HOME RULE

CHARTER

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HOME RULE CHARTER*

PREAMBLE

We, the citizens of Palacios, Texas, in order to establish a home rule municipal government, provide for the welfare and progress of our city, and obtain more fully the benefits of local self-government, do hereby adopt this HOME RULE CHARTER.

ARTICLE I
INCORPORATION AND FORM OF GOVERNMENT

Section 1.01 Incorporation

The inhabitants of the City of Palacios, in Matagorda County, Texas, within the corporate limits as now established, or hereafter defined in the manner prescribed by this Charter, are and shall continue to be a municipal body politic and corporate in perpetuity under the name of the "City of Palacios, Texas," herein referred to as "City."

Section 1.02 Form of Government

The municipal government provided by this Charter shall be known as a "Council-Manager" government. Pursuant to its provisions and subject only to the limitations imposed by the State Constitution, by the statutory laws of Texas and by this Charter, all powers of the City shall be vested in an elective council, hereinafter referred to as the "City Council," which shall enact local legislation, adopt budgets and determine policies. The City Council shall also appoint the City Manager, who shall execute the laws and administer the government of the City.

State law reference–Form of government, V.T.C.A., Local Government Code, sec. 26.021.

Section 1.03 Boundaries

The boundaries of the City at the time of adoption of this Charter are hereby established and described as the boundaries of the City that have previously been legally established. These boundaries may be changed through annexation or disannexation, as provided in Article II of this Charter.

State law reference–Municipal boundaries and annexation, V.T.C.A., Local Government Code, ch. 41 et seq.

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* **Editor's note**–Printed herein is the Home Rule Charter of the City of Palacios, Texas, which was approved by the voters at an election held on November 2, 2004, and which was adopted by the city council following a canvas of the votes on November 15, 2004. Apart from minor nonsubstantive changes in style and formatting, the Charter is reproduced as adopted. Capitalization, punctuation and grammar have been retained. Obviously misspelled words have been corrected without notation. Material enclosed in brackets has been added for clarification. Amendments to the Charter are indicated by a history note following the amended provision. The absence of a history note indicates the material is unchanged from the original Charter.
State constitution reference–Adoption or amendment of charter, Texas Constitution, art. 11, sec. 5.
State law reference–Adoption or amendment of charter, V.T.C.A., Local Government Code, sec. 9.001 et seq.

ARTICLE II
POWERS OF THE CITY

Section 2.01 General Powers of the City

The City shall possess and exercise all powers of local self-government granted to municipal corporations by the Constitution and laws of the State of Texas, together with all the implied powers necessary to execute all such powers granted. The City may use a corporate seal; may sue and be sued; may contract and be contracted with; may acquire property within or without its boundaries for any municipal purpose in fee simple or in any lesser interest or estate by purchase, gift, devise, lease, or condemnation and, subject to the provisions of this Charter, may sell, lease, mortgage, hold, manage, improve, and control such property as may now or hereafter be owned by it, or which it may hereafter acquire, and shall have the right to lease or let its property, whether inside or outside of the City boundaries; may borrow money on the faith and credit of the City by issuance and sale of bonds or other evidence of indebtedness; may borrow money on the revenue of municipally-owned utilities or other municipal enterprises by the issuance of bonds and notes or other evidences of indebtedness secured by such revenues; may assess, levy, and collect taxes for general and special purposes and all lawful subjects of taxation; may construct, own, lease, operate, and regulate public utilities; may appropriate the funds of the City for all lawful purposes; may regulate and control the use, for whatever purpose, of the streets and other public places; may make and enforce all police, health, sanitary, and other regulations; may pass such ordinances as may be expedient for the protection and maintenance of good government, peace, and welfare of the City, for the performance of the functions thereof, and for the order and security of its residents; and may provide suitable penalties for the violation of any ordinance enacted by the City. In addition to the powers enumerated herein and subject only to the limitations imposed by the Constitution and laws of the State of Texas and by this Charter, the City shall have, without the necessity of express enumeration in this Charter, each and every power which by virtue of Article XI, Section 5 of the Constitution of the State of Texas, the people of the City are empowered by election to grant or to confer upon the City by expressly and specifically granting and enumerating the same. All such powers, whether expressed or implied, shall be exercised and enforced in the manner prescribed in this Charter, or when not prescribed herein, in such manner as shall be provided by ordinance of the City Council.

State law references–Powers of home-rule municipality, V.T.C.S. art. 1175; general powers of home-rule municipality, V.T.C.A., Local Government Code, sec. 51.071 et seq.

Section 2.02 Change of Boundaries and Annexation of Territory

The City Council shall have the power by ordinance to establish the boundary limits of the City and to provide by ordinance for the annexation of additional territory lying adjacent to the City, with or without the consent of the owners or inhabitants of the territory to be annexed; and upon the final passage of any such ordinance, the corporate limits of the City shall thereafter include the territory so annexed; and the inhabitants thereof shall be entitled to all the rights and privileges of all citizens, and shall be bound by the acts and ordinances, resolutions, and regulations of the City. The City Council shall have the power to detach by ordinance any territory with or without the consent of the inhabitants or owners of such area to be detached.

Such annexation or detachment of any such territory shall be in accordance with the provisions of State Law, as it now exists or may be hereafter amended.

State law references–Municipal boundaries and annexation, V.T.C.A., Local Government Code, ch. 41 et seq.; municipal annexation, V.T.C.A., Local Government Code, ch. 43; authority of home-rule municipality to annex area, V.T.C.A., Local Government Code, sec. 43.021.

Section 2.03 Eminent Domain

The City shall have the full power and right to exercise the power of eminent domain when necessary or desirable to carry out any of the powers conferred upon it by this Charter or by the Constitution and Laws of the State, except as limited by this Charter. The City may exercise the power of eminent domain in any manner authorized or permitted by the Constitution and Laws of this State. The power of eminent domain shall include the right of the City to take the fee in land so condemned and such power and authority shall include the right to condemn public property for such purposes. The City shall not have the right to exercise, or authorize other entities to exercise, its eminent domain powers where the exclusive or principal purpose for condemning an interest in property is to give, sell, lease, or grant an exclusive use of the property to be condemned to a person or business entity for the purpose of promoting an economic development project under Article 3, Section 52-a of the Texas Constitution and Chapter 380 of the Texas Local Government Code, as they now exist or may be hereafter amended. Provided, however, the City shall retain its authority to convey property acquired by condemnation to persons or business entities when such property is no longer needed for the public purpose for which it was originally acquired.

State law references–Eminent domain, V.T.C.A., Property Code, ch. 21; municipal right of eminent domain, V.T.C.A., Local Government Code, ch. 251.

ARTICLE III
THE CITY COUNCIL

Section 3.01 Powers and Duties

All powers of the City and the determination of all matters of policy shall be vested in the City Council. Without limiting the foregoing, among the other powers that may be exercised by the City Council, the following powers are enumerated for greater certainty:

(a) To select, appoint, review, and dismiss the City Manager and City Attorney, with or without cause; to select, appoint, review, and remove for cause, the Municipal Court Judge;

(b) To establish boards, commissions, or committees and appoint individuals thereto as shall be required by law or deemed necessary by the City Council;

(c) To adopt and modify a yearly plan containing the annual goals and the goals for a twenty-year plan for the City and directing the City Manager in meeting those goals;

(d) To exercise exclusive jurisdiction upon, over and under the public streets, sidewalks, alleys, and public grounds of the City, including the right to impose charges for the use of such property; and

(e) To appoint and conduct an evaluation and review of the City Manager, City Attorney, Municipal Court Judge, and all other City personnel that are hired or appointed by the City Council. Such evaluations and reviews shall be made prior to planning the budget for the City's next fiscal year.

Section 3.02 Number, Selection and Terms of Office

(a) Number. The legislative and governing body of the City shall be the City Council. The City Council shall be composed of the Mayor and six (6) Councilmembers, with the Mayor having full voting rights on all matters, but no veto power.

(b) Selection. The Mayor shall be elected to office from the City at-large. The other members of the City Council shall be elected to office at-large, but by specific place which shall be designated as Place One (1), Place Two (2), Place Three (3), Place Four (4), Place Five (5), and Place Six (6). The Mayor and Councilmember Places One (1), Two (2), and Six (6) shall be elected in even-numbered years and Councilmember Places Three (3), Four (4), and Five (5) shall be elected in odd-numbered years. The Mayor and the City Councilmembers shall be elected to their respective offices by plurality vote.

