

City of Sweeny, Texas

City Charter

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**ARTICLE I. INCORPORATION, FORM OF GOVERNMENT, AND POWERS**

**Sec. 1.01. Incorporation.**

The inhabitants of the City of Sweeny, Brazoria County, Texas, residing within its corporate limits as heretofore or hereafter established, are hereby constituted and shall continue to be municipal body politic and corporate in perpetuity under the name of the "City of Sweeny," hereinafter referred to as the "City," with such powers, privileges, rights, duties, and immunities as are herein provided.

**Sec. 1.02. General Powers.**

The City shall have the powers granted to cities by the Constitution and Laws of the State of Texas, together with all of the implied powers necessary to carry into execution such granted powers. The City may use a corporate seal; may sue and be sued; may contract and be contracted with; may cooperate with the government of the State of Texas or any agency or political subdivision thereof or with the federal government or agency thereof to accomplish any lawful purpose for the advancement of the interest, welfare, health, morals, comfort, safety, and convenience of the City and its inhabitants; may acquire property within or without its corporate limits for any municipal purpose in fee simple or in any lesser interest or estate by purchase, gift, devise, lease, or condemnation and, subject to the provisions of this Charter and the Constitution and Laws of the State of Texas, may sell, lease, mortgage, hold, manage, improve, and control such property as may now or hereafter be owned by it; may pass ordinances and enact such regulations as may be expedient for the maintenance of the good government, order, and peace of the City and the welfare, health, morals, comfort, safety, and convenience of its inhabitants. The powers hereby conferred upon the City shall include, but are not restricted to, the powers conferred upon home rule municipalities by acts of the Legislature of the State of Texas, as heretofore or hereafter enumerated, all of which are hereby adopted. In addition to the powers enumerated herein and subject only to the limitations imposed by the Constitution and Laws of the State of Texas and by this Charter, the City shall have, without the necessity of expressed enumeration in this Charter, each and every power which by virtue of Article XI, Section V, of the Constitution of the State of Texas, the people of the City are empowered by election to grant or to confer upon the City by expressly and specifically granting and enumerating the same herein. All such powers, whether expressed or implied, shall be exercised and enforced in the manner prescribed in this Charter, or when not prescribed herein, in such manner as shall be provided by ordinance of the City Council.

**Sec. 1.03. Form of Government.**

The municipal government provided by this Charter shall be, and shall be known as, a "City Council-Manager" form of government. Pursuant to the provisions of, and subject only to the limitations imposed by the Constitution and Laws of the State of Texas and by this Charter, all powers of the City shall be vested in and exercised by an elective City Council, hereinafter referred to as the "City Council," which shall enact ordinances, adopt budgets, determine policies, appoint the City Manager, and execute such other powers and duties as may be prescribed by this Charter or Law.

**Sec. 1.04. Streets and Public Property.**

The City shall have exclusive dominion, control, and jurisdiction in, upon, over, and under the public streets, sidewalks, alleys, public squares and public ways within the corporate limits of the City and in, upon, over, and under all public property of the City. With respect to each and every public street, sidewalk, alley, highway, public square, public park or other public way within the corporate limits of the City, the City shall have the power to establish, maintain, improve, alter, abandon, or vacate the same, to regulate, establish, or change the grade thereof; to control and regulate the use thereof, and to abate and remove in a summary manner any encroachment thereon.

**Sec. 1.05. Street Development and Improvement.**

The City shall have the power to develop or improve, or cause to be developed or improved, any and all public streets, sidewalks, alleys, highways and other public ways within the corporate limits of the City by laying out, opening, narrowing, widening, straightening, extending, lighting, or establishing building lines along the same; by purchasing, condemning, and taking property therefor; by filling, grading, raising, lowering, paving, repaving or repairing the same in a permanent manner, and by constructing, reconstructing, altering, repairing, or realigning curbs, gutters, drains, sidewalks, culverts, and other appurtenances and incidentals in connection with such development or improvement herein authorized, or any combination or part thereof. The cost of such development or improvement may be paid partly or entirely by assessments levied as a lien against the properties abutting thereon and against the owners thereof, and such assessments may be levied in any amount and under any procedure not prohibited by the Laws of the State of Texas; provided, that no assessment shall be made against such land or owners in excess of the enhancement in value of such property occasioned by such improvement.

If improvements be ordered constructed in any part of any such area used or occupied by the tracks or facilities of any railway or public utility, the City Council shall have the power to assess the whole cost of improvements in such area and the added costs of improvements in areas adjacent thereto made necessary by such use or occupancy against such railways or public utility, and shall have power by ordinance to provide for the enforcement of such assessment.

**Sec. 1.06. Change of Boundaries and Annexation of Territory.**

The City Council shall have the power by ordinance to fix the boundary limits of the City and to provide for the alteration and extension of said boundary limits, the annexation of additional territory lying adjacent to the City, and the detachment or disannexation of territory, with or without the consent of the owners and inhabitants of the territory annexed, detached, or disannexed, in any manner not inconsistent with applicable procedural rules prescribed by Law. Upon final passage of any ordinance annexing territory, the corporate limits of the City shall thereafter include the territory annexed; and when any additional territory has been annexed, the same shall be a part of the City and the property situated therein shall be subject to taxes levied by the City; and the inhabitants thereof shall be entitled to all of the rights and privileges of all citizens, and shall be bound by this Charter and the

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ordinances, resolutions, rules and regulations of the City. Upon the final passage of any ordinance detaching or disannexing territory from the City, the corporate limits of the City shall be reduced by the territory detached or disannexed.

