

CITY OF ANDREWS HOME RULE CHARTER

ARTICLE I. - FORM OF GOVERNMENT

Sec. 1. - Incorporation: form of government; corporate and general powers.

The inhabitants of the City of Andrews, in Andrews County, Texas, within the corporate limits as now established, or as hereafter established in the manner provided by this Charter, shall continue to be a municipal body politic and corporate in perpetuity, under the name of the "City of Andrews" with such powers, rights and duties as herein provided.

Sec. 2. - Form of Government.

The municipal government provided by this Charter shall be known as the "Council-Manager form of government." Pursuant to its provisions and subject only to the limitations imposed by the State Constitution and by this Charter, all powers of the City shall be vested in an elective City Council, hereinafter referred to as "The Council," which shall enact local legislation, adopt budgets, determine policies, and appoint the City Manager, who shall execute the laws and administer the government of the City. All powers of the City shall be exercised in the manner prescribed by this Charter or if the manner be not prescribed, then in such manner as may be prescribed by ordinance.

Sec. 3. - General powers.

The City shall have all powers, except as limited by this Charter, granted to Municipal corporations and to cities by the Constitution and laws of the State of Texas, together with all the implied powers necessary to carry into execution all the powers granted. The enumeration of particular powers by this Charter shall not be deemed to be exclusive, and 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 Andrews shall have all municipal powers, functions, rights, privileges, and immunities of every name and nature whatsoever, now and hereafter granted by the Constitution and laws of Texas. The Council is expressly authorized to adopt any rule or regulation deemed necessary, advisable or convenient for the purpose of exercising any power expressly or permissively conferred by such authority.

Sec. 4. - Eminent domain.

The City shall have the full right, power, and authority to exercise the power of eminent domain.

Sec. 5. - Notice of damage or injury required.

The City of Andrews shall never be liable for any personal injury, whether resulting in death or not, unless the person injured or someone on his/her behalf, or in the event the injury results in death, the person or persons who may have a cause of action under the law by reason of such death injury, shall file a notice in writing with the City Manager or City Secretary within ninety (90) days after the same has been received, stating specifically in such notice when, where and how the exact injury occurred and the full extent thereof, together with the amount of damages claimed or asserted. The notice requirements provided for herein do not apply if the City has actual notice that death has occurred, or that the claimant has received some injury. Further, should the claimant provide good cause for failure to comply with the notice requirements herein then said notice requirements shall not apply.

The City of Andrews shall never be liable for any claim for damage or injury to personal property unless the person whose personal property has been injured or damaged or someone on his/her behalf, shall file a claim in writing with the City Manager or the City Secretary within ninety (90) days after said damage or injury has occurred and the full extent thereof, and the amount of damage sustained. The City of Andrews shall never be liable for any claim for damage or injury to real property caused by negligent act or omission of its officers, servants, agents, or employees, unless the person whose real property has been injured or damaged or someone on his/her behalf, shall file a claim in writing with the City Manager or City Secretary within ninety (90) days after said damage or injury has occurred, stating specifically when, where and how the injury or damage occurred and the amount of damage claimed. The notice requirements provided for herein do not apply if the City has actual notice that the claimant's property has been damaged. Further, should the claimant provide good cause for failure to comply with the notice requirements herein then said notice requirements shall not apply.

The City of Andrews shall never be liable on account of any damage or injury to person or to personal property arising from or occasioned by any defect in any public street, highway, alley, grounds or public work of the City of Andrews unless the specific defect causing the damage or injury shall have been actually known to the City Manager at least twenty-four (24) hours prior to the occurrence of the injury or damage, or unless the attention of the City Manager shall have been called thereto by a notice thereof in writing at least twenty-four (24) hours prior to the occurrence of the injury or damage and proper diligence has not been exercised to rectify the defect. The notice herein required to be given to the City Manager or City Secretary of the specific defect causing the damage or injury shall apply where the defect arose from any omission of the City itself, through its agents, servants, or employees, or acts of third parties.

Sec. 6. - Extending City limits upon petition.

Whenever a majority of the qualified voters who are citizens of the State of Texas and inhabitants of any territory adjoining Andrews, as said territory may be designed by the City Council or in case there are no qualified voters in said territory, then when persons owning a majority of the land in area in said territory desires the annexation of such territory to Andrews, they may present a written petition to that effect to the City Council and shall attach to said petition the affidavit of one or more of their number to the effect that said petition is signed by a majority of such qualified voters, or in case there are no qualified voters in said territory said affidavit shall be to the effect that there are no qualified voters in said territory and that the persons signing said petition own a majority of the land in area in said territory, and thereupon the City Council at regular session held no sooner than twenty (20) days after the presentation of said petition may by ordinance annex such territory to Andrews and thenceforth the said territory shall be a part of Andrews, and the inhabitants thereof shall be entitled to all of the rights and privileges of other citizens and shall be bound by the acts, ordinances and regulations of said City.

Sec. 7. - Extension and contraction of City limits by ordinance.

The City Council shall have the full power to annex territory, to extend and enlarge the City boundaries and exchange areas with other municipalities. Any area of the City may be disannexed pursuant to any procedure allowed under state law; and whenever, in the opinion of the City Council, there exists within the corporate limits of the City a territory not suitable or necessary for City purposes, the City Council may discontinue said territory as part of the City by ordinance after conducting a public hearing on the matter.

ARTICLE II. - COUNCIL OFFICERS AND ELECTIONS

Sec. 1. - Governing body.

The governing and lawmaking body of the City of Andrews shall consist of five (5) Council Members and a Mayor, and said body shall be known as the "City Council of the City of Andrews."

Sec. 2. - Elective officers.