(c) Term. The Mayor and each Councilmember shall serve a term of two (2) years and until his/her successor is elected and qualified; provided, however, the initial term of the person elected to the position of Councilmember Place Six (6), upon the adoption of the Charter, shall expire upon the election and qualification of his/her successor after the regular city officers election in 2006.

State constitution reference–Term of office exceeding two years but not to exceed four years, vacancies, Texas Constitution, art. XI, sec. 11.
State law reference–Election by plurality, V.T.C.A., Election Code, sec. 2.001 et seq.

Section 3.03 Limitations of Number of Terms

No person shall be elected or appointed as Mayor and/or Councilmember if such election or appointment would cause such person to serve a term beginning after they shall have completed six (6) consecutive years on the City Council, unless such person has been out of office as a member of City Council for a period of not less than eleven (11) months.

Section 3.04 Qualifications

Each candidate for a City Council position, at the time of filing of his/her application for a place on the ballot, shall be a registered voter in the City; shall be a resident of the City and shall have resided within the corporate limits of the City for at least one (1) year preceding the date of the election at which he/she is a candidate; shall not have been convicted of a felony criminal offense or a crime involving moral turpitude; shall not be delinquent on city taxes; and shall not be in violation of any other provision in this Charter.

State law references–Eligibility for public office, V.T.C.A., Election Code, sec. 141.001 et seq.; age and residence requirements for home-rule city office, V.T.C.A., Election Code, sec. 141.003; candidates for city office, V.T.C.A., Election Code, ch. 143.

Section 3.05 Judge of Qualifications

The City Council shall be the sole judge of the election and whether the qualifications set forth herein and by law have been met by its members and of the grounds for forfeiture of their offices. For these purposes, the City Council shall have the power to subpoena witnesses, administer oaths and require the production of evidence. Decisions by the City Council as to election and qualifications of its members shall be considered final.

Section 3.06 Prohibitions

(a) Except where authorized by law, no member of City Council shall hold any other City office or City employment during the term for which that member was elected or appointed to the City Council, and no former member of City Council shall hold any compensated appointive City office or employment by the City until two years after the expiration of the term for which that member was elected or appointed to the City Council.

(b) Neither the City Council nor any of its members shall in any manner dictate the appointment or removal of any City administrative officer or employee whom the City Manager or any of his/her subordinates are empowered to appoint; but the City Council may express its views and fully and freely discuss with the City Manager anything pertaining to appointment and removal of such officers and employees.

(c) Except for the purpose of investigations under Section 3.10 of this Charter, the City Council or its members shall deal with City officers and employees who are subject to the direction and supervision of the City Manager solely through the City Manager, and neither the City Council nor its members shall give orders to such officer or employee either publicly or privately.

Section 3.07 Vacancies, Forfeiture of Office, Filling of Vacancies

(a) Vacancy. The office of Mayor or Councilmember shall become vacant upon the member's death, resignation, removal from or forfeiture of office.

(b) Forfeiture of Office. The Mayor or a Councilmember shall forfeit his/her office if he/she:

(1) lacks, at any time during the term of office for which elected, any qualification for the office prescribed by this Charter or by State Law;

(2) intentionally violates any express prohibition of this Charter, as determined by a majority vote of all remaining members of the City Council;

(3) is convicted of a felony criminal offense or a crime of moral turpitude;

(4) fails to attend three (3) consecutive regular meetings without being excused by the City Council.

(c) Filling of Vacancy. When a vacancy occurs on the City Council, such vacancy shall be filled for the remainder of the unexpired term, if any, at the next regular City election that occurs at least sixty (60) days after the occurrence of the vacancy. The City Council, by a majority vote

of all the remaining members, shall appoint a qualified person to fill the vacancy until the person elected to serve the remainder of the unexpired term takes office.

State law references–Appointment to local governing body, V.T.C.A., Local Government Code, sec. 180.005; special election to fill vacancy generally, V.T.C.A., Election Code, sec. 201.051 et seq.

Section 3.08 Compensation and Expenses

The City Council shall establish the annual salary of the Mayor and Councilmembers by ordinance; however, no ordinance increasing such salary shall become effective until the date of commencement of the terms of the members of City Council elected at the next regular election. The Mayor and Councilmembers shall receive their actual and necessary expenses incurred in the performance of their duties of office. The expense reports of the Mayor, City Councilmembers, and those individuals appointed by the City Council, shall be submitted to the City Council for review and approval at a regular City Council meeting.

Section 3.09 Mayor and Mayor Pro Tem

(a) Mayor. The Mayor shall preside over the meetings of the City Council and perform such other duties consistent with the office as may be imposed on the Mayor by this Charter and all ordinances and resolutions adopted in accordance therewith. The Mayor shall be recognized as the head of the City by all courts for the purpose of serving civil process, by the Governor for the purpose of enforcing military law and for all ceremonial purposes.

(b) Mayor Pro Tem. The Mayor Pro Tem shall be a Councilmember and shall be elected by the City Council at the first regular meeting following the general municipal election each year or as soon thereafter as practicable. The Councilmember elected as the Mayor Pro Tem shall hold the title and serve in such capacity at the pleasure of the City Council. If the Mayor fails, or is unable, or refuses to act, the Mayor Pro Tem shall have power to perform the Mayor's duties.

Section 3.10 Investigations

The City Council shall have the power to make investigations into City affairs and into the official conduct of any department, agency, office or employee of the City. For this purpose the City Council shall have the power to administer oaths, to subpoena witnesses and to compel the production of books, papers and other evidence material to the inquiry. The City Council shall provide, by ordinance, penalties for contempt in failing or refusing to obey any such subpoena or to produce any such books, papers or other evidence, and shall have the power to punish any such contempt in the manner provided by such ordinance.

Section 3.11 Meetings

(a) The City Council shall meet regularly and at least once each month. The City Council may hold as many additional, special meetings during the month as may be necessary for the transaction of the business of the City. Such special meetings may be called as necessary by the Mayor or by three (3) or more Councilmembers.

(b) All meetings, regular or special, shall be held at the City Hall, unless another location is designated by the City Council, provided such location is accessible to the citizens of the City[.]

(c) Agendas for City Council meetings shall be prepared by the City Manager and approved by the Mayor. Any Councilmember may request that an item be placed on the agenda; however, the Mayor is not obligated to comply unless such request is timely submitted in writing and signed by two (2) or more Councilmembers. The item shall then be included on the next regular City Council meeting agenda unless a different meeting date was specified in the request.

(d) The City Council shall provide that the citizens of the City shall have a reasonable opportunity to be heard at any meeting in regard to a matter under consideration, and/or to comment to the City Council on any other matter.

State law reference–Open meetings, V.T.C.A., Government Code, ch. 551.

Section 3.12 Rules of Procedure

(a) The City Council shall determine its own rules of procedure and order of business. Four (4) members of the City Council shall constitute a quorum for the purpose of transaction of business, and a majority vote of those attending any meeting at which there is a quorum present shall be sufficient to adopt any ordinance or resolution, except as otherwise provided in this Charter or State Law. The vote, upon the passage of all ordinances and resolutions, shall be taken and the vote of each member of City Council present shall be entered in the minutes of the meeting.

(b) All meetings of the City Council, except for executive sessions authorized by State Law, shall be open to the public, and minutes of all proceedings of such open meetings shall be kept, as required by law, and such minutes shall be a public record.

(c) If both the Mayor and the Mayor Pro Tem are absent but a quorum exists, those in attendance shall select one of those Councilmembers present as presiding officer for that meeting.

Section 3.13 Procedure to Enact Legislation

(a) The City Council shall legislate by ordinance. 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 caption. The enacting clause shall read, "Be It Ordained by the City Council of the City of Palacios, Texas:." Each ordinance enacted by the City Council shall be signed by the Mayor and City Secretary and shall be filed with and recorded by the City Secretary. In the event the Mayor fails or refuses to sign an ordinance, such ordinance shall be signed by the Mayor Pro Tem or by two (2) Councilmembers. All ordinances, unless otherwise provided by law, by the terms of such ordinance, or by this Charter, shall take effect immediately upon final passage. Except as otherwise provided in this Charter, no ordinance shall be finally passed until it has been considered and favorably acted on by the City Council at two (2) separate City Council meetings. The requirement of consideration and favorable action on an ordinance at two (2) separate City Council meetings shall not apply and only one (1) reading at one (1) City Council meeting shall be required for the final passage of an ordinance relating to:

(1) the adoption or amendment of a budget;

(2) the assessment, levy, or collection of taxes;

(3) the calling of an election or the canvassing of the returns and declaration of the results of an election;

(4) the incurring of indebtedness, including, specifically, the issuance or sale of bonds or certificates of obligation; and

(5) an emergency.