**ARTICLE II. THE CITY COUNCIL**

**Sec. 2.01. Number, Selection, and Term of Office.**

The City Council shall be composed of a Mayor and five Councilmembers. Councilmembers shall be elected to and occupy positions on the City Council, such positions being numbered one, two, three, four and five. Members of the City Council, unless sooner removed under the provisions of this Charter or the Laws of the State of Texas, shall serve for a term of two (2) years. Terms shall commence the third Tuesday in May following the member's election, and terminate at midnight on the Monday preceding the third Tuesday in May two years thereafter, or until the member's successor has been elected and duly qualified. Councilmember positions one, three, and five shall be filled each even numbered year, and positions two and four shall be filled each odd numbered year. The office of Mayor shall be filled each odd numbered year.

**Sec. 2.02. Qualifications and Limitations.**

Each member of City Council shall be a citizen and qualified voter of the State of Texas and the City of Sweeny at the time of his or her election to office. No member of the City Council shall hold any other office or employment under the City government while serving on said City Council, or hold any paid employment under the City government within two years thereafter. Any member of the City Council ceasing to reside in the City shall be deemed to have vacated his or her position on the City Council.

**Sec. 2.03. Compensation.**

Councilmembers shall not receive remuneration or compensation; however, they shall be entitled to all necessary expenses incurred in the performance of their official duties. The Mayor shall receive such remuneration or compensation as may be established from time to time by the City Council.

**Sec. 2.04. Mayor and Mayor Pro Tem.**

The Mayor shall preside at all meetings of the City Council and shall be recognized as head of the City government for all ceremonial purposes, for the purpose of receiving service of civil process, for emergency purposes, and for military purposes, but shall have no regular administrative duties. The Mayor shall perform such other duties and possess and exercise such other authority as may be prescribed and conferred by the City Council. The Mayor, as a member of the City Council, shall be entitled to vote only in the case of a tie.

At its first regular meeting following the general municipal election each year, the City Council shall by election designate one of its members as Mayor Pro Tem, who shall serve in such capacity at the pleasure of the City Council. The Mayor Pro Tem shall act as Mayor during the absence or disability of the Mayor and shall have power to perform every act the Mayor could perform if present. If the Mayor and the Mayor Pro Tem are absent from a meeting, the City Council shall elect an attending member to preside over such meeting.

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**Sec. 2.05. Vacancies.**

Vacancies on the City Council arising from any cause may be filled by a majority vote of the remaining members, or the City Council may call a special election to fill such vacancy. The person appointed or elected to fill such vacancy shall serve the remainder of the unexpired term for such office. The person filling such vacancy shall possess all qualifications required for the office as set forth in Section 2.02 of this Charter.

**Sec. 2.06. Powers of the City Council.**

All powers and authority which are expressly or impliedly conferred on or possessed by the City shall be vested in and exercised by the City Council; provided, however, the City Council shall have no power to exercise those powers which are expressly conferred upon other City officers by this Charter.

**Sec. 2.07. Investigative Body.**

The City Council shall have the power to inquire into the official conduct of any department, agency, office, officer or employee of the City, and for that purpose shall have the power to administer oaths, subpoena witnesses, compel the production of books, papers and other evidence material to the inquiry. The City Council may provide by ordinance penalties for contempt in failing or refusing to obey any such subpoena or to produce any such books, papers, or other evidence, and shall have the power to punish such contempt in the manner provided by such ordinance.

**Sec. 2.08. Interference in Personnel Matters.**

Neither the City Council nor any of its members shall instruct or request the City Manager, or any subordinate of the City Manager, to appoint to or remove from office or employment any person except with respect to those offices which are to be filled by appointment by the City Council under the provisions of this Charter. Except for the purposes of inquiry and investigation, the City Council and its members shall deal with the administrative service of the City solely through the City Manager and shall not give orders to any of the City Manager's subordinates, either publicly or privately.

**Sec. 2.09. City Secretary.**

The City Council shall appoint a City Secretary. The City Secretary shall keep the records of the City Council and shall perform such other duties and hold such other responsibilities of office as may be assigned by this Charter or the City Council. The City Secretary shall appoint such assistants as may be authorized by the City Council.

**Sec. 2.10. Meetings of the City Council.**

There shall be at least one regular meeting of the City Council each month. Regular meetings shall be held at the City Hall and shall be held at such times as shall be prescribed by ordinance or resolution. Special meetings may be called at



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anytime by the City Secretary upon request of the Mayor, the City Manager, or three members of City Council. Special meetings may be held at locations other than at the City Hall when deemed necessary and appropriate by the City Council, provided such special meetings are held at locations accessible to the general public.

#### **Sec. 2.11. Rules of Procedure.**

The City Council shall determine its own rules and order of business. A majority of the City Council qualified and serving shall constitute a quorum for all meetings for the transaction of business. The City Council may adopt such rules and prescribe such penalties as it may deem proper to enforce the attendance of its members at all regular and special meetings of the City Council or its committees. Minutes of all meetings of the City Council shall be taken and recorded and such minutes shall constitute a public record.

