

HOME RULE

CHARTER

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CITY CHARTER OF THE CITY OF ROBSTOWN*

ARTICLE I. HOME RULE GOVERNMENT

Sec. 1. Incorporation.

The inhabitants of the City of Robstown, Texas, within its corporate limits as established by Title 28, of R.C.S. 1925, and as established or extended by the Charter of the City of Robstown, Texas, as amended, and as extended by ordinances of the City of Robstown, Texas, are hereby constituted a body politic and corporate, in perpetuity, under the name “City of Robstown,” hereinafter referred to as the “city,” with such powers, privileges, rights, duties and immunities as are herein provided.

Sec. 2. Annexation.

The city shall have the power by ordinance to fix the boundary limits of the city and to provide for the alteration and extension of the boundary limits.

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

Sec. 3. Initiative and Referendum.

(a) The legislative power of the city is vested in the city council, but the people of the city reserve unto themselves the powers of initiative and referendum which shall be exercised in the manner prescribed in this charter.

- (1) **Initiative.** The registered voters of the city shall have the power to propose ordinances to the city council and, if the council fails to adopt the ordinance in substantially the form in which it was presented, to adopt or reject the ordinance proposed at an election as provided herein.

* **Editor’s note**—Printed herein is the consolidated charter provided by the City of Robstown. The charter was originally adopted on March 9, 1948. Ordinance 938, adopted on February 16, 1998, proposed extensive amendments to the charter. Ordinance 939, adopted March 9, 1998, divided the amendments proposed by Ordinance 938 into three separate propositions. Propositions 2 and 3 of Ordinance 939 were ratified at election on May 2, 1998, and the amended charter was declared adopted by Ordinance 941, adopted June 8, 1998. Amendments subsequent to Ordinance 941 are indicated by a history note following the amended provision. The absence of a history note indicates the material is unchanged from the amended charter as adopted by Ordinance 941. Apart from minor nonsubstantive changes in style and formatting, the charter is reproduced as adopted. Capitalization, punctuation and grammar have been retained. Obviously misspelled words have been corrected without notation. Material enclosed in brackets has been added for clarification. Ordinances amending the charter prior to Ordinance 938 were as follows: Ord. 373, ratified 12/9/63; Ord. 611, adopted 2/19/79, ratified 4/7/79; Ord. 701, adopted 1/31/83, ratified 4/4/83; Ord. 703, adopted 2/14/83, ratified 4/2/83; Ord. 708, adopted 6/13/83, ratified 4/2/83; Ord. 740, adopted 2/18/85, ratified 4/6/85; Ord. 785A, adopted 6/25/87, ratified 8/8/87.

State constitution reference—Charter to be consistent with constitution and general laws, art. XI, sec. 5.

- (2) Referendum. The registered voters of the city shall have the power to require reconsideration by the city council of any adopted ordinance or part thereof and, if the council fails to repeal the ordinance, or the disputed part thereof, to approve or reject it at an election as provided herein.

(b) The power of initiative and referendum reserved herein shall not extend to specific items contained in the operating or capital budgets of the city, contracts, appropriations already made, the levy of taxes or the individual salaries of city officials or employees. The powers of initiative and referendum contained herein are not in lieu of the referendum powers and procedures provided elsewhere in this charter and under state law; therefore, the powers of initiative and referendum provided in this section shall not apply when another referendum procedure is available under this Charter or state law.

(c) Any fifty registered voters may commence initiative proceedings and any fifteen registered voters may commence referendum proceedings by filing with the city secretary a statement that they intend to circulate petitions calling for an initiative or referendum. The statement shall include the following:

- (1) the names and addresses of the registered voters commencing the proceedings;
- (2) the full text of the ordinance being proposed by initiative or the full text of the ordinance to be reconsidered by referendum.

(d) In the case of an initiative, the city attorney shall draft an ordinance in legal form, consistent with the laws of the State and the United States, incorporating in substance the text submitted. The city secretary shall present the initiative or the request for referendum to the city council at its next regular meeting. Forty-five days from the date of presentment shall be allotted to the city council to consider the adoption of such ordinance by initiative. In the case of referendum, the city council shall have until the adjournment of the next regular city council meeting to reconsider such ordinance.

(e) In the event the council fails to take the proposed action within the time allotted, the city secretary shall furnish to the proponents petition pages for circulation among the registered voters of the city. Each petition page shall contain the following:

- (1) a summary not to exceed 200 words stating in substance the initiative or referendum measure to be considered by the voters and the notation that the full text of the ordinance is available for inspection at the office of the city secretary;
- (2) the printed name, address and registration number of each voter signing the petition;
- (3) the signature of each signer in ink and the date of signing;
- (4) the date of issuance of the petition by the city secretary and, in the case of a referendum petition, the names and addresses of the persons who initiated the procedure.

(f) All petition pages comprising an initiative or referendum petition shall be assembled and filed with the city secretary as one instrument within ninety days from date of issuance of the forms for such purposes by the city secretary. Within thirty days, the city secretary shall

determine whether the same is signed by at least ten percent of the registered voters of the city. The procedures for filing supplementary petition pages with the city secretary for recall petitions shall also apply to initiative and referendum petitions.

(g) In the case of referendum, if all necessary petition pages comprising the referendum petition have been assembled and filed with the city secretary within sixty days from the deadline for action by the city council to reconsider the ordinance, the effectiveness of the disputed provisions shall be suspended pending the outcome of these referendum proceedings. Nothing herein shall be construed to prevent the city council from repealing the disputed provisions to be reconsidered during such period.

(h) Whenever an initiative or referendum petition is certified by the city secretary to have valid signatures at least equal to ten percent of the registered voters of the city and the city council does not adopt the ordinance proposed by initiative or repeal the disputed provisions sought to be reconsidered by referendum, the council shall include the proposition on the ballot at an election to be held as follows:

- (1) in the case of an initiative, at the next regular city council elections;
- (2) in the case of a referendum for which the necessary petition pages have been filed within sixty days from the deadline for action by the city council to reconsider the ordinance, at the next available uniform election date under state law; or
- (3) in the case of any other referendum, at the next regular city council elections.

