

**HOME RULE CHARTER**  
**FOR THE**  
**CITY OF ORANGE, TEXAS**

**Preamble and Statement of Incorporation**

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

**ARTICLE I**

**Form of Government and Boundaries**

**Section 1.01. Form of Government**

The municipal government provided by this Charter shall be known as the "Council-Manager Government." Pursuant to the provisions of, and subject only to the limitations imposed by the State Constitution, the State statutes and this charter, all powers of the City of Orange, hereinafter referred to as "The City," shall be vested in an elective council, hereinafter referred to as the "City Council," which shall enact local legislation, adopt budgets, determine policies and appoint the City Manager, who in turn shall be held responsible to the City Council for the execution of the laws and the administration of 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, the State Constitution or the Statutes of the State of Texas.

**Section 1.02. The Boundaries**

The boundaries of the City of Orange shall be those set out and described by metes and bounds in the Charter adopted by the City of Orange on July 21, 1914, and the ordinances of annexation and of disannexation thereafter recorded in the Ordinance Books of the City of Orange. The City Secretary shall maintain at all times a map indicating the current and correct boundaries of the City of Orange.

**Section 1.03. Changing the Boundaries**

The City Council shall have the power by ordinance to fix the boundaries of the City of Orange. Without limiting the previous sentence, this power includes the ability to annex and to disannex territory, when permitted, to the extent, in the manner, and subject to any restrictions or limitations, provided by the constitution and laws of the State of Texas.

## ARTICLE II

### Powers of the City

#### Section 2.01. General

The City shall have all powers possible for a home rule city to have under the constitution and laws of the State of Texas as fully and completely as though they were specifically enumerated in this charter.

#### Section 2.02. Construction

The powers of the City under this Charter shall be construed liberally in favor of the City, and the specific mention of particular powers in this Charter shall not be construed as limiting in any way the general power granted in this article.

#### Section 2.03. Intergovernmental Relations

The City may exercise any of its powers or perform any of its functions and may participate in the financing thereof, jointly or in cooperation, by contract or otherwise, with any one or more states, or any one or more state agency, department or instrumentality, or with the United States or any one or more of its agencies, departments or instrumentalities if permitted, and if so, to the fullest extent, provided by law.

#### Section 2.04. Reserved

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## ARTICLE III

### The City Council

#### Section 3.01. Number, Selection and Term of Office

The legislative and governing body of the City shall consist of a mayor and four (4) councilmen and shall be known as the "City Council."

- (a) The Mayor and the other members of the City Council shall be elected from the city at large, and each councilman shall be elected to and occupy a place on the City Council, such places to be numbered 1, 2, 3, and 4, respectively.
- (b) The Mayor shall be the presiding officer of the City Council and shall be recognized as the head of the city government for all ceremonial purposes and by the Governor for purposes of military law, but shall have no regular administrative duties. The Mayor shall be entitled to vote on all matters under consideration by the City Council.
- (c) In each even-numbered year, two (2) councilmen and a mayor shall be elected, and in each odd-numbered year, two (2) councilmen shall be elected.
- (d) The Mayor shall hold office for a period of two (2) years and until his successor is elected and qualified. Each councilman shall hold office for a period of two (2) years and until his successor is elected and qualified. No person shall hold office, whether as Mayor or as councilman, during more than five (5) consecutive terms, whether the office held during such consecutive terms be that of Mayor or of councilman or alternately either of such offices. As used in this subsection (d), a person "holds office" during a term if such person has been elected or appointed to, and has qualified for, such office for at least one day. Neither the number of days within a term of office for which a person serves, nor the existence of or reason for any

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interruption of the person's tenure within such term, is relevant to a determination of whether such person has "held office" during a term. A term of office is "consecutive" to another term where such terms proceed chronologically in series or successively, with the former term ending at the same time the latter term begins. Any person precluded by operation of this subsection from holding office by having held office, whether as Mayor or as councilman, during five (5) consecutive terms, must not hold office either as Mayor or as councilman during the one (1) year period immediately following the expiration of the term of office held by such precluded person, before such person shall be eligible to hold office, whether as Mayor or as councilman.

**Section 3.02. Qualifications and Filing**

- (a) A person must meet the following requirements in order to be eligible to be a candidate for, or elected or appointed to, or to remain in the office of Mayor or councilman:
  - (1) Be a United States citizen;
  - (2) Be 18 years of age or older on the first day of the term to be filled or on the date of appointment, as applicable;
  - (3) Have not been determined mentally incompetent by a final judgment of a court of proper jurisdiction;
  - (4) Have not been finally convicted of a felony from which the person has not been pardoned or otherwise released from the resulting disabilities;
  - (5) Have resided continuously in the State of Texas for 12 months, and within the boundaries of the City of Orange for 6

months, immediately preceding

- a. The date of the regular filing deadline for a candidates' application for a place on the ballot for the office to be filled; or
- b. The date the appointment is made, as applicable;
- (6) Meet the requirements of subsections (b) and (c);
- (7) Satisfy any other eligibility requirements prescribed by law for the office; and
- (8) Must not be in arrears in the payment of any debt owed the City of Orange.
- (9) Must be a qualified voter of the City of Orange.

- (b) No candidate for Mayor or councilman shall be eligible to file an application pursuant to subsection (d), or be eligible as a candidate for election to a place on the City Council either as Mayor or as councilman, other than the office for which he is an incumbent, unless he shall first resign his office prior to his filing as a candidate for election to the other office. Provided, that this subsection shall not apply if the candidates' current term of office expires simultaneously with the office for which he intends to become a candidate.
- (c) A member of the City Council who ceases to be eligible to serve on the City Council shall immediately forfeit his office.
- (d) A candidate for Mayor or councilman must file an application for the office sought to be filled. The application must be filed with the City Secretary during

the filing period prescribed by State Law. An application may be filed by mail, and if filed by mail the application shall be considered to be filed at the time of its receipt by the City Secretary.

- (e) The City Council shall by ordinance prescribe the form of the application required to be filed by the preceding subsection. The City Secretary shall obtain printed forms satisfying the requirements of the ordinance; shall have such forms readily and timely available; and must furnish them, without charge, in a reasonable quantity to a person requesting them for the purpose of filing them.

### **Section 3.03. Council to be Judge of Election Qualifications**

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

#### **Section 303.1. Filing Fee or Petition of Qualified Voters Required**

Each candidate for Mayor or City Council Member shall be required to submit a filing fee in the amount of \$50.00 or a petition signed by 25 qualified voters of the City of Orange to the City Secretary at the time an application for a place on the ballot is filed with the City Secretary.

### **Section 3.04. Vacancies**

When a vacancy occurs in the City Council and the term remaining unserved in that position is less than one year until the next regular election, the remaining members of the City Council shall within ten (10) days appoint a qualified person to fill the unexpired term. However, the City Council shall not appoint more than one (1) councilman in any twelve (12) months period. Should the term remaining unserved be more than one (1) year, or in case a vacancy has been filled by the Council within twelve (12) months prior to the subsequent vacancy, or if more than one vacancy occurs at the same time or before a prior vacancy has been filled, the City Council shall call a special election within ten (10) days from the date the last vacancy occurred, to be held within fifty (50) days

thereafter for the purpose of electing the successor or successors to the office or offices vacated.