In the event an ordinance is adopted as an emergency measure, the same shall be expressed in the title and the body of such ordinance. After adoption, an ordinance shall not be amended or repealed except by the adoption of another ordinance amending or repealing the original ordinance.

(b) In addition to other acts required by law or by specific provision of this Charter to be enacted by ordinance, all acts of the City Council shall be by ordinance that:

(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) regulate land use and development;

(8) prescribe standards for issuance of business or other licenses; and

(9) amend or repeal any ordinance previously adopted.

State law reference–Ordinance, rule or regulation necessary to carry out other powers, V.T.C.A., Local Government Code, sec. 51.001.

Section 3.14 Publication of Ordinances

Except as otherwise provided by Law or this Charter, the City Secretary shall give notice of the enactment of every ordinance imposing any penalty, fine, or forfeiture for any violation of any of its provisions, and of every other ordinance required by Law or this Charter to be published, by causing said ordinance, or its caption and penalty, to be published at least one (1) time in a local newspaper before the same shall go into effect. The ordinance shall take effect and be in force from and after the publication thereof, unless otherwise provided, and the penalty, fine or forfeiture shall apply on the fifth day after publication. The affidavit of publication by the publisher of such newspaper taken before any officer authorized to administer oaths and filed with the City Secretary shall be conclusive proof of the legal publication and promulgation of such ordinance in all Courts.

State law reference–Publication of ordinances, V.T.C.A., Local Government Code, sec. 52.013.

Section 3.15 Codes of Technical Regulations

The City Council may adopt any standard code of technical regulations by reference thereto in an adopting ordinance. The procedures and requirements governing the adoption of such ordinances shall be that prescribed for ordinances generally. A copy of each adopted code of technical regulations, as well as the adopting ordinance, shall be authenticated and recorded by the City Secretary pursuant to Section 3.16 of this Charter.

Section 3.16 Authentication and Recording

The City Secretary shall authenticate all ordinances and resolutions adopted by the City Council affixing his/her signature thereto and shall also record, in full in properly indexed books kept for that purpose, all ordinances and resolutions adopted by the City Council.

Section 3.17 Code of Ordinances

The City Council shall cause all general ordinances of the City to be compiled and printed in code form. For the purpose of this section, general ordinances shall be deemed to be those ordinances of a permanent nature, which affect the residents of the City at-large. Every general ordinance enacted subsequent to the original codification required above shall be enacted as an amendment to the code. After the original codification, the City Council shall have the power to cause all general ordinances to be recodified and reprinted whenever in its discretion such is deemed desirable. When adopted by the City Council, the printed codes of general ordinances contemplated by this section shall be known and cited officially as "Code of Ordinances of the City of Palacios" and shall be in full force and effect without the necessity of such codes or any part thereof being published in any newspaper, unless otherwise required by Law. The caption, descriptive clause, and other formal parts of the ordinances of the City may be omitted without affecting the validity of such ordinances when they are published as a code. Copies of the code shall be furnished to the City Officers, placed in any city library for free reference, placed on the city website for viewing and printing, and made available for purchase by the public at a reasonable price. Amendments to the code shall also be made available for purchase by the public as they become available. (May 5, 2018 – Special Election, prop. A)

State law reference–Code of ordinances, V.T.C.A., Local Government Code, ch. 53.

ARTICLE IV
ADMINISTRATIVE ORGANIZATION

Section 4.01 City Manager

(a) Appointment, Qualifications and Compensation. The City Council shall appoint a City Manager for an indefinite term, and he/she shall be the chief administrative officer of the City. The City Manager shall be chosen by the City Council by a majority vote of its entire membership in accordance with the hiring practices prescribed in Section 4.01(d)(9) of this Charter, and solely on the basis of executive and administrative training, experience, ability and character and without regard to political consideration. The City Manager need not be a resident of the City at the time of appointment but shall reside within the City while in office. The City Manager shall receive such compensation as may be fixed by the City Council.

(b) Removal or Suspension. The City Manager may be removed or suspended from office at the will of the City Council by a majority vote of its entire membership. The action of the City Council in removing the City Manager shall be final, it being the intention of this Charter to vest the sole authority and fix all responsibility for such removal with the City Council.

(c) Acting City Manager. By letter filed with the City Secretary, the City Manager, with the concurrence of the City Council, shall designate a qualified administrative employee of the City to exercise the powers and perform the duties of the City Manager during the City Manager's temporary absence or disability. The City Council may revoke such designation at any time and appoint another Acting City Manager to excise and perform the duties of the City Manager until the City Manager resumes his/her regular duties[.]

(d) Powers and Duties. As the chief administrative officer of the City, the City Manager shall:

(1) be responsible for the administration of all affairs of the City; (May 5, 2018 – Special Election, prop. B)

(2) appoint and remove all department heads and subordinate employees of the City except as otherwise provided in this Charter; the City Manager may authorize department heads to appoint and remove subordinates;

(3) direct and supervise the administration of all departments, offices and agencies of the City, except as otherwise provided in this Charter;

(4) attend City Council meetings and shall have the right to take part in discussions but may not vote;

(5) see that the laws, provisions of this Charter and acts of the City Council subject to enforcement by the City Manager, or by officers subject to the City Manager's direction and supervision, are faithfully executed;

(6) prepare and submit the annual balanced budget to the City Council;

(7) make such other reports as the City Council may require concerning the operations of City departments, offices and agencies subject to the City Manager's direction and supervision;

(8) provide the City Council a monthly financial report that includes information as determined by the City Council by written directive to the City Manager. (May 11, 2013 – Special Election, prop. 1)

(9) ensure that the City staff is comprised of appropriately qualified people by following the personnel practices listed below:

Position descriptions for department directors and senior staff will be prepared by the City Manager, compared with those of cities of similar size, and approved by City Council. Position descriptions will be updated biannually.

Annually, salaries for department directors and senior staff will be compared with salaries of cities of similar size and a recommendation will be made to City Council regarding adjustment of current salary levels.

Job vacancies will be posted internally, with appropriate professional organizations, on the City's website and in local newspapers.

Vacancies for department directors and senior staff will be filled by

conducting a job search;

updating the salary requirements and job descriptions;

interviewing qualified candidates;

conducting a background check of the candidates; and

selection based on qualifications, strengths and weaknesses of the candidates and determination of the order of preference of the candidates; and

(May 5, 2018 – Special Election, prop. B)

(10) perform such other duties as are specified in this Charter or may be required or directed by the City Council, not inconsistent with the provisions of this Charter.

Section 4.02 City Secretary

The City Manager shall appoint, subject to confirmation by the City Council, an officer of the City and such assistants as deemed necessary, who shall have the title of City Secretary. The City Secretary and assistants shall give notice of City Council meetings, shall keep minutes of its proceedings, shall authenticate by signature and shall record in full in books kept for that purpose all ordinances and resolutions, shall preserve and keep in order all books, papers, records and files of the City, shall have custody of the seal of the City and shall affix same to such documents and obligations as legally authorized. The City Secretary and assistants shall perform such other duties as shall be required by this Charter, the City Council or the City Manager.

Section 4.03 City Attorney

The City Council shall appoint a City Attorney and such assistant city attorneys as from time to time shall be deemed necessary by the City Council and who shall be competent, duly licensed and admitted to the practice of law in the State of Texas. The City Attorney shall be legal advisor to and attorney for all officers of the City acting in their official capacities, and shall represent the City in litigation and legal proceedings; provided, that the City Council may retain special legal counsel for any purpose and at any time it shall deem same appropriate and necessary. The City Attorney shall perform other duties prescribed by this Charter, ordinance, or as directed by City Council.

Section 4.04 Administrative Departments

There shall be such administrative departments as are established by this Charter and such other administrative departments as may be deemed necessary by the City Council and as are established by ordinance, all of which shall be under the control and direction of the City Manager.

Section 4.05 Directors of Departments

At the head of each department there shall be a director who shall be appointed and who may be removed by the City Manager, except as provided by this Charter or State Law. Such directors shall have supervision and control over their respective departments and may serve as chiefs of divisions within their respective departments. The same individual may head two or more departments.