#### **Sec. 2.12. Procedure to Enact Legislation.**

The City Council shall legislate by ordinance. The enacting clause of every ordinance shall be, "Be it Ordained by the City Council of the City of Sweeny, Texas." Every ordinance enacted by the City Council shall be signed by the Mayor, the Mayor Pro Tern, or by two members of City Council and shall be filed with and recorded by the City Secretary. Every ordinance shall take effect immediately upon its final passage, unless otherwise provided by Law or by the terms of such ordinance.

#### **Sec. 2.13. Publication of Ordinances.**

Except as otherwise provided by Law or this Charter, the City Secretary shall give notice of the enactment of every ordinance imposing any penalty, fine, or forfeiture for any violation of any of its provisions, and of every other ordinance required by Law or this Charter to be published, by causing said ordinance, or its caption and penalty, to be published at least one time within ten days after final passage thereof in the official newspaper of the City. The affidavit of publication by the publisher of such newspaper taken before any officer authorized to administer oaths and filed with the City Secretary shall be conclusive proof of the legal publication and promulgation of such ordinance in all Courts.

#### **Sec. 2.14. Code of Ordinances.**

The City Council shall have the power to cause all general ordinances of the City to be compiled and printed in code form. Every general ordinance enacted subsequent to such codification may be enacted as an amendment to the code. The City Council shall cause all general ordinances to be codified, recodified and reprinted whenever in its discretion such is deemed desirable, or when such codification or recodification is required by Law. 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 code or any part thereof being published in any newspaper. The caption, descriptive clause, and other formal parts of the ordinances of the City may be omitted without affecting the validity of such ordinances when they are published as a code.

### **ARTICLE III. ELECTIONS**

#### **Sec. 3.01. General Elections.**

The regular election of members of the City Council to the positions on the City Council occupied by persons whose terms are expiring shall be held on the first Saturday in May of each year and at every such election each qualified voter shall vote for not more than one candidate for each City Council position to be filled. Said election shall be ordered by the Mayor, and in the event of the failure of the Mayor to order the same, the City Council shall make such order. In the event of the inability or failure of the Mayor and the City Council to act, the election may be called by the City Secretary, and in the event of the inability of the City Secretary to act, by the County Judge of Brazoria County, Texas, and in the event of the inability of the County Judge to act, by the Governor of the State of Texas. The City Secretary shall give notice of such election by causing said notice to be published at least thirty days prior to the date of such election in the official newspaper of the City.

#### **Sec. 3.02. Regulation of Election.**

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 and shall provide for the compensation of all election officials in City elections, and for all other expenses of holding such elections.

#### **Sec. 3.03. Filing of Candidates.**

Any qualified person who desires to become a candidate for election to the City Council shall file an application with the City Secretary within the time prescribed by Law. Such application shall clearly designate the office and, if such office is for Councilmember, the position on the City Council, by number, to which the candidate seeks election, and shall contain a sworn statement by the candidate that he or she is fully qualified under the Constitution and Laws of the State of Texas and the provisions of this Charter to hold the office he or she seeks.

#### **Sec. 3.04. Qualified Voters.**

All citizens of the City qualified by the Constitution and Laws of the State of Texas to vote in City elections and registered as voters as prescribed by Law shall be qualified voters of the City within the meaning of this Charter.

#### **Sec. 3.05. Canvassing Election and Declaring Results.**

The City Council shall canvass the returns and declare the official results of each municipal election in accordance with applicable provisions of Law. The returns of every municipal election shall be recorded in the minutes of the City Council by precinct totals.

#### **Sec. 3.06. Election by Plurality.**

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The qualified person receiving the highest number of votes cast for any office of the City subject to election shall thereupon be declared by said City Council elected.

**Sec. 3.07. Notification and Qualifications of City Officers.**

The City Secretary shall notify all persons elected or appointed to office of their election or appointment. Any officer elected or appointed must qualify by taking and subscribing the oath of office within thirty days after such election or appointment. If a person elected or appointed to an office of the City fails to take and subscribe to such oath of office within thirty (30) days following such election or appointment, such office may be deemed vacant by City Council.

**Sec. 3.08. Special Elections.**

The City Council may by ordinance or resolution call such special elections as are authorized by the Laws of the State of Texas or by this Charter, fix the time and place of holding same, and provide all means for holding such special elections; provided, however, every special election shall be called and held in accordance with applicable provisions of Law governing general elections.

**ARTICLE IV. INITIATIVE, REFERENDUM, AND RECALL**

**Sec. 4.01. 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, except zoning ordinances and ordinances appropriating money or levying taxes, or ordinances repealing zoning ordinances and ordinances appropriating money or levying taxes, not in conflict with this Charter or the Constitution or Laws of the State of Texas. Any initiated ordinance may be submitted to the City Council by a petition signed by the qualified voters of the City equal in number to at least twenty percent (20%) of the qualified voters of the City.

**Sec. 4.02. Power of Referendum.**

The people reserve the power to approve or reject at the polls any legislation enacted by the City Council which is subject to the initiative process under this Charter, except that ordinances authorizing the issuance of either tax or revenue bonds, whether original or refunding bonds, shall not be subject to such referendum. Prior to or within thirty (30) days after the effective date of any ordinance which is subject to referendum, a petition signed by qualified voters of the City equal in number to at least twenty percent (20%) of the qualified voters of the City may be filed with the City Secretary requesting that any such ordinance be either repealed or submitted to a vote of the people. When such a petition has been certified as sufficient by the City Secretary, the ordinance specified in the petition shall not go into effect, or further action thereon shall be suspended if it shall have gone into effect, until and unless it is approved by the voters as herein provided.

