



AGENDA

Pursuant to V.T.C.A. Gov. Code Section 551.001 et. seq., the City Council of the City of Mission, Texas will hold a workshop on **Monday, January 08, 2024 at 3:30 p.m.** at the Mission Council Chambers, 1201 E. 8th Street, Mission, Texas and by teleconference to consider the following matters.

The public dial information to participate in the telephonic meeting is as follows:

Time: **Monday, January 08, 2024 at 3:30 p.m. Central Time**

<https://us02web.zoom.us/j/9904662781?pwd=SGVIL3JZRFVRdENzWXI5VUxFT1ZUQT09>

Meeting ID: 990 466 2781 - Password: 833227

Or Dial by telephone - +1 346 248 7799 US - Meeting ID: 990 466 2781 - Password: 833227

At any time during the course of the posted meeting, the Mission City Council may retire into Executive Session under Texas Government Code 551.071 to confer with legal counsel on any subject matter on this agenda in which the duty of the attorney to the City Council under Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas clearly conflicts with Chapter 551 of the Texas Government Code. Further, at any time during this meeting, the City Council may retire to deliberate on any subject slated for discussion at this meeting, as may be permitted under one or more exceptions to the Texas Open Meetings Act set forth in Title 5, Subtitle A, Chapter 551, Subchapter D of the Texas Government Code.

CALL TO ORDER AND ESTABLISH QUORUM

WORKSHOP

1. Presentation and discussion of the Charter Review Committee's recommendations for amendments to the City Charter and suggested charter language – V. Flores / Perez
2. Present questions to staff relating to the January, 08, 2024 Regular Meeting Agenda to be discussed at such meeting including but not limited - Perez

ADJOURNMENT

CERTIFICATE

I, the undersigned City Secretary do certify that the above notice of meeting was posted on the bulletin board of City Hall, 1201 E. 8th Street, Mission, Texas on this the 05th day of January, 2024 at 3:00 p.m.



Anna Carrillo, City Secretary

This facility is wheelchair accessible and accessible parking spaces are available. Requests for accommodations for a disability must be made 48 hours prior to this meeting. Please notify the City Secretary's Office at 580-8668.



CITY OF MISSION

CITY COUNCIL AGENDA ITEM & RECOMMENDATION SUMMARY

MEETING DATE: January 8, 2024

PRESENTED BY: Randy Perez, City Manager

AGENDA ITEM: Presentation and discussion of the Charter Review Committee's recommendations for amendments to the City Charter and suggested charter language – V. Flores / Perez

NATURE OF REQUEST:

Charter Review Committee has been meeting and is recommending Charter Amendments as presented. Charter Committee members are Julio Cerda, Chairman; Joe Vargas, Vice Chairman, Kevin Sanchez, Hector Ramirez, JD Villarreal and Letty Garcia.

BUGETED: Yes / No / N/A **FUND:** _____ **ACCT. #:** _____

BUDGET: \$ _____ **EST. COST:** \$ _____ **CURRENT BUDGET BALANCE:** \$ _____

BID AMOUNT: \$ _____

STAFF RECOMMENDATION:

Approval

Departmental Approval: N/A

Advisory Board Recommendation: Approval

City Manager's Recommendation: Approval *RP*

RECORD OF VOTE:

APPROVED: _____

DISAPPROVED: _____

TABLED: _____

_____ AYES

_____ NAYS

_____ DISSENTING _____

Mission, Texas, Code of Ordinances
PART I HOME RULE CHARTER

**PART I
HOME RULE CHARTER¹**

PREAMBLE

We, the citizens of Mission, Texas, in order to establish a home rule municipal government, provide for the future progress of our City and obtain more fully the benefits of local self-government, do hereby adopt this home rule Charter in accordance with the Constitution and Statutes of the State of Texas; and do hereby declare the residents of the City of Mission in Hidalgo County, Texas, living within the legally established boundaries of the said City, to be a political subdivision of the State of Texas, incorporated forever under the name and style of the "City of Mission" with such powers, rights and duties as are herein provided.

ARTICLE 1. FORM OF GOVERNMENT AND BOUNDARIES

Section 1.01. Form of government.

The municipal government provided by this Charter shall be known as the "Council-Manager Government." Pursuant to its provisions and subject only to the limitations imposed by the state constitution, the statutes of this state 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, determine policies and appoint the City Manager, who in turn shall execute the laws and administer the government of the City. All powers of the City shall be exercised in the manner prescribed by this Charter, or if the manner be not prescribed in such manner as may be prescribed by ordinance, the state constitution or the statutes of the state.

[The powers of the City of Mission under this Charter shall be construed liberally in favor of the City, and the specific mention of a particular general powers in the Charter shall not be construed as limiting in any way the general powers stated herein.](#)

State law reference(s)—Home rule cities, V.T.C.A., Local Government Code § 5.003.

Section 1.02. Boundaries.

The boundaries of the City of Mission shall be the same as they have heretofore been established and as they existed on the first day of August, 1961, which boundaries are more fully set out on an official map, and described by metes and bounds in a document titled "Boundaries of the Corporate Limits of the City of Mission,

¹Editor's note(s)—Printed herein is the city's Home Rule Charter, as adopted at an election held on August 29, 1961. The original arrangement, article and section numbers and catchlines have been retained.

Amendments to this Charter are indicated by history notes in parentheses following the amended section. The absence of a history note indicates that the provision is unchanged from the original Charter. For stylistic purposes, a uniform system of headings, catchlines and citation to state statutes has been used. Material added by the editor for clarity has been included in brackets; obvious misspellings have been corrected without notation.

State law reference(s)—Adoption, amendment, etc., of Home Rule Charters, V.T.C.A., Local Government Code § 9.001 et seq.

Hidalgo County, Texas" being Ordinance No. 465 filed in the City Hall of the City of Mission, Texas, and as such boundaries have thereafter been, or shall hereafter be, lawfully amended through annexation or otherwise.

(Amended 1-17-1987)

Section 1.03. Extension of Boundaries.

The City Council shall have the power, by ordinance, to fix the boundary limits of the City of Mission; and to provide for the alteration and extension of said boundary limits, and the annexation of additional territory lying adjacent to the City, with or without the consent of the territory and inhabitants annexed. The City's power of annexation shall be conducted in accordance with applicable state law or ordinance.

Section 1.04. Contraction of Boundaries.

Whenever there exists within the corporate limits of the City of Mission any territory not suitable or necessary for City purposes, the City Council may, upon a petition signed by a majority of the qualified voters residing in such territory if the same be inhabited, or without any such petition if the same be uninhabited, by ordinance duly passed, discontinue said territory as part of said City; said petition and ordinance shall specify accurately the metes and bounds of the territory sought to be eliminated from the City and shall contain a plat designating such territory so that the same can be definitely ascertained; and when said ordinance has been duly passed the same shall be entered upon the minutes and records of said City, but said territory shall still be liable for its pro rata share of any debts incurred while said area was a part of said City, and the City shall continue to levy, assess and collect taxes on the property within said territory to pay the indebtedness incurred while said area was a part of the City as though the same had not be [been] excluded from the boundaries of the City.

~~Section 1.03. Extension of city limits upon petition.~~

~~The boundaries and limits of the City of Mission, as now or hereafter existing, may be extended so as to include within the corporate limits of said city, any territory or several areas adjoining such limits as then existing, whenever a majority of the inhabitants within such territory, area or areas, qualified to vote for members of the State Legislature, shall petition the City Council, in writing, to become a part of said City and attach to said petition the affidavit of one (1) or more of their number to the effect that said petition is signed by a majority of such qualified voters; and thereupon the City Council, at any regular session held not sooner than ten (10) days after the presentation of such petition, may, by ordinance, annex such territory, area or several areas to the City of Mission, and thenceforth the said territory, area or several areas so annexed shall be a part of the City of Mission, and the inhabitants thereof shall be entitled to all rights and privileges of other citizens and shall be bound by the acts, ordinances, resolutions and regulations of the said City made in conformity thereto and passed in pursuance of this Charter, or any amendment thereof.~~

~~State law reference(s) — Annexations, V.T.C.A., Local Government Code § 43.021 et seq.~~

~~Section 1.04. Extended city limits by action of city council.~~

~~The City Council shall have the authority and power to, by ordinance, fix the boundary limits of the City of Mission, and to provide for the extension of said boundary limits and the annexation of additional territory lying adjacent to said City, with or without the consent of the inhabitants of the territory annexed: Provided, that upon the introduction of any such ordinance and before final passage thereof, there shall have been given the notice thereof and the hearing thereon provided in the next succeeding section hereof. When said ordinance is finally passed, the said territory so annexed shall be a part of the City of Mission and the inhabitants shall be bound by the acts, ordinances, resolutions and regulations of said City made in conformity thereto and passed in pursuance of the Charter, or any amendment thereof.~~

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(Supp. No. 26)

Section 1.05. Notice and hearing on extension of boundaries.

Before enacting the ordinance provided and referred to in either of the preceding sections numbered 1.03 and 1.04, the City Council shall hold a public hearing after notice thereof given by publication in one (1) issue of some newspaper of general circulation within the City of Mission, Texas, at least ten (10) days prior to the date set for such hearing, setting forth therein the territory, area, or several areas proposed to be brought within the City limits (at which hearing the inhabitants of such territory, area or areas, and the owners of property within the same, may in person or by counsel offer evidence and present their views in favor of or against such inclusion, in addition to the presentation of evidence for or against the same on the part of the then existing City of Mission, the inhabitants and taxpayers thereof) and upon such hearing shall find from the evidence submitted that the inclusion of such territory, area, areas, or some portion thereof, to be described in the findings of the Council, is adjacent to the City limits and that the inclusion thereof within said limits would be a benefit to the owners of the property therein, and that the inclusion of such territory or portions thereof would likewise be a benefit to the then existing City of Mission. The findings made by the City Council, after such notice and hearing shall be final and conclusive as to the facts so found and shall be a sufficient and legal basis for the enactment of the ordinances above provided for. In the event State law requires a home rule city to follow a different procedure for notice and hearing prior to annexation than that prescribed in this section, the State law shall control.

(Amended 1-17-1987)

Section 1.06. Contraction of boundaries.

Whenever there exists within the corporate limits of the City of Mission any territory not suitable or necessary for City purposes, the City Council, may, upon a petition signed by a majority of the qualified voters residing in such territory if the same be inhabited, or without any such petition is [if] the same be uninhabited, by ordinance duly passed discontinue said territory as part of said City. Said petition and ordinance shall specify accurately the metes and bounds of the territory sought to be eliminated from the City and shall contain a plat designating such territories so that the same can be definitely ascertained; and when said ordinance has been duly passed the same shall be entered upon the minutes and records of said City, and from and after the entry of such ordinance said territory shall cease to be a part of said City, but said territory shall still be liable for its pro rata share of any debts incurred while said area was a part of said City, and the City shall continue to levy, assess and collect taxes on the property within said territory to pay the indebtedness incurred while said area was a part of the City as though the same had not been excluded from the boundaries of the City.