### **Section 3.05. Compensation of Mayor and Members of City Council**

The Mayor shall receive a monthly salary of Two Hundred and No/100 Dollars (\$200.00), and each other Council member shall receive a monthly salary of One Hundred and No/100 Dollars (\$100.00). Such salaries shall constitute the only compensation for the foregoing persons in connection with the performance of their respective duties, exclusive of reimbursement of expenses. The Mayor and each other Council member shall be reimbursed for their actual, reasonable expenses necessarily incurred in the performance of their respective duties, in such manner as may be prescribed for City employees in the City's Travel, Entertainment and Expense policy as such may presently exist or hereafter be amended.

### **Section 3.06. Investigative Body**

The City Council shall have power to inquire into the conduct of any office, department, agency or officer of the City, and to have investigations made as to municipal affairs. (For that purpose, it may subpoena and require the attendance of witnesses, administer oaths and compel the production of books, papers and other evidence pertaining to the investigation; and also cause the deposition of witnesses residing within or without the State of Texas to be taken according to law and the oaths administered hereunder and the subpoenas issued hereunder shall have the same force and effect as the oaths administered and the subpoenas issued by a magistrate in his judicial capacity). The City Council shall establish by ordinance the penalty for the failure of any person so subpoenaed to comply with the subpoena and this section. Any such failure shall be a misdemeanor, punishable by a fine established by such ordinance in an amount not to exceed the maximum permitted by the laws of the State of Texas, and in an amount not less than One and No/100 (\$1.00) Dollars.

### **Section 3.07. Mayor Pro-Tem**

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

### **Section 3.08. City Secretary**

The City Council shall designate an officer of the City who shall be recommended by the City Manager to serve as secretary of the City Council. The City Secretary shall give notices of the meetings, shall keep a journal of its proceedings, shall authenticate all ordinances by signature, and shall record in full in books kept for that purpose all ordinances and resolutions and shall perform all other duties assigned by this charter or the City Council.

### **Section 3.09. Meetings of the City Council**

The City Council shall meet in regular sessions at least once each month. Special meetings of the City Council shall be called by the City Secretary upon written request of the Mayor or two (2) members of the Council. All meetings shall be held upon such notice given pursuant to, and shall be conducted in compliance with, the Texas Open Meetings Act.

### **Section 3.10. Rules of Procedure and Quorum**

The City Council shall by ordinance determine its own rules and order of business. Three or more members of the City Council shall constitute a quorum, but no action of the City Council shall be of any force or effect, unless it is adopted by the favorable votes of three or more members of the City Council. Minutes of all meetings of the City Council shall be taken and recorded, and such minutes shall constitute a public record.

### **Section 3.11. Procedure for Passage of Ordinances**

The City Council shall legislate by ordinance only, and the enacting clause of every ordinance shall be, "BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ORANGE," before any ordinance shall be adopted.

Each proposed ordinance or resolution shall be introduced in written or printed form and shall not contain more than one subject, but general appropriation ordinances may contain various subjects and accounts for which monies are to be appropriated. No ordinance, unless it be declared an emergency measure, and passed by a unanimous vote of the councilmen, shall be passed and finally adopted on the day on which

it shall be introduced.

The City Attorney shall approve each ordinance in writing or shall file with the City Secretary his written legal objections thereto. Every ordinance enacted by the City Council shall be signed by the Mayor, Mayor Pro Tem, or by two (2) councilmen, and shall be filed with and recorded by the City Secretary before the same shall become effective.

Except as otherwise provided by law or this Charter, the City Secretary shall give notice of the enactment of every penal ordinance and of every other ordinance required by law or this Charter to be published, by causing the descriptive title or caption of the same to be published at least one time within ten (10) days after final passage thereof in some newspaper of general circulation in the City. The City Secretary shall note on every ordinance and on the record thereof, the dates and medium of its publication, and such notation shall be prima facie evidence of compliance with the requirements of this section.

### **Section 3.12. Code of Ordinances**

Within one (1) year after the effective date of this Charter the City Council must codify and adopt a code of general, civil and criminal ordinances. For the purpose of this section, general ordinances shall be deemed to be those ordinances of a permanent or continuing nature, which affect the residents of the City at large. Every general ordinance enacted subsequent to the original codification required shall be enacted as an amendment to the code. After the original codification, the City Council shall have the power to cause all general ordinances to be recodified and reprinted, whenever in its discretion such is deemed desirable, and it shall be mandatory upon the City Council to cause all general ordinances to be recodified and reprinted before the expiration of any ten (10) consecutive years following the last preceding codification or recodification.

When adopted by the City Council, the printed codes of general ordinances contemplated by this section shall be in full force and effect without the necessity of such codes or any part thereof being published in any newspaper.

### **Section 3.13. Proof of Ordinance**

An ordinance of the City of Orange may be proved prima facie by a printed code of ordinances purporting to be printed by authority of the City, or by a copy of the ordinance certified by the City Secretary to be a true copy of the same, or by the City Secretary's official record thereof.

**Section 3.14. Audit of Accounts**

At the close of each fiscal year, and at such other times as may be deemed necessary, the City Council shall cause an independent audit to be made of all accounts of the City by a certified public accountant.

The accountant so selected shall have no personal interest, directly or indirectly, in the financial affairs of the City or any of its officers. Upon completion of the audit, a copy of the auditor's report shall be filed with the City Secretary and become a public record for the use and benefit of the press and public.

**Section 3.15. Interference by the City Council Prohibited**

Neither the City Council, any of its members, nor the Mayor shall direct the appointment of any person to, or his removal from, office by the City Manager or any of his subordinates, or in any manner interfere with the appointment of offices and employees of the City, and, except for the purpose of inquiry, the City Council and its members shall deal with the administrative services solely through the City Manager.

**ARTICLE IV**

**The City Manager**

**Section 4.01. Appointment, Qualifications and Removal**

- (a) The City 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 administration of the affairs of the City.
- (b) The City Manager shall be chosen solely on the basis of executive and administrative training, experience and ability.
- (c) The City Manager shall be appointed for an indefinite term, and shall receive compensation as may be fixed by the Council.
- (d) No member of the Council shall, during the term of office for which he or she is elected, nor for two (2) years immediately following the expiration of such term, be appointed City Manager or Acting City Manager.
- (e) The Council may adopt a resolution removing the City Manager from office. The action of the City Council in removing the City Manager shall be final, it being the intention of this Charter to vest all authority and fix all responsibility for such removal solely in the City Council.
- (f) The City Manager need not, when appointed, be a resident of the City of Orange, but during his or her tenure of office, shall reside within the City.

**Section 4.02. Powers and Duties**

The City Manager shall be the chief executive officer and the head of the administration branch of the city government. He shall be responsible to the City Council for the proper administration of all affairs

of the City and to that end he shall have power and be required to:

1. Appoint and remove all heads of departments and all officers and employees of the City, except as otherwise provided in this Charter or by the Constitution and laws of the State of Texas, and except as he may authorize the head of a department or office to remove and appoint subordinates in such department or office.
2. Prepare the budget annually and submit it to the City Council and be responsible for its administration after adoption.
3. Prepare and submit to the City Council, as of the end of the fiscal year, a complete report on the finances and administrative activities of the City for the preceding year.
4. Keep the City Council advised of the financial condition and future needs of the City and make such recommendations as may seem to him desirable.
5. Perform such other duties as may be prescribed by this Charter or required of him by the City Council, not inconsistent with this Charter.