**Sec. 4.03. Form of Petitions.**

Initiative petition papers shall contain the full text of the proposed legislation in the form of an ordinance, including a descriptive caption. Referendum petition papers shall contain a sufficient description of the ordinance sought to be referred to identify it, or if the ordinance has been passed by the City Council, the full text of the ordinance sought to be referred shall be included in such papers. The signatures to the initiative or referendum petitions need not be all appended to one paper, but each signatory shall sign his or her name in ink or indelible pencil, together with a notation showing such signatory's residence address and the precinct number and serial number that appear on his or her voter registration certificate or such other document as shall be prescribed by the Laws of the State of Texas to identify qualified voters under any future legislation. No signature shall be counted where there is reason to believe it is not the actual signature of the purported signatory or that it is a duplication either of the name or of handwriting used in any other signature on the petition, and no signature shall be counted unless the residence address of the signatory is shown, or unless it is signed exactly as the name of the voter appears on the official copy of the current poll list or such other document as may be prescribed by the Laws of the State of Texas to identify qualified voters under any future legislation, or unless the precinct number and serial number that appear on the signatory's voter registration certificate or such other document as may be prescribed by state Law to identify qualified voters under any future legislation are noted as above required. Before the signatures on any petition paper

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may be counted, one of the persons signing such petition paper, a qualified voter, shall make oath before the City Secretary or other officer competent to administer oaths that the statements made therein are true, that each signature to the paper appended is a genuine signature of the person whose name purports to be signed thereto, and that such signatures were placed thereon in his or her presence.

**Sec. 4.04. Filing, Examination, and Certification of Petitions.**

Within thirty (30) days after an initiative or referendum petition is filed, the City Secretary shall determine whether the same is properly signed by the requisite number of qualified voters. The City Secretary shall declare void any petition paper which does not have an affidavit attached thereto as required in Section 4.03 of this Article. In examining the petition, the City Secretary shall write the letters "D.V." (declared void) in red ink opposite the names of signatories found not qualified. After completing examination of the petition, the City Secretary shall certify the results thereof to the City Council at its next regular meeting. If the certificate of the City Secretary shall show an initiative or referendum petition to be insufficient, the City Secretary shall notify the person filing the petition, and it may be amended within ten days from the date of such notice by filing a supplementary petition upon additional papers signed and filed as provided for in the original petition. Within thirty (30) days after such amendment is filed, the City Secretary shall examine the amended petition and certify as to its sufficiency. If the amended petition is then found to be insufficient, no further proceedings shall be had with regard to it.

**Sec. 4.05. City Council Consideration and Submission to Voters.**

When the City Council receives an authorized initiative petition certified by the City Secretary to be sufficient, the City Council shall either: (a) pass the initiated ordinance without amendment within thirty (30) days after the date of the certification to the City Council; or (b) submit said initiated ordinance, without amendments, to a vote of the qualified voters of the City at a regular or special election to be held not later than the first uniform election date after the expiration of forty-five (45) days after the date of the certification to the City Council; or (c) at such election submit to a vote of the qualified voters of the City said initiated ordinance without amendment, and an alternative ordinance on the same subject proposed by the City Council. In such event, should both such ordinances be approved by a majority of the votes cast at such election, the ordinance receiving the highest number of votes shall be effective as an ordinance of the City, and the other ordinance shall be deemed rejected and shall not be effective.

When the City Council receives an authorized referendum petition certified by the City Secretary to be sufficient, the City Council shall reconsider the referred ordinance and, if upon such reconsideration such ordinance is not repealed within thirty (30) days, it shall be submitted to the qualified voters of the City at a regular or special election to be held not later than the first uniform election date after the expiration of forty-five (45) days after the date of the certification to the City Council.

Special elections on initiated or referred ordinances shall not be held more frequently than once each six months. No ordinance on the same subject as an initiated ordinance which has been defeated or on the same subject as a referred

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ordinance which has been approved at any election may be initiated by the voters within two years from the date of such election.

**Sec. 4.06. Results of Election.**

Any number of ordinances may be voted on at the same election in accordance with the provisions of this Article. If a majority of the legal votes cast is in favor of an initiated ordinance, it shall thereupon be effective as an ordinance of the City. An ordinance thus adopted may be repealed or amended at any time after the expiration of one year by a vote of two-thirds of the City Council members qualified and serving. A referred ordinance which is rejected by a majority of the legal votes cast in a referendum election shall be deemed thereupon repealed. An ordinance thus rejected may be reenacted at any time after the expiration of one year by a vote of two-thirds of the City Council members qualified and serving.

**Sec. 4.07. Power of Recall.**

The people of the City reserve the power to recall any elected officer of the City and may exercise such power by filing with the City Secretary a petition, signed by qualified voters of the City equal in number to at least thirty percent (30%) of the qualified voters of the City, demanding the removal of such elected officers. The petition shall be signed and verified in the manner required for an initiative petition.