ARTICLE V
MUNICIPAL COURT

Section 5.01 Municipal Court

There shall be established and maintained a court designated as the "Municipal Court of the City of Palacios," with such jurisdiction, powers and duties as are given and prescribed by State Law relative to municipal courts.

State law references–Municipal courts generally, V.T.C.A., Government Code, sec. 29.001 et seq.; jurisdiction of municipal courts, V.T.C.A., Government Code, sec. 29.003.

Section 5.02 Judge of the Municipal Court

(a) The Municipal Court shall be presided over by a Judge who is a qualified voter in Commissioner Court Precinct 3 in Matagorda County. The Judge of said court shall be appointed by Council to serve for a term of two years. The Judge shall receive such salary as may be fixed by Council.

(b) The Council may appoint such Associate or Alternate Judges of said court as shall be deemed necessary and appropriate by said Council. Associate or Alternate Judges shall be appointed for terms and shall possess the same qualifications as are required for the presiding Judge of said court. Associate Judges shall receive such salary as may be fixed by Council.

(c) Municipal Court Judge(s) may be removed from office in accordance with State Law.

(May 5, 2018 – Special Election, prop. C)

State law references–Municipal court judges, V.T.C.A., Government Code, sec. 29.004; term of municipal court judge, V.T.C.A., Government Code, sec. 29.005.

Section 5.03 Clerk of the Municipal Court

(a) There shall be a Clerk of the Municipal Court who shall be appointed by the City Manager. The Clerk shall have the power to administer oaths and affidavits, make certificates, affix the seal of the court thereto and otherwise perform any and all acts necessary to the operation of such court.

(b) Deputy Clerks of the Municipal Court may be appointed by the City Manager and shall have authority to act for and on behalf of the Clerk of the Municipal Court.

State law reference–Municipal court clerk generally, V.T.C.A., Government Code, sec. 29.010.

ARTICLE VI
FINANCIAL ADMINISTRATION*

Section 6.01 Fiscal Year

The City Council shall, by ordinance, establish the City's fiscal year, which shall also be the accounting and budget year.

State law references–General fiscal power to establish fiscal year, V.T.C.A., Local Government Code, sec. 101.022; city fiscal year, V.T.C.A., Tax Code, sec. 1.05.

Section 6.02 Preparation and Submission of the Budget

The City Manager, at least thirty (30) days prior to the commencement of the fiscal year, shall prepare and submit a balanced budget to the City Council, which shall contain the following:

(a) a budget message which shall outline the proposed financial policies for the year with explanations of significant changes in expenditures from previous years and any other major changes of policy and a statement regarding the financial condition of the City;

(b) an estimate of all revenues from taxes and other sources;

(c) summaries of proposed expenditures by function, department and activity and of proposed expenditures by character and object;

(d) a description of all outstanding bond indebtedness, showing the amount, date of issue, rate of interest and maturity date, as well as any other indebtedness which the City has incurred and which is unpaid;

(e) a statement describing any capital expenditures proposed to be undertaken during the year and recommendations for financing such expenditures; and

(f) The budget 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, compared to the estimate for the budgeted year.

(g) such other information required by State Law and/or City Council.

(May 5, 2018 – Special Election, prop. D)

State law reference–Municipal budget, V.T.C.A., Local Government Code, ch. 102.

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* **State law reference**–General financial provisions applicable to home-rule municipality, V.T.C.A., Local Government Code, sec. 101.021 et seq.

Section 6.03 Budget a Public Record

The budget and all supporting schedules shall be filed with the City Secretary when submitted to the City Council and shall be a public record.

State law references–Proposed budget filed with municipal clerk and public inspection, V.T.C.A., Local Government Code, sec. 102.005.

Section 6.04 Public Hearing on Budget

At the City Council meeting at which the budget is submitted, the City Council shall, in conformance with the requirements of State Law, establish the date, time and place of a public hearing on the budget and shall cause notice of the date, time and place thereof to be posted and published as required by Law. At such hearing, all interested persons shall be entitled to express their opinions concerning the proposed budget.

State law references–Public hearing on proposed budget, V.T.C.A., Local Government Code, sec. 102.006; special notice by publication for budget hearing, V.T.C.A., Local Government Code, sec. 102.0065.

Section 6.05 Proceeding on Adoption of Budget

After a public hearing on the budget, the City Council shall analyze the budget, making any additions or deletions considered appropriate, and shall, at least three (3) days prior to the beginning of the fiscal year, adopt the budget. If the City Council fails to adopt the budget by the first (1st) day of the fiscal year, the amounts appropriated for the prior fiscal year shall be deemed adopted for the current fiscal year on a month-to-month basis with all items in it prorated accordingly until such time as the City Council adopts a budget for the current fiscal year.

State law reference–Adoption of budget, V.T.C.A., Local Government Code, sec. 102.007.

Section 6.06 Budget Appropriation, Amount to be Raised by Taxation

On final adoption, the budget shall be in effect for the budget year. Final adoption of the budget by the City Council shall constitute the official appropriation of proposed expenditures for the year and shall constitute the basis of the official levy of the property tax and the amount of tax to be assessed and collected for that tax year. Estimated expenditures will in no case exceed proposed revenues plus reserves on hand.

State law reference–Levy of taxes and expenditure of funds under budget, emergency expenditure, V.T.C.A., Local Government Code, sec. 102.009.

Section 6.07 Contingency Accounts

The City Manager may recommend for approval by the City Council one or more contingency accounts to be used for unanticipated items of expense which are not included in the budget as original items of expenditure.

Section 6.08 Amending the Budget

Under conditions which may arise and which could not have been foreseen in the normal process of budget preparation, the City Council may, by a majority vote, amend the budget. Such amendments shall be by ordinance and shall become an attachment to the original budget, kept on file by the City Secretary.

State law reference–Changes in budget for municipal purposes, V.T.C.A., Local Government Code, sec. 102.010.

Section 6.09 Certification and Copies Made Available

A copy of the budget, as finally adopted, shall be filed with the City Secretary. The final budget shall be printed or otherwise reproduced, and sufficient copies shall be made available for the use of all offices and agencies.

State law reference–Approved budget filed with municipal clerk, V.T.C.A., Local Government Code, sec. 102.008.

Section 6.10 Defect Shall Not Invalidate the Tax Levy

Errors or defects in the form or preparation of the budget or the failure to perform any procedural requirements shall not nullify the tax levy or the tax rate.

Section 6.11 Independent Audit

At the close of each fiscal year and at such times as it may otherwise be deemed necessary, the City Council shall cause an independent audit to be made of all accounts of the City by a certified public accountant. The certified public accountant shall have no personal interest, directly or indirectly, in the financial affairs of the City or any of its officers. Upon completion of the audit and acceptance by City Council, that fact shall be published forthwith in a local newspaper, and copies of the audit shall be placed on file for public inspection in the office of the City Secretary as a public record. The City Council shall change auditing firms at least every five (5) years.

State law reference–Audit of municipal finances, V.T.C.A., Local Government Code, ch. 103.

Section 6.12 Purchasing Procedure

The City Manager shall direct that purchases of supplies, materials or equipment by the City be made in accordance with policies adopted by the City Council and as provided by State Law.

State law reference–Purchasing and contracting authority of municipality, V.T.C.A., Local Government Code, chs. 252, 271.

Section 6.13 Power to Borrow Money

The City shall have the power to borrow money on the credit of the City for any public purpose not now or hereafter prohibited by the Constitution and laws of the State of Texas, and shall have the right to issue all tax bonds, revenue bonds, funding and refunding bonds, time warrants, certificates of obligation and other evidence of indebtedness as now authorized or as may hereafter be authorized to be issued by any City under and in accordance with the restrictions,

conditions, and State Law. Such power shall include the authority to issue bonds, warrants, certificates of obligation and other evidence of indebtedness payable from revenues other than taxation for any purpose permitted by State Law. The City Council may, but shall not be required to, submit to the voters of the City propositions for the issuance of revenue bonds. Revenue bonds submitted to the voters shall be issued by the City only if approved by the voters at the election at which they are initially submitted or at a subsequent election.

State law references–Bond elections generally, V.T.C.A., Government Code, ch. 1251; municipal bonds, V.T.C.A., Government Code, ch. 1331.

Section 6.14 Powers of Taxation

The City Council, for any municipal purpose, shall have the power to levy, assess, and collect taxes of every type and character, at such rates and in such amounts, not prohibited by the Constitution or State Law.

