



Home Rule  
**CHARTER**

for the  
City of Penitas, Texas

**ADOPTED**  
May 12, 2012

PENITAS, TEXAS HOME  
RULE CHARTER CHARTER  
COMMISSION  
September 28, 2011

COMMISSION MEMBERS  
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Jose Roel Cardenas, Vice Chairman

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Tomas Cedillo, Mayor Pro Tern

Jose "Pepe" Gonzalez MEMBER  
Jesus Avendano MEMBER  
Antonio "Tony" Flores MEMBER  
Patricia A. Cardenas MEMBER

Noe Cavazos  
City Manager

CITY ADMINISTRATION

AnaL. Cantu  
City  
Secretary

CHARTER ELECTION  
May 12, 2012

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## PREFACE

During the past five months, we, the fifteen members of the Home Rule Commission of Penitas, Texas, have corporately given innumerable hours in meetings, research and writing in drafting this, the first Home Rule Charter for our City. It is with a sense of fulfillment, accomplishment and pride, both in the culmination of our efforts and in the initiating of a new era in the life of our City, that we present this Charter to the citizens of Penitas.

We wish to take this opportunity to express our appreciation to Mayor Marcos Ochoa and the City Councilmen of Penitas for their foresight and vision in giving impetus to this effort and for the confidence which you expressed in us by entrusting us with the responsibility for writing this document, thus allowing us to significantly share in this most important moment in the history of our City. At the same time, we wish to express our sincere appreciation to City Manager Noe Cavazos, and his staff, for their moral support and untiring efforts in assisting the Commission with its work. To Ms. Ana Cantu, City Secretary for the City of Penitas, we express our heart-felt gratitude for the many hours of dedicated service, above and beyond the call of duty which she gave in support of the Commission's efforts.

And, finally, we wish to thank you, the citizens of Penitas, for the opportunity to present this document to you and for allowing us to significantly share in this most important moment in the history of our City.

# City of Penitas Charter

## **PREAMBLE**

We the people of the City of Penitas, under the constitution and laws of the state of Texas, in order to secure the benefits of local self-government and to provide for an honest and accountable council-manager government do hereby adopt this charter and confer upon the city the following powers, subject to the following restrictions, and prescribed by the following procedures and governmental structure. By this action, we secure the benefits of home rule and affirm the values of representative democracy, professional management, strong political leadership, citizen participation, and regional cooperation.

## **Article I**

### **Section 1.01 Incorporation.**

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

### **Section 1.02 Boundaries.**

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

### **Section 1.03 Powers of the City.**

The said City of Penitas shall have power to ordain and establish such acts, laws, rules, regulations and resolutions, ordinances, not inconsistent with the Constitution and laws of Texas and of this Charter, as shall be needful for the government, interests, health, welfare and good order of said City and its inhabitants. Under the name of the City of Penitas it shall be known in law and have succession and be capable of contracting and being contracted with, suing being sued, impleading and being impleaded, answering and being answered unto, in all courts and tribunals, and in all amounts whatsoever, subject to the laws of the State of Texas, or which shall hereafter be passed.

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

### **Section 1.04 Rights Reserved**

All suits, taxes, penalties, fines, forfeiture, and all other rights, claims and demands, of every kind and character, which have accrued under the laws in favor of said city,

heretofore in force governing the same, shall belong to and vest in said city and shall not abate by reason of the adoption of this Charter, and shall be prosecuted and collected for the use and benefit of said City of Penitas and shall not be in any manner affected by the taking effect of this charter; but as to all of such rights, the laws under which they shall have accrued shall be deemed to be in full force and effect.

#### **Section 1.05 Local Self-Government**

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

#### **Section 1.06 Powers Enumerated**

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

(a)The city council shall have the power by ordinance to provide for the alteration and extension of boundary limits, and the annexation of territory lying adjacent to the City, with or without the consent of the inhabitants of the territory annexed. Upon the introduction of any such ordinance to the City Council, such ordinance shall be published one time in the official newspaper of the City of Penitas. Amendments may later be incorporated into the proposed ordinance by a vote of the City Council and publication one time in the official newspaper of the City of Penitas. The proposed ordinance, or any amendment thereof shall not thereafter be finally acted upon until at least thirty (30) days after the publication thereof; and upon the final passage of any such ordinance, or any amendment thereto, the boundary limits of the City shall thereafter be as fixed thereby. When any additional territory has been so annexed, same shall be a part of the City of Penitas, and the property situated therein shall be subject to and shall bear its pro rata part of the taxes levied by the city, and the inhabitants thereof shall be entitled to and shall possess all the rights and privileges of the citizens of the City of Penitas, and shall be under obligations as such citizens.

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

(c) All of the powers conferred upon cities and towns by either the Local Government Code, Article XI, Section 5, of the Constitution of the State of Texas, all the laws of the

State of Texas, the Constitution of the Texas, and the Laws of the United States, except as may hereafter be denied, limited or extended, are hereby conferred upon the City of Penitas as fully and completely as if such powers were herein separately enumerated.

(d) The City of Penitas shall have and may exercise all the powers granted to cities by the Constitution or laws of Texas including specifically those powers made available to cities of more than five thousand (5,000) inhabitants by what is known as the Home Rule Amendment to the Constitution of Texas (Article XI, Section 5 and the Home Rule Enabling Act (Vernon's Texas Codes Annotated, Texas Local Government Code Section 5.004, Chapter 9, Chapter 26, and Subchapter E of Chapter 51), as these laws now read or may hereafter be amended. The city may acquire property within or without its corporate limits for any municipal purpose; may cooperate with the government of Texas or any agency thereof, or with the federal government or any agency thereof, or with the government of any county, city, or political subdivision to accomplish any lawful purpose for the advancement of the health, morals, safety, convenience, or welfare of the city or its inhabitants; may sell, lease, mortgage, hold, manage, and control such property as its interest may require; provided the city shall not sell, convey, lease, mortgage, or otherwise alienate the entire assets of any public utility system or any portion thereof essential to continued effective utility service without the prior approval by a majority of the qualified voters of the city who vote at an election held for this purpose; and may exercise the power of eminent domain when necessary or desirable to carry out any of the powers conferred upon it by this Charter or the Constitution or laws of Texas. The enumeration of particular powers in this Charter shall not be held or deemed to be exclusive, but in addition to the powers enumerated herein, implied thereby or appropriate to the exercise thereof, the city shall have and may exercise all other powers which under the Constitution and general laws of this state it would be competent for this Charter to specifically enumerate.

(e) Such powers are hereby conferred upon the City of Penitas as fully and completely as if each of said mentioned powers were herein separately enumerated; but enumeration of special powers herein, or in the Statues referred shall not be held or construed to preclude the city from exercising all powers of local government not inhibited by the Constitution and Laws of the State of Texas, or by special limitations in this Charter contained, the purpose of this Charter being to enlarge upon the power extended by the general laws of cities incorporated thereunder, and to secure to the City of Penitas, all the powers conferred by the Constitution and Laws of this State upon cities having more than five thousand inhabitants.