**Sec. 4.08. Recall Election.**

The provisions regulating examination, certification, and amendment of initiative petitions shall apply to recall petitions. If the petition is certified by the City Secretary to be sufficient, the City Council shall order and hold an election to determine whether such officer shall be recalled in the same manner as provided for the holding of an election on an initiative petition.

**Sec. 4.09. Results of Recall Election.**

If the majority of the legal votes cast at a recall election be for the recall of the officer named on the ballot, the City Council shall immediately declare such office vacant. An officer thus removed shall not be eligible to hold office again in the City for a period of two years from the date of his or her recall.

**Sec. 4.10. Limitation on Recall.**

No recall petition shall be filed against an officer within six months after such officer takes office, and no officer shall be subjected to more than one recall election during such term of office.

**ARTICLE V. ADMINISTRATIVE ORGANIZATION**

**Sec. 5.01. The City Manager.**

The City Council shall appoint a City Manager, who shall be the chief administrative and executive officer of the City. The City Manager shall be chosen by the City Council solely on the basis of his or her executive and administrative training, experience, and ability, and need not, when appointed, be a resident of the City; however, during the tenure of said City Manager's office, he or she shall reside within the City.

The City Manager shall not be appointed for a definite term, but may be removed at the will and pleasure of the City Council by the vote of a majority of all City Council members qualified and serving. 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 in the City Council. The City Manager shall receive such compensation as may be fixed by the City Council.

No member of the City Council shall, during the time for which he or she is elected or for two years thereafter, be chosen as City Manager.

**Sec. 5.02. Powers and Duties of the City Manager.**

The City Manager shall be responsible to the City Council for the proper administration of all the affairs of the City. The powers herein conferred upon the City Manager shall include, but shall not be limited to, the following:

(a) To appoint and remove any officer or employee of the City except those officers and employees whose appointment or election is otherwise provided for by Law or this Charter; and

(b) To perform such other duties as may be prescribed by this Charter or required by the City Council, not inconsistent with the provisions of this Charter.

**Sec. 5.03. 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 or combine one or more departments created by it, and by ordinance may assign or transfer duties of any departments of the City from one department to another.

**Sec. 5.04. Directors of Departments.**

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 or more departments may be headed by the same individual, and the City Manager may head one or more departments.

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**Sec. 5.05. Departmental Organization.**

The work of each department shall be distributed among such divisions as may be established by ordinance. Pending passage of ordinances establishing department divisions, the City Manager may establish temporary divisions in any department.

**Sec. 5.06. City Attorney.**

The City Council shall appoint a City Attorney, who shall be a competent attorney licensed to practice Law in the State of Texas. The City Attorney shall represent the City in all litigation and legal proceedings. He or she shall be the legal adviser of, and attorney and counsel for, the City and for all of the offices and departments thereof. The City Council may retain special counsel at any time it deems the same appropriate and necessary.



**ARTICLE VI. MUNICIPAL COURT**

**Sec. 6.01. Municipal Court.**

There shall be a court known as the "Municipal Court of the City of Sweeny, Texas," for the trial of misdemeanor offenses with all powers and duties as are granted and prescribed by the Laws of the State of Texas.

**Sec. 6.02. Judge of the Municipal Court.**

The office of Judge of the Municipal Court shall be an elective office, for a term of two years, such term to run concurrently with that of the Mayor. The Judge of the Municipal Court may be removed from office by majority vote of the City Council for incompetency, misconduct or malfeasance.

In the event the Judge of the Municipal Court is temporarily unable to act for any reason, the City Council may appoint a qualified person to act in his or her place. The Judge, or anyone acting in his or her place, shall receive such compensation as may be set by the City Council.

The City Council shall have the power to create and establish additional Municipal Courts, and to provide for more than one Judge of each Municipal Court, whether one or more, each of whom shall be a magistrate.

**Sec. 6.03. Clerk of the Municipal Court.**

The City Secretary shall be the Clerk of the Municipal Court. He or she shall have the power to administer oaths and affidavits, make certificates, affix the seal of the Court thereto, and otherwise perform any and all acts necessary in issuing process of such Court and conducting the business thereof.

There shall be such deputy clerks of the Municipal Court as may be authorized by the City Council, which deputy clerks shall have authority to act for and on behalf of the Clerk of the Municipal Court.

**Sec. 6.04. Costs, Process, and Procedure in the Municipal Court.**

The City Council shall determine what costs, if any, shall be charged for proceedings in and for processes issued by the Court.

The style of all writs issued out of the Municipal Court shall be in the name of the "City of Sweeny."

All jurors shall be residents of the City and shall otherwise possess the same qualifications as jurors in the State courts, and, they shall be summoned in the same manner as provided for in Justice Courts.

**ARTICLE VII. FINANCE**

**Sec. 7.01. Fiscal Year.**

The fiscal year of the City shall be as established by ordinance of the City Council. In the event the City Council does not thus establish the fiscal year, the fiscal year of the City shall begin on the first day of each October and end on the last day of September of the following year. All funds collected by the City during any fiscal year, including both current and delinquent revenues, shall belong to such fiscal year and, except for funds derived to pay interest and create a sinking fund on the bonded indebtedness of the City, may be applied to the payments of expenses incurred during such fiscal year, except as provided in this Charter. Any revenues uncollected at the end of any fiscal year, and any unencumbered funds actually on hand, shall become resources of the next succeeding fiscal year.