ARTICLE 2. POWERS OF THE CITY

Section 2.01. General.

The City of Mission [shall have the power of local self-government to the furthest extent permitted by law.](#) may use a corporate seal; may sue and be sued; may contract and be contracted with; may implead and be impleaded in all courts in all matters whatsoever; may cooperate with the government of the State of Texas, or any agency thereof, the federal government or any agency thereof, or any political subdivision of the State of Texas; and [The City](#) shall have all the powers granted to cities by the constitution and Laws of the State of Texas, together with all the implied powers necessary to carry into execution all the powers granted, [including those necessary to preserve the government, interests, health, welfare and good order of the City and its inhabitants.](#) All powers shall [be exercised and enforced in the manner prescribed by the laws of the State of Texas, in this Charter and the City's ordinances.](#)

The City of Mission may exercise any of its powers to perform any of its functions, and may participate in the financing thereof, jointly or in cooperation, by contract or otherwise with the State 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 municipal purpose.

~~The City of Mission shall have the power to, among other things, construct and maintain, within or without its corporate limits, streets, flood control and sanitary facilities, and water and storm drainage facilities, in, over, under or upon all public property or easements granted for that purpose and to levy assessments for the costs of such improvements. The City shall have the power to collect attorney's fees for the collection of assessments as allowed under state law. It shall have the power to cause liens to be established for the purpose of securing the payment of such levies and shall have the power to compel the use of such improvements by the citizens of the City of Mission. The City may own or 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 may sell, lease, hold, manage, control and police any property now owned by it or which it may hereafter acquire whether inside or outside the city limits, and shall have the right to lease or let its property whether inside or outside the city limits, subject to the limitation hereinafter set out, and may construct, own, lease, operate and regulate public utilities, may assess, levy and collect taxes for general and special purposes on all lawful subjects of taxation; may borrow money on the faith and credit of the City by issuance and sale of bonds, warrants or notes for the City and such bonds may be issued for any and all purposes for which home rule and general law cities are authorized to issue bonds, and for any other public purpose or improvement, and in the manner and form provided by law; may issue any bonds which may be voted on the same day on which the election is held for the adoption of this Charter; may appropriate the money 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; and may pass such ordinances as may be expedient for the protection and maintenance of good government, peace and welfare of the City, for performance of the functions thereof, for the order and security of its residents; and may provide suitable penalties for the violations of any ordinance enacted by the City of Mission; and, except as prohibited by the constitution and laws of this State or restricted by this Charter, the City may exercise all municipal powers, functions, rights, privileges and immunities of every name and nature whatsoever.~~

Section 2.02. General powers adopted.

The enumeration of the particular powers in this Charter shall not be held or deemed to be exclusive but in addition to the powers enumerated herein or implied hereby appropriate to the exercise of such powers, the City shall have and may exercise all power of local self-government and all other powers which, under the Constitution and laws of the State of Texas, it would be competent for this Charter specifically to enumerate. The City of Mission shall have and may exercise all powers enumerated in Vernon's Ann. Civ. St. art. 1175, chapter 13, title 28, as now or hereafter amended.

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 of Texas. 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 hereby conferred 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 have and possess the power of condemnation for any municipal or public purposes even though not specifically enumerated in this Charter.

State law reference(s)—Eminent domain, V.T.C.A., Local Government Code § 251.001 et seq.

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PART I - HOME RULE CHARTER
ARTICLE 3. THE GOVERNING BODY

ARTICLE 3. THE GOVERNING BODY

Section 3.01. Number, selection and term.

The legislative and governing body of the City of Mission, Texas, shall be known as "The City Council of the City of Mission, Texas." Said City Council shall be composed of the Mayor and four (4) Councilmembers.

- A. The Mayor and all other members of the City Council shall be elected from the City of Mission, Texas, at large.
- B. The members of the City Council, excluding the Mayor, shall be numbered as to places one (1) through four (4).
- C. The regular election for 1987 shall be held the first Saturday in April. The regular election day for the year 1989 and subsequent years shall be held the third Saturday in January [first Saturday in May]. The term of office for all members of the City Council shall be for four (4) years and until the successor to the office is elected and qualified.
- D. All qualified candidates desiring to run for election to the City Council shall announce their candidacy for a certain numbered place or for the position of Mayor and shall file for such position in the manner required by the election laws of the State of Texas. At every regular election and at every special election called to fill one (1) or more vacant positions on the City Council, election to each position on the Council shall be by a majority of all the votes cast for such position at such election. In every such election each qualified voter shall vote for not more than one (1) candidate for each Council position to be filled. Where in an election to a position on the Council, no candidate receives a majority of all votes cast for such position at such election, a runoff election shall be ordered and conducted in the manner required by the election laws of the State of Texas.
- E. Council and Mayor shall be elected by staggered terms. At the regular City election in 1987 the Mayor and places one (1) and three (3) on the Council will run for two-year terms and places two (2) and four (4) shall at said election run for three-year terms.
- F. The Mayor shall be the presiding officer of the City Council, shall be recognized as the head of the City Government for all ceremonial purposes and by the governor for purposes of military law, but shall have no regular administrative duties. The Mayor must vote on all matters under consideration by the City Council, except as provided in section 3.10 of this Charter. The Mayor shall not have the power of veto.
- G. All members of the City Council shall be subject to removal from office under the terms and conditions of the recall provisions of this Charter.

H. Mayor Term Limits: A person may not be elected to, or serve on, the City Council as the mayor for more than three (3), consecutive or nonconsecutive, four-year terms. Any person serving as mayor, either elected or appointed, for an unexpired term created by a vacancy prescribed by law shall not have such term apply to maximum term limit provided herein. A person subject to mayor term limits shall not be prevented from becoming a candidate for Councilmember. Term limits shall not apply to any of the other four (4) Councilmember positions.

Commented [VAF1]: Revisions added after the 11/20/23 CRC Meeting.

(Amended 1-17-1987; Elec. of 5-10-2008)

State law reference(s)—Uniform election date, V.T.C.A., Election Code § 41.001.

Section 3.02. Qualifications.

Each member of the City Council shall be a resident citizen of the City of Mission, shall be a qualified voter of the State of Texas, shall have been such resident citizen of the City of Mission for a period of not less than six (6) months immediately preceding his election, and shall not be indebted to the City of Mission at the time he takes office. If the Mayor or any Councilman fails to maintain the foregoing qualifications the City Council must, at its next regular meeting, declare a vacancy to exist and shall fill said vacancy as set forth in section 3.06 of this Charter.

(Amended 1-17-1987)

Section 3.03. Council to be judge of election qualification.

The City Council shall be the judge of the election and qualification of its own members and other elected officials of the City.

Section 3.04. Compensation.

The Mayor and Councilmen shall receive such salary as may be fixed by the Council not to exceed the sum of twelve hundred dollars (\$1,200.00) per year for the Mayor and three hundred dollars (\$300.00) per year for each Councilman, said amounts payable in monthly installments.

Section 3.05. Mayor Pro Tem.

The City Council, at its first meeting after election of Councilmen, shall elect one (1) of its number Mayor Pro Tem, and he shall perform all the duties of the Mayor in the absence or disability of the Mayor.

Section 3.06. Vacancies.

When a vacancy occurs, in the City Council and the respective unexpired term is twelve (12) months or less, the remaining members thereof must, within ten days, appoint by majority vote, a qualified person to fill the unexpired term of such vacancy; However, as required by law, should the respective unexpired term be longer than twelve (12) months, the unexpired term shall be filled by an election ordered and conducted in accordance with the election laws of the State of Texas. ~~provided, however, the City Council shall not appoint more than one (1) Council member in any twelve-month period, and in the event of the occurrence of a vacancy in the City Council within a twelve-month period in which a vacancy in the City Council has been filled by the City Council, or in the event that more than one (1) vacancy shall occur at the same time, then in any such event a special election shall be held for the purpose of electing the successor or successors, and such election shall be ordered and conducted in accordance with the elections laws of the State of Texas. Should all positions on the City Council become vacant at one (1) time, then in such event, the County Judge of Hidalgo County, Texas, is hereby empowered and directed to issue notice of such special election for and on behalf of said City, and to appoint qualified persons as election officials.~~

(Amended 1-17-1987)

Commented [VAF2]: This change was recommended by the Board at the CRC's Second Meeting. Amended 11/14/23.

Section 3.07. Powers of the City Council.

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

- A. Adopt the budget of the City.
- B. Authorize the issuance of bonds by a bond ordinance.
- C. Inquire into the conduct of any office, department or agency of the City and make investigations as to municipal affairs.
- D. Provide for such additional boards and commissions, not otherwise provided for in this Charter, as may be deemed necessary, and appoint the members of all such boards and commissions. Such boards and commissions shall have all powers and duties now or hereafter conferred and created by this Charter, by City ordinance, or by law.
- E. Adopt and modify the zoning plan and the building code of the City.
- F. Adopt and modify the official map of the City.
- G. Buy and pay for life insurance and hospitalization insurance for City employees.
- H. Adopt, modify and carry out plans proposed by the Planning and Zoning Commission for the replatting, improvement and redevelopment of any area or district which may have been destroyed in whole or in part by disaster.
- I. Regulate, license and fix the charges or fares made by any person, firm or corporation owning, operating or controlling any vehicle of any character used for the carrying of passengers for hire or the transportation of freight for hire on the public streets and alleys of the City.
- J. Provide for the establishment and designation of fire limits and prescribe the kind and character of the buildings and structures or improvements to be erected therein, and provide for the erection of fireproof buildings within said limits, and provide for the condemnation of dangerous structures or buildings or dilapidated buildings or buildings calculated to increase the fire hazard and prescribe the manner of their removal or destruction within said limits.
- K. Fix the salaries and compensation of the City officers and employees.
- L. Provide for sanitary garbage disposal and set fees and charges therefor and provide penalties for failure to pay such fees and charges.
- M. Exercise exclusive dominion, control and jurisdiction in, upon and over and under the public streets, avenues, sidewalks, alleys, highways, boulevards and public grounds of the City and provide for the improvement of same as provided by Vernon's Ann. Civ. St. art. 1105b, as now or hereafter amended, and the right to close and abandon any street or alley within the City.
- N. Compromise and settle any and all claims and lawsuits of every kind and character in favor of or against the City of Mission.
- O. Define all nuisances and prohibit the same within the city and outside the City limits for a distance of five thousand (5,000) feet.
- P. The City Council may annually appropriate money from the general fund of the City to the extent permitted by law for the establishment and maintenance of a public library, Board of City Development, or other public organization or activity having a valid municipal purpose, provided the

council retain sufficient control over such organizations and activities to ensure that such money is used for a valid municipal purpose.

