

PART I)(CHARTER*

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ARTICLE I. [INCORPORATION; BOUNDARIES]

Section 1. Incorporation and corporate name

The inhabitants of the City of Brownsville, Texas, within the boundaries as now established or as hereafter established in the manner provided by law, shall continue to be a body politic and corporate, incorporated and known by the name and style of the “City of Brownsville”, with such powers, rights and duties as are hereinafter provided, and all other powers and rights not specifically designated in this Charter that are granted by the Constitution and Laws of Texas to cities having more than five thousand (5,000) inhabitants.

Section 2. Boundaries

The official boundaries and limits of the City of Brownsville shall be as are now established and hereinafter fixed from time to time by ordinance in accordance with provisions of this charter or by charter amendments, the official records of such boundaries and limits being retained in the office of the city secretary, the official map being maintained in the office of the city engineer. (Ord. No. 871, Prop. No. 1, 7-29-75)

Section 3. Extension of boundaries

The boundaries and limits of the City of Brownsville, 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 by ordinance passed by the city commission, specifically defining the limits of the city after such inclusion, provided such ordinance shall be effective as an extension of the corporate limits only when it has been approved by a majority of the votes of the qualified voters residing within such limits, as extended, cast at a special election held for that purpose not less than thirty (30) no more than ninety (90) days after the passage of such ordinance.

- **Editor’s note** – The city’s Home Rule Charter was adopted at an election held on December 13, 1915, and is set out herein as amended through June 28, 1963, for the convenience of the user of this Code of Ordinances. The original arrangement and article and section numbers have been retained. Where the same were omitted, the editor has provided article heading and section catchlines in brackets for ease of reference. Also, the editor has used a uniform system of capitalization. Future amendments to this Charter will be set out herein as enacted and indicated by notes following the amended sections.
- State law reference – Adoption, amendment, etc., of Home Rule Charters, Vernon’s Ann. Civ. St., art. 1165 et seq. (Supp. No. 11)

The ordinance shall fix and specify the date of the election, the boundaries of the voting precincts, the polling places in the several precincts and the form of the ballot (which shall be substantially as follows: “For the Ordinance Extending the City Limits” and “Against the Ordinance Extending the City Limits”), and shall name the presiding judges of the election. Notice of such election, issued by the Mayor or by a majority of the city commission, shall be published once a week for at least three weeks before the day of the election in some newspaper published in said city. The election shall be held, returns thereof made, the returns canvassed and the result declared and recorded, in the same manner, and under the same laws, ordinances and rules as provided for general election within said city.

Provided, however, that before enacting such ordinances the city commission shall hold a public hearing, after notice thereof, given by a publication once each week for three (3) successive weeks prior to the date set for hearing, in some newspaper published at Brownsville, Texas, setting forth therein the territory or several areas proposed to be brought within the city limits (at which hearing the inhabitants of such territory or several 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 existing City of Brownsville and the inhabitants and taxpayers thereof), and shall find from the evidence submitted that the inclusion of such territory or several areas or some portion thereof, to be described in the findings and in the succeeding ordinance, is urban or suburban in character and adjacent to the city limits, and that the inclusion thereof within said limits would be a benefit to the inhabitants thereof and to the owners of property therein equal to or greater than the tax burden and other obligations that would fall upon them as the result of such inclusion, and that the inclusion of such territory or portion thereof would likewise be a benefit to the existing City of Brownsville. The findings made by the city commission 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 ordinance above provided for.

Section 3a. Extension of the city boundaries by a petition.

Whenever a majority of the property owners who are citizens of the state and inhabitants of any territory adjoining the City of Brownsville desire the annexation of such territory to said city, they may present a written petition to that effect to the city commission, describing the territory desired to be annexed and shall be attached to said petition the affidavit of two or more of their number to the effect that said petition is signed by a majority of such qualified voters; and thereupon the city commission, at any regular session held not sooner than fifteen (15) days after the presentation of said petition, and after giving ten (10) days notice through a local paper of the presentation of said petition, and of a hearing on said petition, and after finding, that said petition has been signed by a majority of the resident property taxpayers of said territory desiring to be annexed, and that it is to the interest of the City of Brownsville that said territory should be annexed, may, by ordinance, annex such territory to the City of Brownsville, and thence forth said territory shall be a part of the City of Brownsville, and the inhabitants thereof shall be entitled to all the rights and privileges of other citizens and shall be bound by the acts, ordinances, resolutions and regulations of said city.

Section 3b. [Extension by ordinance]

The city commission shall have power by ordinance to fix the boundary limits of the City of Brownsville; and to provide for the alteration and the extension of said boundary limits and the annexation of additional territory lying adjoining to the city; provided that upon the introduction of any such ordinance in the city commission, it shall be published in the form it may be passed in a daily newspaper published in the City of Brownsville at least one (1) time, and said ordinance shall

not be finally adopted until after the expiration of thirty (30) days from and after the date of the first publication thereof; and upon the final passage and adoption of such ordinance and when the boundaries of the City of Brownsville shall thereafter be fixed in such ordinance and when any additional territory has been so annexed, same shall be a part of the City of Brownsville for all intents and purposes, and the property situated therein shall bear its pro rata part of the taxes levied by the city and the inhabitants thereof shall be entitled to all the rights and privileges of all the citizens and shall be bound by the acts, ordinances, resolutions and regulations of the city.

Provided, however, that if within thirty (30) days from and after the first publication of said ordinance a petition requesting an election to determine whether said territory shall be annexed shall be filed with the city secretary of the said City of Brownsville, signed by at least 33 1/3% of the aggregate number of voters qualified to vote in said city and in said territory sought to be annexed on the date of the filing of said petition, then and in that event the city commission shall, by ordinance within sixty (60) days after the filing of said petition, order and call an election to be held in said city for the purpose of determining whether a majority of the legally qualified voters residing within the territorial limits of said city and qualified to vote in said election favor the annexation of said territory proposed to be annexed, and shall at the same time order and call an election to be held at some convenient place within said city limits so that the legally qualified voters residing in the territory contiguous to said city and proposed to be annexed may appear and cast their votes for the purpose of determining whether a majority of the legally qualified voters residing in said territory proposed to be annexed and qualified to vote in said election favor the annexation of said territory proposed to be annexed. The city commission shall give notice of said elections by publishing same one (1) time in a newspaper published in the City of Brownsville, in which said notice the territory proposed to be annexed shall be described. Said elections shall be held in accordance with the provisions of the City Charter of the City of Brownsville concerning elections, except the ballot shall read, in part, substantially as follows: "For the Ordinance Extending the City Limits". If a majority of the qualified voters of the City of Brownsville qualified to vote at said election and voting at said election and a majority of the qualified voters residing within the territory proposed to be annexed are qualified to vote at said election and voting at said election, each vote for said ordinance extending the city limits, the said ordinance shall then be finally passed by said city commission; otherwise not. In the event said elections do not approve said annexation, no ordinance attempting to annex all or any part of said territory shall be introduced until after the expiration of one (1) year from and after said elections except by Charter amendment.

The word "newspaper" as used hereinabove means a newspaper as defined by the General Laws of the State of Texas.

Section 4. Platting of property.

Should any property lying within the city limits, as established by this Charter, be hereafter platted into blocks and lots, the owners of said property shall plat and lay the same off to conform to the streets and alleys abutting the same, and shall file with the mayor a correct map thereof; provided that in no case shall the City of Brownsville be required to pay for any of said streets or alleys, at whatever date opened, but when opened by reason of the platting of said property, at whatever date platted, they shall become, by such act, the property of the City of Brownsville for use as public highways, and shall be cared for as such.

ARTICLE II. [MISCELLANEOUS POWERS]

Section 1. Corporate powers.

The City of Brownsville, made a body politic and corporate by the legal adoption of this Charter and the amendments thereto, shall have perpetual succession; may use a corporate seal; may sue or be sued; implead or be impleaded in all courts and places, and in all matters whatsoever; may contract and be contracted with; may take, hold, purchase and acquire real estate or personal property within or without its boundaries, for any municipal purpose, governmental, proprietary or otherwise, in fee simple or lesser interest, title or estate, by purchase, gift, devise, lease or condemnation; and may sell, lease, hold, manage and control such property as its interests may require; and except as prohibited by the Constitution of Texas, or restricted by this Charter, shall exercise and enjoy all municipal powers, functions, rights, privileges, immunities and franchises of every name and nature, and be subject to all the duties and obligations now pertaining to or incumbent upon said city as a corporation. The enumeration of particular powers by this Charter shall not be held or deemed to be exclusive, but in addition to the powers enumerated therein or implied thereby, or appropriate to the exercise of such powers, it is intended that the City of Brownsville have, and may exercise, all powers which, under the Constitution of Texas, it would be competent for this Charter specifically to enumerate. All powers of the city, whether expressed or implied, shall be exercised in the manner prescribed by this Charter, or, if not prescribed therein, then in the manner provided by ordinance or resolution of the governing body.

Section 2. Powers of ordinance.

The City of Brownsville shall have the power to enact and enforce all ordinances necessary to protect health, life and property and to prevent and summarily abate and remove all nuisances, and to preserve and enforce the good government order and security of the city and its inhabitants, and to enact and enforce ordinances on any and all subjects, provided that no ordinance shall be enacted inconsistent with the provisions of this Charter or the General Laws or Constitution of the State of Texas.

Section 3. Style of ordinances.

The style of all ordinances of the City of Brownsville shall be: "Be It Ordained by the City of Brownsville", but the same may be omitted when published in book or pamphlet form by the City of Brownsville.

Section 4. Real estate, etc., owned by the city.

All real estate owned in fee simple title or held by lease, sufferance, easement, or otherwise; all public buildings, fire stations, parks, public squares, streets, alleys and all property of whatever kind, character, or description, whether real or personal, which has been granted, donated, purchased or otherwise acquired by the City of Brownsville, through any means or agency, and all causes of action, choses (sic) in action, rights and privileges of every kind and character, and all property of whatsoever character and description which may have been held or is now held, controlled or used by the said City of Brownsville for public ways or in trust for the public, shall vest in and remain in and inure to the said corporation of the City of Brownsville by the legal adoption of this Charter, and all suits and pending actions to which the City of Brownsville heretofore was or now is a party, plaintiff or defendant, shall in nowise be affected or terminated by the provisions of the Charter or by the legal adoption of the same, but shall continue unabated.

Section 5. Acquisition of property.

The City of Brownsville shall have the power and authority to acquire by purchase, gift, devise, condemnation, or otherwise any character of property, including any charitable or trust fund.

Section 6. Public property exempt from execution.

The property, real and personal, belonging to the city shall not be liable to be sold or appropriated under any writ of execution or cost bill.

Section 7. City funds not subject to garnishment or assignment.

The funds belonging to the city, in the hands of any person, firm or corporation, shall not be liable to garnishment on account of any debt it may owe, or funds it may have on hand due any person, firm or corporation, nor shall the city or any of its officers or agents be required to answer any writ of garnishment on any account whatsoever, nor shall said city be liable to the assignee of any wages of any officer, agent or employee of said city, whether earned or unearned, upon any claim or account whatsoever, and as to the city any such assignment shall be absolutely void.

Section 8. Rules and regulations governing liability for damages.

Subsection 1. The City of Brownsville shall not be liable on account of any claim for specific performance, breach of contract, damages to the person, or to any property or for any character of tort, unless the person asserting such claim shall give the City written notice of such claim and of the facts upon which it is based within six (6) months from the time it is claimed such cause of action arose, and no such suit shall be instituted or maintained on any such claim until the expiration of ninety (90) days from the time such notice shall have been given.

Said written claim shall state the amount of damages claimed and demanded of the city, and to be accompanied by a true statement under oath as to the nature and character and extent of such injury and damages, the time, date, and place when and where same happened, the conditions causing the same, with a detailed statement of each item of such damages or injuries, a list of the names and addresses of witnesses, if known to or ascertainable by the affiant, who witnessed said injury or the accident or happening causing the same or the damages resulting from same. [Ord. No. 93-1270, Prop. #1, dated 11-16-1993]

Subsection 2. The City of Brownsville shall not be held responsible or liable on account of any claim for damages by reason of the death of any person resulting from negligence of the said city, its officers, agents, or employees, unless, first, the legal representative of the estate of such person shall, within thirty (30) days after the death of such person, present to the city commission of the city at a regular meeting thereof, or, if there be no regular meeting, within said thirty (30) days, at the first regular meeting thereof, a written demand or claim for such damages, said written claim to state the amount of damages claimed and demanded of the city, and to be accompanied by a true statement under oath, to the best of affiant's information and belief, as to the nature and character of such injury, the time, date and place when and where same happened, the conditions causing the same, with a detailed statement showing how the amount of damages claimed is determined, a list of the names and addresses of witnesses, if known to or ascertainable by affiant, who witnessed said injury or the accident or happening causing the same or the results thereof, and, second, no suit against the City of Brownsville shall be brought until after sixty (60) days after such claim shall have been presented to the city commission of the city within the time, in the manner and in accordance with the provisions hereof.

Section 9. Right of eminent domain.

Said city shall have the right of eminent domain and the power to appropriate private property for public purposes whenever the governing authority shall deem it necessary; and to take any private property, within or without the city limits, for any of the following purposes, to-wit: city halls, police stations, jails, calabooes, fire stations, and fire alarm systems, libraries, hospitals, sanitariums, auditoriums, market houses, slaughterhouses, reformatories, abattoirs, streets, alleys, parks, highways, playgrounds, sewer systems, storm sewers, sewage disposal plants, filtering beds and emptying grounds for sewer systems, drainage, drainage water, water supply sources, wells, water and electric light and power systems, street car systems, telephone and telegraph systems, gas plants or gas systems, cemeteries, crematories, prison farms, pest houses, and to acquire lands, within or without the city, for any other municipal purpose that may be deemed advisable. That the power herein granted for the purpose of acquiring private property shall include the power of improvement and enlargement of waterworks, including water supply, riparian rights, stand pipes, watersheds, and the construction of supply reservoirs. That in all cases wherein the city exercises the power of eminent domain it shall be controlled as nearly as practicable, by the laws governing the condemnation of property by railroad corporations in this state; the city taking the position of the railroad corporation in any such cases.

Section 10. Ownership of public utilities.

Said city shall have the power to buy, own or construct, and to maintain and operate, within or without the city limits a complete water system or systems, gas or electric lighting or power plant or plants, telephone systems, street railways, sewer systems, sewage plants, fertilizing plants, abattoirs, municipal railway terminals, or any other public service utility, and to demand and receive compensation for such services furnished by the city for private purposes or otherwise, and to have the power to regulate by ordinance the collection of compensation for such services. That said city shall have power to acquire by lease, purchase or condemnation the property of any person, firm or corporation now or hereafter conducting any such business, for the purpose of operating such public utility or utilities for the purpose of distributing such service throughout the city or any portion thereof.

Section 11. Funds for acquisition of any public utility; security for same, etc.