(i) Not later than the next regular meeting of the city council following the election, the council shall canvass the election returns, and if a majority of the registered voters voting on the issue approve of the ordinance submitted by initiative or the referendum, such action shall become effective as of the date the returns are canvassed or as of any later effective date as may be provided.

(j) Any ordinance adopted by initiative shall not be subject to repeal or substantial modification by action of the council for a period of four years from the date of the election, except by referendum election called by the council or by petition as herein provided. Any ordinance repealed by referendum shall not be reinstated in whole or substantial part by action of the council for a period of four years from the date of the election, except by referendum election called by the council or by petition as herein provided.

ARTICLE II. CITY COUNCIL

IN GENERAL

Sec. 1. Membership and Term.

(a) The city council shall consist of a mayor elected by majority vote at large and six council members elected by majority vote at large, each of which shall run for office in a numbered place position. Any person having the qualifications provided by law and this charter who is a resident of the city shall be eligible as a candidate for mayor or any one of the six council member places.

(b) The mayor and members of the city council shall be elected for terms of two years and shall hold office until their respective successors have been elected and qualified. The regular election shall be held in odd-numbered years on the first Saturday in May unless the city council designates an alternative date allowed by state law at least six months prior to the regular election.

(c) All council members shall take office at the first council meeting after the votes are canvassed from the regular election; provided, however, that in the event a run-off election is required, all council members shall take office at the first council meeting after the votes are canvassed from the run-off election.

(d) In order to effect a transition upon the adoption of this Charter, the mayor and five council members in office effective upon canvassing of the election results of the May 2, 1998 election shall appoint one qualified resident of the city to serve as a sixth council member who together with the seated mayor and council members will serve until the canvass of election results of the May 1, 1999 election. All members elected at the May 1, 1999 election shall serve two year terms. The terms of office of the council members elected on May 2, 1998 shall be extended to the election in May 2001 to coincide with the terms of office of the other council members. Upon the conclusion of the elections in May 2001, this transition provision shall automatically expire.

Sec. 2. Election Procedures.

(a) Candidates for mayor or city council shall file with the city secretary within the time provided by law an application to appear on the ballot. The candidate shall not owe delinquent taxes to the city, and the application shall meet the requirements of the Texas Election Code, as the same may be amended from time to time.

(b) The city council by ordinance may enact rules and regulations governing elections not inconsistent with this charter or state or federal law.

Sec. 3. Runoff Elections.

(a) If no candidate for mayor receives a majority of all votes cast for such office at any regular or special election, there shall be held on the third Saturday following any such election a runoff election at which the two candidates receiving the highest number of votes in the regular or special election shall stand for election.

(b) If no candidate for city council from a given place receives a majority of all votes cast for such office at any regular or special election, there shall be held on the third Saturday following any such election a run-off election at which the two candidates receiving the highest number of votes in the regular or special election shall stand for election.

Sec. 4. The Mayor Pro Tem.

(a) The city council shall nominate and confirm one of the council members who shall be known and designated as mayor pro tem, and he or she shall receive no extra pay by reason of being or acting as mayor pro tem.

(b) Whenever a regular or special meeting is scheduled to be held and both the mayor and mayor pro tem are absent, a majority of the council members present may proceed to elect one of

those present as acting mayor for such meeting who shall preside and discharge the duties of the mayor. The absence of the mayor and mayor pro tem shall be noted in the minutes with a short statement of the reason for absence, if known.

(c) When it is anticipated that both the mayor and mayor pro tem will be absent from the city, or unable to perform the duties of the office of mayor on the day of the meeting of the city council, the council by a majority vote shall name a member to be mayor pro tem for the particular meeting, and he or she shall be entitled to perform the duties and have the powers of the mayor on such occasion.

(d) Any council member serving as mayor pro tem or temporarily performing the duties of the office of mayor as provided above shall not be deemed to have vacated his or her position on the city council. Such person shall act as mayor and perform the duties as mayor only for the duration of such absence or disability, and upon the return of the mayor or election of a new mayor as provided in this Charter such council member shall continue in his or her original position, unless such council member becomes mayor.

Sec. 5. Disability of Mayor.

If for any reason the mayor is absent from the city or unable to perform the duties of his or her office, the mayor pro tem shall act as mayor and during such absence or disability shall perform the duties and have the powers of the mayor.

Sec. 6. Mayor's Veto Power and General Powers.

(a) Every ordinance, resolution or motion passed by the council shall, before it takes effect, be presented to the mayor for his or her approval and signature. If he or she approves it, he or she shall sign, but if he or she disapproves it he or she shall state his or her objections thereto in writing and return it to the next regular meeting of the council after presentation with his or her veto. If he or she does not return it with such disapproval nor sign it, such motion, ordinance or resolution shall, upon the expiration of the time for its return to the council, be in effect and force as if he or she had approved it.

(b) In case of veto of any ordinance, resolution or motion by the mayor, the council may pass same over his or her veto by the affirmative vote of a majority of the council. If the mayor's veto is sustained, the matter shall not come before the council again within six months without the previous written consent of the mayor. The mayor may veto all or any item of any ordinance making appropriations but the veto shall extend only to the item disapproved. Those items which he or she approves shall become effective, but those disapproved shall not become effective unless passed over his or her veto as herein specified.

(c) The mayor shall have the power to administer oaths and exercise such other powers, prerogatives and authority as are conferred on him or her by this charter and state and federal law.

Sec. 7. Compensation.

(a) Each member of the city council, with the exception of the mayor, shall receive as compensation the sum of one thousand two hundred dollars (\$1,200.00) during each year of service on the council, such sum to be paid in equal installments throughout the year.