#### Section 1.07 Construction

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

#### Section 1.08 Intergovernmental Relations

The city may participate by contract or otherwise with any governmental entity of this state or any other state or states or the United States in the performance of any activity which one or more of such entities has the authority to undertake.

Article II  
CITY COUNCIL

### **Section 2.01 General Powers and Duties.**

All powers of the city shall be vested in the city council, except as otherwise provided by law or this charter, and the council shall provide for the exercise thereof and for the performance of all duties and obligations imposed on the city by law.

### **Section 2.02 Eligibility, Terms, Term Limits, and Composition.**

**(a) Eligibility.** Only registered voters of the city that comply with all the requirements listed below shall be eligible to hold the office of council member or mayor.

- (1) Over 18 at time of filing for Office
- (2) Has resided within the city limits for one year for a city council member position and for mayor position

**(b) Terms.** The term of office of elected officials shall be four years elected in accordance with Article VI. Terms shall be staggered.

**(c) Term Limits.** Officials elected to the city council may serve up to three (3) terms as city council members and up to three (3) additional terms as mayor. The term limits for time served as a city council member and as a mayor shall to be counted separately.

**(d) Composition.** There shall be a city council composed of five (5) members. The council shall be composed of four (4) members elected by the voters of the city at large by place in accordance with provisions of Article VI. The mayor shall be elected as provided in § 2.03(b).

### **Section 2.03. Mayor.**

**(a) Powers and Duties.** The mayor shall be a voting member of the city council and shall attend and preside at meetings of the council, represent the city in intergovernmental relationships, appoint the members of citizen advisory boards and commissions and may seek advice of city council on appointments to citizen advisory boards and commissions, present an annual state of the city message, appoint the members and officers of council committees, assign subject to the consent of council agenda items to committees, and perform other duties specified by the council. The mayor shall be recognized as head of the city government for all ceremonial purposes and by the governor for purposes of military law but shall have no administrative duties.

**(b) Election - Mayor Elected At Large.** At each regular election the voters of the city shall elect a mayor at large for a term of four (4) years. The council shall elect from among its members a mayor protem who shall act as mayor during the absence or disability of the mayor and, if a vacancy is created it shall be filled as provided by state law and the Texas State Constitution.

### **Section 2.04. Compensation; Expenses.**

The mayor and council members shall receive their actual, reasonable, and necessary expenses incurred in the performance of their duties of office and approved by city council.

### **Section 2.05. Prohibitions.**

**(a) Holding Other Office.** Except where authorized by law, no council member shall hold any other elected public office during the term for which the member was elected to the council. No council member shall hold any other city office or employment during the term for which the member was elected to the council. No former council member shall

hold any compensated appointive office or employment with the city until one year after the expiration of the term for which the member was elected to the council. Nothing in this section shall be construed to prohibit the council from selecting any current or former council member to represent the city on the governing board of any regional or other intergovernmental agency.

**(b) Appointments and Removals.** Neither the city council nor any of its members shall in any manner control or demand the appointment or removal of any city administrative officer or employee whom the city manager or any subordinate of the city manager is empowered to appoint, but the council may express its views and fully and freely discuss with the city manager anything pertaining to appointment and removal of such officers and employees.

**(c) Interference with Administration.** Except for the purpose of inquiries, and investigations under § 2.09, the council or its members shall deal with city officers and employees who are subject to the direction and supervision of the city manager solely through the city manager, and neither the council nor its members shall give orders to any such officer or employee, either publicly or privately.

#### **Section 2.06. Vacancies; Forfeiture of Office; Filling of Vacancies.**

**(a) Vacancies.** The office of a council member shall become vacant upon the member's death, resignation, or removal from office or forfeiture of office in any manner authorized by law.

**(b) Forfeiture of Office.** A council member shall forfeit that office if the council member:

- (1) Fails to meet the residency requirements,
- (2) Violates any express prohibition of this charter,
- (3) Is convicted of a crime involving moral turpitude, or
- (4) Fails to attend 80% of the regular meetings of the council without being excused by the council.

**(c) Filling of Vacancies.** A vacancy on the city council shall be filled as provided by state law and the Texas Constitution XI Section 11.

#### **Section 2.07. Judge of Qualifications.**

The city council shall be the judge of the election and qualifications of its members, and of the grounds for forfeiture of their office. In order to exercise these powers, the council shall have power to subpoena witnesses, administer oaths and require the production of evidence. A member charged with conduct constituting grounds for forfeiture of office shall be entitled to a public hearing on demand, and notice of such hearing shall be published in one or more newspapers of general circulation in the city at least one week in advance of the hearing.

#### **Section 2.08. City Secretary.**

The city manager shall nominate and the city council shall appoint an officer of the city who shall have the title of city secretary. The city secretary shall give notice of council meetings to its members and the public, keep the minutes of its proceedings and perform such other duties as are assigned by this charter or by the council or by state law.

**Section 2.09. Investigations.**

The city council may order investigations into the affairs of the city and the conduct of any city department, office, or agency.

**Section 2.10. Independent Audit.**

The city council shall provide for an independent annual audit of all city accounts and may provide for more frequent audits as it deems necessary. Such audits shall be carried out in accordance with § 5.12.

**Section 2.11. Procedure .**

**(a) Meetings.** The council shall meet regularly at least once in every month at such times and places as the council may prescribe by rule. Special meetings may be held on the call of the mayor or of two or more members and, whenever practicable, upon no less than twelve hours' notice to each member. Except as allowed by state law, all meetings shall be public; however, the council may recess for the purpose of discussing in a closed or executive session limited to its own membership any matter which is may be discussed in executive session as provided by state law, if the general subject matter for consideration is expressed in the motion calling for such session and final action on such motion is not taken by the council until the matter is placed on the agenda.

**(b) Rules and Minutes.** The city council shall determine its own rules and order of business and shall provide for keeping a minutes of its proceedings. The minutes shall be a public record.

**(c) Voting.** Voting, except on procedural motions, shall be by roll call and the ayes and nays shall be recorded in the minutes. Three (3) of the council shall constitute a quorum, but a smaller number may adjourn from time to time and may compel the attendance of absent members in the manner and subject to the penalties prescribed by the rules of the council. No action of the council, except as otherwise provided in the preceding sentence and in § 2.06(c), shall be valid or binding unless adopted by the affirmative vote of a majority of quorum.

**Section 2.12. Action Requiring an Ordinance.**

In addition to other acts required by law or by specific provision of this charter to be done by ordinance, those acts of the city council shall be by ordinance which:

- (1) Adopt or amend an administrative code or establish, alter, or abolish any city department, office, or agency;
- (2) Provide for a fine or other penalty or establish a rule or regulation for violation of which a fine or other penalty is imposed;
- (3) Levy taxes;
- (4) Grant, renew, or extend a franchise;
- (5) Regulate the rate charged for its services by a public utility;
- (6) Authorize the borrowing of money;
- (7) Convey or lease or authorize the conveyance or lease of any lands of the city;
- (8) Regulate land use and development;
- (9) Amend or repeal any ordinance previously adopted; or
- (10) Adopt, with or without amendment, ordinances proposed under the initiative power.