Should the city determine to acquire any public utility by purchase, condemnation or otherwise, as herein provided, said city shall have the power to obtain funds for the purpose of acquiring said public utility and paying the compensation therefore, by issuing bonds or notes or other evidence of indebtedness, and shall secure the same by fixing a lien upon the property constituting the public utility so acquired, and said security shall apply to said property so pledged.

No public utility or utilities owned or hereafter acquired by the city shall ever be sold until such sale is authorized by a majority vote of the qualified property taxpaying voters of the city, nor shall such utility or utilities ever be mortgaged or encumbered except as may be authorized by a majority vote of the qualified property taxpaying voters of the city, or for the purchase price of the particular property so mortgaged. Such vote in either case shall be ascertained at an election, of which notice shall be given in like manner as in cases of the issuance of municipal bonds by the city.

Section 12. Manufacture or purchase of public utility products.

Said city shall have the authority to manufacture its own electricity, gas or anything else that may be needed or used by it or the public; to make contracts with any person, firm or corporation for the purchase of gas, water, electricity, or any other commodity or articles used by it or the public, and to sell same to the public, as may be determined by governing authority.

Section 13. Right to operate and maintain public utility acquired, exclusive.

In the event said city shall acquire, by purchase, gift, devise, deed, condemnation, or otherwise, any waterworks system, electric light or power system, gas system, street railway system, telephone system, or any other public service utility to operate and maintain for the purpose of serving the inhabitants of said city, the right to operate and maintain such public service utility, so acquired shall be exclusive.

Section 14. Right to regulate charges, etc., of holder of franchise or privilege.

Said city shall have the power to determine, fix and regulate the charges, fares, and rates of any person, firm or corporation exercising, or that may hereafter exercise, any right of franchise or public privilege in said city, and to prescribe the kind of service to be furnished, the equipment to be used, the manner in which service shall be rendered, and to change such regulations from time to time; that in order to ascertain all of the facts necessary for a proper understanding of what is or should be a reasonable rate or regulation the governing authority shall have full power to inspect the books and other records such person, firm or corporation, and compel the attendance of witnesses for such purposes; provided that in adopting such regulations and in fixing or changing such compensation, no stock or bond authorized or issued by any person, firm or corporation exercising such franchise or privilege shall be considered unless proof be made that the same have been actually issued by such person, firm or corporation for money, or its equivalent, paid and used for the development of the property under investigation.

Section 15. Street powers.

The city shall have dominion, control and jurisdiction in, upon, over and under its public streets, squares, avenues, alleys and highways, and to provide for the improvement thereof, upon the initiative of the commission, or upon a petition of property owners, as hereinafter provided, by paving, repaving, raising, grading and draining, and in connection therewith, opening, widening, narrowing or straightening, and by construction of sidewalks, and curbs or culverts, or otherwise. The word "highway" as used herein shall include all streets, alleys, public places, avenues and squares in the city. The city shall have the power to assess not more than three-fourths (3/4) of the cost of such work, except the cost of intersections and cost to be paid by owners of railroads and street railroads, against the owners of property abutting the highway or section thereof improved, and against said property, and to fix a lien against said property which shall be superior to all other liens and claims, except city, state and county and other taxes, and a charge of personal liability against owners of said property. The portion of the cost assessed against said owners of abutting property may be made payable in deferred installments, the last maturing of which shall become due not more than five (5) years from the completion of the improvements, and which shall bear interest at the rate of not exceeding eight percent (8%) per annum. Said assessments may include reasonable attorney's fees and cost of collection, if incurred, and the commission shall have the power to fix the terms of payment, maturity and conditions of said assessments and of the assignable certificates hereinafter provided for.

The entire cost of making such improvements between or under the rails, tracks and switches of railroads or street railroads, occupying any highway or intersection improved, and for two feet on the outside of said tracks, shall be paid by the owners thereof, and secured by a lien assessed on the roadbed, rails, ties, tracks, franchises and other property of said owners, which lien shall be superior to all other liens, claims or interests in or upon said property. The ordinance making such assessment shall provide the time and terms of payment thereof, and for the payment of interests, costs and attorney's fees as above set out.

No assessment shall be made against owners of abutting property or against railroads or street railroads, or their property, until after a hearing to said owners, and lien holders or other interested parties, before the commission, preceded by reasonable notice thereof, which shall consist of a general notice published not less than ten (10) days prior to the hearing in some newspaper of general circulation published in the City of Brownsville. The commission shall have authority to give other additional notice in its discretion, but the published notice shall be sufficient and binding upon lien holders and other interested parties and owners.

At said hearing, owners and other interested parties shall have the right to contest said assessments, the legality or regularity of any proceeding with reference thereto, or the special benefits arising from said improvements.

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

All protests, contests and objections at said hearing shall be in writing, and the commission shall have power to hear evidence, summon witnesses and take testimony with reference thereto.

Said assessments may be enforced, either by suit in any court having jurisdiction, brought by the city for the benefit of the holder and owner of said assessments or the certificates evidencing same, or brought by said owner and holder, or by sale of the property assessed in the same manner or as near as possible, as is prescribed for sale of real estate for municipal taxes.

The lien of the assessments herein mentioned shall relate back and take effect as to all subsequent purchasers and creditors from the date of the ordinance or resolution ordering the improvement.

Subsection 1. The commission shall have power to cause to be issued in the name and on behalf of the city assignable certificates in writing, declaring the liability of the owners and their property for the payment of assessments and to fix the terms and conditions of such certificates. If any such certificate shall recite that the proceedings with reference to making such improvements have been regularly had in compliance with law, and that all prerequisites to the fixing of the assessment lien against the property, and the personal liability of the owners, have been performed, such recitals shall be prima facie evidence of the facts so recited, and no further proof thereof shall be required in any court.

Subsection 2. Nothing herein contained shall empower the city to fix a lien by assessment against any property exempt by law from sale under execution, but the owner of such exempt property shall nevertheless be personally liable for the pro-rata portion of said cost which would hereunder be assessed against such property were it not exempt, and such cost shall be assessed against said owner. The fact that any improvement is omitted in front of exempt property shall not invalidate the lien of assessments made against other property.

Subsection 3. In apportioning costs of improvements among owners of the abutting property, the commission shall act in accordance with the front foot rule, in proportion as the front feet of property of each owner abutting the highway to be improved is to the whole frontage thereof. But if in particular cases the application of this rule would be unequal or unjust, the commission shall adopt such rule as shall effect substantial justice and equality, in view of special benefits received and burdens imposed.

Subsection 4. No error, mistake or informality in the ordinance of assessment or in any other step or proceeding prerequisite to said assessment shall invalidate the same, but the commission shall at any time correct the same.

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

Whenever in the opinion of the commission any error, mistake or invalidity exists in any proceeding with reference to said improvements or assessments, it shall correct said error, mistake or invalidity, and reassess said property and the owners thereof, with reference to which same exists. Such reassessments shall be made after a notice and hearing as herein provided, and not in excess of benefits in enhanced value of the property assessed and otherwise as near as possible in accordance with the provisions hereof with reference to original assessments. After such re-assessments the city shall have power to issue assignable certificates evidencing same, as hereinbefore provided, which may be payable in deferred installments, the last maturing not over five (5) years from date of said reassessment, and the terms and conditions of said certificates shall as near as possible comply with the preceding provisions hereof having reference thereto.

No reassessment shall be made unless proceedings therefor are begun within three (3) years from the date of the original assessments provided that if the validity of any assessments shall be involved in litigation, the period of time consumed therein shall not be considered in computing said three (3) years.

The commission shall have power to adopt rules, regulations and ordinances not inconsistent herewith for the purpose of carrying into effect every part of this section and its subsections and to effect said assessments and reassessments.

Subsection 5. Whenever the owners of more than fifty percent (50%) of the front feet of property abutting any highway or section thereof which they desire improved, shall petition the commission in writing (which may be one or more separate petitions) and shall state the limits within which the work is to be done, the general description thereof and the materials and methods or alternative materials and methods with which it is desired said improvements shall be made, and the signers of said petition shall agree therein to pay the several amounts which may be assessed against them respectively under the terms thereof, the said petition shall be filed with the commission, and shall be by it examined and in its discretion approved or disapproved by resolution.

The approval of such petition by the commission shall be conclusive of its regularity and validity, and if so approved, the commission shall order the work done as nearly as possible with the materials and in accordance with the methods, or if alternative materials or methods shall be set out in said petition, in accordance with some method and with some material or materials therein specified.

When procedure is under this subsection, the commission shall make said improvements and assess and apportion the cost thereof, after notice and hearing as hereinbefore provided, and shall take all steps and do all things with reference thereto in strict accordance with the provisions of this section. Provided that when said work is done pursuant to petition, the city shall pay the whole cost of improvement of intersections of other streets and alleys with the highways named to be improved, except the portion thereof assessed against railroads and street railroads so occupying said highway and intersections; said railroads and street railroads shall pay the whole cost of such improvement of said highway or portion thereof between and under their rails and tracks and two (2) feet on the outside thereof, and their property, and collected in the manner provided in this article; and the owners of property abutting the highway or section thereof to be improved shall pay the whole remaining cost of such improvements, and the same shall be apportioned among them and assessed against them and their property in the manner provided in this article.

Subsection 6. In any suit brought for the enforcement of an assessment, reassessment or personal liability, the allegation in the petition or other pleading that all proceedings with reference to making such improvements have been regularly had in compliance with the law, and that all prerequisites to the fixing of the assessment lien upon the property assessed and the personal liability of the owner, or the issuance of the assignable certificates, have been performed, shall be deemed a sufficient allegation of every proceeding required by law, the City Charter or its ordinance with reference to such improvement or prerequisites to the fixing of such lien or liability and issuance of said certificates, and shall dispense with the necessity of pleading each of said preceding steps or prerequisites specifically and shall in all courts be taken as if each of said steps, proceedings or prerequisites had been alleged and set out in full.

Any property owner against whom or whose property an assessment or reassessment has been made shall have the right within twenty (20) days thereafter to bring suit in any court having jurisdiction to set aside or correct the same or any proceeding with reference thereto, on account of any error or invalidity therein. But thereafter, such owner, his heirs, assigns, or successors shall be barred from any such action or any defense of invalidity in such proceedings or assessments or reassessments in any action in which the same may be brought in question.

Subsection 7. All contracts for street improvements heretofore entered into by the city and not fully performed, and all proceedings had by it with reference thereto, are hereby ratified, confirmed and validated, and all powers heretofore enjoyed by the city whereby it was empowered to provide for the execution of said contracts, and for the assessment of any portion of the cost of said improvements against owners of property abutting same, and their said property, or against the owners of railroads and street railroads and their property, and also all powers of the said city for the enforcement of said assessments and collections thereof, are hereby extended and preserved in full force for the purpose of making said assessments and enforcing said existing contracts, and it shall be the duty of said commission to pass all ordinances and resolutions and take all steps necessary or proper to fully execute said contracts or validate or ratify the same and to make and enforce said assessments.

All the powers granted by this section and its subsections, when adopted, shall be applicable to the enforcement of said existing contracts, and to the making and enforcement of the assessments therein provided to be made against owners of abutting property, and their property, and against the owners of railroads and street railroads and their property, and to the issuance of assignable certificates as herein provided; and the commission shall fully exercise said powers to make and enforce said assessments, and to issue said certificates, under and in accordance with terms of this section and its subsections, when adopted.

Section 16. Construction of sidewalks and curbs.

Said city shall have power to provide for the construction and building of sidewalks and to charge the entire cost of the construction of said sidewalks, including the curb, against the owner of the abutting property, and to make a special charge against the owner for such cost, and to provide by special assessments a lien against such property for such cost.

Section 17. Sidewalks, improvement; defective may be declared nuisance.

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

Section 18. Franchises for use of streets.

Said city shall have the power and authority to grant franchises for the use and occupancy of streets, avenues, alleys and any and all public grounds belonging to or under the control of the city. No telegraph, telephone, electric light or power, street railway, interurban railway, steam railway, gas company, waterworks, water systems or any other character of public utility shall be granted any franchise or permitted the use of any street, avenue, alley, highway or grounds of the city without first making application to and obtaining the consent of the governing authorities thereto, expressed by ordinance, and upon paying such compensation as may be prescribed, and upon such conditions as may be provided for by such ordinance, and before such ordinance proposing to make any grant for franchise or privilege to any applicant to use or occupy any street, avenue, alley or any other public ground belonging to or under control of the city, shall become effective upon publication of such ordinance, as finally proposed to be passed, shall be made in some newspaper published in the City of Brownsville once a week for three (3) consecutive weeks, which publication shall be made at the expense of the applicant desiring said grant, and said proposed ordinance shall not be thereafter changed unless again republished as in the first instance, nor shall any such ordinance take effect or become law or tract or vest any rights in the applicants thereof until after the expiration of thirty (30) days from the last publication of said ordinance, as aforesaid.

Pending the time such ordinance may become effective, it is hereby made the duty of the governing authority of the city to order an election, if requested so to do so, by written petition signed by at least ten percent (10%) of the legally qualified voters, as determined by the number of votes cast in the last regular municipal election; at which election the qualified voters of said city shall vote for or against the proposed grant, as set forth in detail by the ordinance conferring the rights and privileges upon the applicant therefore. Such election shall be ordered not less than thirty (30) days nor more than ninety (90) days from the date of filing said petition, and if at said election the majority of the votes cast shall be for the granting of such franchise or privilege, said ordinance and the making of said proposed grant shall thereupon become effective, but if a majority of the votes cast at said election shall be against the granting of such franchise or privilege, such ordinance shall be ineffective and the making of such proposed grant shall be null and void.

Section 19. Public works, improvements.

Said city shall have the power to open, extend, straighten and widen any public street, avenue, boulevard, or alley, and for such purpose to acquire the necessary land, by purchase or condemnation, and to provide that the cost of improving such street, avenue, boulevard, or alley by opening, extending, straightening or widening the same shall be paid by the owners of property lying in the

territory of such improvement to the extent they are especially benefited thereby, and to provide that the cost shall be charged, by special assessment, against such owners and their property for the amount due by them, and three (3) special commissioners shall be appointed by the county judge of Cameron County, Texas, for the purpose of condemning said land and apportioning said cost, and such apportionment shall be especially assessed by the governing authority of said city against the owners and their property lying in the territory so found by said special commissioners to be specially benefited in enhanced value, and said city may issue assignable certificates for the payment of any such cost against such property owners and their property, and may provide for the payment thereof in deferred payments, which deferred payments shall bear interest at the rate of not exceeding eight percent (8%) per annum. Said city shall pay such portion of such cost as may be determined by said special commissioners to be due by it; provided the cost paid by the city shall never exceed one-third (1/3) of the cost of such improvement.

Section 20. Altering streets, obstructions, encroachments, etc.

Said city shall have the power to control, regulate and remove all obstructions, encroachments, and encumbrances on any public street, avenue, boulevard, or alley, and to narrow, alter, widen, straighten, vacate, abandon, and close same; to provide for sprinkling and cleaning same, and to regulate and control the moving of buildings and structures of every kind and character upon and along the same.