- Q. The Mayor makes the appointments that are specified by State or federal law and that all other appointments be made by the Council as a whole and that a process be established to have applications whereby citizens have the opportunity to apply for service on boards.

(Amended 1-17-1987)

Section 3.08. City Council not to interfere in appointments.

Neither the City Council nor any of its members shall direct the appointment of any person to office by the City Manager or by any of his subordinates. Except for the purpose of inquiry the City Council and its members shall deal with the administrative services solely through the City Manager and neither the City Council nor any member thereof shall give orders to any subordinates of the City Manager, either publicly or privately.

Section 3.09. Meetings of the city council.

The City Council shall hold at least one regular meeting in each month at a time to be fixed by it for such regular meetings, and may hold as many additional regular meetings during the month as may be necessary for the transaction of the business of the City and its citizens. All regular meetings of the City Council shall be public and shall be held at a place designated in advance. The Mayor or any two members of the City Council may call special meetings of the City Council at any time. [All meetings of the City Council must be conducted in accordance with the Texas Open Meetings Act, as amended, or successor statute.](#)

Section 3.10. Rules of procedure.

The City Council shall determine its own rules of procedure and may compel the attendance of its members. Three-fifths (3/5) of the qualified members of the City Council shall constitute a quorum to do business and the affirmative vote of a majority of those present shall be necessary to adopt any ordinance or resolution, provided, however, that a majority of the City Council shall be necessary to adopt any ordinance or resolution providing criminal penalties, levying a tax or assessment, annexing territory to the City of Mission, and changing or adopting a public utility rate. Proceedings of all meetings, regular or special shall be electronically recorded and maintained as a record for five (5) years. Minutes of the proceedings of all meetings, regular or special, shall be taped and maintained as a record and shall be kept, to which any citizen may have access at all reasonable times and which shall constitute one (1) of the archives of the City; provided, however, in lieu of reading the minutes of each Council meeting for approval, the City Secretary may, with the consent of the City Council, furnish each member of the City Council with exact copies of the minutes of previous meetings at least three (3) days prior to the meeting at which such minutes are to be subject to approval. Such minutes shall then be subject to approval, rejection, deletion or addition by the members of the City Council without the necessity of reading the full text of the minutes of the meeting at such meeting at which such minutes are subject to approval. The vote upon the passage of all ordinances, resolutions and motions shall be taken by the "Ayes" and "Nays" and entered upon the minutes, and every ordinance or resolution, upon its final passage, shall be recorded in a book kept for that purpose under full caption, and shall be authenticated by the signature of the presiding officer and the person performing the duties of City Secretary. No member of the City Council present at a meeting shall be excused from voting, and each member of the City Council present at the meeting must announce his vote on question, ordinance, or resolution, placed before the City Council; provided, however, a Council member shall be excused from voting whenever the Council member is required by law to abstain from voting, whenever the subject matter under consideration involves his own official conduct, or where his personal financial interests are involved, and on these particular matters, he shall not vote, but shall give his reasons for not voting, which said reasons shall be spread upon the minutes of the City Council.

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(Amended 1-17-1987)

Section 3.11. Procedure for passage of ordinances.

Every ordinance shall be introduced in written or printed form and, upon passage, shall take effect immediately or at the time indicated in the ordinance unless otherwise provided therein; provided that any ordinance imposing a penalty, fine or forfeiture for a violation of its provisions shall become effective from and after its publication one (1) time as provided herein; subject to the provisions of Article 7 of this Charter. The City Secretary shall give notice of the passage of every ordinance imposing a penalty, fine or forfeiture for a violation of the provisions thereof, by causing the caption or title, including the penalty, of any such ordinance to be published in a newspaper of general circulation in the City of Mission at least once after the passage of such ordinance to comply with the minimum requirements imposed by state law. He shall note on every ordinance, the caption of which is hereby required to be published, and on the record thereof, the fact that the same has been published as required by the Charter and the date of such publication, which shall be prima facie evidence of the legal publication and promulgation of such ordinance; provided that the provisions of this section shall not apply to the correction, amendment, revision and codification of the ordinances of the City for publication in book or pamphlet form. Except as otherwise provided in Article 7 and Article 10 of this Charter, it shall not be necessary to the validity of any ordinance that it shall be read more than one (1) time or considered at more than one (1) session of the City Council. Every ordinance shall be authenticated by the signature of the Mayor and City Secretary and shall be systematically recorded and indexed in an ordinance book in a manner provided by the Council. It shall only be necessary to record the caption or title of ordinances in the minutes or journal of Council meetings. The City Council shall have power to cause the ordinances of the City to be corrected, amended, revised, codified and printed in Code form as often as the Council deems advisable, and such printed Code, when adopted by the Council, shall be in full force and effect without the necessity of publishing the same or any part thereof in a newspaper. Such printed Code shall be admitted in evidence in all courts and places without further proof.

Commented [VAF3]: This change was made at the 12/04/23 CRC Meeting.

Section 3.12. Official bonds for City employees.

The City Manager and the City Secretary and such other city officers and employees as the City Council may require shall, before entering upon the duties of their offices enter into a good and sufficient fidelity bond in the sum to be determined by the City Council, payable to the City of Mission and conditioned upon the faithful discharge of the duties of such persons and upon the faithful accounting of all moneys, credits and things of value coming into the hands of such persons, and such bonds shall be signed as surety by some company authorized to do business under the laws of the State of Texas, and the premium of such bonds shall be paid by the City of Mission, and such bonds must be acceptable to the City Council.

Section 3.13. Investigation by the City Council.

The City Council shall have power to inquire into the conduct of any office, department, agency, officer or employee of the City and to make investigations as to municipal affairs, and for that purpose may subpoena witnesses, administer oaths and compel the production of books, papers, and other evidence. Failure to obey such subpoena or to produce books, papers or other evidence as ordered under the provisions of this section shall constitute a misdemeanor and shall be punishable by fine not to exceed two hundred dollars (\$200.00).

Section 3.14. Audit and examination of City books and accounts.

At the close of each fiscal year, and at such other times as the City Council may deem necessary the books and accounts of the City shall be audited by a Certified Public Accountant, who shall be selected by the City Council. All audit reports shall be filed with the City Council Secretary, shall be available for public inspection, and

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PART I - HOME RULE CHARTER
ARTICLE 3. THE GOVERNING BODY

shall be made a part of the archives of the City. The City Council shall make available a semiannual simplified financial report to be published in the local newspaper.

(Amended 1-17-1987)

Section 3.15. Internal Auditor.

The Internal Auditor shall be appointed by the City Council and, for auditing purposes, shall have direct functional reporting to the City Council by means of the City's Audit Committee. This Charter shall not prevent the Internal Auditor from reporting directly to City Council or any other level within the organization that allows the internal audit activity to fulfill its responsibilities. In addition to any audits permitted under the terms of this section, the Mayor or any two members of City Council may request that the Internal Auditor conduct an audit, whereinafter the auditor shall report any such results to Council in compliance with all other terms of this section.

Commented [VAF4]: This change was added as proposed by the Internal Auditor at the 2nd CRC Meeting. Changes made on 11/14/23.

Commented [VAF5R4]: Made some additional changes to this Section no 11/20/23 Meeting: (a) Revised "Nothing within" statement and (b) Added clause that allows Mayor or Any Two Councilmembers to request a specific audit and have the same reported to Council.

The Internal Auditor's Office shall conduct audits of city departments in accordance with generally acceptable accounting principles and *The International Professional Practices Framework (IPPF)* promulgated by *The Institute of Internal Auditors (IIA)*, its Code of Ethics and the Definition of Internal Auditing.

The results of any audit(s) shall be reported by the auditor to the City's Audit Committee and City Manager; any preliminary audit findings or other draft documents and work papers of the auditor or the audit committee shall be confidential and shall not be released; for the day-to-day administrative matters, the Internal Auditor's Office shall report to the City Manager or its designee.

ARTICLE 3A. MISSION PUBLIC UTILITIES

Commented [VAF6]: Changes added at the 12/04/23 CRC Meeting.

Section 3A.01. General powers respecting utilities.

- A. The City of Mission may license, regulate, fix the rates, control and supervise public utilities of all kinds.
- B. In addition to such public utilities as it may now own, the City of Mission may own, acquire, construct, maintain, and operate any other public utility that may be approved by a majority of the qualified voters of the City voting therefor at an election held for such purpose; and shall have the power for the purpose of operating and maintaining any such utility, and for distributing such service throughout the city or any portion thereof, but in such condemnation proceedings no allowance shall be made for the value of any franchise and only physical assets shall be purchased by the city.

Section 3A.02. Rates.

The City of Mission shall have the power, subject to limitations imposed by state law and this Charter, to fix and, from time to time, revise such rates and charges as it may deem advisable for supplying such utility services as the city may provide. The rates and charges for services to consumers outside the corporate limits of the city may be greater but shall not be less than the rates and charges for similar services to consumers within the corporate limits of the city.

Section 3A.03. Disposal of utility properties.

No sale, conveyance, lease, or other disposition of the assets of any utility system or any part thereof essential to continued effective utility service, shall be made unless such sale, lease, or disposition is approved by a majority vote of the qualified voters voting in an election for that purpose in the City of Mission.

Section 3A.04. Cooperation of other city departments.

The Mission Public Utilities Board shall have the right to request the services of any officer or department of the city government; provided however, that the utility system shall pay out of its revenues a proportionate part of the expenses of the department used in an amount agreed upon by the city manager and the board. If they fail to agree, the final decision on any such expenses shall be made by the City Council.

Section 3A.05. The Public Utilities Board.