The members of the City Council of the City of Andrews, shall be the only elective officers of the City, and they shall be elected and shall hold office and only be compensated as herein provided.

Sec. 3. - Qualifications.

The Mayor and each Council Member shall have resided continuously in the corporate limits of the City for twelve (12) months immediately preceding the date of the election or on the date

of appointment, as applicable; and be 18 years of age or older on the first day of the term to be filled at the election or on the date of appointment, as applicable.

Sec. 4. - Manner of election of Mayor and City Council Members.

All elections shall be held in accordance with the laws of the State of Texas regulating the holding of municipal elections and in accordance with this Charter and the ordinances adopted by the City Council for the conduct of elections.

Sec. 5. - Order of candidates on ballot.

Candidates for the offices of Mayor and Council Member names shall appear on the ballot as determined by lots.

Sec. 6. - Candidates, how elected.

The candidate receiving a majority of the votes cast for Mayor shall be elected. The two candidates receiving the highest number of votes for the City Council positions in even numbered years shall be elected. The three candidates receiving the highest number of votes for the City Council positions in odd numbered years thereafter shall be elected. In the event no candidate receives a majority of the votes for the office of Mayor, the Council shall cause to be held a runoff election between the two candidates with the most votes pursuant to State law.

All five (5) City Council Members shall be elected at large by cumulative vote and plurality with no majority requirement. Under the cumulative voting system, each eligible voter shall be allowed a number of votes equal to the number of City Council positions to be filled. In years where two (2) Council positions are to be filled, each eligible voter shall be allowed two (2) votes for City Council Members. In years where three (3) Council positions are to be filled, each eligible voter shall be allowed three (3) votes for City Council Members. If a vacant Council position is to be filled in addition to the expiring Council positions, each eligible voter shall be allowed to cast one (1) additional vote for each vacant position to be filled.

Each eligible voter shall be allowed to cast his or her votes in any manner, according to the voter's preference. The voter may cast each of his or her votes for separate candidates, cast all of his or her votes for one candidate, or apportion his or her votes in any other manner among the candidates, so long as the number of votes cast does not exceed the number of votes allowed.

Sec. 7. - Judge of election.

The City Council shall be judge of the election and qualifications of its own members and of the Mayor, subject to review of the Courts in case of contest.

Sec. 8. - Nominations and elections.

- (1) Elections: general and special. The general elections for the choice of members of the Council shall be held each year on the first Saturday in May. The Council may, by resolution, order a special election not in conflict with other provisions of this Charter, fix the time for holding same, and provide all means for holding such special election.
- (2) City Council: How nominated and elected. Official ballot.
 - (a) The Council Member and the Mayor shall be elected from the city at large.
 - (b) Any qualified elector of the city who is otherwise qualified may have his/her name printed on the official ballot for the particular office and place which he/she seeks at any election, by filing a sworn application with the City Secretary within the time period prescribed by State law. The qualifications as prescribed in Article II, Section 3, shall be complied with. The application of each candidate shall state the office for which he/she is a candidate. All official ballots shall be printed at least twenty (20) days prior to the date of any general or special election. The absentee voting shall be governed by the general election laws of the State of Texas.
- (3) Regulations and laws governing City elections. All City elections shall be governed, except as otherwise provided by the Charter, by the laws of the State of Texas governing general and municipal elections.
- (4) Council ballots. The full names of all candidates for the Mayor or Council Member as herein before provided, except such as may have withdrawn, died, or become ineligible, shall be printed on the official ballots without party designations. If two candidates with the same surnames or with names so similar as to be likely to cause confusion are nominated, the addresses of their places of residence shall be placed with their names on the ballot.

Sec. 9. - When officers take office.

The newly elected officers may enter upon their duties on the fifth day after the returns are canvassed and declared, Sundays excepted. If any such officer fails to qualify within thirty (30) days after his/her election, his/her office shall be filled as provided in this Charter. All officers of the City, whether elected or appointed, shall qualify by taking the oath prescribed by the Constitution of this State and by executing such bond as may be required under the provisions of this Charter, and the ordinances and resolutions of the City.

Sec. 10. - Term of office.

The Mayor and each City Council Member shall serve for a term of two (2) years and until his/her successors are elected and qualified, unless sooner removed from office as herein provided.

Sec. 11. - Vacancies.

A vacancy occurring in the office of the City Council, including the office of Mayor, may be temporarily filled by a person having the qualifications of an elective official of the City, who shall be appointed by a majority vote of the remaining members of the City Council to serve until the next regular election. The vacancy shall be filled at the next regular election by the candidate receiving the highest number of votes for the vacant position who shall serve the remainder of the unexpired term.

If any officer of the City, elective or appointive, except Civil Service employees, shall announce their candidacy or shall in fact become a candidate in any general, special or primary election for any office of profit or trust other than the office then held, at any time when the unexpired term of such office then held shall exceed one year, such announcement or such candidacy shall constitute an automatic resignation of the office then held, and the vacancy thereby created shall be filled pursuant to the provisions of this Article.

Sec. 12. - Compensation of Members of the City Council.

The Mayor and Council Members of the City of Andrews, shall serve without pay but be entitled to reimbursement for all necessary expenses incurred in the performance of their official duties, which shall be presented in an itemized statement and approved by the Council.

Sec. 13. - Duties and powers of the Mayor.

The Mayor of the City of Andrews shall be recognized as head of the City government for all ceremonial purposes, and by the Governor of the State of Texas for the purpose of military law, and shall preside over the meetings of the City Council and perform such other duties consistent with the office as may be imposed upon him/her by this Charter and ordinances and resolutions passed in pursuance hereof. He/she may participate in the discussion of all matters coming before the Council, but shall be entitled to a vote as a member thereof only when necessary to break a tie vote of the Council, and shall have no veto power.