Section 21. Parks and playgrounds.

Said city shall have exclusive control over all city parks and playgrounds, and may control, regulate and remove all obstructions and prevent encroachments thereupon, and may provide for raising, grading, filling, terracing, landscape gardening, erecting buildings, providing amusement therein, establishing walks and paving driveways around, in and through said parks, playgrounds, and other public grounds; and shall have power to set up and maintain a system of parks for the use of the public, and shall have power to acquire park sites by gift, purchase, or condemnation; and said powers so granted shall, in part, but not exclusively, be exercised as follows, to-wit:

Subsection 1. As soon as practicable the city commission of said city shall designate the resacas now owned by the city as public parks, and shall acquire by gift, purchase or condemnation all lands in the city resaca not now owned by the city, and sufficient land bordering said resaca on either side for roads on each side thereof, and insofar as practicable, said city commission shall provide that the costs of making any such improvements shall be paid by the property owners owning property in the territory specially benefited in enhanced value by reason of making such improvements, and a personal charge be made against such owners as well as a lien fixed by special assessment against any such property and in other respects the provisions in Article 1180 of Revised Civil Statutes of Texas, 1925, shall be followed in acquiring and improving said Resaca lands for park purposes.

Subsection 2. There shall be and is hereby established the office of park superintendent, appointment to which office and the salary to be paid therefore shall be as in the case of other non-elective city employees and officers.

Subsection 3. Upon the adoption of this amendment, there shall be appointed by the city commission three (3) members of a park commission for terms, respectively, of one, two, and three years, the successors to whom shall each be appointed for a term of three (3) years, who shall serve without compensation and who shall constitute an advisory body, to advise with and make recommendations

to the city manager with reference to park management, care and planting of trees, shrubs, flowers and other ornamental plants, and the improvement and maintenance of city parks.

Subsection 4. The city commission may annually appropriate monies from the general fund of the city to the aggregate amount of not to exceed one-half mill on each one dollar assessed valuation of the taxable property within the city in any one year for the extension, improvement, maintenance and care of the city park system.

Section 22. Peace and good order.

Said city shall have the power:

- [1] To define all nuisances, prohibit the same within the city and outside the city limits for a distance of five thousand (5,000) feet; to police all parks, grounds, speedways, streets, avenues and alleys owned by said city, within or without the city limits; to prohibit the pollution of all sources of water supply of said city, and to provide for the protection of watersheds.
- [2] To provide for the inspection of dairies, cows and dairy herds, slaughter pens and slaughterhouses and abattoirs, within or without the city limits, from which meat, milk, butter or eggs from same are furnished to the inhabitants of said city, and to provide for the inspection of meat markets, grocery stores, drugstores, confectioneries, fruits stands, ice cream factories, laundries, bottling plants, hotels restaurants and bakeries; the source, storage and distribution of water, and other places where food or drink for human consumption are manufactured, handled, sold or exposed for sale, and to regulate and inspect the character and standard of such articles of food and drinks so sold or offered for sale.
- [3] To provide the inspection and regulation of the sanitary conditions of all premises and vacant lots within the city limits; for the removal of garbage, night soil, refuse and unsanitary vegetation; to provide for establishing a lien against the property for any expenses incurred by the city in enforcing this provision, and further to provide for the making and enforcing of all proper and reasonable regulations for the health and sanitation of said city and its inhabitants.
- [4] To provide for a health department and the establishment of rules and regulations protecting the health of the city; the establishment of quarantine stations, pest house and hospitals, and to provide for the adoption of necessary quarantine laws to protect the inhabitants against contagious and infectious diseases.
- [5] To provide for a sanitary sewer system and for the maintenance thereof; to require property owners to make connections to such sewers with their premises, and to provide for fixing a lien against any property owner's premises who fails or refuses to make sanitary sewer connections, and to charge the cost against the said owner and make it a personal liability, and to fix penalties for failure to make sanitary sewer connections.
- [6] To require property owners, their agents and lessees to remove, within a reasonable time, ice, slush, snow and other debris from sidewalks fronting on property owned, occupied or controlled by such owner, agent or lessee, and to require such owner, agent or lessee to remove all low hanging limbs from trees adjacent to sidewalks in said city.

- [7] To prohibit the driving of herds of horses, mules, cattle, hogs, sheep, goats and all herds of domestic animals along or upon the streets, avenues, or alleys of said city.
- [8] To establish and regulate public pounds, and to regulate, restrain, and prohibit the running at large of horses, burros, mules, cattle, sheep, swine, goats, geese, chickens, pigeons, ducks and other domesticated animals or fowl, and to authorize the restraining, impounding and sale of same for the cost of the proceedings and the penalty incurred, and to order their destruction when they cannot be sold, and to impose penalties upon the owner thereof for the violation of any ordinance regulating or prohibiting the same and to tax, regulate, restrain and prohibit the running at large of dogs, and to authorize their destruction and impose penalties on the owner or keepers thereof.
- [9] To prohibit the inhumane treatment of animals and provide punishment therefor.
- [10] To prohibit and restrain the flying of kites, firing firearms, firecrackers, rolling of hoops and the use of velocipedes, bicycles and skates, or the use and practice of any amusement on the streets or sidewalks, to the annoyance of pedestrians or persons using such streets or sidewalks, and to restrain, regulate and prohibit the ringing of bells, or blowing of horns, bugles and whistles, crying of goods and all other noises, practices, and performances tending to the collection of persons in the streets, or tending, unnecessarily, to interfere with the peace and quietude of the inhabitants of said city; and to suppress and regulate all unnecessary noises.
- [11] To license any lawful business, occupation or calling that is susceptible to the control of the police power, and to license, regulate, control or prohibit the erection of signs, or billboards.
- [12] To license, tax and regulate, or suppress and prevent, hawkers, peddlers and pawnbrokers.
- [13] To license, tax and regulate all charges or fares made by any person, firm or corporation owning, operating or controlling any vehicle operated for the carriage of passengers or freight for hire, on the public streets of the city.
- [14] To regulate the operation of railway trains and streetcars operated on, along or across the streets, avenues, or alleys of said city; to license and control the operation of automobiles, motorcycles, taxicabs, buses, cabs, and carriages and all character of vehicles using the public streets, and to regulate the use and occupancy of the streets by any of such vehicles.
- [15] To provide for the regulation and control of plumbers and plumbing works and to secure efficiency in the same.
- [16] To provide for the regulation of weights, measures, and meters, and fix a standard of such weights, measures and meters, and require conformity of such standards and provide penalties for failure to use or to conform to the same, and to provide for inspection fees.
- [17] To provide for the issuance of permits for erecting all buildings; for the inspection of the construction of all buildings in respect to proper wiring for electric lights and other electric appliances; piping for gas, flues, chimneys, plumbing and sewer connections, and to enforce proper regulations in regard thereto.
- [18] To provide for establishing and maintaining a public library.

- [19] To provide for the establishment and designation of fire limits; to prescribe the kind and character of structures to be erected therein; to provide for the erection of fireproof buildings within said limits, and for the condemnation of dangerous or dilapidated structures which are calculated to increase the fire hazard.
- [20] To enact and enforce all ordinances and resolutions necessary to regulate the safety of all office buildings, hotels, apartment houses, rooming houses, hospitals, theaters, store buildings and all public buildings.
- [21] To require the construction of fire escapes in connection with public buildings, and to determine the sufficiency and regulate the safety of all exits and fire escapes provided on public buildings of every kind and character.
- [22] To provide for the establishment of districts and limits, within said city, wherein saloons for the sale of spirituous, vinous and malt liquors may be located and maintained, and to prohibit the sale of such liquors or the location of such saloons without such defined districts or limits; and to regulate the location, permit, forbid, regulate and control theatres, moving picture shows, vaudeville shows, dance halls, ten pin alleys, pool halls and all other public amusements, whenever the preservation of order, tranquility, public safety or good morals demand it.
- [23] To restrain and punish vagrants, mendicants, beggars and prostitutes.
- [24] To prohibit and punish keepers and inmates of bawdy, assignation and disorderly houses, and to prevent and suppress such bawdy, assignation, and disorderly houses, and to punish such keepers, inmates and owners, or agents of such owners, of such houses, knowingly permitting such houses to be occupied as such bawdy, assignation or disorderly houses, and to determine such inmates and keepers to be vagrants.
- [25] To provide for establishing and maintaining the fire department of the city.
- [26] To require waterworks corporations, gas companies, street car companies, telephone companies, electric light and power companies or other companies or individuals, exercising franchises, now or hereafter, from the city, to make and furnish extensions of their service to such territory as may be required by ordinance.
- [27] To establish and maintain the city police department, prescribe the qualifications and duties of policemen and regulate their conduct.
- [28] To provide for the enforcement of all ordinances enacted by it by a fine not to exceed two hundred dollars (\$200.00), provided that no ordinance shall provide a greater or less[er] penalty than is prescribed for a like offense by the laws of the state.
- [29] To provide for the commutation of fines imposed by labor in a workhouse, in the public streets and public ways of the city; and for the collection of any fine imposed, execution may be enforced as executions issued in civil cases.
- [30] To provide for a court for the trial of misdemeanor offenses, known as the "Corporation Court" or "Municipal Court", of which such powers and duties as are defined and prescribed in the Acts of legislature of the State of Texas, and any Acts amendatory thereof. [Ord. No. 93-1270, Prop. #2, dated 11-16-1993]

- [31] To appoint as soon as practicable after the adoption of this Charter, some suitable persons for the position of judge or recorder of the corporation court, who shall discharge the duties of said office under the terms and provisions of the state law creating said court, and subject to the provisions of this Charter.
- [32] To establish, maintain and regulate the city prison, workhouses, and other means of punishment for vagrants, city convicts and disorderly persons, and such hospitals, orphanages, and charitable institutions as may be deemed expedient by the governing authority.
- [33] To divide the city into zones for the regulation of buildings therein, and in each zone to establish building lines and to regulate the location, height, dimensions and material of all buildings to be erected therein, with full power to make different regulations and building lines in different zones, and to regulate the purpose for which the property in said zones may be used, and therefore to alter the same.

In addition to the foregoing, the city shall have the powers enumerated in Article 1175 of the Revised Civil Statutes of Texas, Rev. 1925, and all Acts amendatory thereof, and under any other laws enacted by the Legislature of the State of Texas, applicable to cities of more than five thousand (5,000) population, not in conflict with the existing provisions of this Charter, and such provisions and rights are hereby specifically adopted.

Section 23. Purchase of property for city hall.

The City of Brownsville shall have authority to purchase or condemn Lot No. One (1) in Block Fifty Six (56), City of Brownsville, Texas, and the building thereon located, formerly occupied by First National Bank in Brownsville, Texas, for use as City Hall and for other municipal purposes, at a total cost to the City of Brownsville, of not in excess of thirty-two thousand, five hundred dollars, (\$32,500.00) exclusive of taxes and assessments thereon at the time of purchase or condemnation of same, and to execute vendor's lien notes for any part of the purchase price of same, and accept a deed thereto in which a vendor's lien for the unpaid purchase price is retained by the grantor, or to issue first lien mortgage coupon bonds of the City of Brownsville, in a sum not to exceed thirty-two thousand, five hundred dollars, (\$32,500.00), the interest and sinking fund necessary to be created therefor to be charged against a tax to be levied for the general fund of the City of Brownsville, Texas, provided, however, that the City of Brownsville may pay off and retire said vendor's lien notes or coupon bonds out of any amount available out of the net income from any of the public utility plants now owned and operated by said City of Brownsville.

Upon the adoption of this Charter amendment, such vendor's lien notes may be executed by authority of a resolution of the City commission of the City of Brownsville, or, in the discretion of said city commission, such first lien mortgage coupon bonds may be issued in accordance with the existing charter of the said city and in compliance with the Constitution and Laws of the State of Texas, to bear a rate of interest not to exceed five percent (5%), and run for a period of time prescribed by the Charter, but not to exceed ten (10) years, and the adoption of this amendment shall fully authorize the acceptance of deed to such property subject to vendor's lien for the unpaid purchase price and execution of vendor's lien notes, or the issuance of said bonds without any further submission of the same at any election for such purpose.

Section 24. No bond required.

It shall not be necessary in any action, suit or proceeding in which the city shall be a party for any bond, undertaking, or security to be executed in behalf of the city.

ARTICLE III. TAXATION

Section 1. [General levy]

The city shall have the power and is hereby authorized annually to levy and collect for general municipal purposes an ad valorem tax of not more than \$2.50 on each one hundred dollars (\$100.00) of assessed valuation of all real, personal, or mixed property situated within the city, not exempt from taxation by the Constitution and Laws of the State of Texas.

Section 2. [Property taxed]

All property, real, personal or mixed, tangible or intangible, lying or being within the corporate limits of the City of Brownsville, Texas, on the first day of January of each year and all property sent out of the said City of Brownsville, Texas, prior to the first (1st) day of January of each year for the purpose of evading taxation thereon, and afterwards returned to said city, excepting such property as may be exempt from municipal taxation under the Constitution and Laws of the State of Texas, shall be subject to taxation, including in such designation all rights, privileges and franchises heretofore or hereinafter granted to and held by any person, firm or corporation in the streets, alleys, highways, or public grounds or places in said city, and all easements or rights-of-way granted to and held by any person, firm or corporation, in, over, through or under any real property, public or private, said franchises and easements or rights-of-way each to be assessed for taxation and subject to taxation separately from and in addition to the other assets of such person, firm or corporation, and the city commission of the city shall require the rendition and assessment thereof accordingly, provided the specific inclusion of said franchises and easements or rights-of-way in this action shall not, by implication, exclude any other property from the provisions hereof, and provided further, that no franchise hereafter granted by the City of Brownsville, Texas, shall, in any manner, exempt any person, firm or corporation from ad valorem taxation on said franchise, easement or right-of-way.

Section 3. [Assessor's assessment, lists]

It shall be the duty of the assessor and collector of taxes, between the first (1st) day of January and the first (1st) day of May of each year, to make and return to the city commission of the city a full and complete list and assessment of all property, real, personal and mixed, held, owned, or situated in said city on the first (1st) day of January of each year and not exempt from municipal taxation, and also a list of all banks, and other corporations whose capital stock is liable to taxation, with the cash value of the shares of stock of each such bank or other corporation and the names of the owners thereof.

Section 4. [Authority to collect]

The city commission of the city shall have full power to provide by ordinance for the prompt collection taxes assessed, levied and imposed under the Charter, and is hereby authorized, and to that end may and shall have full power and authority to sell or cause to be sold all kinds of property, real, personal or mixed, in any manner not prohibited by the Constitution and Laws of the State of Texas, and may and shall make such rules and regulations and ordain and pass all ordinances deemed necessary to the levying, laying, imposing, assessing, and collecting of any taxes provided for in the Charter. Unless otherwise provided by ordinance or in this Charter, all property in such city liable to taxation shall be assessed in accordance with the provisions of the General Laws of the State of Texas, insofar as applicable.