- A. There is hereby created a public utilities board to be composed of five (5) members, or as many members as there are City council members, whichever is greater, that are appointed by the City Council for two (2) year terms and until their respective successors have been appointed and qualified. City council members shall not be precluded from being appointed to, and serving on, the Mission Public Utilities Board as provided herein. Upon confirmation by a majority vote of all City Council Members, members of the Public Utilities Board may be removed by the City Council only for cause and only after charges have been filed and published and the member has been given a reasonable opportunity to defend him/herself in an open public hearing before council. Vacancies shall be filled for any unexpired term in the same manner as provided for other appointments.
- B. A Public Utilities Manager shall be appointed by the Public Utilities Board and confirmed by the City Council. The Public Utilities Manager shall be the head of the administration and executive affairs of the city's utility systems. In addition to reporting directly to the Public Utilities Board, the Public Utilities Manager shall have direct functional reporting to the City Council by means of the City Manager.
- C. Members of the Public Utilities Board shall have the same qualifications as are required by membership of the City Council.
- D. At its organizational meeting, and annually thereafter; the board shall select from its own membership a chairperson and vice-chair. A majority of the appointed members shall constitute a quorum. The board shall determine its own rules and order of business. The board shall meet at least once each month; all meetings shall be conducted in accordance with the Texas Open Meetings Act, Chapter 551 of the Texas Government Code, as may be amended, and other all other applicable laws.
- E. The board shall serve the department of utilities and City Council as a consulting and advisory board, recommending policies relating to the operation, promotion, enlargement future planning, proposed rate changes, and such other matters involving city-owned utilities as may be referred to it by City Council.
- F. The annual budget for the department of utilities shall be prepared by the Public Utilities Manager and submitted to the board in the form required by the City Manager. The board shall review the budget, make such changes therein as they deem appropriate, then return it to the Public Utilities Manager who shall deliver it to the City Manager for incorporation without any changes, in the proposed general budget of the City and transmission to the City Council for review.

Section 3A.06. General Management Survey.

At intervals not exceeding ten (10) years the City Council shall at the expense of the utilities involved, cause a general management survey to be made of all utilities under the jurisdiction of the Public Utilities Board by a competent management consulting or industrial engineering firm, the report and recommendation of which shall be made public; provided, that the first such survey shall be made within three (3) years of the effective date of this charter provision.

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(Supp. No. 26)

ARTICLE 4. ADMINISTRATIVE SERVICES

Section 4.01. City Manager is Chief Executive Officer.

- A. The Chief Executive Officer of the City of Mission shall be head of the administrative and executive affairs of the City and shall be designated and known as the City Manager, who shall be appointed by the City Council. The City Manager shall be a person qualified by training, experience, and ability to perform executive and administrative functions and duties and municipal governmental affairs. It shall not be required at the time of appointment to the office of City Manager that the Chief Executive be a resident of the City of Mission but during tenure of office the City Manager shall be a resident citizen of the City of Mission. The City Manager shall be responsible to the City Council for the efficient administration of the affairs of the City of Mission and shall hold office at the will of the City Council. The City Manager may be removed by majority vote of all the members of the City Council. The action of the City Council suspending or removing the City Manager shall be final. The City Manager shall attend all meetings of the City Council, with the right to take part in the discussions, but having no vote, but when the City Council is considering his removal in executive session, the City Manager may be excluded. The City Manager may receive such compensation for services as Chief Executive Officer as may be fixed by the City Council. During the absence or disability of the City Manager the City Council shall designate a properly qualified person to perform the duties of the office.
- B. It shall be the power and the duty of the Chief Executive Officer of the City of Mission to appoint, and when necessary for the welfare of the City, remove any employee of the City, except as otherwise provided by this Charter, to exercise control over all departments and divisions that may be created by the City Council and to supervise and direct all officers and employees of the City appointed by him in the final discharge of their duties, to recommend to the City Council for adoption or repeal such measures, resolutions, and ordinances that he may deem necessary or expedient, to keep the City Council fully advised as to financial conditions and needs of the City, and make such recommendations as may seem desirable, to prepare and submit to the City Council the annual budget and supplements thereto, and to perform such duties as may be prescribed by this Charter or may be required of him by the City Council, not inconsistent with this Charter.

Section 4.02. Department of Police.

The City shall continue to maintain and support a competent and adequate Police Department for the protection of property and lives from fire within the corporate limits. The Department Head of the Mission Police Department, the Chief of Police, shall be appointed by the City Manager and confirmed by the City Council. ~~There shall be established and maintained a Department of Police to preserve order within the City and to secure the residents of said City from violence and the property therein from injury of loss.~~

~~A. Chief of Police. The Chief of Police shall be the Chief Administrative Officer of the Department of Police. He~~ The Chief of Police shall, with the approval of the City Manager, appoint and remove the employees of said department and shall perform such duties as may be required of him by the City Council. ~~The Chief of Police shall be appointed by the City Manager for an indefinite term.~~ The Chief of Police shall be responsible to the City Manager for the administration of his department and the carrying out of the directives of the City Council.

~~B. Special police. No persons except as otherwise provided by general law of this Charter or the ordinances passed pursuant thereto shall act as special police or special detectives.~~

Commented [VAF7]: Following 11/20/23 CRC Meeting, it was recommended to make the Fire Department and Police Department language consistent. Certain provisions in 4.02 were revised or removed.

Section 4.03. City Secretary.

The City Manager may appoint a competent person as City Secretary and such assistants as the City Council shall deem advisable. The City Secretary or an Assistant Secretary, shall keep the minutes of the proceedings of Council meetings, and shall authenticate by his signature and record in full in a book kept and indexed for the purpose, all ordinances and resolutions, and shall perform such other duties as the City Manager shall assign to him, and those elsewhere provided for in this Charter and the laws of the State of Texas.

Section 4.04. ~~City Treasurer.~~ Reserved.

Editor's note(s)—Former section 4.04 was deleted by a Charter amendment adopted at an election held on May 4, 2023. The deleted provisions pertained to matters related to the appointment of a City Treasurer.

~~The City Manager shall appoint a competent person as City Treasurer and such assistants as the City Council may deem advisable. The City Treasurer shall perform the duties delegated to him by the City Manager and those which may be imposed upon him by the laws of the State of Texas. The duties of City Treasurer, City Secretary and City Tax Assessor and Collector may be performed by the same individual.~~

Commented [VAF8]: Revisions proposed by CRC at 10/30/23 Meeting.

Section 4.05. Municipal court.

- A. There shall be established and maintained a court designated as a municipal court for the trial of misdemeanor offenses, with all such powers and duties as are now or hereafter may be prescribed by the laws of the State of Texas relative to municipal courts.
- B. The judge or judges of said court shall be a qualified voter ~~or voters of the City of Mission in the state of Texas~~ shall be appointed by the City Council, shall hold his office at the pleasure of the City Council, shall receive such salary as may be fixed by the City Council, shall be under the administrative direction of the City Manager and said judge shall not be an elected official. ~~The City Secretary or an assistant City Secretary shall be ex officio clerk of said court.~~
- C. The Clerk of said court and his deputy shall have the power to administer oaths and affidavits, make certificates, affix the seal of said court thereto; and generally do and perform any and all acts usual and necessary by the Clerk of courts in issuing process of said courts and conducting the business thereof.
- D. The City Council by ordinance may provide for the appointment of one (1) or more judges to serve if the regular judge, the presiding judge, or an associate judge is temporarily unable to act.
- E. Each judge of said court shall be a duly licensed attorney if some such suitable attorney is available and provided that this shall not be a disqualification of the person serving in such capacity at the time of the adoption of this Charter.
- F. The judge or judges of said court shall serve for a term of two years. A municipal court judge who is not reappointed by the 91st day following the expiration of a term of office shall, absent action by the appointing authority, continue to serve for another term of office beginning on the date the previous term of office expired, as prescribed by Chapter 29 of the Texas Government Code as now or hereafter amended.

Commented [VAF9]: Revisions proposed by CRC at 10/30/23 Meeting.

Commented [VAF10]: Revisions proposed by CRC at 10/30/23 Meeting.

Commented [VAF11]: Revisions proposed by CRC at 10/30/23 Meeting.

(Amended 1-17-1987)

Cross reference(s)—Municipal court, ch. 58.

Section 4.06. City Attorney.

The City Council shall appoint a competent and duly licensed attorney practicing law in ~~the City of Mission, the state of~~ Texas, who shall be the City Attorney. He shall receive for his services such compensation as may be fixed by the City Council, and shall hold his office at the pleasure of the City Council. ~~The City Attorney, or such other attorney selected by him with the approval of the City Council, shall represent the City in all litigation.~~ He shall be the legal advisor of and counsel for, the City of Mission and all officers and departments thereof.

Commented [VAF12]: Revisions proposed by CRC at 10/30/23 Meeting.

The City Attorney shall, with the approval of the City Manager, appoint and remove the employees of said department and shall perform such duties as may be required of him by the City Council.

Commented [VAF13]: Revisions proposed by CRC at 11/20/23 Meeting

The City Attorney's Office shall oversee legal services for the City of Mission, its boards, committees, or other City commissioned entities for the purpose of accomplishing common goals of eliminating duplication of services, creating administrative efficiency, providing for joint legal service efforts, and ensuring the quality of legal service to the city at the least cost in terms of fees and tax rates. Outside counsel may be retained in cases of extraordinary importance, legal specialization required, assignment by insurance or bond requirements, or in an emergency. In such a contingency, the City Council shall fix in advance, as far as practicable, the compensation to be allowed under such extra or outside counsel by resolution.

Cross reference(s)—Municipal Court, ch. 58.

Section 4.07. ~~Department of Health and Sanitation.~~ Reserved.

Editor's note(s)—Former section 4.07 was deleted by a Charter amendment adopted at an election held on May 4, 2023. The deleted provisions pertained to matters related to the creation of the Department of Health and Sanitation.

Commented [VAF14]: Revisions proposed by CRC at 10/30/23 Meeting.

Commented [VAF15R14]: Following the 11/20/23 CRC Meeting, it was recommended that this section be deleted entirely. All references to the Police Department were condensed into Section 4.02, above.

~~The City Council shall appoint a City Health Officer who shall be a licensed physician qualified to practice medicine in the State of Texas and a resident of the City of Mission. The City Health Officer shall advise the City Council on a program of public health; shall cooperate in the preparation of a sanitary code; shall cooperate with nearby cities on problems of health and sanitation; shall cooperate with the Commissioner's Court of Hidalgo County and its agencies, and with the State Health Department and other departments of state government in matters pertaining to health and sanitation.~~

Section 4.08. Fire Department.

The City shall continue to maintain and support a competent and adequate Fire Department for the protection of property and lives from fire within the corporate limits. The Department Head of the Mission Fire Department, the Fire Chief, shall be appointed by the City Manager and confirmed by the City Council. The Fire Chief shall, with the approval of the City Manager, appoint and remove the employees of said department and shall perform such duties as may be required of him by the City Council. The Fire Chief shall be responsible to the City Manager for the administration of his department and the carrying out of the directives of the City Council.

Commented [VAF16]: Revisions proposed by CRC at 10/30/23 Meeting.

Commented [VAF17R16]: Following the 11/20/23 CRC Meeting, this was added to be consistent with Section 4.02 (Police Department)

Section 4.09. Other departments.

The City Council may abolish or consolidate such offices and departments as it may deem to be to the best interest of the City, and may divide the administration of any such departments as it may deem advisable; may combine the Police and Fire Departments into one (1) department, may create new departments and may discontinue any offices or departments at its discretion, except those specifically established by this Charter.