Sec. 14. - Mayor Pro-Tem.

The Council, at its first meeting after each general election of Council Member, shall elect one of its members as Mayor Pro-Tem for a term of one year. Should a vacancy occur in the office of Mayor or in the case of the absence or disability of the Mayor, the Pro-Tem shall act as Mayor

during such absence or disability, or in case of a vacancy, until a Mayor is appointed or elected and qualified. While serving as Mayor, the Mayor Pro-Tem shall have such rights and powers, and shall perform such duties as the Mayor.

Sec. 15. - Forfeiture of office.

Any member of the Council who ceases to possess the required qualifications for office, or who is convicted while in office of a felony or a misdemeanor involving moral turpitude, shall forfeit his/her office, which forfeiture shall be declared and enforced by a majority vote of the Council.

Sec. 16. - Powers of the City Council.

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

- (1) To appoint and remove the City Manager.
- (2) To establish other administrative departments and distribute the work of divisions, and to abolish or consolidate said departments and divisions.
- (3) To adopt the budget of the City.
- (4) To initiate the procedure for the issuance of bonds and warrants according to the laws of the State of Texas.
- (5) To inquire into the conduct of any office, department, or agency of the City and make investigations as to municipal affairs.
- (6) To appoint the necessary commissions and boards to assist the Council in the performance of its duties and responsibilities, such powers subject to the restrictions of the Charter and the laws of the State of Texas.
- (7) To adopt plats.
- (8) To adopt and modify the official map of the City.
- (9) To regulate, license, and fix the charges or fares made by any person or persons owning, obtaining, or controlling any vehicle of any character used for carrying passengers for hire on the public streets and alleys of the City.

- (10) To provide for the establishment and designation of fire limits and to prescribe the kind and character of buildings or structures or improvements to be erected therein, and provide for the condemnation of dangerous structures or buildings or dilapidated buildings calculated to increase fire hazard, and the manner of their removal or destruction.
- (11) To fix the salaries and compensation of the nonelective City officers and employees.
- (12) To provide for sanitary sewer and water systems.
- (13) To establish a pension or retirement system for any and all officers and employees in the employ of the City.

Sec. 17. - Investigation by Council.

The Council shall have the power to inquire into the conduct of any office, department, agency, or officer of the City, and can 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 section shall constitute a misdemeanor, and shall be punished by fine not to exceed \$200.00.

Sec. 18. - Meeting of the Council.

- (1) Regular meetings. The Council shall hold at least one regular meeting in each month at a time to be fixed by ordinance for such regular meeting; and may hold as many additional regular meetings during the month as may be necessary for the transactions of the business of the City and its citizens.
- (2) Special meetings. Special meetings of the City Council shall be called by the City Secretary upon the request of the Mayor, the City Manager, or a majority of the members of the Council.
- (3) All meetings of the City Council shall be in compliance with the Texas Open Meetings Act.

Sec. 19. - Rules of procedure: journal.

The Council shall determine its own rules and order of business. It shall keep a journal of its proceedings, and the journal shall be open to the public for inspection.

Sec. 20. - Council not to interfere in appointment or removals.

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

ARTICLE III. - ORDINANCES EFFECT OF CHARTER

Sec. 1. - Effect of this charter on existing law.

Until the first Tuesday in April, 1960, all ordinances, resolutions, rules and regulations in force prior to the adoption of this Charter, unless altered, amended or repealed, shall remain in force and effect. On and after the first Tuesday in April, 1960, all ordinances, resolutions, rules and regulations which were in force prior to that date and which are not in conflict with the provisions of the Charter shall remain in full force and effect until otherwise amended, altered or repealed.

Sec. 2. - Ordinance, enactment of.

Each proposed ordinance or resolution shall be introduced in writing or printed form and shall not contain more than one subject, which shall be expressed in caption or title, except ordinances or resolutions, making appropriations or authorizing the contracting of indebtedness or issuance of bonds or other evidence of indebtedness. No ordinance, unless it be declared an emergency measure, shall be passed finally on the date it is introduced, but except as otherwise provided by this Charter, all ordinances shall be read in open meeting of the City Council on two (2) separate days provided that all readings of any ordinance may be by descriptive caption only except that one (1) member of the Council may require a complete reading of any ordinance upon first reading thereof.

Sec. 3. - Style of ordinance.

The style of all ordinances of the City of Andrews shall be "Be it ordained by the City Council of the City of Andrews," but the same may be omitted when published in book form.

Sec. 4. - Emergency measures defined.

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 in such ordinance or resolution. Ordinances or resolutions appropriating money to defray current or other expenses of the City may be passed

as emergency measures, but no ordinance or resolution making a grant, renewal or extension of a franchise or other special privilege, or regulation of the rates to be charged for service furnished the public generally by any public utility, shall ever be passed as an emergency measure.

Sec. 5. - Ordinance, pleading of, and admissibility as evidence.

It shall be sufficient in all judicial proceedings to plead any ordinance of the City by caption without embodying the entire ordinance in the pleadings, and all pleaded ordinances or codes of ordinances shall be admitted in evidence in any suit and shall have the same force and effect as the original ordinance. Certified copies of ordinances may also be used in evidence in lieu of original ordinances.

Sec. 6. - Ordinances, publication of.