Section 5. [Procedural regulations]

The city commission of the city shall have power by ordinance to regulate the manner and mode of making out tax lists, inventories and appraisements of property herein, and to prescribe the oath that shall be administered to each person on rendition of his property, and to prescribe how, when and where property shall be rendered, and to prescribe the number and form of assessment rolls, not less than two and fix the duties and define the powers of the city assessor and collector, subject to the provisions of this Charter, and adopt such measures as the city commission may deem advisable to secure the assessment of all property within the city limits and collect the tax thereon, and the city commission may provide a fine for all persons neglecting, failing, or refusing to render their property for taxation.

Section 6. [Notice to submit property lists]

The assessor and collector of taxes shall, at least ten (10) days before the first (1st) day of January each year, give public notice by advertisement in the official newspaper that all persons owning or controlling, as agents or otherwise, any personal property or real estate or mixed property subject to municipal taxation, are required to render same for taxation on or before the first (1st) day of April of each year. All merchants doing business in the city are required within the same time to furnish the assessor and collector of taxes a true statement, verified by affidavit, of all goods, wares, and merchandise owned or kept on hand by such merchant on the first (1st) day of January. All persons firms or corporations holding any rights, privileges or franchises heretofore or hereafter granted to any of them in the streets, alleys, highways or public grounds or places in said city are required within the same time to furnish the assessor and collector of taxes a true statement, verified by affidavit, of all property, real, mixed or personal, including franchises, easements and rights-of-way, owned or kept on hand by such person, firm or corporation on the first (1st) of January, such statement to be in sufficient detail that it shall show all legal descriptions of real estate and shall separate tangible from intangible property, and shall show each different kind or class of property separately.

Section 7. [Supplement rolls of unlisted property]

If the assessor and collector of taxes shall discover any real or personal property which was subject to taxation for any previous year, and which from any cause has escaped taxation for that year, he shall assess the same in a supplement to this next assessment roll at the same rate under which such property should have been assessed for such year, stating the year, and the taxes thereon shall be collected the same as other assessments; provided, that such supplement roll may be made at any time and reported to the city commission of the city for its approval and any number of such rolls may be made that may be necessary. The taxes assessed in such supplement rolls for years previous to the approval of such rolls shall be due at once upon the approval of such rolls by the city commission of the city, and such taxes may bear interest at the rate of six percent (6%) per annum from the date on which the same would have been delinquent if levied and assessed, and if the same shall not be paid within thirty (30) days after the date of such approval, the city collector shall proceed to collect the same by advertisement and by sale of such property as soon as practicable; such advertisement and sale to be made in the same manner and for the same times as in cases of the sale of such property for other city ad valorem taxes, as prescribed by the City Charter; or may enforce the collection thereof in any other manner prescribed by law. Provided, that a misnomer of or failure to name the owner in the assessment of rolls shall not affect the validity of the assessment rolls, shall not affect the validity of the assessment of any taxes, and provided, further, that when such taxes have not been attempted

to be assessed for such previous year, such taxes shall bear interest only from date of approval of the supplemental rolls. The assessor and collector of taxes may in any year reassess property which, because of irregularity in the assessment of any previous year may have been improperly assessed; such reassessment shall be at the value at which it should have been assessed in any such year, and property owners of such property shall take notice of such reassessment, if made prior to the first (1st) of April in any year, but if made after such date, notice shall be given by the assessor and collector of taxes as in case of the raising of an assessment. Any property owner, whose property has been reassessed, may appeal to the board of equalization as in the case of an original assessment.

Section 8. [All property assessed]

The assessor and collector of taxes shall assess all property, which for any cause has not been rendered, placing such valuation thereon as he may deem just. If the owners of such property are unknown, such assessment may be made in the name "unknown".

Section 9. [Irregularity not to invalidate assessment]

No irregularity in the time or manner of making or returning the city assessment rolls or the approval of such rolls shall invalidate any assessment.

Section 10. [Valuation of assessed property]

All property, real and personal shall be rendered for taxation by the owner thereof or his agent, as provided by the laws of the State for the rendition of property for assessment by the county, insofar as applicable; provided, however, that in making such renditions the owner or agent shall not be required to state the value of the real property, but shall furnish to the assessor and collector, verified by the oath the party making such rendition, a full and complete list and schedule of all property, real and personal, belonging to the person, firm or corporation in whose name such property is rendered. It shall be the duty of the assessor and collector to value each and every item of the property so rendered in accordance with the fair cash market value thereof upon a basis of valuation to be applied alike to all taxpayers, and to transmit to the city commission of the city all renditions thus made together with a statement by him, verified by his oath, to the effect that he has truly, fairly and equally valued all such property.

Section 11. Board of equalization.

The city commission of the city shall each year prior to the first (1st) day of June appoint a board of equalization, to be composed of three (3) members who may or may not be members of the city commission, and who are taxpaying citizens, well acquainted with the real estate values, one of whom shall be designated as chairman of the said board. The said board shall convene as near as practicable on the 15th day of June and continue its labors until its said work is completed, but not to continue longer than the 15th day of July following. It shall be the duty of the city commission, as soon as the assessment rolls are completed to refer the same to the board of equalization, whose duty it shall be to equalize the taxes assessed on said rolls and to make all necessary correction and adjustment to that end; and, in addition to the powers granted it by this Charter amendment, said board shall also have the same powers and perform the same duties as the county commissioners court of this state in regard to the assessment of property for taxation and the equalization thereof, and shall be governed in its procedure and acts in this respect as now provided by the laws of this state relating to the equalization of state and county taxes by said commissioners' court. In addition to the foregoing, the said board shall have the power, when sitting, to compel the production of all

books, documents, stocks, bonds, and other papers pertinent to the investigation, to be produced before it in the investigation of the taxable values of any person or persons, firm or corporation having or owning property within the corporate limits of the city subject to taxation. Said board shall have full power to correct any mistake or injustice or inequality in the assessment of property, the rendition of same or in the payment of taxes, and shall have power to correct such mistakes and make redress thereof; and the said board may add to the rolls and property omitted therefrom either for the current year or for previous years, and lawfully taxable within said city. A majority of the said board shall constitute a quorum for the transaction of business. The city secretary or his assistant shall be the ex-officio clerk of said board. Members of the board, while serving, shall receive such compensation as may be provided for them by the city commission of the city. Immediately upon completion of its work the board of equalization shall certify its approval of the assessment rolls, which shall be returned to the city commission of the city, which shall thereupon either approve the said rolls as returned to them or make such corrections and changes therein as it may deem advisable, and thereupon adopt the same as the assessment rolls to be used for the collection of taxes for the current year.

Section 12. Board of equalization; appeals to by owners; procedure.

Any person aggrieved by reason of any act of the assessor and collector of taxes in making up the assessments, or in the valuation of property for taxing purposes, shall be entitled to make complaint to the board of equalization to appeal to said board for revision and correction of the matter upon which said complaint is based. The said board shall hear and examine such complaint or appeal and may examine the complainant, his agent, or attorney, and all other persons who may shed light on said controversy on oath touching the matter complained of and may compel the attendance of witnesses and the production of books and papers necessary to enlighten the board and elucidate the controversy.

Section 13. [Notice of assessment increase.]

If the assessor and collector of taxes or the board of equalization proposes to increase any assessment over the amount assessed in the preceding year, notice shall be issued to such property owner stating the fact that the assessment of the owner's property is about to be increased, without specifically designating the particular property or the amount to be increased, and be addressed to the owner, agent or representative thereof and mailed at the post office in the City of Brownsville, and, in the event the owner of said property is unknown, notice shall be given by publication for one day in the official newspaper in the City of Brownsville; provided that, when the owner of the property is unknown, it shall be sufficient to give a general description of the property, and the newspaper notice shall be the only notice required. The city secretary shall be ex-officio secretary of the board of equalization and he shall give notice by publication in the official newspaper one time advising all taxpayers that the board of equalization will convene on a certain day for the transaction of business and adjourn on a certain day, and that all parties interested in the work of said board shall repair to the office of the assessor and collector of taxes without delay and inform themselves of the determinations of said board, and, if satisfied therewith, to bring the matter to the attention of said board before its final adjournment.

Substantial compliance with the provisions of this section with reference to notice shall be sufficient, and no assessment shall be invalidated by reason of failure to comply with this section of the Charter.

Section 14. [Assessment list prepared.]

As soon as practicable after the tax rolls shall have been revised and finally adopted, the assessor and collector of taxes shall prepare an alphabetical list of the taxpayers of the city, together with the total amount of property assessed against each, which list shall be preserved in his office and shall be accessible to the public.

Section 15. [Tax lien created.]

A lien is hereby created on all property, personal and real, or mixed in favor of the City of Brownsville, for all taxes, ad valorem, occupation or otherwise. Said lien shall exist from January 1st in each year until the taxes are paid. 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, shall ever defeat such lien, but the assessor and collector of taxes shall pursue such property, and whenever found out, shall seize and sell enough thereof to satisfy such taxes.

All persons or corporations owing or holding personal property or real estate in the City of Brownsville, on the first (1st) day of January of each year, shall be liable for all municipal taxes levied thereon for such year.

The personal property of all persons owning any taxes to the City of Brownsville is hereby made liable for all of said taxes whether the same be due upon personal or real property, or upon both.

Section 16. [Where taxes payable.]

All taxes shall be payable at the office of the assessor and collector of taxes in the City of Brownsville, in current money.

No demand for such taxes shall be necessary, but it is made the duty of taxpayer to make payment of such taxes in cash within the time specified.

Section 17. [Seizure, sale of property for taxes.]

The assessor and collector of taxes shall, by virtue of his tax rolls, have power and authority to seize and levy upon personal property and sell the same to satisfy delinquent taxes. When he seizes personal property for such purposes he shall keep the same at the expense of the owner until the sale is made, and shall give notice of the time and place of sale of same by posting a written notice at the city hall door and one at the courthouse in the City of Brownsville, at least ten (10) days before the date of sale. He shall sell the same to the highest bidder for cash for all taxes, interest, cost and expense of caring for said property, and shall make an entry in the book of sales of the amount realized. All such sales shall be made at any door of the city hall.

Section 18. [Tax sale title.]

A sale of personal property for delinquent taxes shall convey with it an absolute title and the owner shall have no right to redeem the same. The city shall have the right to become a purchaser of property at tax sales, and the city manager shall attend such sales for such purpose or may empower any person to so bid on behalf of the city.

Section 19. [Validation of previous levies.]

All levies of ad valorem taxes heretofore made by the City of Brownsville, and all assessments heretofore made, and assessment rolls heretofore placed in the hands of the city assessor and collector of taxes for collection are hereby validated and the same shall be legal and binding, regardless of any irregularities that may exist in the manner of making such levies, and the making and returning of such assessment rolls. This provision shall apply to all suits and actions now pending, as well as those hereafter prosecuted.

Section 20. [Description of property in suit.]

In any suit by the City of Brownsville for the collection of any delinquent tax where it shall appear that the description of any property in the city assessment rolls shall be insufficient to identify such property, the city shall have the right to set up in its pleading a good description of the property intended to be assessed, and to prove the same, and to have its judgment foreclosing its tax lien upon the same, and personal judgment against the owner for such taxes, the same as if the property were fully described upon the assessment rolls.

Section 21. [Sufficiency of listed property description.]

When the owner of any property, or his agent shall render any property to the assessor and collector of taxes for assessment, and such property is assessed in accordance with the description furnished by such owner or his agent, the sufficiency of such description shall not be disputed by such owner in any action or suit for the collection of such taxes, but the same shall be binding upon such owner, and shall be sufficient for all purposes of such assessment.

Section 22. [Article no preemptive.]

The provisions herein for the collection of taxes shall not be construed to prevent the city from filing suit in any court of competent jurisdiction for the collection of any taxes due on real estate, as well as personal property, and for the enforcement of levies for such taxes; and the assessment rolls shall be prima facie evidence of the facts stated in said rolls and that all taxes assessed on such rolls have been regularly levied and assessed in accordance with the provisions of this Charter amendment and of the law; and no irregularity in the manner of levying or assessing taxes shall invalidate the same unless it appears from affirmative proof that such irregularity operated injuriously to the taxpayer attempting to avoid the payment of such tax. Nothing in this section shall be construed to prevent the city commission from hearing all complaints as to erroneous and unjust assessment and making such adjustments with reference thereto as said city commission may deem just.

Section 23. [Assessment pursuant to state law.]

Unless otherwise provided by this Charter amendment, and by ordinances passed thereunder, all property in such city liable to taxation shall be assessed in accordance with the provisions of general laws of the State, insofar as applicable.

Section 24. [Monthly reports.]

It shall be the duty of the assessor and collector of taxes to make reports to the city manager monthly, or oftener, if required by the city commission of the city, showing all taxes collected by him since the date of his last report.

Section 25. Assessment of property; joint, common and conflicting interests in real estate; separate assessments of.

The city assessor and collector of taxes shall not be required to make separate assessments of individual or joint common or conflicting interests in any real estate, but the owner of such interest may furnish to said assessor and collector of taxes, at any time before the 1st day of April of each year, and not thereafter, a written description of any parcel of land in which he has an interest less than the whole, showing the amount of his interest therein, and the said assessor and collector may thereupon assess such interest as a separate parcel and the remaining interest as a different parcel and proceed to fix the value of each.

Section 26. [Payment on particular portion of property.]

The assessor and collector of taxes may receive the taxes on parts of any lots or parcels of real property or on an undivided interest therein, but no such taxes shall be received until the person tendering the same shall have furnished the said assessor and collector of taxes a particular description of the particular part of interest on which payment is tendered, and the assessor and collector shall enter such specification in the name of the person paying and at the proper place in the assessment books, so that the part or interest on which payment has been made and the part or interest on which taxes remain unpaid may clearly appear.

Section 27. Delinquent taxes; penalties.