#### **Section 4.03. Absence of City Manager**

The City Manager may, by letter filed with the City Secretary and subject to approval by the City Council, designate a qualified City administrative officer to be Acting City Manager during the temporary absence or disability of the City Manager. If the City Manager fails to make such designation or if the City Council chooses to revoke such designation, the City Council may appoint an Acting City Manager to serve during such time. The City Council may remove an Acting City Manager at any time by resolution.

#### **Section 4.04. Creation of Administrative Departments**

There shall be such administrative departments as are established by this Charter and as may be established by ordinance, all of which shall be under the control and direction of the City Manager. The City Council may abolish any department or combine one or more departments created by it, but no administrative department shall be created, abolished or combined with another department until the City Council has requested the recommendations of the City Manager, in writing, with regard thereto and has considered any such recommendation by the City Manager. Any such recommendations of the City Manager shall be copied into the minutes.

#### **Section 4.05. Directors of Department and Departmental Organization**

At the head of each department, there shall be a director who shall be appointed, and who may be removed, by the City Manager. Such directors shall have supervision and control over their respective departments, and may serve as chiefs of divisions within their respective departments. Two (2) or more departments may be headed by the same individual, and the City Manager may head one or more departments. The City Manager shall have the power to define and assign the duties and responsibilities within any department and may establish divisions therein and assign such divisions, their work and function.

## ARTICLE V

### Nominations and Elections

#### Section 5.01. Elections

The regular City elections shall be held annually on a date set by resolution which shall be a date authorized by state law at which time officers will be elected to fill those offices which become vacant that year. The City Council shall fix the hours and place for holding such election. The City Council may, by resolution, order a special election, fix the time and place for holding same and provide all means for holding such special election. Notice of the election shall be given and published in the manner prescribed by the laws of the State of Texas.

#### Section 5.02. Election by Plurality

At any regular or special municipal election, the candidate for the offices, up to the number to be elected to any one (1) office, who shall have received the greater number of votes cast in such election, shall be declared elected. In the event a tie vote makes it impossible to determine the winning candidate, the City Council shall cause to be held a runoff election between the tied candidates within such time and in the manner prescribed by law.

#### Section 5.03. Canvass of Returns

The Council shall on the next regular or special meeting day of said Council, after each regular and special election, canvass the returns and declare the results of such election.

#### Section 5.04. Regulation of Elections

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 the ordinances adopted by the City Council for the conduct of elections. The City Council shall appoint the election judges and other election officials. Voting precincts shall be established by ordinance and may be altered from time to time in like manner.

#### Section 5.05. Filing of Candidates

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Any qualified person who desires to become a candidate for election to a place on the City Council shall file, with the City Secretary, no sooner than and not later than the dates prescribed by law, an application for the candidate's name to appear on the ballot.

#### Section 5.06. Ballots

For every regular election and for every special election called to fill one or more vacant places on the Council, the City Secretary shall place upon the official ballot the name of every candidate, who shall file an application which complies with the provisions of this Charter. The Council places to be filled shall be placed on the ballot in numerical order. The name of each candidate shall be placed on the ballot under the designated place for which he shall have filed, and in such manner that the names of the candidates for each place shall be clearly separate and distinguishable from the names of the candidates for every other Council place. The order on the ballot of the names of the candidates for each respective Council place shall be determined by lot in a drawing to be held under the supervision of the City Secretary, at which drawing each candidate or his named representative shall have a right to be present.

#### Section 5.07. Special Elections

The City Council may by resolution call special elections for the purposes required or permitted by this Charter or by the laws of the State of Texas. Such special elections shall be conducted in the manner prescribed by law.

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## ARTICLE VI

### Municipal Finance

#### Section 6.01. Director

The City Manager shall be Director of Finance, or the director shall be appointed by him.

#### Section 6.02. Bond

The Director of Finance shall provide a bond with such surety and in such amount as the City Council may require. Such bond shall be in the amount of not less than Twenty-Five Thousand and no/100 Dollars (\$25,000.00), with the premiums to be paid by the City.

#### Section 6.03. Powers and Duties

The Director of Finance shall have charge of the administration of the financial affairs of the City, and to that end, he shall have authority and shall be required to:

- (a) Compile the estimates of revenues and expenditures for the budget.
- (b) Supervise and be responsible for the disbursement of all monies and have control over all expenditures and insure that budget appropriations are not exceeded.
- (c) Maintain a general accounting system for the City government and each of its offices, departments and agencies; keep books for and exercise financial budgetary control over each office, department and agency; keep separate accounts for the items of appropriations, the amounts paid therefrom, the unpaid obligations against it and the unencumbered balance, require reports of receipts and disbursements from each receiving and spending agency of the city government to be made daily or at such intervals as he may deem expedient.

- (d) The classification of revenue and expenditure accounts shall conform as nearly as local conditions will permit to the uniform classification as promulgated by the National Committee on Municipal Accounting, or some other nationally accepted classification.
- (e) Submit to the City Council and make available to the news media through the City Manager a monthly statement of all receipts and disbursements in sufficient detail to show the exact financial condition of the City.
- (f) Prepare, as of the end of each fiscal year, a complete financial statement report.
- (g) Reserved.
- (h) Collect all taxes, special assessments, license fees and other revenues of the City or for whose collection the City is responsible and receive all money receivable by the City from the State or Federal Government, or from any court, or from any office, department or agency of the City.
- (i) Serve as ex-officio City Treasurer and shall have custody of all public funds belonging to or under the control of the City, or any office, department or agency of the city government, and deposit all funds coming into his hands in such depositories as may be designated by resolution of the City Council, or if no such resolution be adopted, by the City Manager, subject to the requirements of law as to surety and the payment of interest on deposits, but all such interest shall be the property of the City and shall be accounted for and credited to the proper account.
- (j) Have custody of all investments and invested funds of the city government, or in possession of such government in a fiduciary capacity, and have the safe-keeping of all bonds and notes of the City and the receipt and delivery of city bonds and notes for transfer registration or exchange.

- (k) Supervise and be responsible for the purchase, storage and distribution of all supplies, materials, equipment and other articles used by any office, department or agency of the city government.
- (l) Approve all proposed expenditures, unless he shall certify that there is an unencumbered balance of appropriation and available funds, no appropriation shall be encumbered and no expenditure shall be made.
- (m) Perform such other duties as may be prescribed by law, by the City Council pursuant to resolution, or as assigned by the City Manager.