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

### **Section 2.13. Ordinances in General.**

**(a) Form.** Every proposed ordinance shall be introduced in writing and in the form required for final adoption. No ordinance shall contain more than one subject, which shall be clearly expressed in its title. The enacting clause shall be "The city of Penitas hereby ordains .. ." Any ordinance which repeals or amends an existing ordinance or part of the city code shall set out in full the ordinance, sections or subsections to be repealed or amended, and shall indicate matters to be omitted by enclosing it in brackets or by strikeout type and shall indicate new matters by underscoring or by italics.

**(b) Procedure.** Any member at any regular or special meeting of the council may introduce an ordinance. Upon introduction of any ordinance, the city secretary shall distribute a copy to each council member and to the city manager, shall file a reasonable number of copies in the office of the city secretary and such other public places as the council may designate, and shall publish the ordinance together with a notice setting out the time and place for a public hearing thereon and for its consideration by the council. The ordinance must have three readings that may be waived by majority vote of the City Council. The public hearing shall follow the publication by at least seven days, may be held separately or in connection with a regular or special council meeting and may be adjourned from time to time; all persons interested shall have an opportunity to be heard. After the hearing, the council may adopt the ordinance with or without amendment or reject it, but if it is amended as to any matter of substance, the council may not adopt it until the ordinance or its amended sections have been subjected to all the procedures herein before required in the case of a newly introduced ordinance. As soon as practicable after adoption, the secretary shall have the ordinance and a notice of its adoption published and available at a reasonable price.

**(c) Effective Date.** Except as otherwise provided in this charter, every adopted ordinance shall become effective immediately after adoption or at any later date specified therein.

**(d) "Publish" Defined.** As used in this section, the term "publish" means to print in the contemporary means of information sharing such amendments or ordinances as provided by state law or as ordered by the city council in compliance with state law, in a newspaper having general circulation in the city, and, if available, in a web site: (1) the ordinance or a brief summary thereof, and (2) the places where copies of it have been filed and the times when they are available for public inspection and purchase at a reasonable price.

### **Section 2.14. Emergency Ordinances.**

To meet a public emergency affecting life, health, property or the public peace, the city council may adopt one or more emergency ordinances, but such ordinances may not levy taxes, grant, renew or extend a franchise, regulate the rate charged by any public utility for its services or authorize the borrowing of money except as provided in § 5.07(b). An emergency ordinance shall be introduced in the form and manner prescribed for ordinances generally, except that it shall be plainly designated as an emergency ordinance and shall contain, after the enacting clause, a declaration stating that an emergency exists and describing it in clear and specific terms. An emergency ordinance may be adopted with or without amendment or rejected at the meeting at which it is

introduced, but the affirmative vote of at least a majority of quorum members shall be required for adoption. After its adoption, the ordinance shall be published and printed as prescribed for other adopted ordinances. It shall become effective upon adoption or at such later time as it may specify.

Every emergency ordinance except one made pursuant to § 5.07(b) shall automatically stand repealed as of the sixty-first day following the date on which it was adopted, but this shall not prevent re-enactment of the ordinance in the manner specified in this section if the emergency still exists. An emergency ordinance may also be repealed by adoption of a repealing ordinance in the same manner specified in this section for adoption of emergency ordinances.

### **Section 2.15. Codes of Technical Regulations.**

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

(1) The requirements of § 2.13 for distribution and filing of copies of the ordinance shall be construed to include copies of the code of technical regulations as well as of the adopting ordinance, and

(2) A copy of each adopted code of technical regulations as well as of the adopting ordinance shall be authenticated and recorded by the city secretary pursuant to § 2.16(a).

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

### **Section 2.16. Authentication and Recording; Codification; Printing of Ordinances and Resolutions.**

**(a) Authentication and Recording.** The city secretary shall authenticate by signing and shall record in full in a properly indexed book kept for the purpose all ordinances and resolutions adopted by the city council.

**(b) Codification.** Within three years after adoption of this charter and at least every ten years thereafter, the city council shall provide for the preparation of a general codification of all city ordinances and resolutions having the force and effect of law. The general codification shall be adopted by the council by ordinance and shall be published, together with this charter and any amendments thereto, pertinent provisions of the constitution and other laws of the state of Texas, and such codes of technical regulations and other rules and regulations as the council may specify. This compilation shall be known and cited officially as the Penitas city code. Copies of the code shall be furnished to city officers, placed in libraries, public offices, and, if available, in a web site for free public reference and made available for purchase by the public at a reasonable price fixed by the council.

**(c) Printing of Ordinances and Resolutions.** The city council shall cause each ordinance and resolution having the force and effect of law and each amendment to this charter to be printed promptly following its adoption, and the printed ordinances, resolutions and charter amendments shall be distributed or sold to the public at reasonable prices as fixed by the council. Following publication of the first Penitas city code and at all times thereafter, the ordinances, resolutions and charter amendments shall be printed in substantially the same style as the code currently in effect and shall be suitable in form for integration therein. The council shall make such further arrangements as it deems desirable with respect to reproduction and distribution of any current changes in or additions to the provisions of the constitution and other laws of the state of Texas, or the codes of technical regulations and other rules and regulations included in the code.

## **Article III CITY MANAGER**

### **Section 3.01. Appointment; Qualifications; Compensation.**

The Mayor shall nominate and city council by a majority vote of its total membership shall appoint a city manager for an indefinite term and fix the manager's compensation. The city manager shall be appointed solely on the basis of education and experience in the accepted competencies and practices of local government management. The manager need not be a resident of the city or state at the time of appointment, but may reside outside the city while in office only with the approval of the council.

### **Section 3.02. Removal.**

If the city manager declines to resign at the request of the city council, the city council may suspend the manager by a resolution approved by the majority of the total membership of the city council. Such resolution shall set forth the reasons for suspension and proposed removal. A copy of such resolution shall be served immediately upon the city manager. The city manager shall have fifteen days in which to reply thereto in writing, and upon request, shall be afforded a public hearing, which shall occur not earlier than ten days nor later than fifteen days after such hearing is requested. After the public hearing, if one is requested, and after full consideration, the city council by a majority vote of its total membership may adopt a final resolution of removal. The city manager shall continue to receive full salary until the effective date of a final resolution of removal.

### **Section 3.03. Acting City Manager.**

By letter filed with the city secretary, the city manager shall designate a city officer or employee to exercise the powers and perform the duties of city manager during the manager's temporary absence or disability; the city council may revoke such designation at any time and appoint another officer of the city to serve until the city manager returns.

