development of the corporate property, labor done or property actually received, in accordance with the laws and Constitution of this State applicable thereto. In order to ascertain all facts necessary for a proper understanding of what is or should be a reasonable rate or regulation, the City Council shall have full power to inspect the books of any such utility serving the inhabitants of the City and compel production of records and the attendance of witnesses for such purpose.

(b) Any company, corporation or person engaged in furnishing to the inhabitants of the city any light, power, gas, telephone, transit or other public utility services, may be required at any time by ordinance or resolution of the City Council to file with the City Council sworn written reports pertaining to their operations and business within the City, and such report shall contain such data, facts and information as may be required by such ordinance or resolution, which shall also fix the time within which the report shall be filed.

(c) In addition to the foregoing powers the City shall have all the powers and privileges provided for by the Texas Utilities Code.

SECTION 9. UTILITY CONSTRUCTION: CONSENT OF PROPERTY OWNERS

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

SECTION 10. UTILITIES: EXTENSIONS

All extensions of public utilities within the city limits shall become a part of the aggregate property of the public utility, shall be operated as such, and shall be subject to all the obligations and reserved rights contained in this charter and in any original grant hereafter made. The right to use and maintain any extension shall terminate with the original grant and shall be terminable as provided in Section 8 hereof. In case of an extension of a public utility operated under a franchise hereafter granted, such right shall be terminable at the same time and under the same conditions as the original grant.

SECTION 11. UTILITIES: OTHER CONDITIONS

All franchises heretofore granted are recognized as contracts between the City of Terrell Hills and the grantee, and the contractual right as contained in any such franchises shall not be impaired by the provisions of this charter, except that the power of the City of Terrell Hills to exercise the right of eminent domain in the acquisition of all utility property is in all things reserved, and except the general power of the City heretofore existing and herein provided for to regulate the rates and services of a grantee which shall include the right to require proper and adequate extension of plant and service and the maintenance of the plant and fixtures at the highest reasonable standard of efficiency. Every public utility franchise hereafter granted shall be held subject to all the terms and conditions contained in the various sections of this article whether or not such terms are specifically mentioned in the franchise. Nothing in this charter shall operate to limit in any way, as specifically stated, the discretion of the Council or the electors of the City in imposing terms and conditions as may be reasonable in connection with any franchise grant.

SECTION 12. UTILITIES: FRANCHISE RECORDS

Within six months after this charter takes effect every public utility and every owner of a public utility franchise shall file with the City, as may be prescribed by ordinance, certified copies of all franchises owned or claimed, or under which such utility is operated in the City of Terrell Hills. The City shall compile and maintain a public record of public utility franchises.

SECTION 13. ACCOUNTS OF MUNICIPALLY OWNED UTILITIES

Accounts shall be kept for each public utility owned or operated by the City, in such manner as to show the true and complete financial results of such city ownership and operation, including all assets, appropriately subdivided into different classes, all liabilities subdivided by classes, depreciation reserve, other reserves, and surplus; also revenues, operating expenses including depreciation, interest payments, rental and other disposition of annual income. The accounts shall show the actual capital cost to the City of each public utility owned, also the cost of all extensions, additions and improvements, and the source of the funds expended for such capital purposes. They shall show as nearly as possible the cost of any service furnished to or rendered by any such utility to any other city or governmental department. The Council shall semiannually cause to be made by a public accountant and shall publish a report showing the financial results of such city ownership and operation, giving the information specified in this section or such data as the Council shall deem expedient.

**ARTICLE VIII
OWNERSHIP OF REAL OR PERSONAL PROPERTY; STREETS AND
ALLEYS; PLANNING AND ZONING AND BUILDING REGULATIONS**

SECTION 1. ACQUISITION OF PROPERTY

The City shall have the power and authority to acquire by purchase, exchange, gift, devise, deed, lease, condemnation, or otherwise, any character of property, within or without its municipal boundaries, including any charitable or trust funds.

SECTION 2. REAL ESTATE, ETC. OWNED BY THE CITY

All real estate owned in fee simple title, or held by lease, sufferance, easement or otherwise; all public buildings, fire stations, parks, streets and alleys, and all property, whether real or personal, of whatever kind, character or description, now owned or controlled by the City, shall vest in, inure to, remain, and be the property of said City under this Charter; and all causes of action, choses in action, rights or privileges of every kind and character, and all property of whatsoever character or description which may have been held, and is now held, controlled or used by said City for public uses, or in trust for the public, shall vest in and remain and inure to the City under this Charter, and all contracts, suits and pending actions to which the City heretofore was or now is a party, plaintiff or defendant, shall in no wise be affected or terminated by the adoption of this Charter, but shall continue unabated.