**Section 6.04. Fiscal Year**

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

**Section 6.05. Contents of the Budget**

The budget shall provide a complete financial plan for the fiscal year. It shall contain the following:

- (1) A budget message;
- (2) A consolidated statement of receipts and expenditures of all funds;
- (3) An analysis of property valuations;
- (4) An analysis of the tax rate;
- (5) Tax levies and tax collection by years for at least ten (10) years;
- (6) The cash on hand to the credit of each fund;
- (7) Summary of proposed expenditures by function, department and activity;
- (8) Summary of proposed expenditures by character and object;
- (9) Detailed estimates of expenditures shown separately for each activity to support the summaries (7) and (8) above; such estimates of expenditures to include an

- itemization of positions showing the number of persons having such title and the rate of pay;
- (10) A revenue and expense statement for all types of bonds;
- (11) A description of all bond issues outstanding, showing rate of interest, date of issue, maturity date, amount authorized, amount issued, and amount outstanding;
- (12) A schedule of requirements for the principal and interest on each issue of bonds;
- (13) A special funds section;
- (14) The appropriation ordinance;
- (15) The tax levying ordinance. The total estimated expenditures of the general fund and debt service fund shall not exceed the total estimated resources of each fund (prospective income plus cash on hand).

**Section 6.06. Preparation and Submission of the Budget**

The City Manager, at least forty-five (45) days prior to the beginning of each budget year, shall submit to the City Council a proposed budget and an explanatory budget message in the form and with the contents provided by Section 6.05. For such purpose, at such date as he shall determine, he, or any officer designated by him, shall obtain from the head of each office, department or agency detailed by organization units and character and object of expenditure, and such other supporting data as he may request. In preparing the budget, the City Manager shall review the estimates, shall hold hearings thereon and may revise the estimates, as he may deem advisable. The budget and budget message and all supporting schedules shall be a public record in the office of the City Secretary, open to public inspection by anyone. The City Manager shall cause a reasonable number of copies of the budget and budget message to be prepared for distribution to interested persons.

**Section 6.07. Adoption of the Budget**

- (a) Notice of Public Hearing on Budget.

At the meeting of the City Council at which the budget is submitted, the City Council shall fix the time and place of a public hearing on the budget and shall cause to be published in a newspaper of general circulation in the City

of Orange, a notice of the hearing setting forth the time and place thereof at least five (5) days before the date of such hearing.

(b) Public Hearing on Budget.

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

(c) Proceedings on Budget After Public Hearing.

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

(d) Vote Required for Adoption.

The budget shall be adopted by the favorable vote of the majority of the members of the whole City Council. The budget shall be finally adopted not later than the twenty-seventh day of the last month of the fiscal year preceding the year for which such budget is submitted. Should the City

Council take no final action on or prior to such day, the budget as submitted by the City Manager shall be deemed to have been finally adopted by the City Council.

**Section 6.08. Appropriations**

(a) Budget Establishes Appropriations.

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

(b) Budget Establishes Amount to Be Raised by Property Tax.

From the effective date of the budget, the amount stated therein as the amount to be raised by property tax shall constitute a determination of the amount of the levy for the purposes of the City, in corresponding tax year.

(c) Contingent Appropriations.

Provision shall be made in the annual budget and in the appropriation ordinance for a contingent appropriation in an amount not more than two per cent (2%) of the total general fund expenditure, to be used in case of unforeseen items of expenditures. Such contingent appropriation shall be under the control of the City Manager and distributed by him, after approval of the City Council. Expenditures from this appropriation

shall be made only in case of established emergencies and a detailed account of such expenditures shall be recorded and reported. The proceeds of the contingent appropriation shall be disbursed only by transfer to other departmental appropriation, the spending of which shall be charged to the departments or activities for which the appropriations are made.

(d) Estimated Expenditures Shall Not Exceed Estimated Resources.

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

(e) Other Necessary Appropriations.  
The City Budget may be amended and appropriations altered in accordance therewith in cases of public necessity, the actual fact of which shall have been declared by the City Council.

**Section 6.09. Transfer of Appropriations**

No funds of the City shall be expended nor shall any obligations for the expenditure of money be incurred, except in pursuance of the annual appropriations provided by this Charter. The City Council, at the request of the City Manager and by resolution, may transfer any unencumbered appropriation balance or portion thereof from one office, department, or agency to another. The City Manager may at any time, with the approval of the City Council, transfer any unencumbered appropriation, balance of portion, or portions, thereof, between general classifications of expenditures within an office, department or agency of the City. At the close of each fiscal year any unencumbered balance of

any appropriations shall revert to the funds from which appropriated and may be reappropriated by the City Council.

**Section 6.10. Purchases, Sales and Contracts**

All purchases made, and contracts entered into, by the City, and all sales, exchanges or other dispositions of property of any kind or character owned by the City, shall be accomplished pursuant to the requirements and procedures of the constitution and laws of the State of Texas, and any ordinance, resolution or motion by the City Council not inconsistent with such constitution and laws.

**Section 6.11. Reserved**

**Section 6.12. Depositories**

All monies received by any person, department, or agency of the City for or in connection with affairs of the City shall be deposited promptly in City depositories, which shall be designated by City Council in accordance with such regulations and subject to such requirements as to security for deposits and interest thereon as may be established by ordinance. All checks, vouchers, or warrants for the withdrawal of money from the City depositories shall be signed by not less than two City representatives as prescribed by ordinance.

**Section 6.13. General Obligation Bonds**

The City shall have the power to borrow money on the credit of the City and to issue general obligation bonds for the acquisition of property for permanent public improvements or for any other public purpose not now or hereafter prohibited by the Constitution and laws of the State of Texas. Except for the refunding of bonds previously issued and proposition to borrow money and to issue such bonds shall first be approved by a majority of the qualified voters voting at an election called for the purpose of authorizing the issuance of such indebtedness. The ordinance calling such election and the manner of conducting the election shall conform in all respects to the general laws of the State of Texas.

**Section 6.14. Revenue Bonds**

The City shall have power to borrow money for the purpose of

constructing, purchasing, improving, extending or repairing of public utilities, recreational facilities or facilities for any other self liquidating municipal function not now or hereafter prohibited by any general laws of the State of Texas, and to issue revenue bonds to evidence the obligation created thereby. Such bonds shall be a charge upon and payable solely from the properties, or interest therein, acquired and the income therefrom, and shall never be a debt of the City. All revenue bonds issued by the City shall first be authorized by a majority of the qualified electors voting at an election held for such purpose. The Council shall have authority to provide for the terms and form of any purchase agreement, contract, mortgage, bonds or document desired or necessary for the issuance of revenue bonds and the acquisition and operation of any such property or interest.

**Section 6.15. Sinking Fund**

It shall be the duty of the Council to levy an annual tax sufficient to pay the interest on and provide the necessary sinking fund required by law on all outstanding general obligation bonds of the City. The interest and sinking fund shall be deposited in a separate account and shall not be diverted to or used for any other purpose than to pay the interest and principal on such bonds. The sinking fund maintained for the redemption of any debt may be invested as provided by general law.

**Section 6.16. Execution of Bonds**

All bonds, warrants and certificates of indebtedness shall be signed by the Mayor, countersigned by the City Clerk and sealed with the seal of the City in the manner provided by general law, and shall be payable at such times and place or places as may be fixed, not more than twenty (20) years from their date.

**Section 6.17. Bonds Transmitted to Attorney General**

It shall be the duty of the Mayor, when such bonds are issued, to forward the same to the Attorney General of the State of Texas for approval and for registration by the Comptroller of Public Accounts.