### **Section 3.04. Powers and Duties of the City Manager.**

The city manager shall be the chief executive officer of the city, responsible to the council for the management of all city affairs placed in the manager's charge by or under this charter. The city manager shall:

- (1) Appoint and suspend or remove all city employees, including municipal court clerk, and appointive administrative officers provided for by or under this charter, except as otherwise provided by law, this charter or personnel rules adopted pursuant to this charter. The city manager may authorize any administrative officer subject to the manager's direction and supervision to exercise these powers with respect to subordinates in that officer's department, office or agency;
- (2) Direct and supervise the administration of all departments, offices and agencies of the city, except as otherwise provided by this charter or by law;
- (3) Attend all city council meetings. The city manager shall have the right to take part in discussion but shall not vote;

- (4) See that all laws, provisions of this charter and acts of the city council, subject to enforcement by the city manager or by officers subject to the manager's direction and supervision, are faithfully executed;
- (5) Prepare and submit the annual budget and capital program to the city council, and implement the final budget approved by council to achieve the goals of the city;
- (6) Submit to the city council and make available to the public a complete report on the finances and administrative activities of the city as of the end of each fiscal year;
- (7) Make such other reports as the city council may require concerning operations;
- (8) Keep the city council fully advised as to the financial condition and future needs of the city;
- (9) Make recommendations to the city council concerning the affairs of the city and facilitate the work of the city council in developing policy;
- (10) Provide staff support services for the mayor and council members;
- (11) Assist the council to develop long term goals for the city and strategies to implement these goals;
- (12) Encourage and provide staff support for regional and intergovernmental cooperation;
- (13) Promote partnerships among council, staff, and citizens in developing public policy and building a sense of community; and
- (14) Perform such other duties as are specified in this charter or may be required by the city council.

#### **Article IV**

#### **DEPARTMENTS, OFFICES, AND AGENCIES**

##### **Section 4.01. General Provisions.**

**(a) Creation of Departments.** The city council may establish city departments, offices, or agencies in addition to those created by this charter and may prescribe the functions of all departments, offices, and agencies. No function assigned by this charter to a particular department, office, or agency may be discontinued or, unless this charter specifically so provides, assigned to any other.

**(b) Direction by City Manager.** All departments, offices, and agencies under the direction and supervision of the city manager shall be administered by an officer appointed by and subject to the direction and supervision of the manager. With the consent of council, the city manager may serve as the head of one or more such departments, offices, or agencies or may appoint one person as the head of two or more of them.

##### **Section 4.02. Personnel System.**

**(a) Merit Principle.** All appointments and promotions of city officers and employees shall be made solely on the basis of merit and fitness demonstrated by a valid and reliable examination or other evidence of competence.

**(b) Merit System.** Consistent with all applicable federal and state laws the city council shall provide by ordinance for the establishment, regulation, and maintenance of a merit system governing personnel policies necessary to effective administration of the employees of the city's departments, offices and agencies, including but not limited to classification and pay plans, examinations, force reduction, removals, working conditions, provisional and exempt appointments, in-service training, grievances and relationships with employee organizations.

### **Section 4.03. City Attorney.**

#### **(a) Appointment.**

There shall be a city attorney appointed by the mayor subject to confirmation by the city council. The city attorney shall serve at the pleasure of the city council.

**(b) Role.** The city attorney shall serve as chief legal adviser to the council, the manager and all city departments, offices and agencies, shall represent the city in all legal proceedings and shall perform any other duties prescribed by state law, by this charter or by ordinance.

### **Section 4.04. Land Use, Development, and Environmental Planning.**

Consistent with all applicable federal and state laws with respect to land use, development, and environmental planning, the city council shall:

- (1) Designate an agency or agencies to carry out the planning function and such decision-making responsibilities as may be specified by ordinance;
- (2) Adopt a comprehensive plan and determine to what extent zoning and other land use control ordinances must be consistent with the plan;
- (3) Determine to what extent the comprehensive plan and zoning and other land use ordinances must be consistent with regional plan(s); and
- (4) Adopt development regulations, to be specified by ordinance, to implement the plan. The designated agency, the city manager, and the mayor and council shall seek to act in cooperation with other jurisdictions and organizations in their region to promote integrated approaches to regional issues.

### **Section 4.05. Municipal Judge.**

#### **(a) Appointment.**

There shall be a municipal judge and may be an associate municipal judge of the city appointed by the mayor subject to confirmation by the city council. The municipal judge and the associate judge shall serve at the pleasure of the city council.

**(b) Role.** The presiding municipal judge shall serve as chief officer of the municipal court.

## **Article V**

### **FINANCIAL MANAGEMENT**

#### **Section 5.01. Fiscal Year.**

The fiscal year of the city shall begin on the first day of October and end on the last day of September.

#### **Section 5.02. Submission of Budget and Budget Message.**

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

#### **Section 5.03. Budget Message.**

The city manager's message shall explain the budget both in fiscal terms and in terms of the work programs, linking those programs to organizational goals and community priorities. It shall outline the proposed financial policies of the city for the ensuing fiscal year and the impact of those policies on future years. It shall describe the important features of the budget, indicate any major changes from the current year in financial

policies, expenditures, and revenues together with the reasons for such changes, summarize the city's debt position, including factors affecting the ability to raise resources through debt issues, and include such other material as the city manager deems desirable.

#### **Section 5.04. Budget.**

The budget shall provide a complete financial plan of all city funds and activities for the ensuing fiscal year and, except as required by law or this charter, shall be in such form as the city manager deems desirable or the city council may require for effective management and an understanding of the relationship between the budget and the city's strategic goals. The budget shall begin with a clear general summary of its contents and shall show in detail all estimated income, indicating the proposed property tax levy, and all proposed expenditures, including debt service, for the ensuing fiscal year; and shall be so arranged as to show comparative figures for actual and estimated income and expenditures of the current fiscal year and actual income and expenditures of the preceding fiscal year and include any other items required by state law to be included in the budget. It shall indicate in separate sections:

- (1) Estimated revenues for operations during ensuing fiscal year detailed by source;
- (2) The proposed goals and expenditures for current operations during the ensuing fiscal year, detailed for each fund by department or by other organization unit, and program, purpose or activity, method of financing such expenditures, and methods to measure outcomes and performance related to the goals;
- (3) Proposed longer-term goals and capital expenditures during the ensuing fiscal year, detailed for each fund by department or by other organization unit when practical, the proposed method of financing each such capital expenditure, and methods to measure outcomes and performance related to the goals; and
- (4) The proposed goals, anticipated income and expense, profit and loss for the ensuing year for each utility or other enterprise fund or internal service fund operated by the city, and methods to measure outcomes and performance related to the goals. Subsidiary budgets for each enterprise, giving detailed income and expenditures information, shall be established as appendices to the budget. For any fund, the total of proposed expenditures shall not exceed the total of estimated income plus any accumulated surplus.

#### **Section 5.05. City Council Action on Budget.**

**(a) Notice and Hearing.** The city council shall publish in one or more newspapers of general circulation the general summary of the budget and a notice stating:

- (1) The times and places where copies of the message and budget are available for inspection by the public, and
- (2) The time and place for a public hearing on the budget.

**(b) Amendment Before Adoption.** After the public hearing, the city council may adopt the budget with or without amendments. In amending the budget, it may add or increase programs or amounts and may delete or decrease any programs or amounts, except expenditures required by law or for debt service provided that no amendment to the budget shall increase the authorized expenditures to an amount greater than the total of estimated income plus any accumulated surplus.