SECTION 3. PARKS, PLAYGROUNDS, ETC.

The City shall have exclusive control of all City parks and playgrounds, whether within or without the City Limits, and shall control, regulate and remove all obstructions and prevent all encroachments thereupon; provide for raising, grading, filling, terracing, landscape gardening, erecting buildings, swimming pools and wading pools, and other structures, drilling wells, providing recreation therein, establishing walks and paving driveways around, in and through said parks, playgrounds, and other public grounds, speedways or boulevards owned by it, and lying both outside and inside the municipal boundaries.

SECTION 4. STREET POWERS

The City shall have exclusive control of all alleys, streets, gutters and sidewalks situated within the City and the power to lay out, establish, open, alter, extend, widen, straighten, abandon and close, lower, grade, narrow, care for, supervise, maintain and improve any public street, alley, avenue, boulevard, or expressway, and for such purposes to acquire the necessary lands and to appropriate the same under the power of eminent domain. The City shall also have the power to name or rename, vacate and abandon and sell and convey in fee that portion of any street, alley, avenue, boulevard or other public thoroughfare or public grounds, and to convey in fee the same in exchange for other lands, over which any street alley, avenue or boulevard may be laid out, established and opened; and the City's right to sell and dispose of in fee any part of a street, alley,

avenue or boulevard so vacated and abandoned, or the City's right to convey same in exchange for other lands to be used in laying out, opening, widening and straightening any street, shall never be questioned in any of the Courts of this State. The procedure for closing streets and alleys shall be in conformity with due process of law and shall be particularly prescribed and provided for by ordinance passed in the usual manner by the City Council.

SECTION 5. STREET IMPROVEMENTS

In accordance with the Texas Transportation Code, the City shall have the exclusive power to improve any street or highway within its limits by filling, grading, raising, paving, or repaving the same in a permanent manner, or by the construction or reconstruction of sidewalks, curbs and gutters or necessary appurtenances thereto, including sewers and drains.

SECTION 6. REGULATION OF VEHICLES

The City Council shall have all the authority given cities by the provisions of the Texas Transportation Code and the Penal Code of Texas, and the power by ordinance to control the operations of all character of vehicles using public streets, including motorcycles, motor scooters, bicycles, automobiles, taxicabs, trucks, trailers, tractors, buses, house moving dollies, or like vehicles; and to prescribe speed limits of the same, the parking of the same, the qualifications of the operators of the same the routing of the same, and the lighting of same by night; and to provide for the giving of bond or other security for the operation of same.

SECTION 7. PLANNING AND ZONING: GENERAL

The City Council shall have full power and authority to zone the City and to pass all necessary ordinances, rules, and regulations governing the same under and by virtue of the authority given to cities and legislative bodies thereof under Chapter 211 of the Texas Local Government Code.

SECTION 8. ZONING ORDINANCE

The City Council will have the authority to adopt, amend, modify, or rewrite the Zoning Ordinance in compliance with the provisions of Chapter 211 of the Texas Local Government Code.

SECTION 9. PLANNING AND ZONING COMMISSION

The City Council shall pass appropriate ordinances establishing a Planning and Zoning Commission, which commission shall have the powers and authorities as set forth in Chapter 211 of the Texas Local Government Code, as amended, and such additional powers and privileges as given by this Charter and as may be given to it by the City Council. Such ordinances shall provide for rules and regulations governing the Planning and Zoning Commission.

The Mayor from time to time shall appoint seven persons to serve on the Planning and Zoning Commission which appointments shall be subject to the approval of the City Council. The persons

so appointed shall serve for two years or until their successors are appointed and qualified. Said persons serving on the Commission may receive compensation not to exceed \$50.00 a day. Three persons shall be appointed to serve as alternate members in the absence of one or more of the seven regularly appointed persons.

SECTION 10. BOARD OF ADJUSTMENT

The City Council shall establish by ordinance a Board of Adjustment which shall have all of the powers and privileges set forth in Chapter 211 of the Texas Local Government Code, and such additional powers and privileges as may be assigned to it by state law. The members of the Board of Adjustment shall be appointed by the Mayor, subject to the approval of the City Council.

ARTICLE IX GENERAL PROVISIONS

SECTION 1. PUBLIC PROPERTY EXEMPT FROM EXECUTIONS

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

SECTION 2. CITY FUNDS NOT SUBJECT TO GARNISHMENT

No funds of the City shall be subject to garnishment and the City shall never be required to answer in any garnishment proceedings except as required by state law or Court Order.