PART I - HOME RULE CHARTER
ARTICLE 5. NOMINATIONS AND ELECTIONS

ARTICLE 5. NOMINATIONS AND ELECTIONS

Section 5.01. Elections.

All City of Mission elections shall be conducted in accordance with the Texas Election Code as amended. The City Council shall fix the places for holding ~~the regular~~ city elections. The City Council may by resolution order a special election, fix the date and places for holding same and provide for all means for holding such special election. Notice of the election shall be provided as required by the election laws of the State of Texas.

~~(Amended 1-17-1987)~~

Section 5.02. Regulation of elections.

The City Council shall make all regulations which it considers needful or desirable not inconsistent with this Charter and the Laws of the State of Texas, for the conduct of municipal elections, for the prevention of fraud in such elections and for the recount of ballots in case of doubt or fraud. Municipal elections shall be conducted by the appointed election authorities who shall also have power to make regulations not inconsistent with this Charter or with any regulations made by the City Council or the laws of the State of Texas.

Section 5.03. Filing for office.

A. Candidates for Mayor or Council Member shall file an application for office in accordance with the Texas Election Code as amended.

1) Such application shall be accompanied by a filing fee of five hundred dollars (\$500.00) The name of any elector of the city shall be printed upon the ballot by payment, by cashier's check, of a filing fee by the elector or by petition, as hereinafter prescribed, and shall have been filed in its behalf with the city secretary. Such a petition, is required to be filed in connection with a candidate's application for a place on the ballot for an office, the minimum number of signatures that must appear on the petition is the greater of: (1) 25; or (2) one-half of one percent of the total vote received in the territory from which the office is elected by all candidates for mayor in the most recent mayoral general election.

2) The signatures to the nomination petition will be on the most current "Petition in Lieu of Filing Fee for Candidate Filing" form or its equivalent as prescribed by the Texas Election Code and Texas Secretary of State.

3) All nomination papers comprising a petition shall be assembled and filed with the city secretary together with the candidate's sworn application as one instrument, no earlier than the first day to file an application for a place on the ballot and no later than the last day for a candidate to file an application for a place on the ballot, as prescribed the Texas Election Code. If an application is accompanied by a petition, the petition is considered part of the application, and the review must be completed as soon as practicable after the date the application is received by the authority. As soon as practicable after the filing an application for a place on the ballot and the filing of a nomination petition or payment of a filing fee, the City Secretary shall notify the person who filed an application and such petition or filing fee whether or not the petition is found to be signed by the required number of qualified voters and whether the application complies with the requirements as to form, content, and procedure.

B. Candidates for Mayor or Council Member shall meet the following qualifications:

Commented [VAF18]: Application Fee clauses, see subsections A1-A3, Revisions proposed by CRC at 10/30/23 Meeting.

- 1) Be a qualified voter in the City and State at the time of taking office, as determined by state law.
- 2) Be a resident of the City of Mission.
- 3) Have resided continuously in the corporate limits of the City for six (6) months immediately preceding the date of the election.
- 4) Not be in violation of any provision of this Charter.
- 5) Be eighteen (18) years of age or older on the first day of the term to be filled at the election.
- 6) Satisfy any of the eligibility requirements prescribed by law for the office for which they are a candidate.

C. No candidate for Mayor or Council Member may file in a single election for more than one (1) office or position as provided by this Charter or state law.

D. No employee of the City shall continue in any City employee position after filing for an elective office in the Charter. Any person having the qualifications set forth for councilman in this Charter shall have the right to file an application to have his name placed on the official ballot as a candidate for any elective office. Such application in writing by such candidate and accompanied by his loyalty affidavit as prescribed by the laws of the State of Texas filed with the City Secretary not later than 5:00 p.m. of the 45th day before election day, shall entitle such applicant to a place on the official ballot.

(Amended 1-17-1987)

Section 5.04. The official ballot.

~~The names of all candidates for office except such as may have withdrawn, died or become ineligible, shall be printed on the official ballots without party designations in the order determined in a drawing of lots conducted by the City Council. All official ballots shall be printed at least twenty (20) days prior to the date of any general or special election, and absentee voting shall be governed by the general election laws of the State of Texas.~~

Section 5.05. Laws governing city elections.

~~All City elections shall be governed by this Charter and by the laws of the State of Texas governing elections.~~

(Amended 1-17-1987)

Section 5.06. Conducting and canvassing elections.

~~The election judges and other necessary election officials for conducting all such elections shall be appointed by the City Council. The election judges shall conduct the election, determine, record and report the results as provided by the general election laws of the State of Texas. Not earlier than the second day or later than the sixth day after election day, the City Council shall meet, open returns, canvass and officially declare the result of the election as to candidates and questions, and issue certificates of election to candidates elected. Officers of the City when elected shall take office from and after their certification of election and after taking and subscribing the oath of office.~~

(Amended 1-17-1987)

Section 5.047. Oath of office.

Every officer of the City shall, before entering upon the duties of his office, take and subscribe to the following oath or affirmation to be filed and kept in the office of the City Secretary:

"I _____, solemnly swear (or affirm) that I will faithfully execute the duties of the office of _____, the City of Mission, State of Texas, and will to the best of my ability preserve, protect and defend the Constitution and laws of the United States and of this State and the Charter and ordinances of this City; and I furthermore solemnly swear (or affirm), that I have not directly or indirectly paid, offered, or promised to pay, contributed or promised to contribute any money or valuable thing, or promised any public office or employment, as a reward for the giving or withholding a vote of the election at which I was elected or if the office is one of appointment, to secure my appointment. So help me God."

ARTICLE 6. RECALL OF OFFICERS²

Section 6.01. Scope of recall.

Any elected City officials whether elected to office by the qualified voters of the City or appointed by the City Council to fill a vacancy, shall be subject to recall and removal from office by the qualified voters of the City on the grounds of incompetency, misconduct, or malfeasance in office.

Section 6.02. Petitions for recall.

Before the question of recall of such officer shall be submitted to the qualified voters of the City, a petition demanding such question to be so submitted shall first be filed with the person performing the duties of City Secretary; which said petition shall be signed by qualified voters of the City equal in number to at least thirty (30) percent of the number of votes cast at the last regular municipal election, but in no event less than two hundred (200) petitioners. For a petition signature to be valid, a petition must contain, in addition to the signature, the signer's printed name; the signer's voter registration number, and if the incorporated area of the City is situated in more than one (1) County, the County of registration; the signer's residence address; the date of signing; and, any other matter required by applicable State law. A separate petition is required for each City official.

(Amended 1-17-1987)

Section 6.03. Form of recall petition.

- A. The recall petition mentioned above must be addressed to the City Council of the City of Mission, must distinctly and specifically point out the ground or grounds upon which such petition for removal is predicated, and, if there be more than one (1) ground, such as for incompetency, misconduct or malfeasance in office, shall specifically state each ground with such certainty as to give the officer sought to be removed, notice of the matters and things with which he is charged. The signatures shall be verified by oath in the following form:

"STATE OF TEXAS COUNTY OF HIDALGO

"I, _____, being first duly sworn, on oath depose and say that I am one of the signers of the above petition; and that the statements made therein are true, and that each signature appearing thereon

²Cross reference(s)—Administration, ch. 2.

was made in my presence on the day and date it purports to have been made, and I do solemnly swear that the same is the genuine signature of the person whose name it purports to be _____

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

Notary Public in and for Hidalgo County, Texas

B. Should it be proved to the satisfaction of the City Council that the affidavit above stated is false, then in such event, it shall be the duty of the City Secretary to cause criminal charges to be filed against the affiant.

Section 6.04. Various papers constituting petition.

The petition may consist of one (1) or more copies, or subscription lists, circulated separately, and the signatures thereto may be upon the paper or papers containing the form of petition, or upon other papers attached thereto. Verifications provided for in the next preceding section of this article may be made by one (1) or more petitioners, and the several parts of copies of the petition may be filed separately and by different persons; but no signatures to such petition shall remain effective or be counted which were placed thereon more than forty-five (45) days prior to the filing of such petition or petitions with the person performing the duties of the City Secretary. All papers comprising a recall petition shall be filed with the person performing the duties of City Secretary on the same day, and the said Secretary shall immediately notify, in writing, the officer so sought to be, removed, by mailing such notice to his Mission address.

Section 6.05. Presentation of petition to City Council.

Within five (5) days after the date of filing of the papers constituting the recall petition, the person performing the duties of the City Secretary shall present such petition to the City Council of the City of Mission.

Section 6.06. Public hearing to be held.

The officer whose removal is sought may, within five (5) days after such recall petition has been presented to the City Council, request that a public hearing be held to permit him to present facts pertinent to the charges specified in the recall 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.

Section 6.07. Election to be called.

If the officer whose removal is sought does not resign, then it shall become the duty of the City Council to order an election and fix a date for such recall election, the date of which election shall be not less than twenty-five (25) nor more than thirty-five (35) days from the day such petition was presented to the City Council, or from the date of public hearing, if one was held.

Section 6.08. Ballots in recall election.

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

- (a) With respect to each person whose removal is sought, the question shall be submitted "Shall (name of person) be removed from the office (name of office) by recall?."
(b) Immediately below each such question there shall be printed the following words, one above the other, in the order indicated "Yes", "No."

Section 6.09. Result of recall election.

If a majority of the votes cast at a recall election shall be "No", that is, against the recall of the person named on the ballot, he shall continue in office for the remainder of his unexpired term, subject to recall as before. If a majority of the votes cast at such an election be "yes", that is for the recall of the person named on the ballot, he shall, regardless of any technical defects in the recall petition, be deemed removed from office and the vacancy filled as vacancies in the City Council are filled, in this Charter.

Section 6.10. Recall, restrictions thereon.

No recall petition shall be filed against any officer of the City of Mission within three (3) months after his election, nor within three (3) months after an election for such officer's recall.

Section 6.11. Failure of City Council to call an election.

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

ARTICLE 7. LEGISLATION BY THE PEOPLE, INITIATIVE AND REFERENDUM

Section 7.01. General power.

The qualified voters of the City of Mission, in addition to the method of legislation hereinbefore provided, shall have the power of direct legislation by the initiative and referendum.

Section 7.02. Initiative.