**(c) Adoption.** The city council shall adopt the budget on or before the 15th day of the 12th month of the fiscal year currently ending. If it fails to adopt the budget by this date, the amounts appropriated for current operation for the current fiscal year shall be deemed adopted for the ensuing fiscal year budget on a month-to-month basis, with all

items prorated accordingly until such time as the City Council adopts a budget for the ensuing fiscal year. Adoption of the budget shall constitute appropriation of the amounts specified therein as expenditures from the funds indicated and shall constitute a levy of the property tax therein proposed, provided that in no event shall such levy exceed the legal limit provided by the laws and the Constitution of the State of Texas.

**(d) "Publish" defined.** As used in this article, the term "publish" means to print in the contemporary means of information sharing, a newspaper having general circulation in the city, and, if available, in a web site. The budget will be published and the budget development process shall comply with all requirements of state law and the Constitution of the State of Texas.

#### **Section 5.06. Appropriation and Revenue Ordinances.**

To implement the adopted budget, the city council shall adopt in compliance with all requirements of state law and the Constitution of the State of Texas, and prior to the beginning of the fiscal year:

- (a) an appropriation ordinance making appropriations by department, fund, service, strategy or other organizational unit and authorizing an allocation for each program or activity;
- (b) a tax levy ordinance authorizing the property tax levy or levies and setting the tax rate or rates; and
- (c) any other ordinances required to authorize new revenues or to amend the rates or other features of existing taxes or other revenue sources.

#### **Section 5.07. Amendments after Adoption.**

**(a) Supplemental Appropriations.** If during the fiscal year the city manager certifies that there are revenues available for appropriation in excess of those estimated in the budget, the City Council by ordinance may make supplemental appropriations for the year up to the amount of the excess.

**(b) Emergency Appropriations.** To address a public emergency affecting life, health, property or the public peace, and in compliance with state law and the Constitution of the State of Texas, the city council may make emergency appropriations. Such appropriations may be made by emergency ordinance in accordance with the provisions of § 2.14. To the extent that there are no available unappropriated revenues or a sufficient fund balance to meet such appropriations, the council may by such emergency ordinance authorize the issuance of emergency notes, which may be renewed from time to time, but the emergency notes and renewals of any fiscal year shall be paid not later than the last day of the current fiscal year.

**(c) Reduction of Appropriations.** If at any time during the fiscal year it appears probable to the city manager that the revenues or fund balances available will be insufficient to finance the expenditures for which appropriations have been authorized, the manager shall report to the city council without delay, indicating the estimated amount of the deficit, any remedial action taken by the manager and recommendations as to any other steps to be taken. The council shall then take such further action as it deems necessary to prevent or reduce any deficit and for that purpose it may by ordinance reduce or eliminate one or more appropriations.

**(d) Transfer of Appropriations.** At any time during or before the fiscal year, the city council may by resolution transfer part or all of the unencumbered appropriation balance from one department, fund, service, strategy or organizational unit to the appropriation for other departments or organizational units or a new appropriation. The manager may

transfer funds among programs within a department, fund, service, strategy or organizational unit and shall report such transfers to the council in writing in a timely manner.

(e) Limitation; Effective Date. No appropriation for debt service may be reduced or transferred, and no appropriation may be reduced below any amount required by law to be appropriated or by more than the amount of the unencumbered balance thereof. The supplemental and emergency appropriations and reduction or transfer of appropriations authorized by this section may be made effective immediately upon adoption.

#### Section 5.08. Administration and Fiduciary Oversight of the Budget.

The city council shall provide by ordinance the procedures for administration and fiduciary oversight of the budget.

#### Section 5.09. Capital Program.

(a) Submission to City Council. The city manager shall prepare and submit to the city council a multi-year capital program no later than three months before the final date for submission of the budget.

(b) Contents. The capital program shall include:

- (1) A clear general summary of its contents;
- (2) Identification of the long-term goals of the community;
- (3) A list of all capital improvements and other capital expenditures which are proposed to be undertaken during the five (5) fiscal years next ensuing, with appropriate supporting information as to the necessity for each;
- (4) Cost estimates and recommended time schedules for each improvement or other capital expenditure;
- (5) Method of financing upon which each capital expenditure is to be reliant;
- (6) The estimated annual cost of operating and maintaining the facilities to be constructed or acquired;
- (7) A commentary on how the plan addresses the sustainability of the community and the region of which it is a part; and
- (8) Methods to measure outcomes and performance of the capital plan related to the long-term goals of the community. The above shall be revised and extended each year with regard to capital improvements still pending or in process of construction or acquisition.

#### Section 5.10. City Council Action on Capital Program.

(a) Notice and Hearing. The city council shall publish the general summary of the capital program and a notice stating:

- (1) The times and places where copies of the capital program are available for inspection by the public, and
- (2) The time and place, not less than two weeks after such publication, for a public hearing(s) on the capital program.

(b) Adoption. The city council by resolution shall adopt the capital program with or

without amendment after the public hearing and on or before the 27th day of the 12th month of the current fiscal year.

#### Section 5.11 Independent Audit.

The city council shall provide for an independent annual audit of all city accounts and may provide for more frequent audits as it deems necessary. An independent certified public accountant or firm of such accountants shall make such audits. Such audits

should be performed in accordance with Generally Accepted Auditing Standards (GAAS) and Generally Accepted Governmental Auditing Standards (GAGAS).

The Council shall designate no fewer than three of its members to serve as an Audit Committee. This Committee shall:

- (1) Lead the process of selecting an independent auditor;
- (2) Direct the work of the independent auditor as to the scope of the annual audit and any matters of concern with respect to internal controls; and
- (3) Receive the report of the internal auditor and present that report to the council with any recommendations from the Committee.

The council shall, using competitive bidding, designate such accountant or firm annually, or for a period not exceeding five years, but the designation for any particular fiscal year shall be made no later than 30 days after the beginning of such fiscal year. The standard for independence is that the auditor must be capable of exercising objective and impartial judgment on all issues encompassed within the audit engagement. No accountant or firm may provide any other services to the city during the time it is retained to provide independent audits to the city. The city council may waive this requirement by a majority vote at a public hearing. If the state makes such an audit, the council may accept it as satisfying the requirements of this section.

#### **Section 5.12 Public Records.**

Copies of the budget, capital program, independent audits, and appropriation and revenue ordinances shall be public records available to the public at suitable places in the City.

#### **Section 5.13 Purchase Procedures**

(a) No payment shall be made or obligation incurred against any allotment or appropriation except in accordance with appropriation duly made, unless the City Manager, or the City Manager's designee first certifies that there is a sufficient unencumbered balance in such allotment or appropriation and that sufficient funds are available or will be available to cover the claim or meet the obligation when it becomes due and payable.

(b) Any authorization of payment or incurring of obligation in violation of the provisions of this Charter shall be void and any payment so made shall be illegal. Such action shall be cause for removal of any elected or appointed officer who knowingly authorized or made such payment or incurred such obligation and he or she shall also be liable to the City for any amount so paid.

(c) All purchases made and contracts executed by the City shall be in accordance with the requirements of the Constitution and laws of the State of Texas.