The caption or title and penalties of every ordinance imposing any penalty, fine, or forfeiture shall, as soon as practical after passage thereof, be published one (1) time in the official newspaper(s) of the City of Andrews. An ordinance required to be published under this section shall take effect the day after publication unless otherwise provided in the ordinance. Proof of such publication shall be made by the printer or publisher of such newspaper by making affidavit before some officer authorized by law to administer oaths, and filing same with the person performing the duties of the City Secretary, who shall attach the same to the original of the ordinance. Said affidavit shall be prima facie evidence of such publication and promulgation of such ordinance so published. Ordinances not required to be published shall take effect and be in force from and after the passage thereof, unless otherwise provided.

Sec. 7. - Ordinances, authentication, recordation and codification.

Every ordinance shall be authenticated by the signature of the Mayor and City Secretary and shall be systematically recorded in an ordinance book in a manner approved by the Council. It shall only be necessary to record the caption or title of ordinances in the minutes or journal of Council meetings. The City Council shall have power to cause the ordinances of the City to be corrected, revised, codified and printed in code form as often as the Council deems advisable, and such printed code, when adopted by the Council, shall be in full force and effect without the necessity of publishing the same or any part thereof in a newspaper. Such printed code shall be admitted in evidence in all courts and places without further proof.

ARTICLE IV. - CITY MANAGER

Sec. 1. - Appointment and qualification.

The Council shall appoint a City Manager who shall be the Chief Administrative and Executive Officer of the City and shall be responsible to the Council for the efficient administration of all the affairs of the City under his/her jurisdiction. He/she shall be chosen by the Council solely on the basis of his/her executive and administrative training, experience and knowledge of the

accepted practices in respect to the duties and requirements of his/her office. At the time of his/her appointment he/she need not be a resident of the City or state, but during his/her tenure of office he/she shall reside within the City. No person who has held an elective office of the City of Andrews shall be eligible for appointment as City Manager within one year of his/her release from such office.

Sec. 2. - Term and salary.

The City Manager shall be appointed by the Council and shall hold office at the pleasure of the Council, but for no longer period at one time than two years without reappointment. His/her salary shall be fixed by the Council. He/she may be removed at the will and pleasure of the Council by a vote of the majority of the whole Council. Upon passage of a resolution stating the intention to remove the City Manager and the reason thereof, a copy of which shall be immediately furnished him/her, the Council may suspend him/her from duty, but his/her salary shall continue until his/her removal becomes effective. Within ten days after the passage of such resolution, the City Manager may reply in writing to it, and may request a hearing before the Council. If so requested the Council shall fix the time and place for a hearing upon the question of removal, which shall be held not sooner than ten (10) days nor more than twenty (20) days after the receipt of such request. The final resolution removing the City Manager shall not be adopted until such hearing, if requested, has been held. The action of the Council in removing or suspending the City Manager shall be final, it being the intention of the Charter to vest all authority and fix all responsibility for such removal in the Council. The City Manager shall receive such compensation as may be fixed by the Council.

Sec. 3. - The City Secretary.

The City Manager shall appoint, subject to confirmation by the Council a City Secretary. He/she shall receive for his/her services such compensation as the City Council may fix. Unless excused by the Council for good cause, he/she shall attend all meetings of the City Council and keep accurate minutes of its proceedings; he/she shall preserve and keep in order all books, papers, documents, records, and files of the City Council and of the executive departments. He/she shall keep a record of all commissions and licenses issued and shall countersign same. He/she shall have custody of the Seal of the City and shall also perform other duties required of him/her by the City Manager and by the general laws of the State of Texas.

Sec. 4. - Powers and duties.

The City Manager shall be the chief executive officer and head of the administrative branch of the city government. He/she shall be responsible to the Council for proper administration of all affairs of the City under his/her jurisdiction and to that end, he/she shall have power and shall be required to:

- (1) In compliance with State law appoint, hire, and remove any officer or employee of the City except as otherwise provided by this Charter and except as he/she may authorize the head of a department to appoint and remove subordinates in such department.
- (2) Prepare and submit to the Council an annual budget and be responsible for its administration after adoption.
- (3) Prepare and submit to the Council as of the end of a fiscal year a complete report of the finances and administrative activities of the City for the preceding year.
- (4) Keep the Council advised of the financial condition and future needs of the City and make such recommendations as may seem to him/her desirable.
- (5) Perform such other duties as may be prescribed by this Charter or required of him/her by the Council, not inconsistent with this Charter.

Sec. 5. - Absence of City Manager.

To perform his/her duties during his/her temporary absence or disability, City Manager may designate by letter filed with the City Secretary, a qualified administrative officer of the City. In the event of failure of the City Manager to make such designation, the Mayor may appoint an officer of the City to perform the duties of the City Manager until he/she shall return or his/her disability shall cease.

Sec. 6. - Directors of departments.

At the head of each administrative department there shall be a director, who shall be an officer of the City and shall have supervision and control of the department subject to the City Manager. Two or more departments may be headed by the same individual, the Manager may head one or more departments, and directors of departments may also serve as chiefs of divisions.

Sec. 7. - Departmental divisions.

The work of each administrative department may be distributed among such divisions thereof as may be established by ordinance upon the recommendations of the City Manager. 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.

ARTICLE V. - DEPARTMENT OF LAW

Sec. 1. - City Attorney: appointment.

There shall be a department of law, the head of which shall be the City Attorney, who shall be appointed by the Council, and shall hold office at the pleasure of the Council, but no longer period at one time than two years without reappointment. His/her salary shall be fixed by the Council.

Sec. 2. - City Attorney: qualifications.

The City Attorney shall be a regularly licensed attorney at law licensed to practice in the State of Texas.

Sec. 3. - City Attorney: power and duties.

The City Attorney or such other attorney's selected or otherwise authorized by the City Attorney with the approval of the City Council shall represent the City in all legal matters.

ARTICLE VI. - MUNICIPAL COURT

Sec. 1. - Municipal Court.