The taxes herein and hereby authorized to be levied shall become due and payable in two equal installments. The first installment, which amount shall be fifty percent (50%) of the total sum of the taxes due and payable for the current year shall be due and payable on or before the thirty-first (31st) day of January of the ensuing year, and the second installment, which amount shall be the remaining fifty percent (50%) of the total sum due and payable in taxes for the current year shall become due and payable on the thirty-first (31st) day of July of the ensuing year. No demand for taxes shall be necessary in order to insure or enforce their collection; but it is made the duty of the taxpayer to make payment of such taxes in cash as herein provided. The first installment of taxes required to be paid by virtue of this Charter amendment for the current year shall become delinquent on the first (1st) day of February of the ensuing year and the second installment of taxes required to be paid by virtue of this Charter amendment for the current year shall become delinquent on the first day of August next succeeding. Should any taxpayer permit his taxes to become delinquent by failure or refusal to pay the first installment, said installment being fifty percent (50%), of the total amount of taxes due for the current year, before the first (1st) day of February of the ensuing year as above specified, then the second installment shall also immediately become due and payable and delinquent and a penalty shall be attached to the payment of all such taxes at the rate of two percent (2%) per month on the first day of each month thereafter, until such penalty shall be ten percent (10%) of the taxes paid. All delinquent taxes shall bear interest at the rate of six percent (6%) per annum from original delinquent date. Should any taxpayer pay the first installment of his taxes as hereinabove provided and permit the second installment of his taxes to become delinquent, by failure or refusal to pay said second installment before the first (1st) day of August of the next ensuing year, as above specified, then ten percent (10%) penalty and interest shall immediately attach to the second installment of delinquent

taxes. In addition to the penalties above prescribed, such delinquent taxpayer shall be subject to the payment of all costs and expenses that may be incurred by the advertisement of such delinquent property and the collection for such taxes through any method prescribed by this Charter amendment and any of the laws of the State of Texas, and such penalties and interest and costs and expenses, including any lawful attorney's fees, shall be an obligation of the taxpayer and be secured by the same lien and collected in the same manner as the taxes.

Section 28. [Seizure, sale for delinquent taxes.]

It shall be the duty of the assessor and collector of taxes, promptly after any taxes become due and delinquent, and within sixty (60) days thereafter, to seize and sell for taxes any personal property he may find subject, under the law, to be seized and sold for such delinquent taxes, and, as to all other taxes, promptly and within three (3) months thereafter, to prepare in alphabetical order the names of persons owing such taxes triplicate copies of schedules of said delinquent taxes, including any taxes delinquent for prior years, and deliver to the city attorney of the City of Brownsville, Texas, said triplicate copies of said schedule of delinquent taxes, with all information on the tax rolls as to description of property, name and address of owner, and any and all other pertinent information in his possession and knowledge for the purpose of instituting suit or pursuing other legal remedy for the collection of said taxes and the establishment and foreclosure of any liens securing the payment of same.

Section 29. [Collection suits.]

When taxes due the city have become delinquent, suit shall be brought for the collection of such delinquent taxes, together with penalties, interest, attorney's fees, and costs provided by law or legally accruing thereon and for the foreclosure of any and all liens securing the payment of the same.

Section 30. [Failure of officers no defense.]

Failure of the assessor and collector of taxes and the city attorney to do any of the things it is made their duty to do in this Charter as amended at any time, within the time specified therein, shall not be a defense to any suit for collection of taxes and establishment and foreclosure of any liens, nor shall such delay prohibit any other action taken for collection of said taxes.

Section 31. [Officers' liability for nonfeasance.]

In the event either the assessor and collector of taxes or the city attorney fails or refuses to do or perform any of the duties assigned to either of them in his Charter as amended at any time, strictly within the time specified herein, then and in that event such officer so failing to perform his duty within the time specified shall without further action, ipso facto, cease to hold such office and cease to be entitled to receive the salary thereof, and become bound and liable to repay to the City of Brownsville any salary paid to him as such officer may, prior to the expiration of any such time designated herein, apply to the city commission of the city for an extension of time for the performance of any such duty, which said city commission of this city may, by resolution, grant for a specified time, on showing of necessity satisfactory to them. Should either the said assessor and collector of taxes or the city attorney forfeit his office for the reasons set forth in this section of the Charter, he may not again be employed in any capacity by the City of Brownsville, Texas for period of two (2) years.

Section 32. [When tax levied.]

The city commission of the city, at its first meeting in June of each year, or as soon thereafter as practicable, shall levy the annual tax for each year, but special taxes or assessments allowed by this Charter or the Laws of the State of Texas, may be levied, assessed and collected at such time as the city commission may provide; provided, that should the city commission fail or neglect to levy the annual tax herein provided not later than the thirtieth (30th) day of October of said year, the annual tax levy for the preceding year last made by the city commission shall and will be in force and effective for the year for which no annual tax levy was made, prior to the first (1st) day of November of such year.

Section 33. [Article cumulative]

In addition to the powers herein conferred with reference to the assessment and collection of taxes, the City of Brownsville shall have and may exercise all powers and authority now conferred or that may hereafter be conferred upon cities having a population of more than five thousand (5,000) inhabitants by the General Laws of the State of Texas.

Section 34. [Effective date.]

This amendment shall be in effect on and after the first (1st) day of January, 1940.

ARTICLE IV. FINANCE

Section 1. [General authority]

The governing body of the city shall have the power and authority to appropriate so much of the general revenue of the city as may be necessary for the purpose of retiring and discharging the existing indebtedness of the city and for the purpose of making permanent public improvements, purchasing, erecting and constructing and maintaining public works and public utilities of every kind and such other public improvements as the governing body may, from time to time, deem expedient; and in furtherance of any and all of such purposes the city shall have the power to borrow money upon the credit of the city, within the limits prescribed by law, and to issue bonds of the city therefor, in such sum or sums as the governing body may deem necessary or expedient.

All bonds shall specify the purpose for which they are issued, shall not be sold for less than their par value and accrued interest and when any bonds are issued by the city, a separate fund shall be provided to pay the interest as it matures and to create a sinking fund to redeem said bonds as they are scheduled to mature; such fund shall not be used or drawn upon for any purpose except to pay interest on and redeem the bonds for which such fund was created or to invest any surplus monies accumulated therein in such obligations as may be authorized by laws pertaining to the investment of sinking funds of cities. The person or corporation acting as treasurer of the city shall honor no drafts, vouchers, checks or warrants drawn on such fund except for the purposes herein named.

Such bonds may be issued to mature serially or otherwise not more than forty (40) years from their date, within the discretion of the governing body and may contain such options of prior redemption as may be prescribed by the ordinance or resolution authorizing their issuance and in the face of such bonds; bear interest at not more than five percent (5%) payable annually or semi-annually, at such place or places as may be designated in such ordinance or resolution; said bonds shall be signed by the mayor, countersigned by the city secretary or city clerk and shall have impressed thereon the seal of the city.

The ordinance or resolution authorizing the issuance of such bonds shall provide for the levy and collection of a tax annually on all taxable property in the city, sufficient to pay the interest as it accrues and create a sinking fund for the payment of the bonds as they mature.

No such bonds shall be issued until the proposition shall have been submitted to the resident, qualified property taxpaying voters of the city at an election held for such purposes and a majority of the valid votes cast therein shall be in favor of the issuance of the bonds. Such election shall be held in the manner provided in Chapter I, Title 22, Revised Civil Statutes of Texas, 1925, as amended; and all such bonds shall be submitted to the attorney general of Texas for his approval and the comptroller of public accounts for registration in the manner and with the effect provided by law.

Section 2. [Refunding bond ordinances.]

The governing body shall have the power to pass all necessary ordinances to provide for the refunding of any legally outstanding bonds of the city and matured and unpaid interest due thereon, provided such refunding bonds shall not bear interest at a rate greater than the bonds being refunded and shall be authorized and issued in the same manner as other bonds of the city provided that no election shall be required to authorize such bonds.

Section 3. [Time Warrants.]

No time warrants shall be issued by the governing body of the city except in cases of public calamity where it becomes necessary to act at once [to] appropriate money to relieve the necessities of the citizens, or to preserve the property of the city, or when it is necessary to preserve or protect the health of the citizens or in the case of unforeseen damage to public property, machinery or equipment, and then only [by] the unanimous vote of all five members of the commission. (The words "time warrants" as used herein are defined as meaning that form of municipal obligation issued in the form of a bond without being submitted to the voters at an election, and shall not be construed to mean bank notes customarily used for short-time financing.)

Section 4. [Sinking fund.]

All monies arising from the collection of taxes by the city for the purpose of paying interest on and providing a sinking fund for bonds, warrants, and other indebtedness of the city shall be kept in one or more funds separate and distinct from either the fund designated as the "Plant Fund" or the fund designated as the "General Fund". The books of the city shall, at all times, show, separately, the amount of money collected from taxes, or other sources for each year for the payment of interest or as a sinking fund to service each separate issue of bonds, warrants or other indebtedness.

Section 5. [Utility improvement revenue bonds.]

- a) The city is authorized and empowered to issue its fully negotiable coupon bonds hereafter called "Utility Improvement Revenue Bonds", to finance repairs, replacements, extensions, and improvements of and to one or more of its utility systems, payable from and secured as to principal and interest by a pledge of the net revenues only of any or all of said utility systems, provided that so long as any refunding bonds issued under the provisions of Chapter 103, Acts of the Regular Session of the 47th Legislature of Texas remain outstanding and unpaid, either as refunded originally or as again subsequently refunded the pledge of the net revenues securing such Utility Improvement Revenue Bonds shall be of equal dignity with the pledge securing such refunding bonds, provided further, that while any of such refunding bonds are outstanding no Utility Improvement Revenue Bonds shall be issued except to the extent expressly permitted by the ordinance authorizing such outstanding refunding bonds and in no event shall Utility Improvement Revenue Bonds be issued in an amount and under terms which would cause the aggregate amount of all annual pledges, securing the refunding bonds and Utility Improvement Revenue Bonds to exceed sixty-six and two-thirds percent (66-2/3%) of the average net revenue of such utility systems for the three completed fiscal years next preceding.
- b) Such Utility Improvement Revenue Bonds may be issued to mature serially or otherwise not more than forty (40) years from their date, with or without option of prior redemption as may be determined by the city commission, the terms of which option, if any, shall be prescribed in the authorizing ordinance and in the bonds, bearing interest at not exceeding five percent (5%) per annum. No such Utility Improvement Revenue Bonds shall be issued until authorized at an election for such purpose called and held in the manner provided in Chapter I, Title 22, Revised Civil Statutes of Texas, 1925, as amended, for the issuance of bonds by cities.
- c) When Utility Improvement Revenue Bonds shall have been issued hereunder they shall constitute special obligations of the City of Brownsville and such bonds shall never be a debt of the city, but solely a charge upon the pledged revenues and shall never be reckoned in determining the power of the city to incur obligations payable from taxation. The bonds hereby authorized shall contain substantially the following provisions:

“The holder hereof shall never have the right to demand payment of this obligation out of any funds raised or to be raised by taxation.”

- d) The term “net revenues” as used herein shall mean the amount of gross revenues of the city’s utility systems remaining after deducting:
1. Expense of operation of said systems and collection of the income, including salaries and wages of employees thereof;
 2. Maintenance and repair of same;
 3. Five percent (5%) of gross income therefrom as a reserve for depreciation and obsolescence, which sum may be invested in bonds of the City of Brownsville, the State of Texas, or the United States of America, and which reserve may be used for repairing damage caused by wars, riots, floods, hurricanes, fires, or acts of God or other causes not within the control of the governing body of the city.
 4. Cost of such extensions and repairs, as in the judgment of the city commission are necessary to keep the utility systems in operation and render adequate service to the city and its inhabitants or such as may be necessary to meet some physical accident or condition, which would otherwise impair the efficient operation of the utility system.
- e) When any such bonds shall have been authorized and issued as herein permitted, it shall be the duty, enforceable by any bondholder, through mandamus or through any other method of the governing body of the city, to fix and maintain rates for services rendered by any and all of the city’s utility systems sufficient to pay all operating and maintenance expenses, depreciation, replacement and betterment charges and to assure payment of the interest and principal of any of such outstanding bonds;
- f) Before any such Utility Improvement Revenue Bonds are sold they shall be submitted to and approved by the attorney general in the manner and with the effect provided in Articles 709 to 715, both inclusive, Revised Civil Statutes of Texas, 1925, as amended and except as prescribed in this amendment said bonds shall be executed and issued in the manner provided by the Charter of the city.

Section 6. Income from utility plants.

The entire income from the municipal waterworks system, electric power and light system[,] sewer system, or other public utilities owned now or hereafter by the City of Brownsville, Texas, is hereby set aside for the following purposes, in the order named below, to-wit:

Subsection 1. For the payment of expenses of operation of said utility plants, and the collection of said income, including salaries and wages of employees thereof.

Subsection 2. For the maintenance and repair of such public utilities so that same shall continue to operate efficiently.

Subsection 3. For the setting aside in a separate account of not less than five percent (5%) of the total income from such utility plants or systems as a reserve for depreciation and obsolescence, which sums, however, may be used to retire, pay off and discharge revenue bonds of said utility plants in

excess of the amount then due thereon or to become due during the current year, or invested in other valid bonds of the City of Brownsville, or bonds of the State of Texas, or the United States. Said sum may be used for the purpose of making necessary repairs of damage caused by wars, riots, floods, hurricanes, fire or acts of God or causes not within the control of the governing body of the City of Brownsville.

Subsection 4. Cost of such extensions and repairs, as in the judgment of the city commission are necessary to keep the utility systems in operation and render adequate service to the city and its inhabitants or such as may be necessary to meet some physical accident or condition, which would otherwise impair the efficient operation of the utility systems.

Subsection 5. For the payment, as due, of revenue bonds heretofore or hereafter issued for repairs to, or extensions of, said utilities.

Subsection 6. Any income remaining after the foregoing requirements have been met shall be available to the city for use in any manner authorized or permitted by law.

Section 7. Power to control and manage finances.

The city shall have the power to control and manage the finances of the city, to provide its fiscal year and fiscal arrangements.

ARTICLE V. [ADMINISTRATIVE PROVISIONS]

Section 1. Municipal government.

- (a) The municipal government of the City of Brownsville shall consist of the City Commission, which shall be composed of six (6) Commissioners and a Mayor. Of the six (6) Commissioners, two (2) Commissioners shall be elected at-large by the qualified voters of the City of Brownsville and be designated as at-large Commissioners. Of the six (6) Commissioners, four (4) Commissioners shall be elected from four (4) districts to be numbered 1, 2, 3, and 4, and be designated as District Commissioners. Each such District Commissioners shall reside in the district from which elected and shall also have the qualifications of electors therein.
- (b) That, after the adoption of this amendment, the city commission shall by resolution initiate a process for drawing up four (4) electoral single member districts which shall be equitable and legal in character. Upon conclusion of such process, the city commission shall adopt and approve of such districts by Ordinance. Any such plan for such districts shall be submitted for any approval, pre-clearance, or clearance, as may be required by law.
- (c) That, after the establishment of the four (4) electoral single member districts according to law, the city commission shall meet to determine by lot which of the commissioners' places shall be elected at-large and which shall be elected by each district. Such determination by lot shall establish that one of Commissioners' places No. 2, No. 4, and No. 6 shall be elected at-large and the other two elected by district. And that such determination by lot shall establish that one of Commissioners' places No. 1, No. 3, and No. 5 shall be elected at-large and the other two (2) elected by district.
- (d) That, after the determination of which commissioners' places shall be elected at-large and which shall be elected by district any place or position that shall have any un-expired term remaining shall be filled when such term has expired. At the expiration of such term each commissioner shall be qualified as provided by this Charter and by any other law.
- (e) The mayor and commissioners shall each be elected to a term of four (4) years except as provided below. The members of the commission shall be elected on such dates and terms as follows: the mayor, commissioner No.2 and commissioner No. 4 on the first Saturday of May 2003; commissioners No. 1, No. 3 and No. 5 shall be elected on the first Saturday of May 2001; commissioner No. 6 shall be elected on the first Saturday of May, 2001 to a two (2) year term and thereafter to a four (4) year term beginning on the first Saturday of May, 2003. and, that after this charter amendment, any existing reference to the number of the members of the commission in other sections of this charter shall hereafter include the new commissioners.
- (f) Article V, Section 2, Term of Office, is hereby deleted.
- (g) Article V, Section 5, Elections, shall reflect the new Commissioners and be read in conformity with this proposition. [Ord. No. 2000-1365, Prop. #1, dated 11-21-2000]

Section 2. Term of office. (deleted)

[Ord. No. 2000-1365, Prop. #1, dated 11-21-2000]

Section 3. Vacancies

Vacancies in the city commission shall be filled by majority vote of the remaining members of the said city commission at the first regular meeting thereafter, at which a majority of the remaining members of said city commission can agree, and, until the majority of the remaining members of said city commission can agree, such remaining members shall have the same power, duties and authority, as if they comprised the whole number of members provided for in this Charter, provided, if a majority of the city commission is vacated at any one time, such vacancies shall then be filled by majority vote of the qualified electors of the said city, at a special election for the remainder of the term, as provided by ordinance to be adopted by the remaining members of the city commission.