State law references–Texas Property Tax Code supersedes municipal charter, V.T.C.A., Tax Code, sec. 1.02; local taxation, V.T.C.A., Tax Code, ch. 301 et seq.

ARTICLE VII
ELECTIONS

Section 7.01 Regular and Special Elections

Regular City elections shall be held in May of each year or as otherwise required by the Texas Election Code, at which time members of the City Council, including the Mayor, shall be elected to fill those positions which become vacant that year. The City Council may, by resolution, order special elections. The City Council shall fix the hours, place and procedures for holding regular and special elections. Elections shall be held in compliance with applicable State Law.

State law references–Authority to order election by political subdivision, V.T.C.A., Election Code, sec. 3.004; date for election of officers, V.T.C.A., Local Government Code, sec. 26.042; election dates, V.T.C.A., Election Code, ch. 41.

Section 7.02 Qualified Voters

All residents of the City who shall have qualified to vote in accordance with the provisions of the Texas Election Code shall have the right to vote in all City elections.

State law references–Eligibility to vote, V.T.C.A., Election Code, sec. 11.001; qualified voters, V.T.C.A., Election Code, sec. 11.002.

Section 7.03 Regulation of Elections

The City Council shall make all regulations considered to be necessary or desirable which are not inconsistent with this Charter or State Law, for the conduct of City elections[.] The City Council shall appoint election officials who shall conduct the City elections consistent with this Charter and with regulations established by the City Council and by State Law. The City Council shall

provide for the compensation of all election officials in City elections and for all other expenses of holding such elections.

State law reference–Appointment of election judges, V.T.C.A., Election Code, sec. 32.005.

Section 7.04 Filing for Office

Any person having the qualifications required by this Charter for holding office as a member of the City Council who desires to become a candidate for election to the City Council shall file an application to that effect, in writing, with the City Secretary within the time prescribed by Law. The application must provide information required by the Texas Election Code. The City Council shall investigate the qualifications of the candidates. (May 5, 2018 – Special Election, prop. E)

State law references–Candidate's application for home-rule city office, V.T.C.A., Election Code, sec. 143.005; authority with whom application filed, V.T.C.A., Election Code, sec. 143.006.

Section 7.05 Official Ballot

An official ballot shall be drawn up by the City Secretary and it shall contain the names of all candidates for office, except those who may have been withdrawn, have died or have otherwise become ineligible. Names will be placed on the ballot without party designation. Position on the ballot shall be determined by drawing lots, under the supervision of the City Secretary.

State law reference–Ballot form, content and preparation, V.T.C.A., Election Code, ch. 52.

Section 7.06 Conducting and Canvassing Elections

The returns of each City election shall be delivered to the City Secretary by the election judges. The City Council shall canvass the returns and declare the official results of the election in the manner and within the time periods provided by State Law. Returns of each City election shall be recorded in the minutes of the City Council. (May 5, 2018 – Special Election, prop. E)

State law reference–Canvassing elections, V.T.C.A., Election Code, ch. 67.

Section 7.07 Election by Plurality

At any election for a member of the City Council the qualified person receiving the highest number of votes cast for each office and place shall be declared elected.

State law reference–Election by plurality, V.T.C.A., Election Code, sec. 2.001 et seq.

ARTICLE VIII
INITIATIVE, REFERENDUM AND RECALL

Section 8.01 Power of Initiative

The qualified voters of the City reserve the power to direct legislation by initiative and, in the exercise of such power, may propose any ordinance not in conflict with this Charter, the State Constitution, or State Law, provided, however, such power shall not extend to the budget or capital programs, or ordinances annexing or disannexing territory, an ordinance appropriating

money or authorizing the levy of taxes, or an ordinance repealing an ordinance appropriating money or levying taxes. Any initiated ordinance may be submitted by a petition signed by registered voters of the City equal in number to at least twenty percent (20%) of the number of registered voters residing in the City at the time of the last regular City election.

Section 8.02 Power of Referendum

The qualified voters of the City reserve the power to approve or reject at the polls any legislation enacted by the City Council that is subject to the initiative process under this Charter. Within thirty (30) days after the final adoption or publication, whichever date is later, of any ordinance that is subject to referendum, a petition, signed by registered voters of the City equal in number to at least twenty percent (20%) of the number of registered voters residing in the City at the time of the last regular City election may be filed with the City Secretary requesting that any such ordinance be either repealed or submitted to a vote of the people. When such a petition has been certified as sufficient by the City Secretary, the ordinance so specified in the petition shall not go into effect, or further action thereunder shall be suspended if it shall have gone into effect, until and unless it is approved by the voters as herein provided.

Section 8.03 Form of Petition; Committee of Petitioners

(a) All petitions circulated for the purpose of an initiative or referendum shall meet the requirements of State Law, and shall be uniform in size and style.

(b) Each copy of an initiative or referendum petition shall contain:

(1) the full text of the proposed ordinance, or the ordinance petitioned for referendum, including a descriptive caption; and

(2) the names and addresses of the five (5) qualified voters who, as a committee of the petitioners, shall be regarded as responsible for the circulation and filing of the petition.

(c) The signatures to an initiative or referendum petition need not be appended to a single copy of the petition.

(d) Each signer of any copy of such petition shall sign only his/her name in ink or indelible pencil, together with the signer's printed name, date of birth, the signer's voter registration number, the signer's residence address, and the date of signing.

(e) Attached to each copy of such petition, there shall be an affidavit of the circulator thereof:

(1) that he/she, and he/she only, personally circulated the foregoing copy of such petition;

(2) that it bears a stated number of signatures;

(3) that all signatures appended thereto were made in his/her presence;

(4) that he/she believes them to be the genuine signatures of the persons whose names they purport to be; and

(5) that all signatures appended thereto were collected within the ninety-day period immediately preceding the date of filing the petition.

Section 8.04 Filing, Examination and Certification of Petitions

All papers comprising a petition for initiative or referendum shall be assembled and filed with the City Secretary as one instrument. Within thirty (30) days after the petition is filed, the City Secretary shall determine whether each paper of the petition has a proper statement of the circulator and whether the petition has been signed by a sufficient number of qualified voters and shall hold any petition paper entirely invalid which does not have attached thereto the statement signed by the circulator thereof. The City Secretary shall certify the result of this examination to the City Council at its next regular meeting. If the City Secretary shall certify that the petition is insufficient, the certificate shall specify the particulars in which it is defective and shall at once notify in writing the person filing the petition of this finding. A petition may be amended at any time within ten (10) days after a notice of insufficiency has been sent by the City Secretary, by filing a supplementary petition. In such event, the same procedures shall then be followed by the City Secretary and City Council as in the case of the original petition for the same purpose.

Section 8.05 City Council Consideration and Submission to Voters

(a) When the City Council receives an authorized initiative petition, certified by the City Secretary to be sufficient, the City Council shall either (i) pass the initiated ordinance without amendment within twenty (20) days after the date of the certification to the City Council; or (ii) submit the initiated ordinance without amendment to a vote of the qualified voters of the City at a special election to be held not later than the first authorized uniform election date after the expiration of seventy-five (75) days from the date that the City Secretary certifies the petition to the City Council.

(b) When the City Council receives an authorized referendum petition, certified by the City Secretary to be sufficient, the City Council shall reconsider the referred ordinance within twenty (20) days after the date of certification by City Council. If, upon such reconsideration, such ordinance is not repealed, it shall be submitted to the voters of the City at a special election to be held not later than the first authorized uniform election date after the expiration of seventy-five (75) days from the date that the City Secretary certifies the petition to the City Council.

(c) Special elections on initiated or referred ordinances shall not be held more frequently than once each six (6) months, and no ordinance on the same subject as an initiated ordinance which has been defeated at any election or a referred ordinance, which was not repealed at any election, may be initiated or referred by the voters within two (2) years from the date of such election.

Section 8.06 Repealing Ordinances.

An initiated ordinance approved by a majority of qualified voters, and thus adopted, may be repealed or amended at any time after the expiration of two (2) years by four (4) members of the entire City Council voting in favor of the repeal or amendment. A referred ordinance, which is rejected by a majority of qualified voters, and thus repealed, may be reenacted at any time after the expiration of two (2) years by four (4) members of the entire City Council voting in favor of the reenactment.