#### **Section 5.14 Accounting and Reporting Procedures**

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

#### Section 5.15 Authority to Issue Bonds

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

#### Section 5.16 Authority to Levy Taxes

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

#### Section 5.17 Collection of Taxes

(a) The City Manager may, subject to approval by a majority of the full City Council, appoint an individual or entity as City Tax Assessor-Collector to collect taxes. The City Tax Assessor-Collector shall obtain a fidelity bond. The amount of such bond shall be set by the City Council, but shall not be less than the amount of tax collections under his or her control at any one time.

(b) All taxes due the City shall be payable at the office of the designated City Tax Assessor-Collector.

(c) Due date of the taxes to be paid without penalty and the penalty and interest charged for late payment shall be in accordance with the Texas Property Tax Code and any other applicable laws of the State of Texas.

### Article VI ELECTIONS

#### Section 6.01. City Elections.

(a) Regular Elections. The regular city election shall be held at the time established by state law on the Uniform Election Date, in May of 2013, and every 2 years thereafter.

(b) Registered Voter Defined. All citizens legally registered under the constitution and laws of the state of Texas to vote in the city shall be registered voters of the city within the meaning of this charter.

(c) Conduct of Elections. The provisions of the general election laws of the state of Texas shall apply to elections held under this charter. All elections provided for by the charter shall be conducted by the election authorities established by law. Candidates shall run for office without party designation. For the conduct of city elections, for the prevention of fraud in such elections and for the recount of ballots in cases of doubt or fraud, the city council shall adopt ordinances consistent with law and this charter, and the election authorities may adopt further regulations consistent with law and this charter and the ordinances of the council. Such ordinances and regulations pertaining to elections shall be publicized in the manner of city ordinances generally.

(d) Election by Majority Vote. The council shall be elected by a majority vote.

(e) Beginning of term. The terms of council members shall begin the 5th day after their election.

### **Section 6.02. Council Districts; Adjustment of District(s)**

**(a) Number of District(s).** There shall be one (1) city council district until modified thereof by election.

**(b) Council to Redistrict.** Following each decennial census, the city council may by election adjust the boundaries of the city council districts using the criteria set forth in § 6.02.

**(c) Procedures.**

(1) The city council shall hold one or more public hearings prior to bringing any proposed plan to a vote. Proposed plans must be available to the public for inspection and comment not less than one month before the first public hearing on said plan. The plan shall include a map and description of the districts recommended.

(2) The city council shall approve a districting plan no later than 10 months (300 days) prior to the first regular city election following the decennial census.

**(d) Failure to Enact Ordinance.** If the city council fails to enact a redistricting plan within the required time, the city attorney shall, the following business day, inform the Court of proper jurisdiction, Hidalgo County, and ask that a special master be appointed to do the redistricting. The special master shall, within sixty days, provide the Court with a plan drawn in accordance with the criteria set forth in § 6.02. That plan shall have the force of law unless the court finds it does not comply with said criteria. The court shall cause an approved plan to go into effect no later than 210 days prior to the first regular city election after the decennial census. The city shall be liable for all reasonable costs incurred by the special master in preparing the plan for the court.

### **Section 6.03. Methods of Electing Council Members.**

#### **Council Elected At Large by Place; Mayor Elected Separately**

All elected city council members currently on the city council shall complete their terms. For a period of one year until the May 2013 election, the City Council shall be comprised of six (6) members. At the first regular election to be held in May 2013 under this charter two (2) city council members that have completed their terms in May 2013 shall be elected by majority vote for four years terms to at large by place positions to be designated as City Council Place 1 and City Council Place 3. City Council Place 2 and City Council Place 4 shall be elected at the regular election in 2015 as shall the Mayor. Commencing at the next regular election in May 2015 and at all subsequent elections, all council members shall be elected by majority vote for four-year terms as per Sections 2.03 and 2.04. City council members shall be designated as city council members by place.

### **Section 6.04. Initiative, Citizen Referendum, and Recall.**

**(a) Provisions Provided by State Law.** The powers of initiative, citizen referendum, and recall are hereby reserved to the electors of the city.

#### **General Authority for Initiative, Citizen Referendum, and Recall.**

**(1) Initiative.** The registered voters of the city shall have power to propose ordinances to the council and, if the council fails to adopt an ordinance so proposed without any change in substance, to adopt or reject it at a city election, but such power shall not

extend to the budget or capital program or any ordinance relating to appropriation of money, levy of taxes or salaries of city officers or employees.

**(2) Citizen Referendum.** The registered voters of the city shall have power to require reconsideration by the council of any adopted ordinance and, if the council fails to repeal an ordinance so reconsidered, to approve or reject it at a city election, but such power shall not extend to the budget or capital program or any emergency ordinance or ordinance relating to appropriation of money or levy of taxes.

**(3) Recall.** The registered voters of the city shall have power to recall elected officials of the city, but no recall petition shall be filed against any official within six months after the official takes office, nor, in case of a member subjected to a recall election and not removed.

**(b) Commencement of Proceeding; Affidavit.** Any ten (10) registered voters may commence initiative, citizen referendum, or recall proceedings by filing with the city secretary an affidavit setting out in full the proposed initiative ordinance, citing the ordinance sought to be reconsidered, or stating the name and title of the officer sought to be recalled accompanied by a statement, not to exceed 200 words, of the reasons for the recall. Grounds for recall should relate to and affect the administration of the official's office, and be of a substantial nature directly affecting the rights and interests of the public. Promptly after receipt of a recall petition, the secretary shall serve, personally or by certified mail, a copy of the affidavit on the elected officer sought to be recalled. Within 10 days of service of the affidavit, the elected officer sought to be recalled may file a statement with the city secretary, not to exceed 200 words, in response. Promptly after the affidavit of the petitioners' committee is filed, and the response, if any, of the elected official sought to be recalled is filed, the secretary shall issue the appropriate petition blanks to the petitioners' committee.

**(c) Petitions.**

**(1) Number of Signatures.** Initiative and citizen referendum petitions must be signed by registered voters of the city equal in number to at least 10 percent of the total number of registered voters to vote at the last regular election. Recall petitions must be signed by registered voters of the city equal in number to at least 20 percent of the total number of registered voters to vote at the last regular election.

**(2) Form and Content.** All papers of a petition shall be uniform in size and style and shall be assembled as one instrument for filing. Each signature shall be executed in ink or indelible pencil and shall be followed by the address of the person signing. Initiative and citizen referendum petitions shall contain or have attached thereto throughout their circulation the full text of the ordinance proposed or sought to be reconsidered. Recall petitions shall contain the name and title of the official sought to be recalled, the statement of grounds for the recall, and the response of the official sought to be recalled, if any. If no response was filed, the petition shall so state.

**(3) Affidavit of Circulator.** Each paper of a petition shall have attached to it when filed an affidavit executed by the person circulating it stating that he or she personally circulated the paper, the number of signatures thereon, that all the signatures were affixed in his or her presence, that he or she believes them to be the genuine signatures of the persons whose names they purport to be and that each signer had an opportunity

before signing to read the full text of the ordinance proposed or sought to be reconsidered.

**(4) Time for Filing Referendum and Recall Petitions.** Referendum petitions must be filed within 30 days after adoption by the council of the ordinance sought to be reconsidered. Recall petitions must be filed within 160 days of the filing of the petitioners' affidavit initiating the recall procedure.