(b) The mayor shall receive as compensation the sum of one thousand eight hundred dollars (\$1,800.00) during each year of service on the council, such sum to be paid in equal installments throughout the year.

(c) The provisions of this section shall become effective immediately after the election and qualification for office of the first city council following its adoption.

Sec. 8. Judge of Elections.

The city council shall be the judge of the election and qualification of its own members, subject to review by the courts in case of contest.

Sec. 9. Restrictions Upon Council Members.

No member of the council shall be elected or appointed to any office created, or the compensation of which was fixed or increased, by action of the council passed while serving as a member thereof until the expiration of one year following cessation of such member's service on the council.

Sec. 10. Rules of the Council.

The city council shall determine its own rules of procedure; may punish its members for disorderly conduct; may compel the attendance of its members; and may impeach a member in the manner herein provided.

Sec. 11. Removal.

(a) A council member shall be subject to removal by the council or by any other means authorized by law for:

- (1) Willful violation of any code of ethics or conflicts of interest provision under state or federal law or city ordinance.
- (2) Willful violation of any express prohibition of this charter.
- (3) Misconduct, malfeasance, incompetence, inability or willful neglect in performance of official duties.
- (4) Conviction of any felony, or any misdemeanor involving moral turpitude.
- (5) Failing to maintain any residency requirement provided by law.
- (6) Absence from four consecutive regular council meetings or six regular council meetings in any twelve month period without leave of absence first had, except due to circumstances over which the council member had no control.

(b) A removal action by the council may be instituted on its own initiative, or shall be instituted upon petition by five or more registered voters, and any final decision to remove a member shall be by the majority vote of all council members holding office, with the exception of the challenged member. The council may provide by ordinance for the referral of any disciplinary matter involving a council member to an ethics commission for recommendation. The challenged

member shall have the right to written articles of impeachment, an opportunity to be heard, to be represented by counsel, to summon witnesses who shall be required to give testimony, and to reasonable advance notice of the hearing. The burden of proof shall be on those bringing the charges. The hearing shall be open to the public, and the conclusions and findings of the council shall be final. If the member is removed, a complete statement of the reasons therefor shall be filed with the city secretary. The council shall additionally have the authority to reprimand or suspend a member for a period of not more than thirty days if removal is not warranted.

(c) Pending charges for removal, the council may suspend the challenged member from office for a period not exceeding thirty days by the majority vote of all council members holding office, with the exception of the challenged member.

(d) Commission of any of the violations specified in subparagraphs (1) through (5) above shall additionally be grounds for forfeiture of office in proceedings pursuant to state law.

(e) A member who is removed from office, whether pursuant to this section, by recall or other legal proceeding, or who resigns after any such proceedings have been initiated, shall not be eligible to be appointed to or run as a candidate for city office for two years from the date of removal, recall or resignation.

Sec. 12. Vacancy in Office of Mayor.

(a) In the event of death, resignation, permanent disability, forfeiture of office, recall or impeachment of the mayor, or if for any reason a vacancy shall exist in the office of mayor, the council member elected who received the highest number of votes in the last regular election shall immediately become the mayor, provided that such council member shall not be at that time the subject of any recall petition on file with the city secretary. Notwithstanding the foregoing, in the event more than one year remains until the next regular city council election or the council member designated to become mayor is the subject of a recall petition on file with the city secretary, a special election shall be called by the then remaining council members to fill the vacancy in the office of mayor, and if there then are no remaining council members such special election shall be forthwith called by the county judge of Nueces County, Texas.

(b) Any person who becomes mayor as provided above shall have all the duties and powers of the mayor for the remainder of the unexpired term of the mayor, unless sooner removed as provided in this charter. In the event a council member becomes mayor, the office of the council member shall become vacant, and such vacancy shall be filled as provided in this article.

Sec. 13. Vacancies in Office of Council Member.

In the event of death, resignation, permanent disability, forfeiture of office, recall, or impeachment, of any council member, or if for any reason a vacancy shall exist in the office of any council member, the then remaining members of the council by majority vote shall forthwith fill such vacancy by appointment of a new council member having the qualifications for such vacancy or vacancies as established by law, and the appointed council member shall hold office until the next regular city election and until his or her successor has been elected and qualified, unless sooner removed as provided in this charter; provided, however, that in the event a majority of the council members be recalled at the same recall election, then the vacancies in the offices theretofore held by them shall be filled by a special election to be held within sixty days after

such vacancies occur. Such election shall be forthwith called by the then remaining council members, and if there be no remaining council members, such election shall be forthwith called by the county judge of Nueces County, Texas.

Sec. 14. Meetings of the Council.

(a) The city council shall meet in regular session at least once each month at city hall or at another governmentally owned place within the corporate limits of the city, unless the city council elects to adjust the regular meeting schedule for valid reasons recorded in the minutes; provided that in any event the city council is required to meet in regular session not less often than once each month. Special sessions and workshop sessions may be held in any public place, and the council shall prescribe the manner in which such sessions shall be called.

(b) A workshop session is a council meeting for the sole purpose of gathering information or discussing public business without taking action. In the event a workshop session is scheduled on the same day as and prior to a regular or special session, no discussion shall be held at the workshop of items previously scheduled for such regular or special session.

(c) A majority of the council members holding office shall constitute a quorum. All meetings of the council shall be open to the public except as may be authorized by the laws of the state. The city secretary shall take minutes of all regular, special and workshop sessions of the council, except closed sessions, which minutes shall be open to the public in the archives of the city.