**Sec. 7.02. Budget Preparation and Adoption.**

At least sixty (60) days prior to the end of each fiscal year, the City Manager shall submit to the City Council a proposed budget presenting a complete financial plan for the ensuing fiscal year. If the City Council fails to adopt an annual budget before the start of the fiscal year to which it applies, appropriations of the last budget adopted shall be considered as adopted for the current fiscal year on a month to month, pro rata basis, until the annual budget is adopted. No budget shall be adopted or appropriations made unless the total of estimated revenues, income, and funds available shall be equal to or in excess of such budget or appropriations, except as otherwise provided in this Article.

The annual budget shall specify appropriations for capital expenditures and for expenditures directed by City Council for services and for the operation of the City. It shall comply with fund requirements of bond covenants.

**Sec. 7.03. Appropriation.**

From the effective date of the budget, the several amounts stated therein as proposed expenditures shall be and become appropriated to the several objects and purposes named therein. Except as provided in this Article, no funds of the City shall be expended, nor shall any obligation for the expenditure of money be incurred, except pursuant to the annual appropriation ordinance provided by this Article. At the close of the each fiscal year any unencumbered balance of an appropriation shall revert to the fund from which appropriated and become available for reappropriation for the next fiscal year. The City Council may transfer any unencumbered appropriation balance or portion thereof from one office, department, or agency to another, at any time. The City Manager shall have authority, without City Council approval, to transfer appropriation balances from one expenditure account to another within a single office, department, or agency of the City.

**Sec. 7.04. Contingent Appropriation.**

Provision shall be made in the annual budget for a contingent appropriation in an amount not to exceed ten percent (10%) of the total budget, to be used in case of unforeseen items of expenditure. Such contingent appropriation shall be under

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the control of, and distributed by, the City Manager, after approval by the City Council. Expenditures from this appropriation shall be made only in the event of established emergencies or public necessities, and a detailed account of such expenditures shall be recorded and reported.

**Sec. 7.05. Borrowing in Anticipation of Property Taxes.**

In any fiscal year, in anticipation of the collection of the ad valorem property tax for such year, whether levied or to be levied in such year, the City Council may by resolution authorize the borrowing of money, not to exceed in any fiscal year an amount equal to ten percent (10%) of the budget for that fiscal year. Such borrowing shall be by the issuance of negotiable notes of the City, each of which shall be designated "tax anticipation note for the year \_\_\_\_\_ (stating the tax year)." Such notes shall mature and be payable not later than the end of the fiscal year in which issued, and may be secured by the pledge of the ad valorem property taxes for such year.

**Sec. 7.06. Depository.**

All moneys received by any person, department, or agency of the City for or in connection with affairs of the City shall be deposited promptly in the City depository or depositories, which shall be designated by the 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 or by the Laws of the State of Texas. All checks, vouchers, or warrants for the withdrawal of money from the City depositories shall be signed by the City Manager and/or such other person or persons as the City Council shall designate by ordinance or resolution. Provided, that the City Council, under such regulations and limitations as it may prescribe, may by ordinance authorize the use of machine imprinted facsimile signatures on such checks, vouchers car warrants.

**Sec. 7.07. 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 permanent public improvements or for any other public purpose not prohibited by the Constitution and Laws of the State of Texas, and to issue refunding bonds to refund outstanding bonds of the City previously issued. All such bonds shall be issued in conformity with the Laws of the State of Texas.

**Sec. 7.08. Revenue Bonds.**

The City shall have the power to borrow money for the purpose of constructing, purchasing, improving, extending or repairing public utilities, recreational facilities, or any other self-liquidating municipal function not prohibited by the Constitution and 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, pledged, or the income therefrom, or both, and shall never be a debt of the City. All such bonds shall be issued in conformity with the Laws of the State of Texas.

**Sec. 7.09. Sale of Bonds.**

No bond (other than refunding bonds issued to refund and in exchange for previously issued outstanding bonds) issued by the City shall be sold for less than par value and accrued interest. All bonds of the City having been issued and sold in accordance with the terms of this Section, and having been delivered to the purchasers thereof, shall thereafter be incontestable, and all bonds issued to refund and in exchange for outstanding bonds previously issued shall, after said exchange, be incontestable.

**Sec. 7.10. Purchase Procedure.**

All purchases made and contracts executed by the City shall be pursuant to a requisition from the head of the office, department, or agency whose appropriations will be charged, and no contract or order shall be binding upon the City unless and until the City Manager certifies that there is to the credit of such office, department or agency a sufficient unencumbered appropriation and allotment balance to pay for the supplies, materials, equipment, or contractual services for which the contract or order is to be issued. All purchases made and contracts executed by the City shall be in accordance with the requirements of the Constitution and Laws of the State of Texas.

**Sec. 7.11. Independent Audit.**

At the close of each fiscal year, and at such other times as it 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 certified public accountant 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, copies thereof shall be placed on file in the City Secretary's office as a public record.

**ARTICLE VIII. TAXATION**

**Sec. 8.01. Powers of Taxation.**

The City, for any municipal purpose, shall have the power to levy, assess, and collect taxes of every type and character not prohibited by the Constitution or Laws of the State of Texas.

**Sec. 8.02. Arrears of Taxes Offset to Debt Against City.**

The City shall be entitled to counterclaim and offset against any debt, claim, demand, or account owed by the City to any person, firm, or corporation who is in arrears to the City for taxes, in the amount of taxes in arrears, and no assignment or transfer of such debt, claim, demand, or account after the said taxes are due shall affect the right of the City to so offset the said taxes against the same.