Qualified voters of the City of Mission may initiate legislation by submitting a petition addressed to the City Council which requests the submission of a proposed ordinance or resolution to a vote of the qualified voters of the City. Such petition must be signed by qualified voters of the City equal in number to thirty (30) percent of the number of votes cast at the last preceding regular municipal election of the City, ~~or two~~ and in no case less than two hundred (200) voters, whichever is greater, and each copy of the petition shall have attached to it a copy of the proposed legislation. The petition shall be signed in the same manner as recall petitions are signed as provided in this Charter, and shall be verified by oath in the manner and form provided for recall petitions in section 6.03 of this Charter. The petition may consist of one (1) or more copies as permitted for recall petitions in this Charter. Such petition shall be filed with the person performing the duties of City Secretary. If the petition is found to satisfy the requirements established herein by the City Secretary, then the City Secretary shall certify that fact to the City Council at the next regular meeting. ~~Within five (5) days after the filing of such petition, the person performing the duties of City Secretary shall present said petition and proposed ordinance or resolution to the City Council.~~

Commented [VF19]: These changes to Sec. 7.02 and 7.03 were made at the 11/20/23 Meeting to clear up some of the language and to make sure that a referendums requiring the City to expend money would be exempted.

Upon presentation of the petition and draft of the proposed ordinance or resolution, it shall become the duty of the City Council, within ten (10) days after receiving it, to pass and adopt said ordinance or resolution without alteration as to meaning or effect in the opinion of the persons filing the petition, or to call a special election to be held ~~within not less than~~ thirty (30) days nor more than sixty (60) days thereafter, at which the qualified voters of the City of Mission shall vote on the question of adopting or rejecting the proposed legislation.

~~However, if any other municipal election is to be held within sixty (60) days after the filing of the petition, the question may be voted on at such election.~~

Section 7.03. Referendum.

Qualified voters of the City of Mission, may require that any ordinance or resolution, with the exception of ordinances or resolutions levying taxes and ordinances and resolutions relating to the issuance, sale and delivery of bonds, [appropriating money](#), or warrants, passed by the City Council be submitted to the voters of the City of Mission for approval or disapproval, by submitting a petition ~~for this purpose within thirty (30) days after the final passage of said ordinance or resolution, or within thirty (30) days after its publication. Said petition shall be addressed, prepared, signed and verified as required for petitions initiating legislation and shall be submitted to the person performing the duties of City Secretary. Upon the filing of such petition, the person performing the duties of City Secretary shall present said petition to the City Council at its next meeting. Thereupon the City Council shall reconsider such ordinance or resolution, and if it does not entirely repeal the same, shall submit it to popular vote as provided~~[in accordance with the provisions required for an initiative petition provided](#) in section 7.02 of this Charter. Pending the holding of such election such ordinance or resolution shall be suspended from taking effect and shall not later take effect unless a majority of the qualified voters thereon at such election shall vote in favor thereof.

Section 7.04. Voluntary submission of legislation by the City Council.

The City Council, upon its own motion and by a majority vote of its members, may submit to popular vote at any election for adoption or rejection any proposed ordinance or resolution or measure, or may submit for repeal any existing ordinance, resolution, or measure, in the same manner and with the same force and effect as provided in this article for submission on petition, and may at its discretion call a special election for this purpose.

Section 7.05. Form of ballots.

The ballots used upon such proposed and referred ordinances, resolutions, or measures shall set forth their nature sufficiently to identify them and shall also set forth upon separate lines the words "for the ordinance" and "against the ordinance" or "for the resolution" and "against the resolution."

Section 7.06. Publication of proposed and referred ordinances.

The person performing the duties of the City Secretary shall publish ~~at least once in a newspaper of general circulation in the City the proposed or referred ordinance or resolution at least fifteen (15) days before the date of the election, and shall give such other notices~~[the proposed or referred ordinance or resolution to comply with the minimum standards imposed by state law](#) and do such other things relative to such election as are required in general municipal elections or by the ordinance or resolution calling said election.

Commented [VAF20]: This change was added after the 12/04/23 CRC Meeting.

Section 7.07. Adoption of ordinances.

If a majority of the qualified voters voting on any proposed ordinance or resolution or measure shall vote in favor of, it shall thereupon, or at any time fixed therein, become effective as a law or as a mandatory order to the City Council.

Section 7.08. Inconsistent ordinances.

If a provision of two (2) or more ordinances or resolutions approved at the same election are inconsistent, they shall go into effect in respect of such of their provisions as are not in conflict and the ordinance or resolution receiving the highest number of votes shall prevail insofar as their provisions conflict.

Commented [VF21]: This change was added after the 11/20/23 CRC Meeting.

Section 7.09. Ordinances passed by popular vote, repeal or amendment.

No ordinance or resolution which may have been passed by the City Council upon a petition or adopted by popular vote under the provisions of this article shall be repealed or amended except by the City Council in response to a referendum petition or by submission as provided in section 7.04 of this Charter for a period of ~~four~~ two (2) years, after which time the ordinance or resolution may be amended or repealed by the City Council, in the same manner that other ordinances or resolutions are amended or repealed.

Commented [VF22]: This change was added after the 11/20/23 CRC Meeting.

Section 7.10. Further regulations by City Council.

The City Council may pass ordinances or resolutions providing other and further regulations for carrying out the provisions of this article consistent herewith.

Section 7.11. Franchise ordinances.

~~Nothing contained in~~ this article shall not be construed to be in conflict with any of the provisions of Article 10 of this Charter pertaining to ordinances granting franchises when valuable rights shall have accrued thereunder.

Commented [VAF23]: Revised at 11/20/23 CRC Meeting.

ARTICLE 8. MUNICIPAL PLANNING AND ZONING³

Section 8.01. The Planning and Zoning Commission.

(a) The Planning and Zoning Commission of the City of Mission shall hereafter consist of seven (7) members appointed by the City Council. Every member of the Planning and Zoning Commission shall be a resident citizen of the City of Mission and shall be a qualified voter.

~~(a)~~(b) The Planning and Zoning Commission shall act as an advisory body to the City Council relating to divide the city into zones or districts, and to regulate and restrict the height, number of stories, and size of buildings and other structures, the percentage of lots that may be occupied, the size of the yards, courts, and other open spaces, the density of population, and the location and use of buildings, structures, and land for trade, industry, residence, or other purposes in such zones or districts; and in the case of designated places and areas of historic and cultural importance, to regulate and restrict the construction, alteration, reconstruction, or razing of buildings and other structures; and also to formulate and adopt other policies and plans relative to the future growth and development of the city. The city shall also have all other powers relating to city planning and zoning, and all powers relating to subdivision and platting of land, both within and without the city, subject only to the limitations imposed by the constitution and laws of the State of Texas; public and civic improvements, City planning and zoning, the opening, widening and changing of streets and highways, routing and extending public

³Cross reference(s)—Planning and zoning, ch. 74; subdivisions, ch. 98; zoning, Appendix A.

State law reference(s)—Municipal planning and zoning, V.T.C.A., Local Government Code § 211.001 et seq.

~~utilities, controlling and regulating traffic upon the public streets, and other matters relating to municipal planning and development deemed by the City Council beneficial to the City of Mission. The Planning and Zoning Commission of the City of Mission shall also have and exercise such powers over platting and subdividing lands, both within and without the City, and within an area extending five (5) miles beyond the City limits as may be prescribed by ordinance of the City Council and shall exercise such additional powers and have such additional duties and responsibilities as may be prescribed by ordinance of the City Council not inconsistent with~~ subject only to the limitations imposed by the Constitution and laws of the State of Texas ~~and the provisions of this Charter.~~

(Amended 1-17-1987)

Cross reference(s)—Planning and zoning board, ch. 54, art. II.

Section 8.02. Zoning Board of Adjustments.

The City Council may provide by ordinance for a Zoning Board of Adjustment. The Board shall have all powers granted in Vernon's Ann. Civ. St. art. 1011g of the State of Texas as now or hereafter amended, which shall include the power to hear and determine appeals from refusal of building permits, and to permit exceptions to or variations from the zoning regulations in classes of cases or situations in accordance with the principles, conditions and procedure specified in the zoning ordinance.

Cross reference(s)—Board of adjustment, App. A, art. IV.

ARTICLE 9. MUNICIPAL FINANCE⁴

Section 9.01. Fiscal year.

The fiscal year of the City of Mission shall begin on the first day of October and shall end on the last day of September of each calendar year. Such fiscal year shall also constitute the budget and accounting year.

Section 9.02. Preparation and submission of budget.

The City Manager, ~~between sixty (60) and ninety (90) days~~ prior to the beginning of each fiscal year, shall submit to the Council a proposed budget, which budget shall provide a complete financial plan for the fiscal year, and shall contain the following:

Commented [VAF24]: This change was added at the 12/04/23 CRC Meeting.

- (a) A budget message, explanatory of the budget, which message shall contain an outline of the proposed financial policies of the city for the fiscal year, and shall set forth the reasons for salient changes from the previous year in expenditure and revenue items, and shall explain any major changes in financial policy;
- (b) A consolidated statement of anticipated receipts and proposed expenditures for all funds;
- (c) An analysis of property valuations;
- (d) An analysis of tax rate;
- (e) Tax levies and tax collections by years for at least five (5) years;
- (f) General fund resources in detail;

⁴Cross reference(s)—Taxation, ch. 102.

- (g) Special fund resources in detail;
- (h) Summary of proposed expenditures by function, department and activity;
- (i) Detailed estimates and expenditures shown separately for each activity to support [subsection] (h) above;
- (j) A revenue and expense statement for all types of bonds;
- (k) A description of all bond issues outstanding, showing rate of interest, date of issue, maturity date, amount authorized, amount issued, and amount outstanding;
- (l) A schedule of requirements for the principle and interest of each issue of bonds;
- (m) The appropriation ordinance;
- (n) The tax levying ordinance.

Section 9.03. Anticipated revenues compared with other years in budget.

In preparing the budget, the City Manager shall place in parallel columns opposite the several items of revenue; the actual amount of each item for the last complete fiscal year, the estimated amount of the current fiscal year, and the expected amount for the ensuing year.

Section 9.04. Proposed expenditures compared with other years.

The City Manager in the preparation of the budget shall place in parallel columns opposite the various items of expenditures; the actual amount of such items of expenditures for the last completed fiscal year, the estimated amount for the current fiscal year and the proposed amount for the ensuing fiscal year.

Section 9.05. Budget a public record.

The budget and all supporting schedules shall be filed with the person performing the duties of City Secretary, submitted to the City Council, and shall be a public record. The City Manager shall provide copies for distribution to all interested persons.

Section 9.06. Notice of public hearing on budget.

At the meeting of the City Council at which the budget is submitted, the City Council shall fix the time and place of a public hearing on the budget and shall cause to be published in a newspaper of general circulation within the City of Mission, a notice of the hearing setting forth the time and place thereof at least ten (10) days before the date of such hearing.

Section 9.07. Public hearing on budget.

At the time and place set forth in the notice required by section 9.06, ~~or at any time and place to which such public hearing shall from time to time be adjourned,~~ the City Council shall hold a public hearing on the budget submitted and all interested persons shall be given an opportunity to be heard for or against any item or the amount of any item therein contained.