(d) The council shall act only by ordinance, resolution, or motion. Any such method shall be valid except where a particular method is required by law or this charter. Ordinances shall be confined to one subject which shall be clearly expressed in the title, but ordinances making appropriations may embrace more than one subject, provided that each shall be confined to the subject of appropriations. The following actions, in addition to others specified by law or this charter, shall be by ordinance only:

- (1) amendment or repeal of any existing ordinance;
- (2) adoption, amendment or repeal of a code of ordinances or code of technical regulations;
- (3) conveyance or authorization of the conveyance of any real property;
- (4) to prescribe a fine or penalty or establish any rule or regulation for the violation of which a fine or other penalty is imposed;
- (5) to regulate the rates charged by a public utility; and
- (6) to adopt any legislation.

(e) The ayes and nays shall be taken upon the passage of all ordinances or resolutions and entered in the minutes. Every ordinance or resolution shall require on its final passage, the affirmative vote of a majority of all council members holding office.

(f) No ordinance shall be passed finally on the date it is introduced but the same shall be considered and voted upon at two regular meetings, except in the case of emergency and then only when requested in writing by the mayor or a majority of the members of the council, and the

finding of an emergency by the council shall be conclusive. No ordinance granting any franchise shall ever be passed as an emergency measure. For the purposes of this subsection, an “emergency” shall be defined as a condition involving an immediate need to preserve and protect public property, the need for the immediate and efficient utilization of physical resources in the city, the need for the immediate and equitable institution of zoning changes in order to protect the health, safety and welfare, or an immediate action necessary for the efficient and effective administration of the city’s affairs.

(g) Every ordinance imposing any fine, penalty or forfeiture shall be published in one issue of a newspaper of general circulation in the city, which publication may be of the full ordinance or a summary thereof which fully discloses the purposes, intent and effect of such ordinance, after which publication said ordinance shall be in force unless a later date shall be provided in the ordinance.

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

Sec. 15. Contract Before Election.

It shall be unlawful for the city council, within the period beginning thirty days before any regular election and extending to the taking of office for the newly elected council, to take any council action whereby any appropriation of money not included in the budget is made or contract or obligation of the city is to be created or franchise granted, or any zoning or rezoning ordinance passed or hearing held without a two-thirds vote of the council, and any such council action taken without a two-thirds vote shall be void.

Sec. 16. Investigation.

The council shall have the express power to inquire into the official conduct of any department, division, agency, office, officer or employee of the city, and for that purpose shall have the power to administer oaths, subpoena witnesses, [and] compel the production of books, papers and other evidence material to the inquiry. Refusal to attend and testify or to produce books, papers and other evidence material to the inquiry, shall result in forfeiture of any office, employment, emoluments or contract then accruing to the person so refusing. The council may provide by ordinance additional penalties for contempt in failing or refusing to obey any such subpoena, or to produce any such books, papers or other evidence and shall have the power to punish any such contempt in the manner provided by such ordinance.

RECALL

Sec. 17. Power of Recall.

The people of the city reserve the power to recall the mayor or any other council member and may initiate the process by filing with the city secretary a petition signed by at least ten percent of the voters registered to vote for a successor to the challenged council member. A person wishing to initiate a recall petition shall procure a form from the city secretary. Each page of the petition shall contain:

- (a) the name and position of the challenged council member;
- (b) a general statement of the grounds for recall, which shall not be subject to challenge;

- (c) the printed name, residence address (by street and number, or, if none, by other sufficient description), and voter registration number of each signer;
- (d) the signature of each signer in ink;
- (e) the date of issuance by the city secretary and the name and address of the person or group to whom the petition was issued;
- (f) the printed name and address of the person circulating the petition; and
- (g) an affidavit of the person circulating the petition that he or she personally circulated such page, that he or she personally observed the making of each signature thereon, and that he or she believes that each signature is genuine.

The person procuring the form shall legibly fill in the name and position of the challenged council member and the general grounds for recall, and present the form to the city secretary. The city secretary shall then fill in the date of issuance, make such copies as are needed for the city secretary's records, and return the original to the person presenting it.

Sec. 18. Filing, Examination and Certification of Petition.

All petition pages comprising a recall petition shall be assembled and filed with the city secretary as one instrument. Within twenty days after a recall petition is so filed, the city secretary shall determine whether the same is signed by the required ten percent of the registered voters. The city secretary shall declare void any petition page which does not have an affidavit as required in the preceding section. If the certificate of the city secretary shall show the recall petition to have total signatures of registered voters in number less than the required ten percent, the city secretary shall notify the person filing the petition, and it may be supplemented within ten days from the date of such notice by filing supplementary petition pages bearing signatures of other registered voters. Within ten days after such supplementary pages are filed, the city secretary shall again examine the original petition, as supplemented, and shall certify the results thereof to the council at its next regular meeting, stating the number of signatures certified. If the petition, as supplemented, is found to have total signatures of registered voters in number less than [than] the required ten percent, the city secretary shall return the petition, as supplemented, to the person filing the same, without prejudice to the filing of a new petition for the same purpose.

Sec. 19. Recall Election.

Whenever a recall petition is certified by the city secretary to have the signatures of the required ten percent of registered voters and the council member whose removal is sought does not resign within five days after such certification to the council, the council shall forthwith order and hold a recall election within not less than thirty, nor more than sixty days from certification. In the event at any one time there is before the council more than one recall petition certified by the city secretary as to which the council is then obligated to order a recall election, the council shall order and hold, on the same date, recall elections on all such petitions so certified.

Sec. 20. Recall Ballot.

The form of ballots used at recall elections shall conform to the requirements of state law.

Sec. 21. Results of Recall Election.

If a majority of the votes cast are for recall, the office shall immediately become vacant and shall be filled as provided in this charter.

Sec. 22. Limitation on Recall.

No recall petition shall be filed within the first four months after the office holder takes office or within the four months immediately preceding the date of the next regular election for the challenged office. No office holder shall be subjected to more than one recall election during a single term of office.

ARTICLE III. ADMINISTRATION*

Sec. 1. City Secretary.