**Section 6.18. Bond Register**

The City Council shall keep, or cause to be kept, for and on

behalf of the City a complete bond registry and books, showing all bonds, warrants and certificates of indebtedness issued, the date and amount thereof, the rate of interest, maturity, etc., of all bonds or other indebtedness surrendered and all other transactions of the City Council having reference to the refunding of the indebtedness of said City. When bonds or the coupons are paid, their payment or cancellation shall be noted in said registry. The books shall be safely kept among the records of the City.

**Section 6.19. Misapplication of Bond Funds**

Any officer of the City who shall willfully or knowingly divert or use any funds arising from the issuance of any bonds or any sinking fund for any other purpose, except that for which the fund is created or is herein otherwise authorized, shall be subject to prosecution as provided under the laws of the State of Texas for the diversion and conversion of funds belonging to any of the municipalities of the State.

## ARTICLE VII

### Taxation

#### Section 7.01. Power to Tax

The City Council shall have the power under the provisions of state law to levy, assess and collect an annual tax upon taxable property within the City, and to establish a tax on sales within the City, to the maximum extent provided by the Constitution and general laws of the State of Texas.

#### Section 7.02. Implementation of Power to Tax

The City Council shall prescribe by ordinance the methods, procedures, rules and regulations by which its power to tax may be implemented, and by which any taxes thereby imposed may be enforced and collected.

## ARTICLE VIII

### Planning and Zoning

#### Section 8.01. The Planning and Zoning Commission — Organization

There shall be established a Planning and Zoning Commission which shall consist of seven (7) citizens of the City of Orange who are qualified to vote in City of Orange elections. The City Manager and the City Engineer shall serve as ex-officio members. The members of said Commission shall be appointed by the Council for a term of two (2) years, four (4) members to be appointed in every odd-numbered year and three (3) members in every even-numbered year. The Commission shall elect a chairman from among its membership and shall meet not less than once a month. Vacancies in an unexpired term shall be filled by the Council for the remainder of the term.

#### Section 8.02. The Planning and Zoning Commission — Powers and Duties

- (1) Make, or arrange for the preparation of a Master Plan for the physical development of the City;
- (2) Recommend to the Council approval or disapproval of proposed changes in the zoning plan;
- (3) Exercise control over platting or subdividing land within the corporate limits of the City and within an area extending five (5) miles beyond the City;
- (4) Submit annually to the City Manager, not less than ninety (90) days prior to the beginning of the budget year, a list of recommended capital improvements which in the opinion of the Commission are necessary or desirable during the

forthcoming five (5) year period;

- (5) Require information from the other departments of the City Government in relation to its work;
- (6) Recommend to the City Council the contracting with the city planners and other consultants for such services as it may require.
- (7) Recommend to the City Council whether or not a Master Plan or Comprehensive Plan should be adopted, or amended, pursuant to Section 8.03. Any such recommendation shall be made only upon the affirmative vote of a majority of all Planning and Zoning Commission members.

The Commission shall be responsible to and act as an advisory body to the Council and shall perform such additional duties and exercise such additional powers as may be prescribed by ordinance of the Council and by the State Statutes and not inconsistent with the provisions of this Charter.

### **Section 8.03. The Comprehensive Plan**

It is the purpose and intent of this article that the City Council establish comprehensive planning as a continuous and ongoing governmental function in order to promote and strengthen the existing role, processes, and powers of the City of Orange to prepare, adopt, and implement a comprehensive plan to guide, regulate, and manage the future development within the corporate limits and the extraterritorial jurisdiction of the City to assure the most appropriate and beneficial use of land, water, and other natural resources, consistent with public interest.

The City Council may adopt by ordinance a comprehensive plan for the overall physical development of the City. Any future amendments or adoptions of the comprehensive plan must be done by ordinance. An ordinance adopting or amending the comprehensive plan shall not be approved until after a joint public hearing with the City Council and Planning and Zoning Commission on the matter at which parties in

interest and citizens have an opportunity to be heard. Before the 15th day before the date of the hearing, notice of the time and place of the hearing must be published in an official newspaper or a newspaper of general circulation in the city. The Planning and Zoning Commission shall make recommendations to the City Council concerning the proposed adoption or amendment of the comprehensive plan. City Council shall act on the Planning and Zoning Commission recommendations within sixty (60) days from the date of the recommendation. A vote of a majority of all City Council members is required to affirm or overrule a proposed adoption or amendment to the comprehensive plan.

A review of the total comprehensive plan, to include a public hearing, shall be made by the Planning and Zoning Commission and City Council at least once every even-numbered year.

### **Section 8.04 Legal Effect of Comprehensive Plan**

No subdivision, street, park, or any public way, ground or space, public building or structure or public utility, whether publicly or privately owned which is in conflict with the comprehensive plan shall be constructed or authorized by the City. The widening, narrowing, relocating, or change in the use of any street, alley, or public way or ground or the sale of any public building or real property shall be submitted to and considered by the Planning and Zoning Commission. The Planning and Zoning Commission shall communicate its recommendations, together with its reasons, to the City Council for consideration and action.

### **Section 8.05. Platting Property**

The City Council may, by ordinance, regulate the platting and subdivision of property both within the boundaries of the City, and within the extraterritorial jurisdiction of the City, to the fullest extent and subject to the restrictions, conditions and limitations established by the laws and constitution of the State of Texas.

**Section 8.06. Advice and Recommendations of Certain Public Improvements**

The governing body of the City may refer to and the City Planning and Zoning Commission shall have the power to pass upon all street improvements, opening, widening, of streets and building of public nature covered by the Master Plan and give advice and recommendations to the City Council upon any such proposals, provided, however, that the governing body may thereafter adopt the recommendations, revise or reject them.

**Section 8.07. Zoning Ordinances — Power to Pass**

For the purpose of promoting the public health, safety, order, prosperity and general welfare, the City of Orange, acting through the City Council or other governing body or under its direction, shall have the power to divide the City of Orange into zones or districts for the purpose of regulating and controlling the size, height, bulk and use of buildings within such zones or districts and may exercise any other powers necessary fully to effectuate and accomplish the purpose of the powers herein conferred; that the further power is conferred upon the City of Orange to establish building lines within such zones or districts or to establish building lines in residential districts or in other portions of the City, as may be deemed advisable by the said Council, and to make different regulations for different districts, as may be deemed advisable.

The foregoing powers shall be available to the City Council to the fullest extent and subject to the restrictions, conditions and limitations established by the laws and constitution of the State of Texas.

**ARTICLE IX**

**Corporation Court**

**Section 9.01. Creation**

There is hereby established and organized in the City of Orange a court to be known as the “Corporation Court in the City of Orange.”

**Section 9.02. Jurisdiction**

Said court shall have and exercise criminal jurisdiction in said City of Orange, co-extensive with its limits, as provided by and in accordance with the provisions of the laws of the State of Texas.

**Section 9.03. Procedure**

The rules of pleading, practice and procedure in said court shall be the same as provided by the laws of the State of Texas.

**Section 9.04. Presiding Officer**

Said court shall be presided over by a judge, to be appointed by the City Council and to be known as Judge of the Corporation Court of the City of Orange, who shall be a qualified voter.