Section 8.07 Ballot Form and Results of Election

(a) Ordinances submitted to the electors in accordance with the initiative and referendum provisions of this Charter shall be submitted by caption of such ordinance, which shall contain a clear, concise statement, without argument, of the substance of such ordinance. The ballot used shall be in accordance with State Law. Any number of ordinances may be voted on at the same election and may be submitted on the same ballot.

(b) If a majority of electors voting on a proposed initiated ordinance shall vote in favor thereof, it shall thereupon become an ordinance of the City. A referred ordinance, which is not approved by a majority of the electors voting thereon, shall thereupon be deemed repealed. If conflicting ordinances are approved by the electors at the same election, the one receiving the greatest number of affirmative votes shall prevail.

Section 8.08 Power of Recall

The qualified voters of the City reserve the power to recall the Mayor or any other member of the City Council and may exercise such power by filing with the City Secretary a petition, signed by qualified voters of the City equal in number to at least twenty-five percent (25%) of the number of registered voters of the City at the time of the last regular municipal election of the City demanding the removal of the Mayor or other member of the City Council. The petition shall be signed and verified in the manner required for an initiative petition, shall contain a general statement of the grounds upon which the removal is sought and the circulators of each petition paper shall make an affidavit that the statements made therein are true.

Section 8.09 Recall Election

(a) All papers comprising a recall petition shall be assembled and filed with the City Secretary. Within thirty (30) days after the petition is filed, the City Secretary shall determine its sufficiency and, if found to be sufficient, shall certify this fact to the City Council at its next regular meeting. If a recall petition is found to be insufficient, it may be amended within ten (10) days after notice of such insufficiency by the City Secretary, by filing a supplementary petition. In that event, the same procedures shall then be followed by the City Secretary and the City Council as in the case of an original petition. The finding of insufficiency of a recall petition shall not prejudice the filing of a new petition for the same purpose.

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

(c) If the member of City Council whose removal is sought does not resign within five (5) days after the certified petition is presented to the City Council, the City Council shall order a recall election to be held not later than the first authorized uniform election date after the expiration of seventy-five (75) days from the date that the City Secretary certifies the petition to the City Council.

Section 8.10 Recall Ballot

Ballots used in recall elections shall read as follows: "SHALL (name of person or persons) BE REMOVED FROM THE CITY COUNCIL BY RECALL?" Below such question there shall be printed the following as to each person named:

"FOR THE REMOVAL OF (name of person.)"

"AGAINST THE REMOVAL OF (name of person.)"

Section 8.11 Results of a Recall Election

If a majority of the votes cast at a recall election shall be against removal of the member of City Council named on the ballot, that member shall continue in office. If a majority of the votes cast at such election be for the removal of the member of City Council named on the ballot, the City Council shall immediately declare the office vacant and such vacancy shall be filled in accordance with the provisions of this Charter. A member of City Council thus removed shall not be a candidate in an election called to fill the vacancy created by his/her removal, or appointed to fill such vacancy.

Section 8.12 Limitations on Recall

No recall petition shall be filed against the Mayor or any other City Councilmember within six (6) months after he/she first takes office, nor within six (6) months after an election for his/her recall, nor within six (6) months of the end of his/her term.

ARTICLE IX
FRANCHISES OF PUBLIC UTILITIES*

Section 9.01 Public Services and Utilities

(a) The City shall have the full power and authority, subject only to the limitations imposed by the Constitution and State Law, to:

(1) buy, own, construct, lease, maintain and operate within and without the limits of the City a system or systems of gas, electricity, telephone, sewage, sanitation, water, parks, airports, swimming pools, race tracks, transportation, communications, golf courses, cemeteries, cable television, or any other public service or utility;

(2) manufacture, produce or provide its own electricity, gas, water or any other product, good or commodity that may be required by the public for municipal purposes;

(3) purchase gas, electricity, or any other commodity or article required by the public for municipal purposes and to contract with any person, entity or public utility for such purchase;

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* **State law references**–Franchise to use streets in municipality, V.T.C.A., Transportation Code, sec. 311.071 et seq.; authority to grant franchise to use or occupy public grounds, V.T.C.A., Local Government Code, sec. 282.003; municipal home-rule powers to regulate public utilities and franchises using streets, etc., V.A.C.S., art. 1175.

(4) distribute and/or sell any commodity or service;

(5) mortgage and encumber such public utility or service systems;

(6) regulate and control the distribution of utilities and services within the City and establish standards of service and quality of products; and

(7) establish and enforce the rates to be paid by consumers of any utility or users of any service provided within the City, and, if provided by the City, outside the City.

(b) These powers shall be vested in the City Council and the City Council may exercise the power of eminent domain to acquire all or part of the property of any public utility or public service provider within the City whenever found by the City Council to be in the public interest for carrying out the objectives of providing utilities or services within the City. Any such eminent domain or condemnation proceeding shall be according to the procedures and the methods of establishing the value of the property and facilities as provided by State Law, and if such procedures or methods are not so provided by State Law, as reasonably provided by ordinance.

State law references–Municipal utilities, V.T.C.A., Local Government Code, sec. 402.001 et seq.; authority for municipal public services and utility systems in home-rule municipalities, V.T.C.A., Local Government Code, sec. 402.002; municipal home-rule powers to regulate public utilities and franchises using streets, etc., V.A.C.S., art. 1175.

Section 9.02 Inalienability of Control of Public Property

The right of control and use of the public streets, highways, sidewalks, alleys, parks, public squares, and public places of the City is hereby declared to be inalienable by the City, except by ordinance not in conflict with the provisions of this Charter. No act or omission by the City Council or of an officer or agent of the City shall be construed to grant, renew, extend, or amend, expressly or by estoppel or implication, any right, franchise, or easement affecting such public streets, highways, sidewalks, alleys, parks, public squares, public places, and other real property, except as provided in this Charter.

State law reference–General municipal authority over public grounds, V.T.C.A., Local Government Code, sec. 282.001.

Section 9.03 Franchises

(a) The City Council shall have the power and authority to grant franchises for the use and occupancy of streets, avenues, alleys and any and all public property belonging to or under the control of the City. No individual, organization, entity, corporation, public utility, or any provider of public service shall provide any service within the City requiring the use or occupancy of any street, public right-of-way or property without first being granted a franchise or permit to use such City facilities. The franchise ordinance or permit shall fully describe the terms of the agreement and shall be subject to the terms of this Article.

(b) The City Council shall have the power to grant, amend, renew, or extend by ordinance, or to deny, the franchise of all public utilities of every character serving the City, including, but not limited to, persons or entities providing electricity, gas, water, sewage, or telecommunication service, or any similar commodity or utility to the public. The effective period of public utility

franchises may be set by the City Council but shall not exceed twenty (20) years unless a longer term is specifically approved by a majority of the qualified voters at an election held for that purpose.

(c) The City Council shall have the power to grant, amend, renew or extend by ordinance, or deny, the franchises of all providers of public services to the City. Public services include, but are not limited to, ambulance services, cable television services, transportation services, any internet services, sanitation services, and any other service or business using the public streets or property within the City to provide service. The effective period of public service franchises may be set by the City Council but shall not exceed ten (10) years.

State law references–Franchise to use streets in municipality, V.T.C.A., Transportation Code, sec. 311.071 et seq.; authority to grant franchise to use or occupy public grounds, V.T.C.A., Local Government Code, sec. 282.003; municipal home-rule powers to regulate public utilities and franchises using streets, etc., V.A.C.S., art. 1175.

Section 9.04 Franchise Ordinance

All ordinances granting, renewing, extending or amending a public utility franchise and/or public service franchise shall be considered and must be favorably voted on by the City Council at two (2) separate regular City Council meetings, and shall not be finally passed until thirty (30) days after the first reading. No such ordinance shall take effect until thirty (30) days after its final passage. After the first reading and before final passage, the full text of such ordinance shall be published once each week for two (2) consecutive weeks in a local newspaper and the expense of publication shall be borne by the prospective franchise holder.

Section 9.05 Franchise Limitations

No exclusive franchise shall ever be granted and franchises shall be transferable only upon authorization of the City Council expressed by ordinance. A franchise may not be transferred except to a person, firm or entity assuming all or substantially all of the franchise's business in the City. The expiration date of all franchises shall be specified and the term thereof may be extended or renewed only by ordinance.