- (a) There shall be established and maintained a court designated as a "Municipal Court" for the trial of misdemeanor offenses, with all such powers and duties as are now or hereafter may be permitted by the laws of Texas to corporation or recorder's courts.
- (b) The judge of said Court shall be a qualified voter of the City, shall be appointed by the City Council, shall hold his/her office at the pleasure of the City Council, and shall receive such salary as may be fixed by ordinance of the City Council.
- (c) The City Secretary or a deputy shall be ex officio clerk of said Court.
- (d) The clerk of said Court and his/her deputies shall have the power to administer oaths and affidavits, make certificates, affix the seal of said Court thereto, and generally do and perform any and all acts usual and necessary by the clerk of Courts in issuing process of said Courts and conducting the business thereof.
- (e) The City Council may appoint one or more associate judges to sit for any municipal court judge while such judge is temporarily unable to act for any reason or assist him/her. Any such associate judge must have the same qualifications as the judge he/she replaces and has the same powers and duties as that judge.

ARTICLE VII. - RECALL, INITIATIVE, REFERENDUM

Sec. 1. - Recall provisions.

Any member of the Council may be removed from office by recall. A petition stating the general grounds on which removal is sought shall be signed by qualified electors equal in number to at least ten (10) percent of the number of qualified voters registered to vote at the last general City election, and shall be filed by a qualified elector of the City with the City Secretary, provided, however, that separate petitions shall be circulated with respect to each member of the Council whose removal is sought.

Sec. 2. - Signatures to petitions.

The signatures to recall petitions need not all be appended to one petition. The petitions may be duplicated and assembled, but to each separate petition or duplicate there shall be attached an affidavit of the circulator, and such petition or duplicate shall be invalid without such affidavit. Each signer of any petition paper shall sign his/her name in ink or indelible pencil, and after his/her signature, show the place of residence by street and number or other description sufficient to identify the place. The affidavit attached to each petition or duplicate shall be as follows.

"State of Texas, County of Andrews _____, being duly sworn, deposes and says that he/she personally circulated the foregoing paper, that all signatures affixed thereto were made in his/her presence, and that he/she believes them to be the genuine signatures of the persons whose names they purport to be.

/s/ _____
(Signature of Circulator)

SUBSCRIBED AND SWORN TO before me this _____ day of _____ A.D.,
20_____."

/s/ _____
NOTARY PUBLIC, Andrews County, Texas

Sec. 3. - Filing, examination, and certification of recall petitions.

All petition papers comprising a recall petition shall be assembled and filed with the City Secretary as one instrument. Within (10) ten days after filing, the City Secretary shall determine whether each paper of the petition is properly attested and whether the petition is signed by a sufficient number of qualified electors. Upon completing this examination, the City Secretary shall certify the result thereof to the Council. If he/she should certify that the petition is insufficient, he/she shall set forth in his/her certificate the particulars in which it is defective;

provided, however, that except as to the particulars certified to be defective, the petition shall be deemed to be valid in all other respects.

Sec. 4. - Amendment of petitions.

A recall petition may be amended at any time within (20) twenty days after certification of insufficiency by the City Secretary by filing a supplementary petition on additional papers signed and filed as provided in case of an original petition. The City Secretary shall within ten (10) days after such supplement is filed, examine the supplementary petition, and if his/her certificate shall show the petition still to be insufficient, he/she shall file it in his/her office and notify the person filing, and no further action shall be had on such insufficient petition. The finding of the insufficiency of a petition shall not prevent the filing of a new petition for the same purpose.

Sec. 5. - Recall election ordered.

If a recall petition, or amended petition be certified by the City Secretary as sufficient, he/she shall at once submit it to the Council and notify the member of the Council whose removal is sought of such action. The Council shall order a recall election which shall be held on the first date authorized under State law. Should the member of the Council whose removal is sought resign prior to said recall election, then no election shall be held.

Sec. 6. - Ballots in recall election.

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

"For the recall of (name of person)"

"Against the recall of (name of person)"

Sec. 7. - Result of recall election.

If a majority of the votes cast be against recall of a member, he/she shall continue in office for the remainder of his/her term, but subject to recall as before. If a majority of such votes be for the recall of member he/she shall, regardless of any technical defect in the recall petition, be deemed removed from office and the vacancy filled as provided in this Charter.

Sec. 8. - Limitations on recall petitions.

No recall petition shall be filed against a member of the Council within three months after he/she takes office, nor, in respect to a Council Member subjected to a recall election and not removed thereby until at least six (6) months after such election.

Sec. 9. - Power of initiative.

The electors shall have power to initiate any ordinance, except an ordinance appropriating money, levying a tax, granting a franchise, establishing salaries of City employees or City officials, or fixing public utility rates, and to adopt or reject the same at the polls. Any initiated ordinance may be submitted to the Council by a petition signed by qualified electors of the City equal in number to at least five (5) percent of the number of qualified voters registered to vote at the last general City election.

Sec. 10. - Power of referendum.

The electors shall have power to approve or reject at the polls any ordinance passed by the Council save one appropriating money, authorizing sale of bonds, levying a tax, granting a franchise, establishing salaries of City employees or City officials, fixing public utility rates, or an ordinance submitted by the Council of its own initiative to a vote of the electors. Ordinances submitted to the Council by initiative petition and passed by the Council shall be subject to the referendum in the same manner as other ordinances. Within forty (40) days after the enactment by the Council of any ordinance which is subject to a referendum, a petition signed by qualified electors of the City equal in number to a least five (5) percent of the number of votes cast at the last preceding general municipal election may be filed with the City Secretary requesting that any such ordinance be either repealed or submitted to a vote of the electors.