**(d) Procedure after Filing.**

**(1) Certificate of Secretary; Amendment.** Within twenty days after the petition is filed, the city secretary shall complete a certificate as to its sufficiency, specifying, if it is insufficient, the particulars wherein it is defective and shall promptly send a copy of the certificate to the petitioners' committee by registered mail. A petition certified insufficient for lack of the required number of valid signatures may be amended once if the petitioners' committee files a notice of intention to amend it with the secretary within two days after receiving the copy of his or her certificate and files a supplementary petition upon additional papers within ten days after receiving the copy of such certificate. Such supplementary petition shall comply with the requirements of paragraphs (2) and (3) of § 6.04(c), and within five days after it is filed the secretary shall complete a certificate as to the sufficiency of the petition as amended and promptly send a copy of such certificate to the petitioners' committee by registered mail as in the case of an original petition. If a petition or amended petition is certified sufficient, or if a petition or amended petition is certified insufficient and the petitioners' committee does not elect to amend or request council review under paragraph (2) of this subsection within the time required, the secretary shall promptly present his or her certificate to the council and the certificate shall then be a final determination as to the sufficiency of the petition.

**(2) Council Review.** If a petition has been certified insufficient and the petitioners' committee does not file notice of intention to amend it or if an amended petition has been certified insufficient, the committee may, within two days after receiving the copy of such certificate, file a request that it be reviewed by the council. The council shall review the certificate at its next meeting following the filing of such request and approve or disapprove it, and the council's determination shall then be a final determination as to the sufficiency of the petition. A council member who is the subject of a recall petition shall not be eligible to act in the determination of sufficiency or insufficiency of the petition.

**(3) Court Review; New Petition.** A final determination as to the sufficiency of a petition shall be subject to court review. A final determination of insufficiency, even if sustained upon court review, shall not prejudice the filing of a new petition for the same purpose.

**(e) Referendum Petitions; Suspension of Effect of Ordinance.** When a referendum petition is filed with the city secretary, the ordinance sought to be reconsidered shall be suspended from taking effect. Such suspension shall terminate when:

- (i) There is a final determination of insufficiency of the petition, or
- (ii) The petitioners' committee withdraws the petition, or
- (iii) The council repeals the ordinance, or
- (iv) Thirty days have elapsed after a vote of the city on the ordinance.

**(f) Action on Petitions.**

**(1) Action by Council.** When an initiative or referendum petition has been finally determined sufficient, the council shall promptly consider the proposed initiative

ordinance in the manner provided in Article II or reconsider the referred ordinance by voting its repeal. If the council fails to adopt a proposed initiative ordinance without any change in substance within sixty days or fails to repeal the referred ordinance within thirty days after the date the petition was finally determined sufficient, it shall submit the proposed or referred ordinance to the voters of the city. The council shall promptly order a recall election to occur within 90 days of the date the recall petition was finally determined sufficient.

**(2) Submission to Voters of Proposed or Referred Ordinances.** The vote of the city on a proposed or referred ordinance shall be held not less than 30 days and not later than one year from the date of the final council vote thereon. If no regular city election is to be held within the period prescribed in this subsection, the council shall provide for a special election; otherwise, the vote shall be held at the same time as such regular election, except that the council may in its discretion provide for a special election at an earlier date within the prescribed period. Copies of the proposed or referred ordinance shall be made available at the polls.

**(3) Withdrawal of Petitions.** An initiative, referendum, or recall petition may be

withdrawn at any time prior to the fifteenth day preceding the day scheduled for a vote of the city by filing with the city secretary a request for withdrawal signed by at least two-thirds of the petitioners' committee. Upon the filing of such request the petition shall have no further force or effect and all proceedings thereon shall be terminated.

**(g) Results of Election.**

**(1) Initiative.** If a majority of the registered voters voting on a proposed initiative ordinance vote in its favor, it shall be considered adopted upon certification of the election results and shall be treated in all respects in the same manner as ordinances of the same kind adopted by the council. If conflicting ordinances are approved at the same election, the one receiving the greatest number of affirmative votes shall prevail to the extent of such conflict.

**(2) Referendum.** If a majority of the registered voters voting on a referred ordinance vote against it, it shall be considered repealed upon certification of the election results.

**(3) Recall.** Ballots used at recall elections shall read: "Shall [name] be recalled (removed) from the office of \_\_\_\_\_?" The vacancy shall be filled in accordance with § 2.06 (c).

## **Article VII**

### **GENERAL PROVISIONS**

#### **Section 7.01. Conflicts of Interest;**

**Conflicts of Interest.** The use of public office for private gain is prohibited. The city council shall implement this prohibition by ordinance, the terms of which shall include, but not be limited to: acting in an official capacity on matters in which the official has a private financial interest clearly separate from that of the general public; the acceptance of gifts and other things of value; acting in a private capacity on matters dealt with as a public official; the use of confidential information; and appearances by city officials before other city agencies on behalf of private interests. This ordinance shall include a statement of purpose and shall provide for reasonable public disclosure of finances by officials with major decision-making authority over monetary expenditures and

contractual and regulatory matters and, insofar as permissible under state law, shall provide for fines and imprisonment for violations.

### **Section 7.02. Prohibitions.**

#### **(a) Activities Prohibited.**

(1) No person shall be appointed to or removed from, or in any way favored or discriminated against with respect to any city position or appointive city administrative office because of race, gender, age, sexual orientation, disability, religion, country of origin, or political affiliation.

(2) No person shall willfully make any false statement, certificate, mark, rating or report in regard to any test, certification or appointment under the provisions of this charter or the rules and regulations made there under, or in any manner commit or attempt to commit any fraud preventing the impartial execution of such provisions, rules and regulations.

(3) No person who seeks appointment or promotion with respect to any city position or appointive city administrative office shall directly or indirectly give, render or pay any money, service or other valuable thing to any person for or in connection with his or her test, appointment, proposed appointment, promotion or proposed promotion.

(4) No person shall knowingly or willfully solicit or assist in soliciting any assessment, subscription or contribution for any political party or political purpose to be used in conjunction with any city election from any city officer or city employee.

(5) No city officer or city employee shall knowingly or willfully make, solicit or receive any contribution to the campaign funds of any political party or committee to be used in a city election or to campaign funds to be used in support of or opposition to any candidate for election to city office or city ballot issue. Further, no city employee shall knowingly or willfully participate in any aspect of any political campaign on behalf of or opposition to any candidate for city office. This section shall not be construed to limit any person's right to exercise rights as a citizen to express opinions or to cast a vote nor shall it be construed to prohibit any person from active participation in political campaigns at any other level of government.

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

### **Section 7.03. Campaign Finance.**

**(a) Disclosure.** The city council shall enact ordinances to protect the ability of city residents to be informed of the financing used in support of, or against, campaigns for locally elected office. The terms of such ordinances shall include, but not be limited to, requirements upon candidates and candidate committees to report in a timely manner to the appropriate city office: contributions received, including the name, address,

employer, and occupation of each contributor who has contributed \$100 or more; expenditures made; and obligations entered into by such candidate or candidate committee. In so far as is permissible under state law, such regulations shall also provide for fines and imprisonment for violations. The ordinance shall provide for convenient public disclosure of such information by the most appropriate means available to the city.