**Section 9.05. Special Judge**

The City Council shall provide for a special judge of the Corporation Court in case of absence, disability or disqualifications of the regular judge and provide for the compensation of such special judge.

**Section 9.06. Fines and Costs**

The City Council shall have the power to provide by ordinance for the amount of fine and cost to be imposed upon and assessed against those convicted of offenses in the Corporation Court. All such fines and costs shall be collected and paid into the Treasury of the City.

**ARTICLE X**

## **Initiative, Referendum and Recall**

### **Section 10.01. Power of Initiative**

The people of the City reserve the power of direct legislation by initiative, and in the exercise of such power may propose any ordinance, not in conflict with this Charter, the State Constitution, or the State laws except an ordinance appropriating money or authorizing the levy of taxes. Any initiated ordinance may be submitted to the Council by a petition signed by qualified voters of the City equal in number to at least twenty per cent (20%) of the total vote cast in the last General Municipal Election.

### **Section 10.02 Power of Referendum**

The electors shall have power to approve or reject at the polls any ordinance passed by the Council, or submitted by the Council to a vote of the electors, such power being known as referendum, except in cases of bond ordinances and ordinances authorizing the levy of taxes. Ordinances submitted to the Council by initiative petition and passed by the Council without change shall be subject to the referendum in the same manner as other ordinances. Within twenty (20) 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 at least twenty per cent (20%) of the number of votes cast in the last preceding general election may be filed with the City Secretary requesting that any such ordinance be either repealed or submitted to a vote of the electors.

### **Section 10.03. Form of Petitions, Committee of Petitioners**

Initiative petition 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 petition there shall be attached a statement of the circulator thereof as provided by this section. Each signer of any petition paper shall sign his name in ink or indelible pencil and shall indicate after his name his place of residence by street and number, or other description sufficient to identify the place. There shall appear on each petition the names and addresses of five (5) electors, who, as a committee of the petitioners, shall be regarded as responsible for the circulation and filing of the petition. Attached to each separate petition paper there shall be an affidavit of the circulator thereof that he, and he only, personally circulated the foregoing paper, that it bears

a stated number of signatures, that all signatures appended thereto were made in his presence, and that he believes them to be the genuine signatures of the persons whose names they purport to be and that the signatures were affixed as evidence of support of the purpose, or purposes, therein stated.

### **Section 10.04. Filing, Examination and Certification of Petitions**

All petition papers comprising an initiative or referendum petition shall be assembled and filed with the City Secretary as one instrument. Within twenty (20) days after the petition is filed, the City Secretary shall determine whether each paper of the petition has a proper statement of the circulator and whether the petition is signed by a sufficient number of qualified electors. The City Secretary shall declare any petition paper entirely invalid which does not have attached thereto an affidavit signed by the circulator thereof. If a petition paper is found to be signed by fewer persons than the number certified, the signatures shall be accepted unless void on other grounds. After completing his examination of the petition, the City Secretary shall certify the result thereof to the Council at its next regular meeting. If he shall certify that the petition is insufficient, he shall set forth in his certificate the particulars in which it is defective and shall at once notify the committee of the petitioners of his findings.

### **Section 10.05. Amendment of Petitions**

Any initiative or referendum petition may be amended at any time within ten (10) days after the notification of insufficiency has been sent by the City Secretary, by filing a supplementary petition upon additional papers signed and filed as provided in case of an original petition. The City Secretary shall, within five (5) days after such an amendment is filed, make examination of the amended petition and, if the petition be still insufficient, he shall file his certificate to that effect in his office and notify the committee of petitioners of his findings and no further action shall be had on such insufficient petition. The finding of the insufficiency of a petition shall not prejudice the filing of a new petition for the same purpose.

### **Section 10.06. Effect of Certification of Referendum Petition**

When a referendum petition, or amended petition as defined in

Section 10.05 of this article, has been certified as sufficient by the City Secretary, the ordinance specified in the petition shall not go into effect, or further action thereunder shall be suspended if it shall have gone into effect, until and unless approved by the electors, as hereinafter provided.

#### **Section 10.07. Consideration by Council**

Whenever the Council receives a certified initiative or referendum petition from the City Secretary, it shall proceed at once to consider such petition. A proposed initiative ordinance shall be read and provision shall be made for a public hearing upon the proposed ordinance. 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 be reconsidered by the Council and its final vote upon such reconsideration shall be upon the question, "Shall the ordinance specified in the referendum petition be repealed?"

#### **Section 10.08. Submission to Electors**

If the Council shall fail to pass an ordinance proposed by the initiative petition, or shall pass it in a form different from that set forth in the petition ordinance, the proposed or referred ordinance shall be submitted to the electors not less than thirty (30) days nor more than sixty (60) days from the date the Council takes its final vote thereon. The Council may, in its discretion, and if no regular election is to be held within such period, provide for a special election.

#### **Section 10.09. Form of Ballot for Initiated and Referred Ordinances**

Ordinances submitted to vote of the electors in accordance with the initiative and referendum provisions of this Charter shall be submitted by ballot title, which shall be prepared in all cases by the City Attorney. The ballot title may be different from the legal title of any such initiated or referred ordinance and shall be a clear, concise statement, without argument or prejudice, descriptive of the substance of such ordinance, and, if a paper ballot, it shall have below the ballot title the following propositions, one above the other in the order indicated;

“FOR THE ORDINANCE”

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“AGAINST THE ORDINANCE.”

Any number of ordinances may be voted on at the same election and may be submitted on the same ballot, but any paper ballot used for voting thereon shall be for that purpose only. If voting machines are used, the ballot title of any ordinance shall have below it the same two propositions, one above the other or one preceding the other, in the order indicated, and the elector shall be given an opportunity to vote for either of the two propositions and thereby to vote for or against the ordinance.

#### **Section 10.10. Results of Election**

If the majority of the electors voting on a proposed initiative ordinance shall vote in favor thereof, it shall thereupon be deemed enacted. If a majority of the electors voting on a referred ordinance shall vote against such ordinance, it shall thereupon be deemed repealed. If conflicting ordinances are approved by the electors at the same elections, the one receiving the greatest number of affirmative votes shall prevail to the extent of such conflict.

#### **Section 10.11. 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.

#### **Section 10.12. Recall — General**

Any member of the City Council, including the Mayor, may be removed from office by recall.

#### **Section 10.13. Recall Procedure**

Any elector of the City of Orange may make and file with the City Secretary an affidavit containing the name or names of the officer or officers whose removal is sought and a statement of the grounds for removal. The Secretary shall thereupon deliver to the elector making such affidavit copies of petition blanks demanding such removal. The City Secretary shall keep a sufficient number of such printed petition blanks on hand for distribution. Such blanks, when issued by the City Secretary, shall bear the signature of that officer and be addressed to the City

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Council, and shall be numbered, dated, and indicate the name of the person to whom issued. The petition blanks, when issued, shall also indicate the number of such blanks issued and the name of the officer whose removal is sought. The City Secretary shall enter in a record to be kept in his office the name of the elector to whom the petition blanks were issued and the number issued to said person.