Commented [VAF25]: This change was added at the 12/04/23 CRC Meeting.

Section 9.08. Proceeding on budget after public hearing.

After the conclusion of such public hearing, the City Council may insert new items or may increase or decrease the items of the budget, except items in proposed expenditures fixed by law, but where it shall increase the total proposed expenditures, it shall also provide for an increase in the total anticipated revenue at least to equal such proposed expenditures.

Section 9.09. Vote required for adoption.

The budget shall be adopted by the favorable vote of a majority of the members of the whole City Council.

Section 9.10. Date of final adoption.

The budget shall be finally adopted not later than fifteen (15) days prior to the beginning of the fiscal year, and should the City Council fail to so adopt a budget, the then existing budget together with its tax levying ordinance and its appropriation ordinance shall be deemed adopted for the ensuing fiscal year.

Section 9.11. Effective date of budget; certification; copies made available.

Upon final adoption, the budget shall be in effect for the fiscal year. A copy of the budget, as finally adopted, shall be filed with the person performing the duties of City Secretary, the County Clerk of Hidalgo County, and the State Comptroller of Public Accounts at Austin. The final budget shall be printed, ~~mimeographed~~ or otherwise reproduced and copies shall be made available for the use of all offices, departments and agencies and for the use of interested persons and civic organizations as provided in the Texas Public Information Act, as may be amended.

Commented [VAF26]: Revised at the 11/20/23 CRC Meeting.

Section 9.12. Budget established appropriations.

From the effective date of the budget, the several amounts stated therein as proposed expenditures shall be and become appropriated to the several objects and purposes therein named.

Section 9.13. ~~Reserved.~~

Editor's note(s)—Former section 9.13 was deleted by a Charter amendment adopted at an election held on May 4, 2023. The deleted provisions pertained to matters related to a Contingent Appropriation Authority.

Commented [VAF27]: Revised at the 11/20/23 CRC Meeting. This provision was in prior Charters in Texas. But, this was pre-fund balance practices and accounting requirements. If the CRC supports it, this can be deleted.

~~Contingent appropriation.~~

~~Provisions shall be made in the annual budget and in the appropriation ordinance for a contingent appropriation in an amount not more than three (3) percent of the total budget, to be used in case of unforeseen items of expenditure. Such contingent appropriation shall be under the control of the City Manager and distributed by him, after approval of the City Council. Expenditure from this appropriation shall be made only in case of established emergencies and a detailed account of such expenditures shall be recorded and reported. The proceeds of the contingent appropriation shall be disbursed only by transfer to other departmental appropriations, the spending of which shall be charged to the departments or activities for which the appropriations are made.~~

Commented [VAF28]: Recommended for review at the 11/20/23 CRC Meeting. There was a question about the reference to "resources". Will defer to Finance Department and/or Auditor. Seeking CRC Recommendation.

Section 9.14. The total estimated expenditures shall not exceed estimated resources.

The total estimated expenditures of the general fund, enterprise funds, and debt service fund shall not exceed the total estimated resources of each fund (prospective income plus cash on hand). The classification of

Commented [VAF29]: This change was added at the 12/04/23 CRC Meeting.

revenue and expenditure accounts shall conform as nearly as local conditions will permit to the uniform classification as promulgated by the National Committee on Governmental Accounting or some other nationally accepted classification.

Section 9.15. Other necessary appropriations.

The City budget may be amended and appropriations altered in accordance therewith in cases of public necessity, the actual fact of which shall have been declared by the City Council.

Section 9.16. ~~Reserved. Department of Taxation.~~

~~Editor's note(s) – Former Section 9.16 was deleted by a Charter amendment adopted at an election held on May 4, 2023. The deleted provisions pertained to matters related to the Department of Taxation. The Department of Taxation for the City of Mission shall be under the control and direction of the City Assessor and Collector, which office shall be held by appointment of the City Manager. The [City] Assessor and Collector shall give a surety bond for faithful performance of his duties, including compliance with all controlling provisions of the state law bearing upon the functions of his office, in a sum which shall be fixed by the City Council of not less than five thousand dollars (\$5,000.00).~~

Commented [VAF30]: Revised at the 11/20/23 CRC Meeting.

Section 9.17. Power to tax.

The City Council shall have the power under the provisions of the State law to levy, assess and collect an annual tax upon real and personal property within the City as well as all other lawful subjects of taxation to the maximum provided by the Constitution and general laws of the State of Texas.

Section 9.18. Property subject to tax.

~~All real and personal property within the City of Mission as well as all other lawful subjects of taxation shall be subject to annual taxation. The City Assessor and Collector shall assess the value of such property in accordance with the laws of the State of Texas governing taxation. The responsibility for appraisal of all property and preparation and submission of the appraisal roll shall be accomplished in compliance with the provisions of the Property Tax Code of the State of Texas, provided, however, that all property within the City of Mission not expressly exempted by law, shall be rendered for taxation in accordance with all applicable state statutes as now or hereinafter amended, and such statutes control over the provisions of the city charter in the event of conflict.~~

Commented [VAF31]: Revised after 11/20/23 CRC Meeting.

Section 9.19. ~~Reserved. Joint tax office.~~

~~Editor's note(s) – Former Section 9.19 was deleted by a Charter amendment adopted at an election held on May 4, 2023. The deleted provisions pertained to matters related to a Joint Tax Office. The City of Mission may join any other taxing body to form a joint tax office with a joint assessor-collector.~~

~~(Amended 1-17-1987)~~

Sections 9.20, 9.21. Reserved.

Editor's note(s)—Former sections 9.20 and 9.21, pertaining to powers and duties of board of equalization, were deleted by a Charter amendment adopted at an election held on January 17, 1987.

Section 9.22. Taxes; when due and payable.

All taxes due the City of Mission shall be payable at the office of the City's ~~Assessor-C~~ollector and may be paid at any time after the tax rolls for the year have been approved, which shall not be later than October 1. Taxes shall be paid before February 1, and all such taxes not paid prior to such date shall be deemed delinquent and shall be subject to such penalty and interest as authorized by ordinance. Failure to levy and assess taxes through omission in preparation of the approved tax roll shall not relieve the person, firm or corporation so omitted from obligation to pay such current or past-due taxes as shown to be payable by recheck of the rolls and receipts for the years in question.

Commented [VAF32]: Revised at the 11/20/23 CRC Meeting.

Section 9.23. Tax liens.

All property, real, personal, and mixed situated in the City of Mission shall stand charged with a special lien in favor of the City for the taxes due thereon, which lien, charge or encumbrance the City is entitled to enforce and foreclose in any court having jurisdiction over the same or in any other manner provided by law. Such lien shall be prior to all other claims, and no gift, sale, assignment or transfer of any kind, or judicial writ of any kind, can ever defeat such lien.

Section 9.24. Reserved.

Editor's note(s)—Former section 9.24 was deleted by a Charter amendment adopted at an election held on January 17, 1987. The deleted provisions pertained to compensation for members of the board of equalization.

ARTICLE 10. FRANCHISE AND PUBLIC UTILITIES⁵

Section 10.01. Powers of the City.

In addition to the City's power to buy, own, construct, lease, maintain, operate and regulate public utilities and to manufacture, distribute and sell the output of such utility operations, the City shall have further powers as may now or hereafter be granted under the Constitution and laws of the State of Texas.

Section 10.02. Franchise power of City Council.

The City Council shall have power by ordinance to grant, amend by mutual agreement, renew and extend, all franchises of all public utilities of every character within the City of Mission. All ordinances granting, amending, renewing, or extending franchises for public utilities shall be read at two (2) separate regular meetings of the City Council, and shall not be finally passed until thirty (30) days after the first reading; and no such ordinance shall take effect until thirty (30) days after its final passage; and the full text of such ordinances shall be published once within fifteen (15) days following the first reading in a newspaper of general circulation within the City of Mission, and the expense of such publication shall be borne by the proponent of the franchise. No public utility franchise shall be granted for a term of more than twenty (20) years nor be transferable except with the approval of the City Council expressed by ordinance. The term "transferable" as used herein shall not be construed in such a manner as to prevent the utility from pledging said franchise as security for a valid debt or mortgage.

⁵Cross reference(s)—Utilities, ch. 114; franchises, App. B.

Section 10.03. Franchise value not to be allowed.

No value shall be assigned to any franchise granted by the City of Mission under this Charter in fixing reasonable rates and charges for utility service within the City and in determining the just compensation to be paid by the City for public utility property which the City may acquire by condemnation or otherwise.

Section 10.04. Right of regulation.

All grants, renewal, extensions or amendments of public utility franchise, whether it be so provided in the ordinance or not, shall be subject to the right of the City Council of the City of Mission to exercise the following enumerated powers, which powers the City Council shall have no power to waive by omitting to include same in the franchise ordinance, or by including a provision in the franchise ordinance in derogation thereof:

- (a) To repeal the same by ordinance, after thirty (30) days' advance notice, (during which time the grantee shall have the opportunity to correct any default), and hearing upon the failure of grantee to comply with the ordinances, franchise and Charter of the City of Mission; and from which decision of the City Council, the grantee shall have the right to appeal to the courts of this State;
- (b) To require proper and adequate extension of plant and service, and the maintenance of the plant and fixtures at the highest reasonable standard of efficiency;
- (c) To establish reasonable standards of service and quality of products and prevent unjust discrimination in service or rates;
- (d) To examine and audit at any time during regular business hours the accounts and other records of any such utility which are relevant to the City's right of regulation, and to require annual and other reports, including reports on operation within the City of Mission;
- (e) To impose such reasonable regulations and restrictions as may be deemed desirable or conducive to the safety, welfare, and accommodation of the public;
- (f) To require such compensation and rental as may be permitted by the laws of the State of Texas.

(Amended 1-17-1987)

State law reference(s)—Municipal regulation, V.T.C.A., Utilities Code § 103.001 et seq.

Section 10.05. Regulations of rates and services.

The City Council shall have the power, after due notice and hearing to regulate by ordinance the rates and services of every public utility operating in the City of Mission; shall have the power to employ expert advice and assistance in determining a reasonable rate and equitable profit to the public utility; and shall have the power to require within the franchise grant, or any extension, or renewal thereof, or as a condition precedent to any hearing concerning rates and service of any public utility operating within the said City, that the movant seeking the rate or service change pay the reasonable cost of the service of a rate consultant of the choice of the City Council.

Section 10.06. Grant not to be exclusive.

No grant or franchise to construct, maintain or operate a public utility and no renewal or extension of such grant shall be exclusive.

Section 10.07. Consent of property owners.

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

Commented [VAF33]: Revised at 11/20/23 CRC Meeting.

Section 10.08. Extensions.