(b) Contribution and Spending Limitations. In order to combat the potential for, and appearance of, corruption, and to preserve the ability of all qualified citizens to run for public office, the city shall, in so far as is permitted by state and federal law, have the authority to enact ordinances designed to limit contributions and expenditures by, or on behalf of, candidates for locally elected office. Ordinances pursuant to this section may include, but are not limited to: limitations on candidate and candidate committees that affect the amount, time, place, and source of financial and in-kind contributions; and, voluntary limitations on candidate and candidate committee expenditures tied to financial or non-financial incentives.

## **Article VIII CHARTER AMENDMENT**

### **Section 8.01. Proposal of Amendment.**

Amendments to this charter may be framed and proposed:

- (a) In the manner provided by law, or
- (b) By ordinance of the council containing the full text of the proposed amendment and effective upon adoption, or
- (c) By report of a charter commission created by ordinance, or
- (d) By the voters of the city.

Proposal of an amendment by the voters of the city shall be by petition containing the full text of the proposed amendment and shall be governed by the same procedures and requirements prescribed in Article VI for initiative petitions until such time as a final determination as to the sufficiency of the petition is made, except that there shall be no limitation as to subject matter and that the petition must be signed by registered voters of the city equal in number to at least 10 percent of the total number of those registered to vote at the last regular city election. The petitioners' committee may withdraw the petition at any time before the fifteenth day immediately preceding the day scheduled for the city vote on the amendment.

### **Section 8.02. Election.**

Upon delivery to the city election authorities of the report of a charter commission or delivery by the city secretary of an adopted ordinance or a petition finally determined sufficient, proposing an amendment pursuant to § 8.01, the election authorities shall submit the proposed amendment to the voters of the city at an election. Such election shall be announced by a notice containing the complete text of the proposed amendment and published in one or more newspapers of general circulation in the city

at least thirty days prior to the date of the election. The election shall be held not less than 90 and not more than 120 days after the adoption of the ordinance or report or the final determination of sufficiency of the petition proposing the amendment. If no regular election is to be held within that period, the council shall provide for a special election on the proposed amendment; otherwise, the holding of a special election shall be as specified in state law.

### Section 8.03. Adoption of Amendment.

If a majority of those voting upon a proposed charter amendment vote in favor of it, the amendment shall become effective at the time fixed in the amendment or, if no time is therein fixed, 30 days after its adoption by the voters.

## Article IX

### TRANSITION AND SEVERABILITY

#### Section 9.01. Officers and Employees.

(a) Rights and Privileges Preserved. Nothing in this charter except as otherwise specifically provided shall affect or impair the rights or privileges of persons who are city officers or employees at the time of its adoption.

(b) Continuance of Office or Employment. Except as specifically provided by this charter, if at the time this charter takes full effect, a city administrative officer or employee holds any office or position which is or can be abolished by or under this charter, he or she shall continue in such office or position until the taking effect of some specific provision under this charter directing that he or she vacate the office or position.

(c) Personnel System. An employee holding a city position at the time this charter takes full effect, who was serving in that same or a comparable position at the time of its adoption, shall not be subject to competitive tests as a condition of continuance in the same position but in all other respects shall be subject to the personnel system provided for in § 4.02.

#### Section 9.02. Departments, Offices, and Agencies.

(a) Transfer of Powers. If a city department, office or agency is abolished by this charter, the powers and duties given it by law shall be transferred to the city department, office or agency designated in this charter or, if the charter makes no provision, designated by the city council.

(b) Property and Records. All property, records and equipment of any department, office or agency existing when this charter is adopted shall be transferred to the department, office or agency assuming its powers and duties, but, in the event that the powers or duties are to be discontinued or divided between units or in the event that any conflict arises regarding a transfer, such property, records or equipment shall be transferred to one or more departments, offices or agencies designated by the city council in accordance with this charter.

#### Section 9.03. Pending Matters.

All rights, claims, actions, orders, contracts, and legal administrative proceedings shall continue except as modified pursuant to the provisions of this charter and in each case shall be maintained, carried on or dealt with by the city department, office or agency appropriate under this charter.

#### Section 9.04. State and Municipal Laws.

In General. All city ordinances, resolutions, orders and regulations which are in force when this charter becomes fully effective are repealed to the extent that they are inconsistent or interfere with the effective operation of this charter or of ordinances or resolutions adopted pursuant thereto. To the extent that the constitution and laws of the state of Texas permit, all laws relating to or affecting this city or its agencies, officers or employees which are in force when this charter becomes fully effective are superseded to the extent that they are inconsistent or interfere with the effective operation of this charter or of ordinances or resolutions adopted pursuant thereto.

#### Section 9.05. Schedule.

(a) First Election. At the time of its adoption, this charter shall be in effect to the extent necessary in order that the first election of members of the city council may be conducted in accordance with the provisions of this charter. The first election shall be held on the May of 2013. The city officials to be designated shall prepare and adopt temporary regulations that are applicable only to the first election and designed to insure its proper conduct and to prevent fraud and provide for a recount of ballots in cases of doubt or fraud.

(b) Time of Taking Full Effect. The charter shall become effective immediately upon a majority vote of the citizens of the City of Penitas approving the charter but shall be in full effect for all purposes on and after the date and time of the first meeting of the newly elected city council provided in §9.05(c).

(c) First Council Meeting. On the first Wednesday of the month following the charter election, the members of the council shall meet at 6:00 pm at city council meeting chambers for the purpose of adopting ordinances and resolutions necessary to effect the transition of government under this charter and to maintain effective city government during that transition.

(d) Temporary Ordinances. In adopting ordinances as provided in § 9.05(c), the city council shall follow the procedures prescribed in § 2.12, except that at its first meeting or any meeting held within sixty days thereafter, the council may adopt temporary ordinances to deal with cases in which there is an urgent need for prompt action in connection with the transition of government and in which the delay incident to the appropriate ordinance procedure would probably cause serious hardship or impairment of effective city government. Every temporary ordinance shall be plainly labeled as such but shall be introduced in the form and manner prescribed for ordinances generally. A temporary ordinance may be considered and may be adopted with or without amendment or rejected at the meeting at which it is introduced. After adoption of a temporary ordinance, the council shall cause it to be printed and published as prescribed for other adopted ordinances. A temporary ordinance shall become effective upon adoption or at such later time preceding automatic repeal under this subsection as it may specify, and the referendum power shall not extend to any such ordinance. Every temporary ordinance, including any amendments made thereto after adoption, shall automatically stand repealed as of the ninety-first day following the date on which it was adopted, renewed, or otherwise continued except by adoption in the manner prescribed in § 2.12 for ordinances of the kind concerned.

#### **Section 9.06. Severability.**

If any provision of this charter is held invalid, the other provisions of the charter shall not be affected. If the application of the charter or any of its provisions to any person or circumstance is held invalid, the application of the charter and its provisions to other persons or circumstances shall not be affected.