#### **Section 10.14. Recall Petitions**

The recall petition to be effective must be returned and filed with the City Secretary within thirty (30) days after the filing of the affidavit required in Section 10.13 of this article and it must be signed by qualified electors of the City equal in number to at least twenty per cent (20%) of the total number of votes cast at the last municipal election at which two (2) councilmen were elected; provided, however, that the petition shall conform to the provisions of Section 10.03 of this article. No petition paper shall be accepted as part of a petition unless it bears the signature of the City Secretary, as required in Section 10.13 of this article.

#### **Section 10.15. Recall Election**

The City Secretary shall at once examine the recall petition, and if he finds it sufficient and in compliance with the provisions of this article of the Charter, he shall within five (5) days submit it to the City Council with his certificate to that effect and notify the officer sought to be recalled of such action. If the officer whose removal is sought does not resign within five (5) days after such notice, the City Council shall thereupon order and fix a date for holding a recall election. Any such election shall be held not less than thirty (30) nor more than sixty (60) days after the petition has been presented to the City Council at the same time as any municipal election held within such period; but if no such municipal election be held within such period, the City Council shall call a special election to be held within the time aforesaid.

#### **Section 10.16. Ballots in Recall Election**

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

- (1) With respect to each person whose removal is sought, the question shall be submitted, "Shall (name of person) be removed from the office of (name of office) by recall?"
- (2) Immediately below each such question, there shall be printed the two following propositions, one above the other, in the order indicated:  
"For the recall of (name of person)"  
"Against the recall of (name of person)"

#### **Section 10.17. Results of Recall Election**

If a majority of the votes cast at a recall election shall be against the recall of the officer named on the ballot, he shall continue in office for the remainder of his unexpired term, subject to recall as before. If a majority of the votes cast at such election be for the recall of the officer named on the ballot, he shall, regardless of any technical defects in the recall petition, be deemed removed from office and the vacancy shall be filled by the City Council as in other vacancies.

#### **Section 10.18. Limitations on Recalls**

No recall petition shall be filed against a councilman within six (6) months after he takes office nor in respect to an officer subjected to a recall election and not removed thereby, unless at least six (6) months after such election.

## ARTICLE XI

### Franchises and Public Utilities

#### Section 11.01 Powers to Grant

The City of Orange, by ordinance duly passed, for such consideration and upon such terms as the city Council may deem proper, shall have the power to grant to any person, firm or corporation any right or franchise to use or occupy the public streets, avenues, alleys or grounds of the City. If at any time, however, before any ordinance granting a franchise takes effect, a petition shall be submitted to the City Council, signed by five hundred (500) of the bona fide qualified voters of the City, asking that the granting of such franchise be submitted to a vote of the people, then the City Council shall submit the question of granting such franchise to a vote of the qualified voters of the City at the next succeeding general election to be held in said City; provided that notice thereof shall be published by the party seeking the franchise for the number of days required by law in a newspaper of general circulation in the City of Orange, prior to the holding of the election. In the event the next succeeding general election is not within twelve (12) months from the effective date of the ordinance, then the City Council may submit same at a special election to be called by the City Council. Ballots shall be used, briefly describing the franchise to be voted on and the terms thereof, and shall contain the words, "For the granting of a franchise" and "Against the granting of a franchise." If a majority of those voting at said election shall vote in favor of granting a franchise, the City Council, upon canvassing the returns, shall so declare and said franchise shall take effect in accordance with its terms. No franchise shall be assignable.

#### Section 11.02. Limitation of Time of Franchise

No franchise shall ever be granted by the City to run for a period of more than fifty (50) years from its effective date. After the passage of a franchise ordinance and before its effective date, the full text of such ordinance shall be published once each week for two consecutive weeks in a newspaper of general circulation in the City of Orange and the expense of such publication shall be borne by the proponent of the franchise.

#### Section 11.03. Acceptance and Effective Date of Franchise

Any such franchise granted shall, prior to becoming effective, be accepted by the grantee in writing filed with the City Secretary of the City of Orange. No franchise shall take effect until thirty (30) days after its adoption on second and final reading, and, if petition for referendum has theretofore been filed as provided by law, such franchise shall not take effect until it has been approved by the voters as provided by law.

#### Section 11.04. Bond

The City Council of the City of Orange, if it so elects, may, by a provision in a franchise ordinance, require the person, firm or corporation to whom a franchise is granted by the City, and before the franchise goes into effect, to execute and deliver to the City a good and sufficient bond, in such amount as fixed in said franchise, obligating such person, firm or corporation to begin operation and pursue same under the terms and conditions fixed by the ordinance granting such franchise.

#### Section 11.05. Ordinance Granting Franchise

Any ordinance granting a franchise shall give the City in express terms the right to purchase the property of the franchise holder located within the corporate limits and devoted to the service of residents of the City of Orange, at any time within five (5) years before the expiration of the term thereof, but prior to the last twelve (12) months of said term; and providing that any purchase so made shall be effective at the expiration of the term. Before the City shall purchase property from any franchise holder, the matter of acquisition of such property shall be submitted at a municipal election to be determined by a majority vote of the qualified taxpayers voting thereon.

#### Section 11.06. Regulation of Franchise

Every grant, renewal, extension or amendment of a public utility franchise, whether so provided in the ordinance or not, shall be subject to the right of the Council:

- (1) To forfeit any such franchise by ordinance at any time for failure of the holder thereof to comply with the

terms of the franchise, such power to be exercised only after thirty (30) days notice and public hearing;

- (2) To impose regulations to insure safe, efficient and continuous service to the public;
- (3) To compel all persons, firms or corporations operating any public utilities in this City, whether operating under existing franchises, or franchises that may be hereafter granted, to extend their service, lines, pipes, etc., if the person to be benefited by such extension will pay the costs thereof, or it can be shown that the revenues resulting from such extension will, within a reasonable time after same is made, pay a reasonable return on the investment, after making the customary allowance for depreciation;
- (4) To require every franchise holder to furnish to the City, without cost to the City, full information regarding the location, character, extent and condition of all major facilities of such franchise holder located exclusively in, over and under the streets, alleys, and other public property of the City; and to regulate and control the location, relocation, and removal of such facilities;
- (5) To demand that all franchise holders shall keep a standard system of accounting peculiar to that business, and to require annual and other reports, including reports on the local

operations of the utility, which shall be in such form and contain such information as the Council shall prescribe;

- (6) To require and collect any compensation and rental not now or hereafter prohibited by the laws of this state;
- (7) To require such franchise holders, who request an increase in rates, charges or fares, to reimburse the City for seventy-five per cent (75%) of the expenses incurred in employing rate consultants to conduct investigations, present evidence and advise the Council on such requested increase.

#### **Section 11.07. Regulation of Rates**

The City Council shall have full power after notice and hearing to regulate by ordinance the rates, charges and fares of every public utility franchise holder operating in the City, provided that no such ordinance shall be passed as an emergency measure. Any franchise holder requesting an increase in its rates, charges or fares shall have, at the hearing on such request, the burden of establishing by clear and convincing evidence the value of its investments and the amount and character of its expenses and revenues. No franchise holder shall institute any legal action to contest any rate, charge or fare fixed by the Council until such franchise holder has filed a motion for rehearing with the Council specifically setting out each ground of its complaint against the rate, charge or fare fixed by the Council, and until the Council shall have acted upon such motion; provided, however, that such council action must be taken within a period of sixty (60) days.