The city council shall appoint a City Secretary, upon nomination by the Mayor. The City Secretary may be employed for an *indefinite term, but may be removed at the will and pleasure of the council by a majority vote of the City Council, after having been allowed a fair and impartial hearing before said City Council, if hearing is requested. The said City Secretary need not be a resident of the City of Robstown, and need possess only (such) qualifications as the City Council deems necessary. The said City Secretary shall also be the Treasurer and Tax Collector-Assessor of the City, and shall furnish such fidelity bonds as the City Council requires, but in no event shall the total of such bonds be less than \$50,000.00. The City Secretary shall be paid such compensation as is set by the City Council.

Sec. 2. Chief of Police.

The city council shall appoint a Chief of Police upon nomination by the Mayor, who shall hold office for a term beginning at the time of his appointment and ending at the time of the next regular election, unless sooner removed by a majority vote of the city council after having been allowed a fair and impartial hearing before the city council, if such hearing is requested. The Chief of Police need not be a resident of the City of Robstown, and need possess only such qualifications as the city council deems necessary. The Chief of Police shall be paid such compensation as is set by the city council.

Sec. 3. City Engineer.

The city council may, if they deem such necessary, appoint a City Engineer, upon nomination by the Mayor, who shall hold office for a term beginning at the time of his appointment and ending at the time of the next regular election, unless sooner removed by a majority vote of the city council after having been allowed a fair and impartial hearing before the city council, if such hearing is requested. The City Engineer need not be a resident of the City of Robstown, but must hold an engineer's license from the State of Texas and such qualifications as the city council deems necessary. The City Engineer shall be paid such compensation as is set by the city council.

* **State law references**—Creation of municipal offices, V.T.C.A., Local Government Code, sec. 26.041; compensation of officers in home-rule municipality, V.T.C.A., Local Government Code, sec. 141.004; residency requirements for municipal employees, V.T.C.A., Local Government Code, sec. 150.021.

Sec. 4. City Attorney.

The city council shall appoint some qualified attorney to fill the office of City Attorney. The City Attorney shall be a licensed attorney and shall have practiced in the State of Texas for at least three years and shall maintain his professional office within the City of Robstown, and shall be a resident qualified elector of the City of Robstown. His term of office shall be from the time he is appointed until the next regular election, unless sooner removed by a majority vote of the city council, after having been allowed a fair and impartial hearing before the city council. The City Council may employ special counsel to act with and [or] in lieu of the City Attorney in connection with any matter.

Sec. 5. Corporation Court.

There is hereby created and established a court to be known as the “Corporation Court,” which shall be presided over by a Judge elsewhere herein provided for* who shall be known as “City Recorder,” and who shall have the qualifications provided by law for other city officials, it not being necessary that he be a licensed attorney. Chapter 16 of Title 28, R.C.S. 1925, and amendments, relating to corporation courts, is hereby specially adopted and made a part of this Charter. Such court and the recorder shall have all of the powers and authority as granted to [a] justice of the peace of the State, and shall have, in addition, all other authority and jurisdiction as may be granted by ordinance of the city.

Sec. 6. Audit of City Records.

The city council shall cause a continuous audit of the books and accounts of all records and transactions of the administration of the affairs of the city, such audit to be made annually, embracing each fiscal year, and shall be made by a state licensed public accountant. The duty of such accountant shall include the certification of all statements required, such statements shall include [a] general balance sheet showing summaries of income and expenditures and also comparison in proper classification with the last previous audit; such summary shall be published in a newspaper published in the City of Robstown, one time within ten days after completion of such audit.

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

Sec. 7. Bond Issues.

In addition to any specific powers herein enumerated, with reference to issuance of bonds, revenue bonds, and warrants, it is expressly provided that the city shall have all of the powers to issue bonds as provided in Title 28, R.C.S. 1925, and amendments as now or hereafter made by the State Legislature, in the mode and manner and for the purpose therein set forth, and in addition for such other purposes which may be for the public good and welfare, so long as such purposes are no [not] inhibited by the Constitution or law of the State; and the city may appropriate available funds which are not by law limited to specific purposes, for improvements and purposes necessary in the administration and progress of a local self-governing home rule city, provided only that such purposes for expenditures of funds are not inhibited by the Constitution and laws of the State of Texas.

However, it is here provided that no bonds of the city shall ever be issued without a vote of the people, except refunding bonds which may be issued without a vote.

State law references—Public Security Procedures Act, V.T.C.A., Government Code, ch. 1201; refunding bonds, V.T.C.A., Government Code, ch. 1207; bond elections generally, V.T.C.A., Government Code, ch. 1251; municipal bonds, V.T.C.A., Government Code, ch. 1331; authority of municipality to issue bonds for public improvements, V.T.C.A., Government Code, sec. 1331.052.

ARTICLE IV. FRANCHISES AND UTILITIES

Sec. 1. Franchises.

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

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

Sec. 2. Public Utilities Owned by City.

(a) Board of Trustees generally. From and after the effective date of this Charter, the management and control of any public utility owned by the City of Robstown, together with all properties incident thereto, shall be, and is hereby placed in the hands of a Board of Trustees, consisting of five (5) members, of whom one shall always be the mayor of the City of Robstown, as hereinafter set forth.

(b) Appointments to Board; Mayor to fill position No. 1. The following persons, being resident, tax-paying citizens of the City of Robstown, Texas, are hereby appointed members of, and shall constitute said Board of Trustees, and shall take office immediately:

Position No. 1, R.E. Cooke, Mayor

Position Nos. 2, 3, 4, and 5 shall be the following named appointed persons: George B. Wilson, Position No. 4, William Bauer, Jr., Position No. 2, H.B. Nichols, Position No. 3, H.E. Dare, Position No. 5.