Section 9.06 Regulation of Franchises

All grants of franchises as authorized in this Charter shall be subject to the right of the City Council, to the extent permitted by State Law and/or federal law, to:

(a) determine, fix and regulate the charges, rates or compensation to be charged by the person or entity granted a franchise;

(b) repeal the franchise by ordinance at any time upon the failure or refusal of the franchisee to comply with the terms of the franchise, this Charter, or any applicable city ordinance or State Law, or any valid rule of any regulatory body;

(c) establish standards and quality of products or service;

(d) Require such expansion, extension and improvement of plants and facilities as are necessary to provide adequate service to the public and require that effective maintenance of facilities be performed;

(e) prescribe the method of accounting and reporting to the City so that the franchisee will accurately reflect the expenses, receipts, profits and property values used in rendering its service to the public. It shall be deemed sufficient compliance with this requirement if the franchisee keeps its accounts in accordance within the uniform system established by an applicable federal or state agency for such service;

(f) examine and audit at any time the accounts and other records of any franchisee and to require annual and other reports;

(g) require compensation, regulatory, rental and franchise fees;

(h) impose such regulations and restrictions as may be deemed desirable or conducive to the health, safety, welfare and accommodation of the public; and

(i) require the franchisee to restore at its expense all public or private property to a condition equal to or better than that before being damaged or destroyed by the franchisee.

Section 9.07 Noncompliance

The City Council shall have the power and authority to review any franchise at anytime and to determine if the franchisee is in compliance with the franchise, this Charter, the ordinances of the City, or State Law. If, in the opinion of the City Council, the requirements of the franchise, Charter, ordinances, or State Law are not being complied with, the City Council shall so notify the franchisee in writing stating the provisions the franchisee has failed to comply with and setting a time for a hearing and deadline for correction of the noncompliance. If noncompliance is found by the City Council, based upon the facts, issues and circumstances determined at the hearing, and if the franchisee does not correct the noncompliance within a reasonable time established by the City Council for correction, the City Council may repeal or cancel the franchise. (May 11, 2013 - Special Election, prop. 2)

Section 9.08 Franchise Value Not to be Allowed

In determining the just compensation to be paid by the City for any public utility or public service property or facilities, which the City may acquire by condemnation or otherwise, no value shall be assigned to any franchise granted by the City.

Section 9.09 Extensions of Service

Unless provided otherwise in the franchise, or limited by a certificate of convenience and necessity held by the franchisee, franchisees shall be required to extend services to all parts and portions of the City. All extensions of any lines, conduit, pipe or systems shall become a part of the aggregate property of the public utility or service provider and shall be subject to all the obligations and rights prescribed in this Charter and the franchise. The right to use and maintain any such extension shall terminate with the franchise.

Section 9.10 Other Conditions

All franchises heretofore granted are recognized as contracts between the City and the franchisee and the contractual rights as contained therein shall not be impaired by the provisions of this Charter except:

(a) the power of the City to exercise the right of eminent domain to acquire the property and assets of the utility is reserved;

(b) the general power of the City to regulate the rates and services of a utility including the right to require adequate and reasonable extension of plant and service and to require that maintenance of facilities be performed at the highest reasonable standard of efficiency shall be enforced; and

(c) the City Council shall review each franchise at its first renewal date subsequent to the adoption of this Charter and shall cause the franchise, if renewed, to meet the provisions of this Charter; and no rights shall be vested in the franchisee with regard to any renewal based upon the terms, conditions or limitations expressed in any such existing franchise.

Section 9.11 Accounts of Municipally Owned Utilities

Separate accounts for each public utility owned or operated by the City shall be kept in accordance with generally accepted accounting practices. The City Council shall have an annual report on such accounts performed by a certified public accountant and shall, upon acceptance by City Council, publish notice of such report in a local newspaper.

Section 9.12 Election Required

No City-owned electric utility, gas, water, sewer, cable television, telecommunications system, park, or other utility shall be sold or leased without authorization by a majority vote of the qualified voters of the City voting at an election held for such purpose.

ARTICLE X
PLANNING*

Section 10.01 Planning Commission

The City Council shall appoint a City Planning Commission consisting of five (5) members who shall be residents of the City who are not members of the City Council or employees of the City and who shall serve without compensation. Members shall be appointed at the first regular meeting of June of each year for a two (2) year term with three (3) to be appointed each even numbered year and two (2) to be appointed each odd numbered year.

State law reference–Authority of municipality to establish planning and zoning commission, V.T.C.A., Local Government Code, sec. 211.007.

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* **State law reference**–Planning and zoning generally, V.T.C.A., Local Government Code, chs. 211, 212, 371.

Section 10.02 Vacancies on the Commission

Vacancies occurring on the Planning Commission shall be filled by the City Council for the remainder of the term within thirty (30) days after the vacancy occurs. Any member of the Commission who is absent for three (3) consecutive regular meetings of the Planning Commission, without being excused, may have his/her office declared vacated by the City Council.

Section 10.03 Organization of the Commission

At its first meeting following the annual appointment of members by the City Council, the Planning Commission shall elect one (1) of its members as chair and one of its members as vice-chair. The Commission shall establish rules of procedure, which shall include the following:

(a) The Commission shall hold, at a minimum, quarterly meetings and report to the City Council annually; (May 5, 2018 – Special Election, prop. F)

(b) A quorum shall consist of a majority of the membership. An affirmative vote of a majority of those present shall constitute adoption of any pending motion;

(c) The Chairperson shall be entitled to vote; and

(d) The City Manager shall be an ex-officio member of the Commission, and shall be responsible for ensuring that minutes of meetings are recorded and maintained.

Section 10.04 Powers and Duties of the Commission

The Planning Commission shall:

(a) be responsible to and act as an advisory board to the City Council.

(b) approve, amend, extend, and add to a master plan for the physical development of the City, subject to approval of the City Council;

(c) review and approve all plats for new subdivisions of land within the City and within adjacent areas as permitted by law and submit findings and recommendations to the City Council for City Council review and approval; and

(d) perform such other duties and be vested with such other powers as the City Council may prescribe or as imposed upon the Commission by State Law.

ARTICLE XI
GENERAL PROVISIONS

Section 11.01 Personal Interest in City Business

No member of the City Council, officer, Boards/Committee Members, or employee of the City shall personally engage in any business with the City nor shall have any financial interest, direct, or indirect, in any commercial entity doing business with the City, or in the sale of any land, commodity, or service to the City, without making disclosure thereof. Any willful violation of

this section shall constitute malfeasance in office, and any such member of City Council or City officer of [or] employee guilty thereof shall thereby forfeit his/her office, position, or employment. Any violation of this section with the express or implied knowledge of the person or entity doing business with the City shall render the contract voidable by the City Council. (May 5, 2018 – Special Election, prop. G)

State law references–Conflicts of interest of officers, V.T.C.A., Local Government Code, ch. 171; public disclosure, V.T.C.A., Government Code, ch. 553.

Section 11.02 Nepotism

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

State law reference–Nepotism, V.T.C.A., Government Code, ch. 573.

Section 11.03 Oaths of Office

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

State constitution reference–Oath of office, Texas Constitution, art. 16, sec. 1.

Section 11.04 Prohibited Activities and Penalties

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

(b) No person seeking 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/her test, appointment, promotion or proposed promotion.

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

Section 11.05 Claims Against the City

Before the City shall be liable for damages for the death or personal injuries of any person or for damages to or destruction of property of any kind, which does not constitute a taking or damaging of property under Article I, Section 17, Constitution of the State of Texas, the person injured, if living, or his legal representatives, if deceased, or the parent or guardian of a minor child, or the owner, his agent or attorney, of the property damaged or destroyed, shall give the City notice in

writing of such death, injury, damage or destruction, duly verified by affidavit, within sixty (60) days after same has been sustained, stating specifically in such written notice when, where and how the death, injury, damage or destruction occurred, and the apparent extent of any such injury, the amount of damages sustained, the actual residence of the claimant by street and number on the date the claim is presented, the actual residence of such claimant for six (6) months immediately preceding the occurrence of such death, injury, damage or destruction, and the names and addresses of all witnesses upon whom it is relied to establish the claim for damages. Such notice shall be directed to the attention of the City Secretary. The failure to so notify the City within the time and manner specified herein shall exonerate, excuse and exempt the City from any liability whatsoever. No act of any officer, employee or agent of the City shall waive compliance, or preclude the City from requiring compliance, with the provisions of this section as to notice.

State law references–Texas Tort Claims Act, V.T.C.A., Civil Practice and Remedies Code, ch. 101; notice procedures, V.T.C.A., Civil Practice and Remedies Code, sec. 101.101.