Sec. 11. - Form of petitions for initiative or referendum.

All petition papers circulated for the purpose of an initiative or referendum shall be uniform in size and style. Initiative petitions papers shall contain the full text of the proposed ordinance. The signatures to initiative or referendum petitions need not all be appended to one paper, but to each separate paper there shall be attached a sworn statement of the circulator, as prescribed in Section 2, that he/she personally circulated the foregoing paper, that all the signatures appended thereto were made in his/her presence, and that he/she believes them to be the genuine signature of the persons whose names they purport to be. Each signer of any such petition paper shall sign his/her name and place of residence by street and number or other description sufficient to identify the place.

Sec. 12. - Filing, examination and certification of petitions for initiative or referendum.

All petition papers comprising a petition shall be assembled and filed with the City Secretary as one instrument. Within ten (10) days after a petition is filed, the City Secretary shall determine whether each paper of the petition has a proper statement of the circulator and whether the petition is signed by a sufficient number of qualified electors, and shall hold any petition paper entirely invalid which does not have attached thereto the sworn statement signed by the circulator thereof. The City Secretary shall certify the result of his/her examination to the Council

at its next regular meeting. If he/she shall certify that the petition is insufficient, he/she shall set forth in his/her certificate the particulars in which it is defective and shall at once notify the person filing same of his/her findings.

Sec. 13. - Amendment of petitions.

An initiative or referendum petition may be amended at any time within twenty (20) days after the notification of insufficiency has been sent by the City Secretary, by filing a supplementary petition on additional papers signed and filed as provided in case of an original petition. The City Secretary shall, within ten (10) days after such an amendment is filed, examine the amended petition, and if the petition be still insufficient, he/she shall file his/her certificate to the effect in the office and notify the person filing of his/her findings, and no further action shall be had on such petition. The finding of the insufficiency of a petition shall not prevent the filing of a new petition for the same purpose.

Sec. 14. - Effect of certification of referendum.

When a referendum petition, or amended petition has been certified as sufficient, the ordinance specified in the petition shall remain in effect until and unless repealed by the election.

Sec. 15. - Consideration by the Council.

Whenever the Council receives a petition from the City Secretary, it shall be immediately considered. A proposed initiative ordinance shall be read and provision shall be made for a public hearing. The Council shall take final action on the ordinance not later than sixty (60) days after the date on which such ordinance was submitted to the Council by the City Secretary. A referred ordinance shall, within thirty (30) days, vote upon the question, "Shall the ordinance be repealed."

Sec. 16. - Submission to electors.

If the Council shall fail to pass an ordinance proposed by initiative petition, or pass it in a form different from that set forth in the petition therefor, or if the Council fails to repeal a referred ordinance, the proposed or referred ordinance shall be submitted to the electors at a special election to be held on the first date authorized under State law.

Sec. 17. - Form of ballot for initiated and referred ordinances.

Ordinances submitted to a vote of the electors in accordance with the initiative and referendum provisions of this Charter shall be submitted by ballot title which contains a clear, concise statement, without argument, of the substance of such ordinance. The ballot used shall

have below the ballot title the following proposition, one above the other in the order indicated:

"FOR THE ORDINANCE" and
"AGAINST THE ORDINANCE."

Any number of ordinances may be voted on at the same election and may be submitted on the same ballot.

Sec. 18. - Results of election.

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

Sec. 19. - Repealing ordinances: publication.

Initiative and referendum ordinances adopted or approved by the electors shall be published and may be amended or repealed by the Council, as in the case of other ordinances; provided, however, that no ordinance adopted at the polls under the initiative or referendum shall be amended or repealed by the Council within six (6) months of adoption.

ARTICLE VIII. - MUNICIPAL FINANCE

Sec. 1. - Fiscal year.

The fiscal year of the City shall begin on the 1st day of October and end on the 30th day of September of each calendar year. The fiscal year shall constitute the budget year of the city government. The term "budget year," shall mean the fiscal year for which any particular budget is adopted and in which it is administered.

Sec. 2. - The budget.

The budget for the City government shall present a complete financial plan for the ensuing fiscal year. It shall set forth all proposed expenditures for the administration, operation, and maintenance of all departments and agencies of the City government for which appropriations are required to be made or taxes levied by the City government; all expenditures for capital projects to be undertaken or executed during the fiscal year; a capital program of proposed capital projects for the five fiscal years succeeding the budget year, all interest and debt redemption charges during the fiscal year; and the actual or estimated operation deficits from prior fiscal years. The budget shall also set forth the anticipated revenues and other means of financing the total proposed expenditures of the City government for the fiscal year.

Sec. 3. - The budget document.

The budget document shall consist of three parts, as follows:

Part I. Shall contain: (1) a budget message prepared by the City Manager, which shall outline a fiscal policy for the City government and describe therein the important features of the budget with reference both to proposed expenditures and anticipated revenues for the current year; (2) a general budget summary with supporting schedules which shall exhibit the aggregate figures of the budget in such manner as to show a comparative relationship between the total proposed expenditures and the total anticipated revenues for the fiscal year covered by the budget, and which shall compare these figures with the corresponding figures of the last complete fiscal year and with the year in progress.

Part II. Shall contain: (1) detail estimates of all proposed expenditures, showing the corresponding expenditures for each item for the current fiscal year and the last preceding fiscal year, with the explanations of the increases and decreases recommended as compared with the appropriations for the current fiscal year; (2) detailed estimates of anticipated revenues and other income; (3) delinquent taxes for the current and preceding years, with estimated percentage collectible; (4) statements of the bonded debt and other indebtedness of the City government, showing the debt redemption and interest requirements, and debt authorized and unissued, the conditions of the sinking funds, if any, and the borrowing capacity of the City.