Position No. 1 shall at all times be filled by the then duly elected qualified and acting mayor of the City of Robstown, Texas. The term of the office of the present Mayor, R.E. Cooke, shall cease when his successor, as mayor, shall have been duly elected and qualified as Mayor, at

which time said successor shall automatically become a member of said Board, as provided by law, and each succeeding mayor, upon being duly elected and qualified, shall automatically succeed to Position No. 1 of said Board of Trustees.

Upon the death, resignation, and removal of any Trustee, a successor shall be appointed and elected by the mayor and city council to fill the unexpired period of time until regular election. The regular term of office shall be for a period of *four (4) years, except as provided herein. At the expiration of the term of office of any Trustee, his successor shall be elected by the qualified voters at the same time that other city officials are elected in April, and the laws governing the election of the mayor and councilmen shall govern the election of all Trustees.

(The terms of office of the trustees shall be as follows: Position No. 2 shall be for 2 years, expiring April, 1985; Position No. 3 shall be for 1 year, expiring April, 1984; Position No. 4 shall be for 4 years, expiring April, 1987; and Position No. 5 shall be for 3 years, expiring April, 1986.)

(c) Qualifications of Trustees. No person shall be eligible for membership on said Board of Trustees for Position No. 2, Position No. 3, Position No. 4, and Position No. 5, who is not a property owning, tax-paying citizen of the City of Robstown, who has resided within said city less than two (2) years consecutive next prior to his appointment or election, and no person shall be eligible who is directly or indirectly engaged or interested in the generation, distribution and/or sale of electric energy, gas or other utilities, or who holds any other public office.

(d) Compensation of Trustees. The total compensation paid to each member of the Board of Trustees shall be \$10.00 for each regular meeting and \$6.00 for each special meeting of the Board, which said member attends, but the total compensation paid any member for any calendar month shall not exceed \$22.00.

(e) Meetings, quorum officers and seal of board: Regular Meetings of the Board shall be held prior to the 10th of each month. All meetings shall be held at the Regular Meeting place of the city council of the City of Robstown. Special Meetings may be held at any time without notice of unanimous consent, provided all members of the Board are present at the meetings. Special meetings may be called at any time by the chairman of the Board or at the request of any two (2) members of the Board, but notice of said meeting shall be delivered to all members not less than twenty-four (24) hours prior to the time set for said meeting. A quorum shall consist of three members of the Board. The Board shall, at the first Regular Meeting in each year, select, from its members holding positions Number two (2) through five (5) inclusive, a chairman and a vice-chairman, who shall perform the usual duties incident to said office for a period of one year.

The Board shall appoint a secretary, who shall be a resident of the City of Robstown and proper minutes and records shall be made of all meetings and of all proceedings and said minutes and records shall be public documents and shall be kept on file at the office of the secretary, at all times subject to inspection by the public at reasonable office hours.

The Board shall adopt a seal which shall be used by the secretary in the proper attestation of all records and documents.

(f) Bonds for personnel handling funds. All persons who handle, collect or disburse any money or funds from or pertaining to the operation of said public utility system shall be required to execute and furnish fidelity bonds executed by a surety company authorized to do business in the State of Texas and approved by the Board in an amount not less than double the maximum

amount of money or funds which said person may have in his possession or control at any one time, but in no event shall any fidelity bond be for an amount less than \$2,000.00, the premium on said bond to be paid out of revenues of the system. Personal bonds shall not be accepted.

All fidelity bonds shall be made payable to the City of Robstown, Texas.

(g) Removal of Trustees. Any Trustee, except the mayor, shall ipso facto cease to be a member of said Board of Trustees and the office which he holds shall be and is here declared vacant who shall fail to comply at all times with the following conditions:

- (1) Failure to attend any six consecutive regular meetings.
- (2) Failure to attend any six regular meetings during any calendar year.
- (3) Failure to attend more than three consecutive meetings of the Board without filing with the secretary a sworn statement certifying that he was unable to attend [on] account of illness or absence from the city.
- (4) Cease to be an owner of real property situated within the city limits of the City of Robstown, Texas, or cease to be a resident elector thereof.
- (5) Upon becoming, directly or indirectly, engaged in or interested in the generation, distribution and/or sale of electric energy.
- (6) Upon acceptance of and qualification for any other public office.

At the time that any position of the Board of Trustees is vacated for any of the foregoing conditions the mayor and city council shall appoint a successor as provided above.

(h) General powers and duties of Board. It shall be the duty of the said Board of Trustees and said Board of Trustees shall have the power to:

- (1) **RULES.** It shall be the duty of the said Board of Trustees to prescribe all necessary rules and regulations governing the control, management and operation of said utility systems.
- (2) **SUPERVISION:**
 - a. To employ a supervisor empowered to observe and report from time to time the financial and operation conditions of such system to the Board of Trustees and the city council of the City of Robstown, Texas.
 - b. The Board of Trustees shall have the power to fix the compensation to be paid the supervisor for such services.
- (3) **SUPERINTENDENT.** To employ a general superintendent and to define his duties and powers.
- (4) **PERSONNEL.** To employ and discharge any and all employees without recourse.

- (5) COMPENSATION. To fix the compensation of all employees and to prescribe their respective duties and powers.
- (6) LEGAL COUNSEL:
 - a. To employ or retain legal counsel, and to fix the compensation for such services.
 - b. Such counsel so retained shall be present at each and every regular and special meeting, except when said Board of Trustees shall be in executive session, unless the Board shall see fit to request attendance of counsel upon such executive session.
- (7) PURCHASE OF MATERIALS, ETC. To purchase all materials, equipment and supplies necessary for the system to render adequate and efficient service and to make any such additions, extensions and betterments as may be required subject to all terms, conditions and restrictions of this ordinance [Charter] and the ordinance authorizing the issuance of the revenue bonds to finance said system, and the applicable statutes of the State of Texas.