All extensions of public utilities within the City limits shall become a part of the aggregate property of the public utility, shall be operated as such, and shall be subject to all the obligations and reserved rights contained in this Charter and in the original grant hereafter made. The right to use and maintain any extension shall terminate with the original grant and shall be terminable as provided in section 10.04 of this Charter. In case of an extension of a public utility operated under a franchise hereafter granted such right shall be terminable at the same time and under the same conditions as the original grant.

Section 10.09. Other conditions.

All franchises heretofore granted or recognized as contracts between the City of Mission and the grantee, and the contractual rights as contained in any such franchise shall not be impaired by the provisions of this Charter, except that the power of the City of Mission to exercise the right to eminent domain in the acquisition of utility property is in all things reserved and except the general power of the City heretofore existing and herein provided for to regulate the rates and services of a grantee which shall include the right to require property and adequate extension of plant and service of the plant and fixtures at the highest reasonable standard of efficiency. Every public utility franchise hereafter granted shall be held subject to all the terms and conditions contained in the various sections of this article whether or not such terms are specifically mentioned the franchise, and no such term or condition shall be waived by failing to include same in the franchise ordinance, or by the inclusion of a provision in the franchise ordinance in degradation of same.

(Amended 1-17-1987)

Section 10.10. Accounts of municipally owned utilities.

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

Section 10.11. Sales of water, sewer and other services.

- (a) The City Council shall have the power and authority to sell and distribute water, and to sell and provide sewer services to any person, firm or corporation inside or outside the limits of the City of Mission, and to permit them to connect with said system under contract with the City, under such terms and conditions as may appear to be for the best interest of the City; provided the charges fixed for such services outside the

City limits shall be reasonable when considered in the light of all circumstances, to be determined by the City Council.

- (b) The City Council shall have the power and authority to prescribe the kind of water or sewer pipes within or beyond the limits of the City of Mission, where it furnished the service and to inspect the same and require them to be kept in good order and condition at all times and to make such rules and regulations as shall be necessary and proper, and prescribe penalties for noncompliance with same.
- (c) The City Council shall have the power to provide for a sanitary sewer and water system and require property owners to connect their premises with sewer, provide for penalties for failure to make such a connection and provide by ordinance for fixing a lien against the premises of any property owner who fails or refuses to make sanitary sewer connections and to charge the cost against said owner and make it a personal liability.

ARTICLE 11. GENERAL POWERS

Section 11.01. Reserved.

Editor's note(s)—Former section 11.01, pertaining to publicity of records, was deleted by a Charter amendment adopted at an election held on January 17, 1987.

Section 11.02. Personal interest.

No member of City Council, officer or employee of the City shall have a financial interest, directly or indirectly, in the sale to the City of any land, or rights in any land, materials, supplies or services, except as authorized in accordance with the constitution and laws of the State of Texas. ~~No officer or employee of the City shall have a financial interest, direct or indirect, in any contract with the City, nor shall be financially interested, directly or indirectly, in the sale to the City of and [any] land, or rights or interest in any land, materials, supplies or service. The above provision shall not apply in any case where the sale to the City of any land or an interest therein is made in a condemnation proceeding or under threat of condemnation, or where the interest is represented by ownership of stock in a corporation involved, provided such stock ownership amounts to less than one (1) percent of the corporation's stock. Any violation of this section shall constitute malfeasance in office, and any officer or employee of the City found guilty thereof shall thereby forfeit his office or position. Any violation of this section with the knowledge, expressed or implied, of the person or corporation contracting with the City shall render the contract voidable by the City Manager or the City Council.~~

(Amended 1-17-1987)

Commented [VAF34]: Recommended at the 11/20/23 CRC Meeting. Question was raised whether the current language was consistent with State Personal Interest requirements. This is one of those provisions that should be revised to be simple and reflect compliance with state law, given that state law in this area changes often with new case law and/or statutes. Seeking CRC Recommendation.

Section 11.03. Drilling operations.

As may be permitted by state law, including but not limited to the Texas Natural Resources Code. ~~The the~~ City Council may, by ordinance, prohibit the drilling of oil, gas and other mineral wells, or may provide regulations for the drilling, spacing, completion and operation of oil, gas and other mineral wells. The City Council may, by ordinance, prohibit the drilling of water wells for commercial, industrial and agricultural purposes, and may provide regulations for the drilling and use of water wells for commercial, industrial and agricultural and domestic purposes.

Section 11.04. Nepotism.

No person shall be employed by the City in contravention of any applicable nepotism statutes.

(Amended 1-17-1987)

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(Supp. No. 26)

State law reference(s)—Nepotism, V.T.C.A., Government Code § 573.041 et seq.

Section 11.05. Provisions relating to assignment, execution and garnishment.

The property, real and personal, belonging to the City shall not be liable to be sold or appropriated under writ of execution or cost bill. The funds belonging to the City, in the hands of any person, firm or corporation, shall not be liable to garnishment, attachment, or sequestration; nor shall the City 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 or any off its officers or agents shall be required to answer any such writ to 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.

Section 11.06. City not required to give security or executive bond.

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

Section 11.07. Special provisions covering damage suits.

Before the City shall be liable for damage on a claim or suit for personal injury, or damage to property, the person who is injured, or whose property is damaged, or someone in his behalf, shall give the City Manager or the person performing the duties of City Secretary, notice in writing within six (6) months after the occurrence of the alleged injury, or damage, stating specifically in such notice when, where and how the injury or damage was sustained, and setting forth the extent of the injury of [or] damage as accurately as possible, and giving the names and addresses of all witnesses upon whose testimony such person is relying to establish the injury or damage. No action at law for damages shall be brought against the City for personal injury or damage to property prior to the expiration of sixty (60) days after the notice hereinabove described has been filed with the City Manager or other person performing the duties of City Secretary, and not later than one (1) year after the occurrence of the injury or damage to the property. In case of injuries resulting in death, before the City shall be liable in damages therefor the person or persons claiming such damages shall within thirty (30) days after the death of the injured person give notice as above required in case of personal injury. Provided, however, that nothing herein contained shall be construed to mean that the City of Mission waives any rights, privileges, defenses, or immunities in tort actions which are provided under the common law, and the Constitution and general law of the State of Texas.

(Amended 1-17-1987)

State law reference(s)—Tort liability, V.T.C.A., Civil Practice and Remedies Code § 101.101 et seq.

Section 11.08. Bid procedure.

The City Council shall hereafter make no contract without first complying with all applicable laws requiring the submission of contracts to competitive bids.

(Amended 1-17-1987)

Sections 11.09, 11.10. Reserved.

Editor's note(s)—Former sections 11.09 and 11.10, pertaining to contracts let on lump sum or unit price basis, and contract changes, were deleted by Charter amendments adopted at an election held January 17, 1987.

Section 11.11. Separability clause.

If any section or part of section of this Charter shall be held invalid by a court of competent jurisdiction, such holding shall not affect the remainder of this Charter nor the context in which such section or part of section so held invalid may appear, except to the extent that an entire section or part of section may be inseparably connected in meaning and effect with the section or part of section to which such holding shall directly apply.

Section 11.12. Effect of this Charter on existing law.

All ordinances, resolutions, rules and regulations now in force under the City Government of Mission and not in conflict with the provisions of this Charter, shall remain in force under this Charter until altered, amended or repealed by the Council after this Charter takes effect; and all rights of the City of Mission under existing franchises and contracts are preserved in full force and effect to the City of Mission. Upon the valid adoption of this Charter the Charter adopted by the City of Mission November 9, 1928, as amended shall be repealed and no longer of force and effect.

Section 11.13. Interim municipal government.

The members of the governing body holding office when this Charter is adopted shall continue in office under the terms of Article 3 hereof for the balance of the terms to which they were elected under the terms of the former Charter, and be known as Mayor and councilmen hereafter. Immediately after the adoption of this Charter the members of the then existing governing body, including the Mayor, shall draw for places one (1) through four (4), and the election to be held the first Tuesday in April 1962 shall be to fill the places of the Mayor and the members whose terms expire in 1962.

Section 11.14. Applicability of general laws.

The Constitution of the State of Texas, the statutes of said State applicable to home rule municipal corporation, as now or hereafter enacted, this Charter and ordinances enacted pursuant hereto shall, in the order mentioned, be applicable to the City of Mission, but the City shall also have the power to exercise any, and all powers conferred by the laws of the State of Texas upon any other kind of city, town or village, not contrary to the provisions of said home rule statutes, Charter and ordinances, but the exercise of any such powers by the City of Mission shall be optional with it, and it shall not be required to conform to the law governing any other cities, towns or villages unless and until by ordinance it adopts same.

Section 11.15. Amending the Charter.

Amendments to this Charter may be framed and submitted to the voters of the City in the manner provided by Chapter 13 of Title 28 of the Revised Civil Statutes of Texas, 1925, as now or hereafter amended.

Section 11.16. Submission of Charter to voters.

The Charter Commission in preparing this Charter finds and decides that it is impracticable to segregate each subject so as to, permit a vote of "yes" or "no" on the same, for the reason that the Charter is so constructed that in order to enable it to work and function it is necessary that it should be adopted in its entirety. For these reasons, the Charter Commission directs that the said Charter be voted upon as a whole and that it shall be submitted to the qualified voters of the City of Mission at an election to be held for that purpose on the twenty-ninth day of August, 1961. Not less than thirty (30) days prior to such election, the City Council shall cause the City Secretary to mail a copy of this Charter to each qualified voter of the City of Mission as appears from the latest tax collector's

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roll. If a majority of the qualified voters voting in such election shall vote in favor of the adoption of this Charter, it shall become the Charter of the City of Mission, and after the returns have been canvassed, the same shall be declared adopted and the City Secretary shall file an official copy of the Charter with the records of the City. The [City] Secretary shall furnish the Mayor a copy of said Charter, which copy of the Charter so adopted, authenticated and certified by his signature and the seal of the City shall be forwarded by the Mayor to the Secretary of the State of Texas and shall show the approval of such Charter by majority vote of the qualified voters voting at such election.

We, the undersigned members of the Charter Revision/Amendment Committee heretofore duly appointed to prepare amendments to the Charter for the City of Mission, Texas, do hereby certify that this publication constitutes a true copy of the proposed Charter amendments for the City of Mission, Texas, as adopted by the members thereof.

- Pat Thompson, Chairman
- Miguel Olivarez, Vice-Chairman
- Judith Femat
- Ernesto Pena, Jr.
- Dean Garrett
- Frank Perez
- Fernando Salinas
- June Brann
- Lupe Ozuna
- Inez Garcia
- Bertha Cavazos
- Ralph Findley
- Sylvia Pedraza
- Linday Nickel
- Jeff Howell

(Amended 1-17-1987)