Part III. Shall contain a complete draft of the budget ordinance, including an appropriation ordinance and such other ordinance as may be required to finance the budget.

Sec. 4. - Preparation, submission and adoption of budget.

The City Manager, at least sixty (60) days prior to the beginning of each budget year, shall submit to the Council a proposed budget and explanatory budget message. The Council shall arrange for and hold at least one public hearing on the budget during the period of its consideration; provided, however, that at least ten (10) days prior to such public hearing, the City Manager shall cause copies to be made available in his/her office for distribution to interested persons. The Council may revise, alter, increase, or decrease the items of the proposed budget prior to the adoption of the appropriation ordinance, provided that when it shall increase the total proposed expenditures, it shall also increase the total anticipated revenues so that the total means of financing the budget shall at least equal in amount the aggregate proposed expenditures. When the Council shall make such changes, it shall issue a statement setting forth clearly its action on the budget. Annually, after completion of the public hearing, the Council shall approve the budget plan and shall enact, not later than the first day of October the appropriation ordinances by a vote of at least a majority of the entire Council, and such other ordinances as may be required to make the budget effective. Should the Council take no final action on or prior to such day, the budget submitted by the City Manager shall be deemed to have been finally adopted by the Council. As soon as possible after the completion of the tax roll, the Council shall

pass the tax levy ordinance. The final budget shall be reproduced, and sufficient copies shall be made available for the use of all departments of the City, and for the use of interested persons, agencies and civic organizations.

Sec. 5. - Transfer of appropriations.

The City Manager may at any time transfer any unencumbered appropriation balance or any portion thereof within a department, office or agency to another inter-fund department, office or agency.

Upon written recommendations of the City Manager, the Council may at any time transfer any unencumbered fund balance to another fund.

Sec. 6. - Money to be drawn from treasury in accordance with appropriation.

No money shall be drawn from the treasury of the City, nor shall any obligation for the expenditure of money be incurred, except in pursuance of the annual or interim fiscal period appropriation, or such ordinance when changed as authorized by this Charter or by the general laws of Texas. At the close of each fiscal year any unencumbered balance of an appropriation shall revert to the fund from which appropriated and shall be subject to re-appropriation as provided by this Charter; but re-appropriations may be made by the Council, to be paid out of the revenue of the current year; in furtherance of public improvements or public works which will not be completed within such year, and any such appropriation shall continue in force until the purpose for which it was made shall have been accomplished.

Sec. 7. - City depositories.

All monies received by any person, department or agency of the City for or in connection with the business of the City and all funds of the City shall be deposited promptly in the City depository, which shall be designated by the Council in accordance with such regulations and subject to such requirements as to security for deposits and interest thereon as provided by the laws of the State of Texas. All interest on monies belonging to the City shall accrue to the benefit of the City.

Sec. 8. - Assessment and collection of taxes.

- (1) The City Council may, by ordinance, either create the office of Assessor and Collector of Taxes to be subject to the direction and control of the City Manager or authorize, by inter-local agreement, the assessment and collection of taxes by a separate governmental entity.
- (2) If, for any cause, the Council shall fail or neglect to pass a tax ordinance for one year, levying taxes for that year, then and in that event, the tax levying ordinance last passed will and shall be considered in force and effect as the tax levying ordinance, and the

failure to so pass such ordinance for any one year shall in no way invalidate the collection of taxes for that year.

Sec. 9. - Purchase procedure.

The City shall comply with state law when purchasing and contracting.

Sec. 10. - Church and school property not exempt from special assessment.

No property of any kind, church, school, or otherwise, in the City of Andrews, shall be exempt from any of the special taxes and assessments authorized by the Charter for local improvements unless exemption is required by state law.

Sec. 11. - Disbursement of funds.

All checks, vouchers, or warrants for the withdrawal of money from the City depository shall be signed by the City Treasurer, or his/her deputy, and countersigned by the City Manager, or, in his/her absence, his or her designee.

Sec. 12. - Independent audit.

As soon as practicable after the close of each fiscal year, an independent audit shall be made of all accounts of the City government by a certified public accountant, selected by the Council, who shall have no personal interest directly or indirectly in the financial affairs of the City government, or of any of its officers. A combined balance sheet, and statement of receipts and disbursements prepared by said certified public accountant, reflecting the results of his/her findings shall be published immediately upon completion in the official newspaper of the City of Andrews. The complete audit report shall be accessible for inspection by the public at the City Hall.

Sec. 13. - Bonds of City officials.

City officials, as may be directed by the Council, shall provide bond with such surety and in such amount as in the Council may require, except that the bond of City Treasurer, and the bond of the assessor and collector of taxes and the bond of the City Manager shall be in amount of not less than \$20,000.00 each, the premiums to be paid by the City of Andrews.

ARTICLE IX. - FRANCHISES, PUBLIC UTILITIES

Sec. 1. - Franchises, power of the Council.

The City Council shall have power to grant, amend, renew or extend by ordinance all franchises of public utilities of every character operating within the city of Andrews, and for such purposes is granted full power. All ordinances granting, amending, renewing, or extending

franchises for public utilities shall be read at two separate regular meetings of the City Council and shall not be finally passed until thirty (30) days after the first reading; and no such ordinance shall take effect until sixty (60) days after its final passage; and pending such time, the caption of such ordinance shall be published once each week for two (2) consecutive weeks in the official newspaper published in the city of Andrews, and the expense of such publication shall be borne by the proponent of the franchise.

No public utility franchise shall be transferable except to persons, firms and corporations taking all or substantially all of the holder's business in the city of Andrews and except with the approval of the Council expressed by ordinance.