No materials, equipment or supplies shall be purchased and no contracts for an addition, extension or betterment shall be awarded without first submitting such purchase or contract to competitive sealed bids. Notice of the time and place when and where such contracts or purchase will be made shall be published one or more times in a newspaper of general circulation in Robstown, Texas, the date of the first publication to be not less than ten (10) days prior to the date set for the opening bids. All bids shall be publicly opened and read aloud and said contract shall be awarded and said materials, equipment and supplies shall be purchased from the lowest responsible bidder on the respective type of construction selected, except the Board shall have the right to reject any or all bids; provided, that in case of unforeseen damage to the machinery, equipment and properties constituting the system where it becomes necessary to act at once, this provision shall not apply and provided further that it shall not be applied to contracts for personal or professional services, not [nor] to purchase of consumable supplies and miscellaneous equipment amounting to less than *five thousand (\$5,000.00) dollars.

- (i) Budget. The Board of Trustees shall, on or before the first of January of each year, adopt a detailed annual budget, showing separately the amounts set aside for salaries, labor, materials, repairs, maintenance, depreciation, replacement, extensions, interest and the creation of a sinking fund to pay off all bonds and indebtedness against the system.

A copy of said budget shall be printed in a newspaper of general circulation in Robstown, Texas, and a clearly legible copy shall be posted on a bulletin board at the electric power plant and a copy shall be filed with the City Secretary.

- (j) Audit of books and records. The Board of Trustees shall, at the first meeting in January of each year, employ a reputable certified accountant who shall make a detailed audit of all the books and records of the Board of Trustees and of the utility system and shall prepare a complete audit report for the preceding calendar year, a copy of which shall be filed with the Trustees and a summary of which shall be published in a newspaper of general circulation in Robstown, Texas.

(k) Compliance with rules, regulations and ordinances. The Board of Trustees shall not permit any person, firm or corporation to take or use any electric energy and/or any other services, equipment or facilities of said public utilities who shall fail to comply with the daily [duly]established rules and regulations and ordinances established and adopted by the city council of the City of Robstown, Texas, applicable for said system.

GOVERNING LAWS:

- (1) No such system or systems shall ever be sold until such sale is authorized by a two-thirds vote of the qualified electors living and owning real property within the corporate limits of the City of Robstown; nor shall same be encumbered for more than five thousand (\$5,000.00) dollars except for purchase money or to refund any existing indebtedness or for repairs or reconstruction, unless authorized in like manner. Such vote where required shall be ascertained at an election of which notice shall be given in like manner as in cases of the issuance of municipal bonds of such city.
- (2) In all matters where this Ordinance [Charter] is silent, the laws and rules governing the city council of the City of Robstown, Texas, shall govern said Board of Trustees, so far as applicable.
 - a. The accounts and books of each utility system shall be kept separately, so as to prevent mingling.
 - b. At all times the said Board of Trustees shall keep and maintain the following reserves:
 1. Gas System: \$10,000.00 in cash operating fund, also a minimum total of \$30,000.00 in cash and U.S. bonds, in replacement, insurance, and depreciation fund, and each year a sum equal of 5% gross income shall be added until fund reaches a total of \$75,000.00. At least three years requirement in cash and U.S. bonds in the bond and interest fund whenever any bonds are outstanding.
 2. Electric System: \$20,000.00 in cash operating fund, also a minimum total of \$115,000.00 in cash and U.S. bonds in replacement, insurance and depreciation fund, and each year a sum equal of 10% of gross income shall be added until such fund reaches a total of \$200,000.00. At least three years requirement in cash and U.S. bonds in the bond and interest fund whenever any bonds are outstanding.

Whenever there are no outstanding bonds against a particular system, it shall be known as an unencumbered system, either gas, electric or other utility as the case may be. After the above requirement reserves are provided for, the remaining annual earned profit from any unencumbered system shall be paid by the Board of Trustees, 50% to bond, interest and sinking fund and 50% to the general fund of the City of Robstown, to be used by the city council. By the first day of April of each year the Board of Trustees shall notify the council of the anticipated amount to be paid, if any, from each utility system, during the

coming fiscal year, so the amount may be included in the budget of the city council. This amount should be paid to the City within ten (10) days after the annual budget is finally approved by the city council.

State law reference—Municipal utilities, V.T.C.A., Local Government Code, sec. 402.001 et seq.

ARTICLE V. GENERAL POWERS AND PROVISIONS

Sec. 1. General Powers.

(a) The city shall have and may exercise, for any municipal purpose, all powers enumerated in Article 1175, Texas Civil Statutes, and which may be added thereto at any time in the future, and the following powers to the fullest extent it deems necessary, desirable, or convenient except as clearly prohibited or limited by state law or this charter:

- (1) To use a corporate seal.
- (2) To sue and be sued.
- (3) To contract.
- (4) To define and abate nuisances.
- (5) To levy and collect taxes.
- (6) To borrow money by issue or sale of bonds, warrants, notes or other method.
- (7) To appropriate and expend monies.
- (8) To acquire and own property or any interest therein, within and without the corporate limits, by purchase, eminent domain, gift, devise, exaction, or any other means whatsoever.
- (9) To sell, lease or otherwise convey city property, real or personal.
- (10) To manage and control all city property.
- (11) To establish, improve and maintain a comprehensive system of streets and public ways and all appurtenances related thereto, and to control and regulate any use thereof; provided, no street or alley may be opened or closed except after notice by one publication in a newspaper of general circulation in the city and by mail to the last known address of all owners within 450 feet therefrom and hearing by the city council.
- (12) To assess the cost of street, sidewalk and related improvements against abutting property owners and fix a lien against such abutting property in any manner authorized by Articles 1105b or 1086 through 1105, Texas Civil Statutes, as the same may be amended in the future, or other state law, or any city ordinance, which procedures are hereby adopted as alternatives which may be exercised.