**ARTICLE IX. FRANCHISES AND PUBLIC UTILITIES**

**Sec. 9.01. Inalienability of Control of Public Property.**

The right of control and use of the public streets, highways, sidewalks, alleys, parks, public squares, and public places of the City is hereby declared to be inalienable by the City, except by ordinances not in conflict with the provisions of this Charter. No act or omission by the City Council or any officer or agent of the City shall be construed to grant, renew, extend, or amend, expressly or by estoppel or implication, any right, franchise, or easement affecting said public streets, highways, sidewalks, alleys, parks, public squares, public places, and other real property, except as provided in this Charter.

**Sec. 9.02. Power to Grant Franchise.**

The City Council shall have the power by ordinance to grant, renew, and extend all franchises of all public utilities of every character operating within the City and, with consent of the franchise holder, to amend the same. Provided, however, no franchise shall be granted for an indeterminate term, and that no franchise shall be granted for a term of more than twenty-five (25) years.

**Sec. 9.03. Ordinance Granting Franchise.**

Every ordinance granting, renewing, extending, or amending a public utility franchise shall be read at two regular meetings of the City Council, and shall not be finally acted upon until thirty (30) days after the first reading thereof. Within ten (10) days following the first reading of the ordinance, the full text thereof shall be published in the official newspaper of the City, and the expense of such publication shall be borne by the prospective franchise holder.

**Sec. 9.04. Transfer of Franchise.**

No public utility franchise shall be transferred by the holder thereof except with the approval of the City Council expressed by ordinance.

**Sec. 9.05. Regulation of Franchise.**

Every grant, renewal, extension, or amendment of a public utility franchise, whether provided in the ordinance or not, shall be subject to the right of the City 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 shall be exercised only after written notice to the franchise holder stating wherein the franchise holder has failed to comply with the terms of the franchise and setting a reasonable time for the correction of such failure, and shall be exercised only after hearing and after such reasonable time has expired.

(2) To impose reasonable regulations to insure safe, efficient, and continuous service to the public.

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(3) To require such expansion, extension, enlargement, and improvements of plants and facilities as are necessary to provide adequate service to the public.

(4) To require every franchise holder to furnish to the City, without cost to the City, full information regarding the location, character, size, length, and terminals of all facilities of such franchise holder 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 collect from every public utility operating in the City such proportion of the expense of excavating, grading, paving, repaving, constructing, reconstructing, draining, repairing, maintaining, lighting, sweeping, and sprinkling the streets, alleys, bridges, culverts, viaducts, and other public places of the City as represents the increased cost of such operation resulting from the occupancy of such public place by such public utility, and such proportion of the costs of such operations as results from the damage to or disturbance of such public places caused by such public utility; or to compel such public utility to perform, at its own expense, such operations as above listed which are made necessary by the occupancy of such public places by such utility or by damage to or disturbance of such public places caused by such public utility.

(6) To require every franchise holder to allow other public utilities to use its poles and other facilities, including bridges and viaducts, whenever in the judgment of the City Council such use shall be in the public interest, provided that in such event reasonable terms of use may be imposed and a reasonable rental shall be paid such owner of facilities for such use. Provided further, that inability of such public utilities to agree upon terms of use and rentals for such facilities shall not be an excuse for failure to comply with such requirement by the City Council.

(7) a. To require the keeping of accounts in such form as will accurately reflect the value of the property of each franchise holder which is used and useful in rendering its service to the public and the expenses, receipts, and profits of all kinds of such franchise holder;

b. To examine and audit at any time during business hours the accounts and other records of any franchise holder; and

c. To require reports on the operations of the utility, which shall be in such form and contain such information, as the City Council shall prescribe.

**Sec. 9.06. 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. Every franchise holder who shall request an increase in rates, charges, or fares, shall have, at the hearing of the City Council called to consider such request, the burden of establishing by clear, competent, and convincing evidence, the value of its investments properly allocable to service in the City, and the amount and character of its expenses and revenues connected with the rendering of such service. No public utility franchise holder shall institute any legal action to contest any rate, charge, or fare fixed by the City Council until such

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franchise holder has filed a motion for rehearing with the City Council specifically setting out each ground of its complaint against the rate, charge, or fare fixed by the City Council, and until the City Council shall have acted upon such motion. Such motion shall be deemed overruled unless acted upon by the City Council within a reasonable time, not to exceed ninety (90) days from the filing of such motion for rehearing; provided, however, the City Council may by ordinance or resolution extend such time limit for acting on said motion for rehearing from ninety (90) days to one hundred eighty (180) days.



**ARTICLE X. GENERAL PROVISIONS**

**Sec. 10.01. Interim Government.**

Upon the adoption of this Charter, the incumbent members of the present governing body of the City shall become the initial City Council provided for in this Charter. Each member of the City Council thus constituted shall continue in the place to which he or she was elected and shall hold such office for the same term for which he or she was elected as a member of the present City Council and until his or her successor is elected and qualified. The City Council as thus constituted shall have all the powers provided in this Charter.