Section 4. Qualifications.

The mayor and each commissioner shall be citizens of the United States and resident citizens of the City of Brownsville, and have the qualifications of electors therein. The mayor, commissioners, and other officers and employees shall not hold any other public office of emolument and shall not be interested in the profits or emoluments of any contracts, job, work, or service for the municipality, or interested in the sale to the city of any supplies, equipment, material, or articles purchased. Any elected officer, appointed managerial officer, or managerial employee of the city who shall cease to possess any of the qualifications herein required shall forthwith forfeit his office and any such contract in which any officer or employee is or may become interested may be declared void by the commission. [Ord. No. 93-1270, Prop. #3, dated 11-16-1993]

Section 4A. Nominations.

Subsection 1. Nomination by petition. The mode of nomination of candidates for the city commission provided for by this Charter shall be by petition. The name of any elector of the city shall be printed upon the ballot whenever a petition, as hereinafter prescribed, shall be filed in his behalf with the city secretary. Such a petition shall be signed by not less than one hundred (100), nor more than five hundred (500) electors. No elector shall sign more than one petition for the same office, and should an elector do so, his signature shall be void as to the petitions last filed.

Subsection 2. Signatures to and form of nomination papers. The signatures to the nomination petition need not all be appended to one paper, but to each separate paper there shall be attached an affidavit of the circulator thereof, stating the number of signers of such paper and that each signature appended thereto was made in his presence and is the genuine signature of the person whose name it purports to be. With each signature shall be stated the place of residence of the signer, giving the street and number, or other description sufficient to identify the same.

The form of the nomination petition shall be substantially as follows:

“We, the undersigned electors of the City of Brownsville, hereby nominate _____, whose residence is _____, for the office of _____ to be voted at the election to be held in the City of Brownsville, on the _____ day of _____, 20____, and we individually certify

that we are qualified to vote for a candidate for the office named, and that we have not signed any other nomination petition for the same office.

Signed: _____
Name:

Street and Number: _____

THE STATE OF TEXAS }
COUNTY OF CAMERON }

_____ being duly sworn, deposes and says that he is the circulator of the foregoing petition papers containing _____ signatures, and that the signatures appended thereto were made in his presence and are the signatures of the persons whose name they purport to be.

(Signed) _____

Sworn to and subscribed before me this the _____ day of _____, 20_____

Title

This petition, if found insufficient by the City Commission shall be returned to _____ at No. _____ Street.

Subsection 3. Filing and verification of nomination papers. All nomination papers comprising a petition shall be assembled and filed with the city secretary as one instrument, not earlier than ninety (90) days nor later than thirty (30) days before the election. Within five (5) days after the filing of a nomination petition the city secretary shall notify the person who filed such petition whether or not it is found to be signed by the required number of qualified voters. If a petition be found insufficient, the city secretary shall return it immediately to the person who filed it, with the statement certifying wherein the petition is found insufficient. Within the regular time allowed for the filing of petitions, such petition may be amended and filed again as a new petition, or a different petition may be filed for the same candidate. Any eligible person placed in nomination as hereinbefore provided shall have his name printed on the ballots if within five (5) days after notification to him by the city secretary he shall have filed with such secretary a written acceptance of the nomination. In no event shall such person or group of persons appear on the ballots by national political party designation. Nothing in this paragraph shall be construed to prohibit candidates being grouped under local designations. Any three or more candidates, upon making application to the city secretary, shall have their names placed upon the ballots grouped under designations. Any three or more candidates, upon making such application to the city secretary, shall have their names placed upon the ballots grouped in a column, separate and apart from other candidates. All candidates not making such application shall be placed in one column, and any disagreement as to position in said column, shall be determined by lot. The petition of each person nominated to be a member of the commission shall be preserved by the election authorities until the expiration of the term of office to which he has been elected.

Subsection 4. The city commission shall make all needful rules and regulations, not inconsistent with this Charter or the general laws for the conduct of all elections, general and special, for the prevention of fraud in the elections and for the recount of ballots, in case of doubt or fraud, provided. The following rules and regulations shall apply to all elections, to-wit:

- a. The city commission shall appoint all elections officers and designate the voting places, but may appoint one of their number or the city manager to fill vacancies among such election officers thereafter in the event of the failure or refusal of any of them to serve. Said appointments shall be made not less than two (2) weeks prior to the day of the holding of any election and the city secretary shall within one (1) day thereafter mail to each candidate for office at such election the list of election officers so appointed.
- b. The city commission shall have power and authority to appoint supervisors of elections, selecting such supervisors of elections, selecting such supervisors from lists furnished to said city commission not less than five (5) days prior to said election. Each supervisor shall reside in the election precinct in which he serves. Nothing in this provision shall prohibit the appointment of supervisors by agreement among the candidates as provided by state law.
- c. The polls shall open at eight o'clock in the morning and close promptly at seven o'clock in the evening and no votes shall be cast after seven o'clock in the evening, nor shall any vote received after seven o'clock in the evening be counted.
- d. If any election officer, except as permitted by state law, shall give out information relative to the number of votes cast for or against any candidate during the period the polls are open for voting, or talk over the telephone or communicate with any person outside the polling place other than duly appointed election officials, or leave the polling place, such election officer shall be immediately removed and another appointed in his place.
- e. The city commission shall have the power and authority to prohibit professional canvassers from working for or against any candidate in the general city election.

Section 5. Elections

The elective officers of the city shall consist of six (6) commissioners and a mayor, the six (6) to be designated as commissioner No. 1, commissioner No. 2, commissioner No. 3, commissioner No. 4, commissioner No. 5, and commissioner No. 6, each of whom shall be elected to the office for which he is a candidate by a majority of all the votes cast in the city at-large for the office. Should no candidate receive a majority of votes at the regular election for which he is a candidate, the commission shall immediately order a special election to be held within the time provided by the laws of Texas after the result of the regular election has been declared, at which special election the names only of the two (2) candidates receiving the highest number of votes for said office at the regular election shall be printed on the ballot and submitted to the qualified voters for election, and the candidate receiving the majority of votes at such special election, for the place or office for which he was a candidate, shall be declared duly elected. [Ord. No. 2000-1365, Prop. #1, dated 11-21-2000]

Section 5a. Recall election.

Subsection 1. Power to recall. The people of the City of Brownsville reserve the power to recall any member of the city commission and may exercise such power by filing with the city secretary a petition signed by at least ten percent (10%) of the voters registered to vote for a successor to the challenged commission member. The petition may consist of one, or more petitioned-papers or

instruments, but all such petitioned-papers shall be assembled and filed with the City Secretary as one instrument. Each petitioned-paper shall contain a general statement of the grounds for removal together with an affidavit by one of its signers that such statement is true. Each petitioned-paper must be signed in ink or indelible pencil by the person whose signature it purports to be, adding thereto his place of residence by street and number. At least one of the signers of said petitioned-paper shall make an affidavit and attach it thereto that that person personally circulated such instrument and that each signature thereon, was made in that person's presence and is the genuine signature of the person whose name it purports to be. The recall petition shall have a time limit of 6 months from the earliest date of any signature on the petition to the date of its filing with the City Secretary. [Ord. No. 2009-1501, Prop. #1, dated 05-09-2009]

Subsection 2. Recall election. Within twenty (20) days after a recall petition is filed, the city secretary shall examine the same and determine whether it is signed by the requisite number of qualified voters, and meets the other requirements hereinabove set forth. Once it is filed, the petition shall neither be amended nor withdrawn. After completing examination of the petition the city secretary shall certify the result thereof to the city commission at its next regular meeting, stating the number of persons found on the petition who are, and the number of those who are not qualified voters of the city, and whether or not such petition meets the other requirements set forth in *Subsection 1* hereof. If the certificate of the city secretary shall show such petition to be insufficient, the city commission shall order him to so notify the person who filed the same; but if the petition is certified by the city secretary to be sufficient, and the member of the city commission whose removal is sought does not resign within five (5) days after such certification to the city commission, the commission shall order and hold a recall election not less than thirty (30) nor more than (60) days from such certification.

Subsection 3. Recall ballot. Ballots used at recall elections shall conform to the following requirements:

- 1) With respect to each person whose removal is sought, the question shall be submitted "Shall (name of member of commission) be removed from the office of the Mayor or Commission No....?"
- 2) Immediately below each such question there shall be printed the two following propositions, one above the other, in the order indicated:

"For the recall of (Name of Mayor or Commissioner)" "Against the recall of (Name of Mayor or Commissioner)"

Subsection 4. Results of recall election. If a majority of the votes cast at a recall election shall be for the removal of the mayor or commissioner named on the ballot, the city commission shall immediately declare his office vacant and such vacancy shall be filled in accordance with the provisions of the City Charter for the filling of vacancies. A mayor or commissioner thus removed shall not be eligible to fill the vacancy thereby created.

Subsection 5. Limitation on recall. No recall petition shall be filed against a mayor or commissioner within six (6) months after he takes office, and no mayor or commissioner shall be subjected to more than one recall election during a term of office.

Section 6. [Commission judge of election.]

The commission shall be the judge of the election and qualification of its members.

Section 7. Election returns.

The commission shall, at the next regular meeting day of said commission, after each regular and special election, canvass the returns and declare the result of such election.

Section 8. Election day.

The regular municipal election of the City of Brownsville hereinafter shall be held on the first Saturday of May, or on such uniform election date in May as provided by the laws of Texas. [Ord. No. 2000-1365, Prop. #2, dated 11-21-2000]

Section 9. Elections, law controlling.

All elections provided for in this Charter, except the regular election for the election of commissioners at the expiration of a regular term shall be called special election, and all elections shall be conducted and results canvassed and announced by the election authorities prescribed by the General Election Laws of the State of Texas, and said general election laws shall control in all municipal elections, except as otherwise herein provided.

Section 10. Commission constituted legislative and governing body of the city.

The commission shall enact all ordinances and resolutions, and adopt all regulations; and constitute the legislative and governing body of the city, with all the powers and authority herein granted.

Section 11. Duties of mayor.

The mayor of the City shall be the presiding officer of the commission, except that in his absence a mayor pro-tempore may be chosen. He shall be entitled to vote and make motions and seconds as a member of the commission; sign all bonds; be the official head of the city, and exercise all powers and perform all duties imposed upon him by this Charter and by the Ordinances of the city. [Ord. No. 93-1270, Prop. 6, dated 11-16-1993]

Section 12. Meeting of the commission.

On the first Monday at 10 o'clock a.m., after the election of the commission has been declared, the commission shall meet in the council chamber of the city hall, at which time the commissioners shall qualify and assume the duties of their offices. Thereafter, the commissioners shall meet at such time as may be prescribed by ordinance or resolution, but they shall meet at least once each month. The mayor, any two commissioners or the city manager, hereinafter provided for, may call special meetings of the commission at any times deemed advisable. All meetings of the commission shall be public, except such executive sessions as may be provided for by ordinance, and any citizens shall have access to the minutes and records thereof at all reasonable times. The commission shall determine its own rules and order of business, and shall keep a journal of its proceedings.

Section 13. Compensation.

The mayor and city commissioners elected after the adoption of this amendment shall each receive as compensation for their services during their term of office the sum of ten dollars (\$10.00) for their attendance for the full duration of each regular or special meeting; provided, however, that in no event shall they be paid for more than two regular and three special meetings in any one calendar month.

Section 14. Legislative procedure

A majority of all members elected on the commission shall constitute a quorum to do business, and the affirmative vote of a majority of such quorum present shall be necessary to approve of any matter. Except, the affirmative vote of a majority of all members of the commission shall be necessary to adopt any ordinance or resolution, unless otherwise provided by the laws of Texas. The vote upon the passage of all ordinances and resolutions shall be taken by “YEA” and “NAY” and entered upon the journal. Every ordinance or resolution passed by the commission shall be signed by the mayor and the person acting as City Secretary, within two (2) days, and by him recorded. [Ord. No. 93-1270, Pro. #7, dated 11-16-1993]

Section 15. Ordinance enactment.

Each proposed ordinance or resolution shall be introduced in written or printed form; shall not contain more than one subject, which shall be clearly stated in the title, but general appropriation ordinances may contain the various subjects and accounts for which moneys are to be appropriated. No ordinance, unless it be declared an emergency measure, and passed by unanimous vote of all members of the commission present and voting, shall be passed on the day on which it shall be introduced.

Section 15-a. Street Improvements.

A. Adoption of state street improvement law.

The terms, powers, and provisions of Article 1105b of the Texas Revised Civil Statutes, as amended, are hereby adopted as and made a part of the Charter of the City of Brownsville.

B. State street improvement law part of Charter.

It is the intention and purpose hereof to write into and make a part of the Charter of the City of Brownsville all of the powers, terms and provisions of said Act, and such powers, terms and provisions shall exist, be in force, and may be exercised as alternative to, and independently of, other powers, terms, and provisions of the Charter of the City of Brownsville with amendments thereto, and of the law in force in the City of Brownsville, and which in any wise relate to the same subject matter. The city commission of the City of Brownsville may proceed either under and in accordance with said Act or under and in accordance with any other law. [Ord. No. 93-1270, Prop. #12, dated 11-16-1993]

Section 16. Emergency measures; defined and provided for.

An emergency measure is an ordinance or resolution for the immediate preservation of the public peace, property, health or safety, or providing for the usual daily operation of a municipal department, in which the emergency is set forth and defined as a preamble thereto. Ordinances appropriating money, not exceeding two hundred fifty dollars (\$250.00), and ordinances for the payment of salaries and wages, may be passed as emergency measures, but no measure making a grant, renewal or extension of a franchise, or other special privilege, or regulating the rate to be charged for its services by any public utility, shall ever be passed as an emergency measure.