SECTION 3. LIABILITY FOR DAMAGES

Before the City shall be liable for damages for the death or personal injury of any person or for damages to or destruction of property of any kind, the City, shall be given notice in writing of such death, injuries, damages or destruction within six months after the same has been sustained, stating when, where, and how the death, injury, damage or destruction occurred and the apparent extent thereof, and an estimate of the damages sustained. Such notice shall be filed with the Secretary-Manager, and such filing will constitute notice to the City. The City Council is hereby authorized and directed to make and fix by ordinance such additional rules and regulations governing the City's liability for damages as the City Council may deem advisable.

SECTION 4. RIGHT OF EMINENT DOMAIN

The City shall have the right of eminent domain and the power to condemn and appropriate private property for public purposes, whether said property be within or without the City Limits, in such cases as it now or may hereafter be provided by the Texas Property Code, and all other general laws of Texas governing municipalities. This shall apply also to fee simple titles. The City may exercise the power of eminent domain in any other manner authorized or permitted by the Constitution and/or laws of this State, including, but not limited to, the Texas Property Code, as amended or may hereafter be amended.

SECTION 5. MAY ACCEPT GOVERNMENTAL AID, ETC.

The City may accept monetary aid or other character of aid or benefit from the Federal Government, the State Government, the County Government, and from any agency thereof, and/or any individual, and/or a private agency; and shall have the full right, power and authority to do the things and perform the acts necessary to permit the City to receive such aid.

SECTION 6. CITY NOT REQUIRED TO GIVE BOND

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

SECTION 7. FRANCHISES AND SPECIAL PRIVILEGES

(a) The right to control, easement, use ownership and title to the streets, highways, public thoroughfares and property of the City, its avenues, parks, bridges and all other public places and property, are hereby declared to be inalienable except by ordinance duly passed by four affirmative votes of the City Council, and no grant of any franchise or lease, or right to use the same, either on through, along, across, under or over the same, by any private corporation, association or individual shall be granted by the City Council for a longer period than thirty (30) years unless submitted to the vote of the legally qualified voters of the City, the expense of such election to be borne by the applicant.

(b) The City Council may, of its own motion, submit all of such applications to an election at which the people shall vote upon the proposition therein submitted, the expense of such election in all cases to be borne by the applicant.

(c) No franchise shall ever be granted until it has been approved by a majority of the members elected to the City Council, after having been read in full at three (3) regular meetings of the City Council, nor shall any such franchise, grant or privilege ever be made unless it provides for adequate compensation or consideration therefor to be paid to the City, and is in accordance with

(d) Every such franchise or grant shall make adequate provision, by way of forfeiture of the grant or otherwise, to secure efficiency of public service at reasonable rates and to maintain the property devoted to the public service in good repair throughout the term of grant of said franchise.

(e) No franchise grant shall ever be exclusive.

(f) The City Council may prescribe the forms and methods of the keeping of accounts of any grantees under franchise, provided that the forms and methods of keeping such accounts have not already been prescribed by a State or Federal Law or Agency.

SECTION 8. RETIREMENT OR PENSIONS FOR EMPLOYEES

The City shall have the right to grant to its employees benefits of the Texas municipal retirement system, or any other pension or retirement system available to cities.

SECTION 9. SAVING CLAUSE, ETC.

All powers granted heretofore to cities are hereby preserved. In case of any irreconcilable conflict between the provisions of this Charter and any superior law, the powers of the City and its officers shall be as defined in such superior laws. In case of any insufficiency or omission by this Charter, which insufficiency or omission may be supplied by reference to the general laws, such provisions of the general laws are hereby adopted and the City shall have and exercise all of the powers that it could have acquired by expressly adopting and incorporating into this Charter all of the provisions of such superior and general laws, it being the intent of this Charter that no lawful power of the City shall fall because of any omission, insufficiency or invalidity of any portion or portions of this Charter. The insufficiency or invalidity of any portion or portions of this Charter shall not in any wise affect the remainder of the Charter, but the same shall be construed as if adopted without such portion and/or portions so found invalid or impotent.

SECTION 10. RENUMBERING AND REARRANGEMENT OF CHARTER PROVISIONS

The Council shall have the power, by ordinance, to renumber and rearrange all articles, sections or paragraphs of this Charter as it shall deem appropriate.

SECTION 11. AMENDMENTS

This Charter may be amended at any time in accordance with the applicable provisions contained in Chapter 9 of the Texas Local Government Code; and as provided by the Constitution of Texas.