**Section 11.08. 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 liabilities subdivided by classes, depreciation reserve, other reserves and surplus; also revenues, operating expenses including depreciation, interest payments, rental and other distribution of annual income. The accounts shall show the actual capital cost to the City of each public utility owned, also the costs 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 governmental department. The City Council shall annually cause to be made and published a report showing the financial results of such city ownership and operation, giving the information specified in this section and such additional data as the City Council shall deem expedient.

**ARTICLE XII**

**Disabled Employees, Pensions and Insurance**

**Section 12.01. Disabled Employees, Pensions and Insurance**

The City Council shall have authority to provide for rules and regulations for maintaining employees when injured and disabled while performing their duties, or it may provide for such plan of insurance as it deems proper. The City Council shall have authority to establish a pension and retirement system for any or all groups of officers and employees in the service of the City. Any officer or employee of the City at the time of establishment of such system shall for ninety (90) days thereafter have the privilege of becoming a member of the system so established and to share its benefits. Officers and employees thereafter appointed in the classified service shall be required to join the system as a condition of employment. The City Council shall have authority on behalf of the City of Orange and its officers and employees, to join or participate in any district or state-wide pension and retirement system which has been established by the Legislature of the State of Texas.

When and if a pension and retirement system is established under the provisions of this section, the City Council shall also make provision for its administration, either by the creation of a Department of Personnel, with a Director and a Personnel Board, or otherwise, as it may see fit, with such power and duties and compensation as the City Council by ordinance may prescribe and delegate; and such administrative agent or agency shall also have charge of the collection, investment, payment and custody of funds of the pension and retirement system. If necessary to the maintenance of a financially sound system, the City Council may by ordinance provide for as much as one-half (1/2) of the cost of its maintenance to be borne by the City.

## ARTICLE XIII

### General Provisions

#### Section 13.01. Availability of Records

The public records of the City shall be available to the public subject to the procedures and exceptions of the Texas Open Records Act. The City Council may provide, by ordinance, regulations and procedures for the implementation and enforcement of said Act.

#### Section 13.02. Personal Interest

All members of the City Council, and all officers and employees of the City, shall be subject to and shall comply with the provisions of general state law regarding personal, financial or conflicting interests in transactions with the City, including but not limited to Chapter 171 of the Texas Local Government Code. The City Council shall provide, by ordinance, regulations and procedures for the implementation and enforcement of said Chapter.

#### Section 13.03. Officers — Not to Be Interested in Franchises — Forfeiture of Office

Neither the Mayor nor any other member of the City Council, nor any elective or appointive officer of the City, shall be directly or indirectly in the employ of any person, company or corporation, holding or seeking to hold any franchise from the City of Orange, or shall receive directly or indirectly any wage, commission, fee, gift, favor or payment from such franchise holder, and any violation of this section shall ipso facto render vacant the office held by the person violating it.

#### Section 13.04. Nepotism

All members of the City Council, and all officers and employees of the City, shall be subject to and shall comply with the provisions of general state law regarding nepotism, including but not limited to Chapter 573 of the Texas Government Code. The City Council shall provide, by ordinance, regulations and procedures for the implementation and enforcement of said Chapter.

#### Section 13.05. Persons Indebted to the City Shall Not Hold Office or Employment

No person shall be qualified to hold a municipal office or serve the City in any other capacity for which compensation is paid who is, or may become while in service in arrears in the payment of taxes or other liabilities due the City.

#### Section 13.06. Oath of Office

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

“I, (Name of person) do solemnly swear (or affirm) that I will faithfully execute the duties of the office of (name of office) of the City of Orange, State of Texas and will to the best of my ability preserve, protect and defend the Constitution and laws of the United States and of this state and the Charter and ordinances of this City; and I furthermore solemnly swear (or affirm) that I have not directly nor indirectly paid, offered, or promised to pay, contribute, nor promised to contribute any money, or valuable thing, or promised any public office or employment, as a reward for the giving or withholding a vote at the election at which I was elected, or if the office is one of appointment, to secure my appointment. So help me God.”

#### Section 13.07. Damage Suits

Before the City shall be liable to any person or persons for damage, loss or destruction of property, or for damages arising out of the death of or injury to any person or persons, the City shall be given notice by or on behalf of each claimant for such damage, loss or destruction. Such notice shall be given in the form and content, and within the time limitations, prescribed by the Texas Tort Claims Act. The City Council may provide, by ordinance, regulations and procedures for the implementation and enforcement of said Act.

#### Section 13.08. Assignment, Execution and Garnishment

The property, real and personal, belonging to the City shall not be liable for sale or appropriation under any writ of execution. The funds belonging to the City, in the hands of any person, firm or corporation,

shall not be liable to garnishment, attachment or sequestration; nor shall the City be liable to garnishment of account of any debt it may owe or funds or property it may have on hand or owing to any person. Neither the City nor any of its officers or agents shall be required to answer any such writ of garnishment on any assignment of wages or funds by its employees, agents or contractors.

**Section 13.09. Reserved**

**Section 13.10. 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.

**Section 13.11. Effect of this Charter on Existing Law**

All ordinances, resolutions, rules and regulations now in force under the City Government of Orange and not in conflict with the provisions of this Charter, shall remain in force under this Charter until altered, amended or repealed by the Council after this Charter takes effect; and all rights of the City of Orange under existing franchises and contracts are preserved in full force and effect to the City of Orange. Upon adoption of this Charter, it shall constitute the Charter of the City of Orange.

**Section 13.12. Continuance of Contracts and Succession of Rights**

All contracts entered into by the City, or for its benefit, prior to the taking effect of this Charter, shall continue in full force and effect. Public improvements for which legislative steps have been taken under laws or ordinances existing at the time this Charter takes effect may be carried to completion in accordance with the provisions of such existing laws or ordinances.

All suits, taxes, penalties, forfeitures and all other rights, claims and demands, which have accrued under the laws heretofore in force governing the City of Orange shall belong to and be vested in and shall be prosecuted by and for the use and benefit of the corporation hereby created, and shall not in anywise be diminished, affected or prejudiced by the adoption and taking effect of this Charter.

**Section 13.13. Construction and Separability Clause**

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

**Section 13.14. Construction of Charter**

Except to the extent that this Charter expressly limits a power granted to the City of Orange, all such powers shall be construed to permit the exercise of such power to the fullest extent permitted by, and to be subject to the limitations, restrictions, and conditions contained in, the laws and constitution of the State of Texas. This Charter shall be construed in the manner prescribed for statutes and codes contained in the Texas Code Construction Act.

**Section 13.15. Interim Municipal Government**

From and after the date of the adoption of any amendment to this Charter, and until the completion of the first city election thereunder and the qualification of the Mayor and Councilmen therein elected, the Mayor and Councilmen then in office shall continue in office and shall exercise all of the powers conferred upon the City by such amendment.

**Section 13.16. Amending the Charter**

This Charter may be amended by any method permitted by general state law regarding the amendment of charters of home rule municipalities, including but not limited to Chapter 9 of the Local Government Code. The City Council may provide, by ordinance, regulations and procedures for the implementation and enforcement of said Chapter.