Section 17. Ordinances; publication of.

Except as expressly otherwise provided by the general laws of Texas with reference to home rule cities or by the terms of the ordinance itself, ordinances of the City of Brownsville shall be considered and held to be published when recorded by the city secretary in an ordinance book to be kept as a public record for the purpose and shall be effective when so recorded; provided, that, if said ordinance provides for a penalty for violation thereof, such ordinance shall be published in some newspaper published in the City of Brownsville, at least one time, and in compliance with general laws of Texas with reference to publication of such ordinances of home rule cities.

Section 18. Ordinances; recording.

Every ordinance or resolution when adopted and approved, shall immediately be recorded by the city secretary in a book kept for that purpose and designated as an ordinance book and shall be authenticated by the signature of the mayor and the person exercising the duties of city clerk or city secretary, provided, ordinances which must be published before they are effective shall be recorded in said book immediately after publication thereof and there shall be recorded with such ordinance proof of publication of same in accordance with this Charter and the law, which shall constitute evidence of such publication.

Section 19. Investigations by commission.

The commission may investigate the financial transactions of any office or department of the city government, and the acts and conduct of any official or employee. In conducting such investigation the commission may compel the attendance of witnesses, the production of books and papers, and other evidence, and for that purpose may issue subpoenas or attachments which shall be signed by the mayor; which may be served and executed by any officer authorized by law to serve and executed by any officer authorized by law to serve subpoenas or other process, or any peace officer of the city. If any witness shall refuse to appear or to testify to any facts within his knowledge, or to produce any papers, or books in his possession, or under his control, relating to the matter under investigation before the commission, the commission shall have the power to cause the witness to be punished for contempt, not exceeding a fine of one hundred dollars (\$100.00) and three (3) days in the city prison. No witness shall be excused from testifying, touching his knowledge of the matter under investigation in any inquiry, but such testimony shall not be used against him in any criminal prosecution except for perjury committed upon such inquiry.

Section 20. City manager; his responsibilities and powers of appointment and removal; removal of officers and employees; and non-interference with appointments and removals.

All appointments and removals of officers and employees shall be subject to the personnel policy adopted by the commission, except as otherwise provided by this Charter, or as provided by law. [Ord. No. 93-1270, Prop. #8, dated 11-16-1993]

The City Manager shall be responsible to the city commission for the proper administration of all affairs of the city in his charge and to that end, except as otherwise provided in this Charter, and, subject to any provisions herein with reference to civil service, he shall have the power to appoint and remove all officers and employees in the administrative service of the city, except the city attorney, who shall be appointed and removed by the city commission but the manager may authorize the head of a department or office, responsible to him to appoint and remove subordinates in such department or office. Appointments made by or under the authority of the city manager shall be on a basis of executive and administrative ability and of the training and experience of such employees in the work

which they are to perform. All such appointments shall be without definite term. [Ord. No. 2000-1365, Prop. #3, dated 11-21-2000]

Any officer or employee to whom the city manager, or the head of a department or office, may appoint a successor, may be removed by the city manager, or other appointing officer, at any time, but the decision and action of the manager with reference to appointments, as well as removals, shall be final and there shall be no appeal therefrom to any other office, body or court whatsoever.

The city commission and its members shall deal with the administrative service of the city solely through the city manager. Neither the city commission nor any of its members shall in any manner dictate the appointment or removal of any city administrative officers or employees whom the city manager or any of his subordinates are empowered to appoint, but the city commission may express its views and fully and freely discuss with the city manager anything pertaining to appointment and removal of such officers and employees. [Ord. No. 871, Prop. No. 4, 7-29-75].

Section 21. Duties of city manager; rights of manager and other officers at commission meetings; heads of departments and divisions thereof; investigation of city manager by city commissions.

It shall be the duty of the city manager to act as chief conservator of the peace within the city; to supervise the administrative affairs of the city; to see that the ordinances of the city and laws of the state are enforced; to make such recommendations to the commission concerning the affairs of the city as may seem to him desirable; to keep the commission advised of the financial condition and needs of the city; to prepare and submit to the commission the annual budget estimate; to prepare and submit to the commission such reports as may be required by that body, and to perform such other duties as may be prescribed by this Charter.

The city manager shall be entitled to a seat in all commission meetings, but shall have no vote therein. On vote of the commission, the heads of all departments and such other officers of the city as may be designated by vote therefor, shall also be entitled to seats in the commission meeting, but shall have no vote therein. The matters coming before the commission meeting, and the heads of all departments and other officers shall be entitled to take part in all discussions of the commission relating to their respective departments and offices.

There shall be such departments as are established by this Charter and as may be established by ordinance. The city commission may change or abolish any department or office established by ordinance, and may prescribe, distribute or discontinue the functions and duties of departments and offices so established. Additional functions and duties may be assigned by ordinance to departments and offices established by this Charter, but no function or duty assigned by this Charter to a specific department or office shall be discontinued or assigned to any other department or office by ordinance.

For each department there shall be an officer designated as the head, or director, thereof, who shall have the supervision and control thereof subject to approval by the city manager to whom such head, or director, shall be responsible and accountable. Each head, or director, shall be subject to the approval of the city manager, have power to prescribe rules and regulations, not inconsistent with this Charter and the ordinances passed in pursuance thereof, for the conduct of the officers and employees of the department of which he is in charge, for the distribution and transaction of its business, and for the custody of the books, records, papers and property under its control. The work of each department shall be distributed among such divisions thereof as may be established by ordinance upon the recommendation of the manager, provided that, pending the passage of an ordinance or

ordinances, distributing the work of departments under the supervision and control of the city manager among specific divisions thereof, the city manager may establish temporary divisions.

The city commission, the city manager, or any person or committee authorized by either of them, to be compensated as provided by the city commission, shall have power to inquire into the conduct of any department, office, or officer 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 produce books, papers or other evidence as ordered under the provisions of this paragraph, shall constitute a misdemeanor and shall be punishable by a fine not to exceed one hundred dollars (\$100.00) or by imprisonment not to exceed five (5) days, or both.

Section 22. Contracts for services.

No contract shall ever be made which binds the city to pay for personal services to be rendered for any stated period of time, except as provided below. All appointed officers and employees shall be subject to the personnel policy adopted by the commission, subject, however, to the provisions for civil service herein or hereinafter made a part of this Charter, provided that the Commission shall have the authority to enter into an employment contract with a City Manager and/or city attorney on terms decided by the Commission but which shall not exceed two (2) years in duration. [Ord. No. 2000-1365, Prop. #4, dated 11-21-2000]

Section 22-A. Civil service.

The city commission shall, promptly after the adoption of this amendment, appoint a civil service commission of five members for a term of two (2) years and, until their successors have been appointed and have qualified, to be compensated as provided by ordinance, none of whom shall hold any public office, or be a candidate for any public office, none of whom shall hold any office or employment of emolument under any city, county, state or other government, or be related within the second degree by affinity or the third degree by consanguinity to any person who holds such office or employment, who shall hold office for two (2) years, and whose duty it shall be to recommend civil service regulations to be adopted by the city commission and thereafter to be administered by said civil service commission in accordance with the provisions of said ordinances, which ordinances, when enacted and adopted, shall supersede the provisions of this Charter with reference to employment of appointive officers and employees of the City of Brownsville, but which shall not entitle any officer or employee of said city to employment except during such time as said **ordinances** are in effect and have not been amended or repealed. It shall further be their duty, at the expiration of each two (2) years, to recommend in writing any Charter provisions they may deem to be necessary to the effective administration of civil service regulations.

Section 23. Departments

The commission shall create and consolidate such offices and may divide the administration of the city's affairs into such departments as they may deem advisable, and may discontinue any such office or department at their discretion.

Section 24-A. Board of city development.

The city commission may annually appropriate monies from the general fund of the city for the establishment and maintenance of a board of city development, chamber of commerce, or other

similar organization under whatsoever name, devoted to the growth, advertisement, development, improvement and increase of the taxable values of said city.

The board of city development or other similar organization herein provided for shall consist of nine (9) members, who shall serve without compensation, to be appointed by the city commission, who shall hold office for two years from the date of their appointment by the city commission and until their successors are so appointed, provided, however, the first board appointed by the city commission shall be appointed from the present members of the board of directors of the present board of city development, who are in office at the time the city commission makes such appointment under this provision, four of whom shall be appointed for one (1) year and five for two (2) years, and thereafter the city commission shall appoint four one (1) year and five the next to serve for a term of two (2) years; and they shall be appointed from a list of persons equal to twice the number to be selected, nominated by the then existing board of city development or other similar organization, provided, however, that no officer or employee of the City of Brownsville, and no person who has announced his candidacy for any office of the City of Brownsville shall be appointed to such board of directors or continue to hold office as a member of such board of directors. All vacancies caused by death, resignation, and non-attendance of more than three (3) consecutive meetings, may be filled by the city commission for the unexpired term.

The amount of money so appropriated each year by the city commission shall be paid to the board of city development or other similar organization in twelve equal monthly installments. (Ord. No. 871, Prop. No. 5, 7-29-75)

Section 24-B. Public library.

The city commission may annually appropriate monies from the general fund of the city for the establishment and maintenance of a public library under such rules and regulations and to be managed by such library board, librarian or other officers and employees as are now or shall be, in the future, by ordinance provided. (Ord. No. 871, Prop. No. 6, 7-29-75)

Section 24-C. Indigent orphan minors and sick or infirm persons who are indigent.

The city commission may annually appropriate monies from the general fund of the city for the care of indigent orphan minors not more than fourteen (14) years of age, and sick or infirm persons who are indigent under such rules and regulations and to be expended by such board or other officers, employees or appointees, as are now or shall be in the future, by ordinance provided. [Ord. No. 871, Prop. No. 7, 7-29-75]

Section 25. Salaries; general.

The commission shall fix and determine the wages and salaries of all appointive officers and employees of the city, and provide for the payment thereof.

Section 26. Payment of claims.

No voucher or check for the payment of any claim shall be issued by the city, unless such claim shall be evidenced by an itemized account sworn to by the claimant, approved by the city manager and audited and allowed by the commission at a regular meeting, and all vouchers or checks shall be signed by the city manager and countersigned by the party acting as auditor.

Section 27. Accounting procedures.

An accounting procedure shall be devised and maintained for the city adequate to record in detail all transactions affecting the acquisition, custodianship and disposition of values, including cash receipts, credit transactions and disbursements; and the recorded facts shall be presented periodically to officials and to the public in such summaries and analytical schedules in detailed support thereof as shall be necessary to show the full effect of such transaction for each fiscal year, upon the finances of the city and in relation to each department of the city government, including distinct summaries and schedules for each public utility owned and operated.

Section 28. Audit and examination.

An annual audit shall be conducted after each fiscal year by an external Certified Public Accountant in accordance with government auditing standards, and it must cover the entire operations of the City. All budget matters and the audit process shall conform to the laws of Texas, and any budget shall be balanced upon adoption. [Ord. No. 2000-1365, Prop. #5, dated 11-21-2000]

Section 29. Contracts.

All contracts or purchases of the City are governed by the laws of Texas regarding competitive bidding with the exception that any required notice need only be advertised once and bids be awarded no sooner than ten (10) days thereafter. [Ord. No. 93-1270, Prop.#10, dated 11-16-1993]

Provided, that in case of public calamity, where it is necessary to act at once to appropriate money to relieve the necessities of the citizens, or to preserve the property of the city, or when it is necessary to preserve or protect the health of the citizens, or in case of unforeseen damage to public property, machinery or equipment, this provision shall not apply to contracts for personal or professional services.

Section 30. Nepotism.

No person related within the second degree by affinity, or within the third degree by consanguinity, to the mayor or any of the commissioners, shall be appointed by the city commission, nor a person thus related to the city manager shall ever be appointed by him to any office, position, clerkship or service to the city.

Section 31. Hours of labor upon public works.

Hours and conditions of labor are governed by all applicable federal, state, and city laws, ordinances, resolutions, and rules and regulations. [Ord. No. 93-1270, Prop. #11, dated 11-16-1993]

Section 32. Official bonds.

The city manager and the person or persons exercising the duties of the city treasurer and city tax collector, shall give official bonds in such sums as may be prescribed by the commission from time to time. Such bonds shall be payable to the City of Brownsville, and shall in each instance be conditioned for the faithful discharge of the duties of such respective officers and for the faithful accounting for all moneys, credits and things of value coming into the hands of such respective officers. Such bonds shall be procured from some regularly accredited surety company authorized to do business under the laws of the State of Texas.

The city manager shall have the right to acquire official bonds from other appointive officers of the city in such amounts and conditions as he may deem best for the efficiency of the public service.

All official bonds shall be approved by the commission and filed and recorded with the person exercising the duties of city clerk, and all premiums on such bonds shall be paid by the City of Brownsville.

Section 33. Oath of office.

Every officer of the city shall, before entering upon the duties of his office, take and subscribe to the oath prescribed by the Constitution of the State of Texas for county officials.