Sec. 2. - Franchise values not to be allowed.

In fixing reasonable rates and charges for utility service within the city and in determining the just compensation to be paid by the City for public utility property which the City may acquire by condemnation or otherwise, nothing shall be included as the value of any franchise granted by the City under this Charter.

Sec. 3. - Right of regulation.

All grants, renewals, extensions, or amendments or public utility franchises, whether it be so provided in the ordinance or not, shall be subject to the right of the City.

- (1) To repeal the same by ordinance at any time for failure to begin construction or operation within the time prescribed or for failure otherwise to comply with the terms of the franchise, such power to be exercised only after due notice and hearing.
- (2) To require an adequate and reasonable extension of plant and service, and the maintenance of the plant and fixtures at the standard necessary to render the highest reasonable quality of utility service to the public.
- (3) To establish reasonable standards of service and quality of products and prevent unjust discrimination in service or rates.
- (4) (a) To prescribe the form of accounts kept by each such utility; provided, that if the utility shall keep its accounts in accordance with the uniform system of accounts for said utility prescribed by the National Association of Railroad and Public Utility Commissioners, the Federal Power Commission, the Federal Communications Commission, the Railroad Commission of Texas, and their successors, or other State or Federal Utility regulating agencies, this shall be deemed sufficient compliance with this paragraph.

(b) At any time to examine and audit the accounts and other records of any such utility and to require annual and other reports, including reports on local operations by each such public utility.

(5) To impose such reasonable regulations and restrictions as may be deemed desirable or conducive to the safety, welfare and accommodation of the public.

Sec. 4. - Other Conditions.

All franchises heretofore granted are recognized as contracts between the City of Andrews and the grantee, and the contractual rights as contained in any such franchises shall not be impaired by the provisions of this Charter, except that the power of the City of Andrews to exercise the right of eminent domain in the acquisition of any utility property is in all things reserved, and except the general power of the City here before existing and herein provided for to regulate the rates and services of a utility, which shall include the right to require adequate and reasonable extension of plant and service and the maintenance of the plant fixtures at the standard necessary to render the highest reasonable quality of utility service to the public. Every public utility franchise hereafter granted shall be held subject to all the terms and conditions contained in the various sections of this article whether or not such terms are specially mentioned in the franchise. Nothing in this Charter shall operate to limit in any way, as specifically stated, the discretion of the Council or the electors of the city in imposing terms and conditions as may be reasonable in connection with any franchise grant, including the right to require such compensation or rental as may be permitted by the laws of the State of Texas.

Sec. 5. - Franchise records.

The City shall compile and maintain a public record of public utility franchises.

Sec. 6. - Accounts of municipally owned utilities.

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

Sec. 7. - Regulations of rates and services.

The City Council shall have full power, after due notice and hearing, to regulate by ordinance the rates and service of every public utility operating in the City of Andrews.

ARTICLE X. - GENERAL PROVISIONS

Sec. 1. – Compliance with the Texas Public Information Act.

The City shall comply with the Texas Public Information Act.

Sec. 2. - Relatives of officers shall not be appointed or employed.

No person related within the second degree of affinity, or within the third degree of consanguinity, to members of the City Council or City Manager shall be appointed to any office, position or service in the City, but this provision shall not affect officers or employees who are already employed by the City at the time any officer who may be related within the named degree takes office.

Sec. 3. - Drilling operations.

The Council shall, by ordinance, provide regulations for the drilling, spacing, completion, and operation of oil, gas and commercial and/or industrial water wells within the territorial limits of the City of Andrews, but regulations shall not prohibit the drilling or operation of domestic water wells, but shall insure that the fresh water supply will not be contaminated.

Sec. 4. - Oath of office.

Every person elected or appointed to office in the City shall, before entering upon the duties of his/her office, take and subscribe the official oath prescribed by the state constitution.

Sec. 5. - City not required to give security or execute bond.

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

Sec. 6. - Execution and garnishment.

No execution shall be issued or levied by virtue of any judgment that may be recovered against the City, except as hereinafter provided, but the Council shall provide for the payments of judgments in levying of taxes next after the final recovery of such judgments against the City.

All assets of the City, including lands, houses, monies, debts due to the City, personal and real property, and assets of every description belonging to the City shall be exempt from execution and sale, except as hereinafter provided, but the City shall made [make] provisions, by taxation or otherwise, for the payment of any and all indebtedness incurred by the City. No writ of garnishment shall issue against the City to satisfy any debt due or which may hereafter become due from the City to any person or corporation, or any claim or demand upon any fund in the hands of said City or any of its officers; nor shall the City or any of its officers or agents be required to answer any writ or garnishment; provided however, if any judgment is not paid by the end of the fiscal year next after the fiscal recovery of such judgment, all property of the City shall be subject to execution, and the funds of the City subject to garnishment, except as prohibited by the Statutes of the State of Texas.

Sec. 7. - City records admissible as evidence.

Certified copies of the records, papers and books of the City officers or employees shall be admissible in evidence when certified by the custodian of such papers, books and records and attested by him/her under his/her seal, if he/she has one; provided, that for issuing such certified copies the City shall receive such fees as may be provided by ordinance.

Sec. 8. - Separability clause.

Should any article, section, part, paragraph, sentence, phrase, clause, or word of this Charter, for any reason, be held illegal, inoperative or invalid, or if any exception to or limitation upon any general provision herein contained be held to be unconstitutional or invalid, or if any exception to or limitation upon any general provision herein contained be held to be unconstitutional or invalid or ineffective, the remainder shall, nevertheless stand effective and valid as if it had been enacted without the portion held to be unconstitutional or invalid or ineffective.