Section 11.06 Liens, Assignment, Execution and Garnishment

(a) The real and personal property belonging to the City shall not be liable for sale or appropriation under any writ or execution or cost bill, and no lien of any kind shall ever exist against any such property owned by the City except that the lien be created or authorized by this Charter or by State Law.

(b) The funds belonging to the City in the hands of any person, firm or corporation shall not be liable to garnishment, attachment or sequestration. The City shall not be liable to garnishment on account of any debt it may owe or funds or property it may have on hand or owing to any person. Neither the City nor any of its officers or agents shall be required to answer any such writ or garnishment on any account whatever. The City shall not be obligated to recognize any assignment of wages or funds by its employees, agents or contractors except by court order or as otherwise required by State Law.

State law references–Authority relating to property, V.T.C.A., Local Government Code, sec. 51.076; authority to provide that municipal funds not subject to garnishment, V.T.C.A., Local Government Code, sec. 101.023.

Section 11.07 References to State Law

Wherever in this Charter reference is made to "State Law," unless explicitly provided otherwise, such reference shall mean State Law currently in effect and shall not be limited to State Law as it existed at the time of adoption of this Charter, or any relevant portion hereof.

Section 11.08 Severability

If any section or part of this Charter is held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity shall not invalidate or impair the validity, force or effect of any other section or part of a section of this Charter.

Section 11.09 Charter Amendments

(a) This Charter may be amended in accordance with the Constitution and State Law.

(b) The City Council shall, at its first regular meeting in June, after two (2) years of the adoption of this Charter, then at intervals not to exceed six (6) years thereafter, appoint a Charter Review Commission of five (5) qualified voters of the City who do not hold a publicly elected office of any type. The Commission shall select a chairperson. It shall be the duty of the Charter Review Commission to:

(1) inquire into the operation of the City government under the Charter provisions and determine whether any such provisions require revision. To this end, at least one (1) public hearing shall be held and the Commission shall have the power to compel the attendance of any officer or employee of the City and to require the submission of any of the City records which it may consider necessary to the conduct of such hearing;

(2) make any recommendations it considers desirable to ensure compliance with the provisions of the Charter by the departments of the City;

(3) propose amendments to this Charter to improve its effective application to current conditions and State Law; and

(4) report its findings and present its proposed amendments, if any, to the City Council.

(c) The City Council shall receive and have published in a local newspaper notice of all reports submitted by the Charter Review Commission, shall consider any recommendations made, and may, but shall not be required to, submit proposed Charter amendments to the qualified voters of the City in the manner provided by State Law, as now or hereafter amended.

(d) The term of office of the Charter Review Commission shall be six (6) months, and, if during this term no report is presented to the City Council, then all records of the proceedings of the Commission shall be filed with the City Secretary and shall be a public record.

State constitution reference–Adoption or amendment of charter, Texas Constitution, art. 11, sec. 5.
State law reference–Adoption or amendment of charter, V.T.C.A., Local Government Code, sec. 9.001 et seq.

Section 11.10 Bonds Required

City Council shall require bonds on all municipal officers and employees who receive or pay out monies of the City. The amount of each bond shall be determined by the City Council and the cost thereof borne by the City. City Council may require new bonds at any time, if in its opinion, the existing bond on any municipal officer or employee is insufficient.

State law reference–Official bonds, V.T.C.A., Government Code, ch. 604.

Section 11.11 Succession

(a) If four (4) or more positions on the City Council become vacant at any time due to disaster or an event that results in the death or inability to serve of four or more members, the mayor, mayor pro-tem, majority of the surviving members of City Council or, if there be but one, any surviving member, shall call a special election at the earliest date permitted by State Law to fill the vacant positions. In such event, pending the election, if there are three (3) surviving members of the City Council they shall constitute a quorum. If there are not at least three (3) surviving

members, one or more of the following officers of the City, in the order listed, shall serve with the surviving member(s) of the City Council on an interim basis as necessary to establish a four-member quorum:

1) the City Manager

2) the Chief of Police

3) the City Secretary

4) the Director of Public Works

5) the Chairman of the Planning Commission

6) the Vice-Chairman of the Planning Commission.

(May 11, 2013 - Special Election, prop. 3)

(b) If such surviving officers are not sufficient in number to constitute a quorum, the remaining officers shall constitute a quorum until the officers elected at the special election take office.

State law reference–Emergency interim public office succession, V.T.C.A., Government Code, ch. 616.

ARTICLE XII
TRANSITIONAL PROVISIONS

Section 12.01 Effect of Charter on Existing Officers and Employees

(a) 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. A Transition Plan shall be developed and implemented within ninety (90) days of the adoption of this Charter.

(b) From and after the date of adoption of this Charter, the persons then filling elective offices that are retained under this Charter will continue to fill those offices for the terms to which they were elected. With regard to Section 3.02(c) hereof, the term limitation provided therein shall only apply prospectively. Thus, for purposes of determining term limits of the Mayor and other City Councilmembers in office on the date of adoption of this Charter, the first year of the six-year limitation period will be the first year of service following the adoption of the Charter.

(c) Persons who, on the date this Charter is adopted, are filling appointive positions with the City, which are retained under this Charter, shall continue to fill those positions for the term for which they were appointed, unless removed by the City Council or by other means provided for in this Charter.

(d) The ballot for the special election at which this Charter is submitted to the qualified voters of the City shall also provide for the election of Councilmember Place Six (6) to fill the sixth Councilmember position created by the Charter. If this Charter becomes effective, the candidate receiving the highest number of votes cast in such election, and who is otherwise qualified, shall be elected to Councilmember Place Six (6) and shall serve an initial term, which shall expire upon the date of the regular city officers election in 2006. If this Charter is not adopted, no person shall be elected to Councilmember Place Six (6).

Section 12.02 Effect of Charter on Existing Laws

(a) All City ordinances, rules and regulations in force at the time of adoption of this Charter and not in conflict with it shall remain in force until altered, amended or repealed by the City Council. All rights of the City under existing franchises and contracts are preserved in full force and effect.

(b) Any ordinances, rules or regulations inconsistent with this Charter are repealed as of the date of adoption of this Charter.

Section 12.03 Submission of Charter to the Voters

The Charter Commission, in preparing this Charter, finds and declares that it is impracticable to segregate each subject so that the voter may vote "yes" or "no" on the same, for the reason that the Charter is so constructed that in order to enable it to properly function it is necessary that it should be adopted in its entirety. For this reason, the Charter Commission directs that this Charter be voted upon as a whole, and that it shall be submitted to the qualified voters of the City at an election held for that purpose. Such election is to be called for the first uniform election date available under State Law after satisfaction of the requirements specified in this section following the submission of this Charter to the City Council. Not less than thirty (30) days prior to the election for the adoption of this Charter, the City Secretary shall mail a copy of this Charter to each qualified voter of the City as appears from the latest certified list of registered voters. If said Charter is approved by a majority of electors voting at said election, it shall become the Charter of the City of Palacios and, after the returns have been canvassed, this Charter shall be declared adopted by an official order of the City Council entered in the records of the City. A copy of the adopted Charter, authenticated and certified by the Mayor under the seal of the City, shall be filed in the records of the City and forwarded to the Secretary of State of the State of Texas.

APPROVED FOR SUBMISSION TO CITY COUNCIL ON AUGUST 2, 2004

CHARTER COMMISSION:

/s/ Verner Bowers, Chairman	Bob McKinney
Andy Erdelt (resigned)	Bob McMahan (resigned)
/s/ John Groth	/s/ Jimmy Neeley
/s/ Michael Hooper	/s/ Ted Riccio
/s/ Fred Huitt, Assistant Secretary	/s/ Annette Stonedale

/s/
Don Hyett

/s/
Bert West, Secretary

/s/
Don Landry

/s/
Mike Witte

/s/
Jack Lesley, Vice Chairman

SUBMITTED TO CITY COUNCIL, AUGUST 2, 2004

Charter Commission Chairman, Verner "Butch" Bowers; Vice Chairman, Jack Lesley; Secretary, Bert West; Assistant Secretary, Fred Huitt. Members: John Groth, Michael Hooper, Don Hyett, Don Landry, Bob McKinney, Jimmy Neeley, Ted Riccio, Annette Stonedale, Mike Witte. Former Members: Andy Erdelt, Bob McMahan.