- (13) To levy and collect assessments against property benefited by improvements, and fix liens thereto, according to procedures established by ordinance or law.
- (14) To assess property for costs incurred by the city in exercise of its governmental or regulatory powers, and to fix liens against such property, according to procedures established by ordinance or law.
- (15) To regulate land use and development.
- (16) To regulate construction and maintenance of buildings and structures.
- (17) To construct public works and improvements.
- (18) To own and operate airports.
- (19) To acquire any public utility upon approval by the qualified city voters, and a four-fifths vote of the city council.
- (20) To own and operate any public utility.
- (21) To require and grant franchises, licenses and permits.
- (22) To regulate public utilities and franchise holders, including their rates and charges.
- (23) To regulate the laying of gas, water, sewer, electrical, telephone, television and other pipes, lines and cables in the city's jurisdiction.
- (24) To promote health and sanitation, and prevent, suppress or relieve disease and epidemic.
- (25) To regulate the processing and dispensing of foodstuffs.
- (26) To take measures to prevent, avoid or relieve the effects of natural or made disasters.
- (27) To adopt regulations to promote fire safety.
- (28) To establish, provide, maintain or regulate any social or human service program or activity.
- (29) To regulate any activity, business, occupation, profession or trade.
- (30) To establish and maintain docks, warehouses and any water-related facilities.
- (31) To regulate all water areas, and all activities therein or connected therewith.
- (32) To operate a jail.
- (33) To promote economic prosperity in the community.
- (34) To advertise and provide public information.

- (35) To regulate animals.
- (36) To adopt regulations for drainage and flood control.
- (37) To provide and support libraries, museums, parks, arts, music, education, literature, recreational and cultural activities.
- (38) To establish criminal and civil penalties for ordinance violations.
- (39) To take all measures, including but not limited to the right to permit, prohibit, regulate or license, any activity in order to promote and protect the health, morals, comfort, safety, convenience and welfare of the city's inhabitants, and exercise all manner of governmental and regulatory power.

(b) The enumeration of particular powers in this charter is not exclusive. The city shall have and may exercise all powers which it would be competent for this charter specifically to delegate, except as clearly prohibited or limited in this charter.

(c) The city is empowered to use all methods and do all things it deems necessary or convenient to carry out the powers in this section within the limits of the law.

State law references—Powers of home-rule municipality, V.T.C.S. art. 1175; general powers of home-rule municipality, V.T.C.A., Local Government Code, sec. 51.071 et seq.; authority of local self-government, V.T.C.A., Local Government Code, sec. 51.072.

Sec. 2. Existing Ordinances.

All ordinances of the city not inconsistent with the provisions of this charter, shall remain in full force and effect until altered or repealed by the city council; provided, that the power to pass such ordinances under former charters has not been repealed expressly or implied by the terms of this act.

Sec. 3. Printed Ordinances as Evidence.

All ordinances of the city published in book or pamphlet form and purporting to be published “By authority of the City Council of the City of Robstown,” shall be received by all the courts of the State of Texas as prima facie evidence of the due passage and publication of such ordinances as appear therein; provided, that no person shall be precluded from showing by competent evidence, that any ordinance published “By authority of the City Council of the City of Robstown,” as aforesaid, is not a true copy of the original ordinance.

Sec. 4. City Not Required to Give Bond.

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

State law reference—Cities exempt from security for court costs, V.T.C.A., Civil Practice and Remedies Code, sec. 6.002.

Sec. 5. Public Property Exempt from Execution Sale.

The property, real and personal, belonging to the city shall not be liable to be sold or appropriated under any writ of execution, nor shall the funds belonging to the city in the hands of any persons be liable to garnishment.

State law reference—Authority relating to property, V.T.C.A., Local Government Code, sec. 51.076.

Sec. 6. City Inhabitants, Freeholders or Taxpayers not Disqualified.

No person shall be an incompetent judge, justice, witness or juror by reason of his being an inhabitant or a freeholder, or a taxpayer of the city in any action or proceeding in which said city may be a party at interest.

Sec. 7. Notice of Personal Injuries Required.

Before the city shall be liable for damages for personal injuries of any kind the person injured or someone in that person's behalf shall file with the city secretary in the manner prescribed by ordinance notice in writing of such injury within one hundred eighty days after the same has been sustained, reasonably describing the injury claimed and the time, manner and place of the injury. The failure to so notify the city within the time and manner specified herein shall exonerate, excuse and exempt the city from any liability whatsoever.

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

Sec. 8. Council Action Validated.

Acts of the city council previously enacted in granting franchises, assessing and collecting taxes, and the disbursement of same, the enforcement of its ordinances by criminal proceedings or otherwise, the collection of fines and the disbursement of same and any and all enforcement of the penal laws of this state, are hereby in all things validated and made as valid and binding as if passed by a legal city council.

Sec. 9. Construction of Charter.

This charter shall not be construed as a mere grant of enumerated powers, but shall be construed as a general grant of power and as a limitation of power on the government of the city in the same manner as the Constitution of Texas is construed as a limitation on the powers of the legislature. Except where expressly prohibited by this charter, each and every power under Article XI, Section 5 of the Constitution of Texas, which it would be competent for the people of the city to expressly grant to the city, shall be construed to be granted to the city by this charter.

Sec. 10. Judicial Notice.

This charter shall be deemed a public act, may be read in evidence without pleading or proof, and judicial notice shall be taken thereof in all courts and places.

Sec. 11. Separability Clause.

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

Sec. 12. Rearrangement and Renumbering.

The council shall have the power, by ordinance, to renumber and rearrange all articles, sections and paragraphs of this charter or any amendments thereto, as it shall deem appropriate, and upon the passage of any such ordinance a copy thereof, certified by the city secretary, shall be forwarded to the secretary of state for filing.

State constitution reference—Adoption or amendment of charter, Texas Constitution, art. 11, sec. 5.

State law reference—Adoption or amendment of charter, V.T.C.A., Local Government Code, sec. 9.001 et seq.