ARTICLE VI. UTILITIES BOARD

Section 1. Management.

a) There is hereby created and established as a separate and distinct agency of the City of Brownsville, Texas, a Board to be known as the “Public Utilities Board of the City of Brownsville, Texas”. Said Board is hereinafter referred to as the “Utilities Board”, or, more simply, the “Board”. Except as otherwise provided in this article, the Utilities Board shall have absolute and complete authority and power with reference to the control, management and operation of the power and light, water and sewage systems owned by the City of Brownsville, Texas, and the expenditure and application of the revenues of the systems, subject to the provisions contained herein, all of which shall be binding upon and shall govern the Utilities Board.

b) In connection with the management and operation of the various systems, and the expenditures and application of the revenues therefrom, the Utilities Board shall be vested with all of the powers of the City with respect thereto, except the fixing of rates, fees and charges for such services, except that no charge shall be made for any utilities furnished or used for City purposes and shall have full power and authority to make rules and regulations governing the furnishing of electricity, water and sewage service to customers, within and without the City, and for the payment of the same, and for the discontinuance of such service upon the failure of customers to pay therefore, and to the extent authorized by law shall have full power and authority with reference to the making of extensions, improvements and additions to the systems, and the acquiring, by purchase or otherwise, of properties of every kind in connection therewith, but the Board shall not have the power to encumber, sell or hypothecate the utilities system; provided that when deemed essential to the operation of the utilities system, the City Commission shall be authorized to enter into a contract for such period of time, with such renewal and extension privileges as may be prescribed therein, with any person, firm or corporation under the terms of which such supplier will make or hold available for delivery to and use by the system all or a part of the electrical power and energy to be used in or for the distribution system of the City. Such contract shall be payable solely out of the system revenues as an operating expense of the utilities system and rates and charges for services rendered by the system shall be fixed and maintained in an amount sufficient to pay all maintenance and operation expenses of the system and provide for the payment of principal and interest on any revenue bonds of the City payable from the revenues of the utilities system. No such contract shall be made when the sum contracted to be paid annually is in such amount as will reduce “net revenues” of the system, as defined in Article VI, section 5(d) of this Charter, to a sum less than 150% of the aggregate average annual requirements for payment of principal and interest on all outstanding revenue bonds payable from the revenue of the utilities system, based upon such “net revenues” for the fiscal year next preceding the making of such contract. Notwithstanding any other provisions, no term of this Charter shall be construed as a waiver of governmental immunity and all privileges and immunities of the City of Brownsville as provided by the Texas State Constitution and other laws are expressly reserved for the Public Utilities Board without waiver.

c) Membership and Terms of Office

The Board shall be composed of seven members. The Mayor of the City of Brownsville shall *ex officio* be one of the voting members of the Board. The remaining members of the Board shall be appointed by the majority of the City Commission to serve the following four (4) year terms of office:

Position One of the Board shall be that position currently held by Al Villarreal which term of office shall expire on July 1, 2009;

Position Two of the Board shall be that position currently held by Robert Guerra which term of office shall expire on July 1, 2010;

Position Three of the Board shall be that position currently held by Emanuel Vasquez which term of office shall expire on July 1, 2011;

Position Four of the Board shall be that position currently held by Arturo Farías which term of office shall expire on July 1, 2011;

Position Five of the Board shall be that position currently held by Ramón Hinojosa which term of office shall expire on July 1, 2012;

Position Six of the Board shall have a term of office which shall expire on July 1, 2013.

d) Qualifications for Board Membership

Any person who is a legal resident and qualified voter of the City of Brownsville may be appointed to the Board. A person who has served as a member of the Board for an initial term shall be eligible to be re-appointed for one additional four year term, and one only. A member who is appointed to the Board to serve out an unexpired portion of a term shall not be considered to have served a “term” unless the unexpired portion of the term so served is two years or more. No person who is related within the second degree of consanguinity or affinity to any member of the City Commission shall be appointed to membership on the Board. No person shall be appointed a member of the Board who is in default in the payment of any valid indebtedness or obligation due the City.

e) Removal of Board Member

The City Commission may remove only one member of the Board in any twelve month period of time and may do so only upon a vote of a unanimous vote of the entire City Commission. Any vote for removal of a Board Member of PUB will be by roll call, with each member of the City Commission being required to verbally state that member’s individual vote on the record.

f) Vacancies

All vacancies in membership on the Board, other than the Mayor, whether occasioned by failure or refusal of any person named to said Board to accept appointment, or by expiration of the term of office, or otherwise, shall be filled as in the case of a new appointment. The permanent removal of residence by any Board Member from the City shall vacate that member’s office as a member of the board. Any member of the Board, other than the Mayor, who shall be continuously absent from all meetings held by the Board for a period of 120 days, shall, unless that member shall have been granted leave of absence by the unanimous vote of the remaining members of the Board, be considered to have vacated that member’s office as a member of the Board.

g) The Board shall elect one of its members as chairman, and one as vice-chairman, and shall appoint a secretary and treasurer, or a secretary-treasurer, who may, but need not be, a member or members of the Board. The Board may adopt such rules for the orderly handling of its affairs as it may see fit, and may manage and conduct the affairs of the systems with the same freedom and in the same manner ordinarily employed by the board of directors of a private corporation operating properties of a similar nature.

h) The Board shall appoint and employ all officers and employees which it may deem desirable, including a general manager of the system and an attorney or attorneys. No officer or employee of the Board may be employed who shall be related within the second degree of consanguinity or affinity to any member of the Board.

i) The Board shall obtain and keep continuously in force, a fidelity and indemnity bond of the so-called "blanket" type, covering both members of the Board and any employees who are charged with the handling of any funds of the Board, written by a solvent and recognized indemnity company and covering such members, officers and employees in an amount of not less than one hundred thousand dollars (\$100,000.00).

j) The members of the Board shall receive no compensation.

k) The members of the Board shall not be personally liable, either individually or collectively, for any act or omission not willfully fraudulent or in bad faith. [Ord. No. 2009-1501; Prop. #2, dated 05-09-2009]

Section 2. Accounts and records.

(a) The board shall keep full and proper books and records of accounts in which full, true and proper entries will be made of all business dealings and affairs of the board which in any way affect or pertain to the operation of the utilities systems of the city, and shall furnish to the city commission and to any bondholder or underwriter of utility revenue bonds of the city or revenue bonds of any agency created to assist the city in financing any utility improvements, that may request such statement, at least once each six (6) months, and at such other times as the city commission may reasonably request, statements in reasonable detail showing the earnings and expenses of the various utilities systems, including bond retirement and service expenses, and the application of funds in the plant fund as herein established, for the preceding six (6) months' period. Said board shall also furnish to the city commission, from time to time, such other data as to the plants, systems, property, and equipment operated by it as the city commission shall reasonably request.

(b) As soon after the close of each fiscal year as may reasonably be done, said board will furnish to the city commission and to all revenue bondholders or underwriters as provided in (a) above, who may so request, full audits and reports covering the operations of the various systems for the preceding fiscal year, and showing the earning and expenses of the properties and the disposition made of all revenues for said fiscal year, in such detail as the city commission may request, the assets, liabilities and financial condition of the various systems at the close of such fiscal year. Such audits and reports shall be made available for examination at the city hall by any interested citizen. If any such audit discloses any discrepancies or misapplication of funds, the board shall be charged with the duty of rectifying such misapplication as far as possible and of remedying any deficiencies of payments hereunder from the first funds available for such purpose.

(c) The board shall, upon request of the city commission, permit said commission at all reasonable times, by their agents, engineers, accountants and attorneys, to examine and inspect the plants, property, books of account, records, reports and other data relating to the utilities systems, and to make copies and extracts therefrom, and will afford a reasonable opportunity to make any such examination and inspection, and will furnish any and all such other information as it may reasonably request.

- (d) The board shall, so far as practicable and to the extent consistent with the provisions of this article, keep its books and records in accordance with the standards promulgated for municipal utilities by the National Committee on Governmental Accounting.

Section 3. Application of revenues.

- (a) The board herein established shall administer the revenues and funds of the several utility systems, carry out, perform and respect each and every covenant and agreement heretofore provided, made and entered into in any contract relating to the utility systems and in any ordinance passed or hereafter passed authorizing the issuance of any bonds payable wholly or in part from any secured by a pledge of the revenues derived and to be derived from the operation of said utilities.
- (b) Funds under the control of the board shall be kept in the depository bank selected by it in accordance with the provisions of law relating to the selection of an official depository for the city. Board funds shall be paid out by said depository bank upon checks or vouchers signed by the chairman or vice-chairman of the board and countersigned by the secretary, secretary-treasurer, or such other person or persons as shall be duly designated by the board in his stead.
- (c) “Surplus funds” as used herein shall mean the money or income remaining in the plant fund at the close of each fiscal year after the requirements of Section 6, Article IV of the Charter have been met and after all payments have been fully and timely made into the several funds created by the ordinances authorizing revenue bonds at any time outstanding payable from and secured by a pledge of the net revenues of the utilities systems. Surplus funds in the plant fund at the close of each fiscal year, after retaining in the plant fund an amount deemed by the board to be sufficient to pay necessary operation and maintenance expenses of the systems for the next succeeding sixty (60) days, shall be transferred as follows:
 - (1) To the general fund of the city the sum of \$400,000, to the extent available, or an amount equal to fifty percent (50%) of the surplus funds, whichever is the greater, provided the payment of such minimum sum shall not be cumulative. The board may estimate at the beginning of each fiscal year the amount thus contemplated to be paid at the close of the fiscal year and, to the extent funds may be available for such purpose, shall make such payment in substantially twelve (12) equal monthly installments. Appropriate adjustments shall be made at the close of each fiscal year to the end that the general fund of the city shall receive annually the amount of money herein provided to be paid into said fund, but only to the extent of the surplus funds available in such year for such purpose.
 - (2) Next to a fund to be established by the board, designated “Improvement and Debt Retirement Fund”, the balance of the money remaining in the plant fund. Such fund shall be used for the following purposes in order:
 - First, the making of repairs and replacements which ordinarily, under standard accounting practices, would not be considered a maintenance expense;
 - Second, improvements, additions and extensions to the system;
 - Third, retiring, by calling or purchasing, any such bonds prior to scheduled maturity dates;

Fourth, to supplement debt service funds for bonds outstanding payable wholly or in part from the net revenues of the system; and

Fifth, any funds then remaining, and which in the discretion of such board are not needed for any of the foregoing purposes, may in the discretion of the board be transferred to the general fund of the city.

Section 4. Miscellaneous.

- (a) The board shall have full power and authority to furnish utilities service to territory outside the corporate limits of the City of Brownsville, if to do so does not impair its ability to furnish adequate service to the inhabitants of the city. Such service shall be provided on such terms and conditions as the board shall decide. It shall also have full power and authority to make necessary contracts for the purchase of fuel, power, and water supplies and any person, firm, corporation or association having or holding a proper contract or franchise granted by the governing body of this city may own, construct, operate, reconstruct and maintain within the corporate limits of this city as the same now exist or may hereafter from time to time be extended a plant or plants, stations or substations, and all transmission lines, power lines, pipe lines, their appurtenances and accessories necessary or convenient in the production and transmission of power, water, gas or other utility for sale to the City of Brownsville or for sale, use or consumption outside the corporate limits of this city, as the same now exist or may hereafter from time to time be extended.
- (b) The board periodically shall review the rates, fees and charges for services rendered by the utilities system, with due consideration being accorded to the terms, covenants and conditions contained in any contract of the city or the board relating to the utilities system or ordinance authorizing the issuance of any utility system revenue bonds, and in the event such review reflects a necessity for the adjustment, either by an increase or a reduction of such rates, fees and charges, then the board shall submit to the city commission a report of the review and the basis upon which the proposed adjustment is predicated, accompanied by a written request for approval and adoption of the rates, fees and charges recommended by the board. If the city commission approves the adjustment thus recommended, it shall pass an appropriate ordinance placing such rates, fees and charges in effect.
- (c) Members of the initial utilities board shall be appointed by the city commission immediately following the effective date of this amendment, and they shall qualify immediately after such appointment and take over and assume control of all assets now belonging to the city as part of its various utilities systems, including physical properties, monies on hand, debts to and by the city with regard to the various utilities systems, and all outstanding contracts with regard to such systems.
- (d) The board shall hold a regular meeting at least once each month on such day as the board may select; the selection of such day for regular meetings shall be by resolution of the board, and the substance of all such resolutions shall be published in two (2) consecutive issues of a local newspaper of general circulation in this community. Special meetings may be called at any time by the chairman of the board or by any two of the other members thereof. Action by the board shall be by majority vote, except where otherwise specifically provided. All regular meetings of the board shall be open to the public, and final action, on any matter, shall be taken by the board only at meetings open to the public.

- (e) No provision in this Article VI shall be construed so as to impair any present obligation of the City of Brownsville as now evidenced by outstanding bonds heretofore issued by said city, or any contract with regard to the various bonds and/or utilities systems which is now outstanding and binding upon the city. Any provision hereof, which may be contrary to the general laws for the State of Texas, shall be inoperative, but the invalidity of any section or party hereof shall not affect the remainder of this article. If any provision of this article is in conflict with the provisions of any other article in the City Charter, the provisions hereof shall prevail.

[ARTICLE VII.] GENERAL PROVISIONS

Section 1. [Construction of charter.]

The enumeration of powers made in this Charter shall never be construed to preclude, by implication or otherwise, the city from exercising the powers incident to the enjoyment of local self-government, nor to do any and all things not inhibited by the Constitution and Laws of the State of Texas.

Section 2. Ratification of ordinances.

All ordinances and resolutions in force at the time of the taking effect of this Charter or any amendment thereto, not inconsistent with its provisions, shall continue in force until amended or repealed.

Section 3. Amendments to charter.

This Charter, after its adoption, may be amended in accordance with the provisions of an Act of the Thirty-Third Legislature of the State of Texas, entitled "*An Act Authorizing Cities Having More Than 5,000 Inhabitants, by a Majority Vote of the Qualified Voters of said City, at an Election Held for that Purpose, to Adopt and Amend Their Charter, Etc.*," approved April 7th, 1913, and any Acts amendatory thereof.

Section 4. Vote on proposed charter, manner, etc.

This Charter shall be submitted to the qualified voters of the City of Brownsville for adoption or rejection, on the second Tuesday in December, A.D. 1915, at which election, if a majority of the qualified voters voting in such election shall vote in favor of the adoption of this Charter, then it shall become the Charter of the City of Brownsville, until amended or repealed.

The present city council of Brownsville shall call such election and the same shall be conducted and returns made, and results declared as provided by the laws of the State of Texas governing municipal elections, and in case a majority of the votes cast at such election shall be in favor of the adoption of such Charter, then an official order shall be entered upon the records of said city, by the city council of Brownsville, declaring the same adopted, and the city secretary shall record at length, upon the records of the city, in a separate book to be kept in his office for such purpose, such Charter so adopted, and such secretary shall furnish to the mayor a copy of such Charter, which copy of the Charter shall be forwarded by the mayor of the City of Brownsville, to the secretary of state, and shall show the approval of such Charter by a majority vote of the qualified voters of the City of Brownsville at such election.

Section 5. Election of mayor and commissioners.

The present city council of Brownsville shall call an election to be held upon the same date as the election for the adoption of the Charter, for the election of a mayor and four (4) commissioners, and if such election shall not result in the choice of a mayor and four (4) commissioners, each by a majority vote of the city at large, then the present city council shall call a special election, as provided for in this Charter, for the election of such officers failing to receive a majority vote, which election shall be held on the fifth Friday in December A.D. 1915, being the 31st day of December, A.D. 1915, which election or elections shall be held under the direction of the city council, according to the laws of the State of Texas regulating municipal elections.

Section 6. [Commissioner's oath.]

Within five (5) days after the election of all the commissioners, they shall each take the oath of office and qualify as such mayor and commissioners, and shall hold their respective offices until the second Tuesday in December, A.D. 1917, and until their successors are elected and qualified, unless sooner removed under the provisions of this Charter.

Section 7. [New governing body.]

Upon their qualification, such mayor and commissioners shall be and constitute the governing body and authority of the City of Brownsville and shall thereafter administer its affairs agreeable to the provisions of this Charter; provided that the present city secretary; city treasurer, city assessor and collector, city attorney and city marshal shall hold and retain their respective offices, if they so desire, and enjoy the emoluments thereof, as now provided, until the first Tuesday in April, A.D. 1918.

Section 8. Saving clause.

If any article, section, subdivision, subsection, paragraph, clause, sentence, phrase, word or words or provision of this Charter shall be adjudged invalid or held to be unconstitutional by any court of competent jurisdiction, such judgment shall not impair, affect or invalidate the remainder of this Charter or any other part or provision hereof which shall remain in full force and effect thereafter.