**Sec. 10.02. Continuation of Government.**

Any ordinance in effect at the time this Charter is adopted, and not otherwise in conflict with this Charter, which refers to some office or employment of the City which ceases to exist under this Charter, shall continue in force and the powers and duties therein prescribed shall be the powers and duties of the office or employment which, under this Charter, succeeds to the same general powers and duties of such office or employment.

**Sec. 10.03. Effect of Charter on Existing Law.**

All ordinances, resolutions, rules, and, regulations in force in the City as of the effective date of this Charter, and not in conflict with this Charter, shall remain in force until amended or repealed by the City Council. All taxes, assessments, liens, encumbrances, and demands of or against the City, fixed or established before such date, or for the fixing or establishing of which proceedings have begun before such date, shall be valid when properly fixed or established either under the ordinances, resolutions, rules and regulations in force at the time of the beginning of such proceedings or in force after the adoption of this Charter.

**Sec. 10.04. Official Oath.**

Before entering upon the duties of their respective offices, all officers of the City shall take and subscribe the official oath prescribed in the Constitution of the State of Texas.

**Sec. 10.05. Public Records.**

All public records of every office, department, or agency of the City shall be open to inspection by any citizen at all reasonable times in accordance with applicable open records laws.

**Sec. 10.06. Official Newspaper.**

The City Council shall have power to contract annually with, and by ordinance or resolution designate, a public newspaper of general circulation in the City as the official newspaper thereof and to continue as such until another is designated, and shall cause to be published therein all ordinances, notices, and other matters

required to be published by this Charter, by the ordinances of the City, or by the Constitution or Laws of the State of Texas.

**Sec. 10.07. Tort Liability.**

Before the City shall be liable for damages for the death or personal injuries of any person or for damages to or destruction of property of any kind, which does not constitute a taking or damaging of property under Article 1, Section 17, Constitution of the State of Texas, the person injured, if living, or the person's representatives, if deceased, or the parent or guardian of a minor child, or the owner, or the owner's agent or attorney, of the property damaged or destroyed, shall give the City Manager notice in writing of such death, injury, damage, or destruction, duly verified by affidavit, within sixty (60) days after same has been sustained, stating specifically in such written notice when, where, and how the death, injury, damage, or destruction occurred, and the apparent extent of any such injury, the amount of damages sustained, the actual residence of the claimant by street and number on the date the claim is presented, the actual residence of such claimant for six (6) months immediately preceding the occurrence of such death, injury, damage, or destruction, and the names and addresses of all witnesses upon whom it is relied to establish the claim for damages. The failure to so notify the City Manager within the time and manner specified herein shall exonerate, excuse, and exempt the City from any liability whatsoever. No act of any officer or employee of the City shall waive compliance, or preclude the City from requiring compliance, with the provisions of this Section as to notice.

**Sec. 10.08. 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 on account of any debt it may owe or funds or property it may have on hand or owing to any person. Neither the City nor any of its officers or agents shall be required to answer any such writ of garnishment on any account whatever. The City shall not be obligated to recognize any assignment of wages or funds by its employees, agents, or contractors.

**Sec. 10.09. Security or Bond Not Required.**

It shall not be necessary in any action, suit, or proceeding, in which the City shall be a party, for any bond, undertaking or security to be executed in behalf of the City; but all actions, suits and proceedings shall be conducted in the same manner as if such bond, undertaking or security had been given. The City shall have all remedies by appeal, as provided by law, to all courts of this State without bond or security of any kind. For the purposes of such actions, suits, proceedings and appeals, the City shall be liable in the same manner, and to the same extent, as if the bond, undertaking or security in ordinary cases had been given and executed.

**Sec. 10.10. Personal Interest in City Contracts.**

No member of the City Council, the City Manager, or other officer or employee of the City shall have a pecuniary interest in any contract, the expense,

price, or consideration of which is paid from the City Treasury, or have a pecuniary interest in any matter or item requiring the approval or consent of the City, unless in compliance with applicable Laws of the State of Texas governing conflicts of interest.

**Sec. 10.11. Nepotism.**

No member of the City Council, the City Manager, or other officer of the City shall appoint, or approve, vote for, or confirm the appointment of, any person to any paid office, position, employment, duty, or other service of the City if such person is related within the second degree by affinity or within the third degree by consanguinity to the person making such appointment or to any member of the City Council or the City Manager. No person to whom this prohibition applies shall be permitted to embark upon any duties or commence any employment with the City or receive any salary, fee, or other emolument from the City. Provided, however, nothing contained in this Charter or in any ordinance of the City shall prevent the appointment, approval, voting for, or confirmation, of any person who shall have been continuously employed in any office, position, employment, duty, or other service of the City for a period of at least two (2) years prior to the election or appointment of the member or officer appointing, approving, voting for, or confirming the appointment, or to the election or appointment of the member or officer related to such person in the prohibited degree.

**Sec. 10.12. Health, Life, and Accident Insurance for City Employees.**

The City Council shall have the power, exercisable in its discretion, and subject to such limitations and regulations as it shall deem proper, to create, operate, amend, and contract for an insurance plan covering health, life, and accident insurance, or any of them, for any or all City employees and their dependents, and to pay the premiums or a portion thereof, therefor.

**Sec. 10.13. Boards, Agencies, and Commissions.**

The City Council shall have the authority to establish by ordinance such boards, agencies, and commissions as it may deem necessary or desirable for the conduct of the City's business and the management of its affairs. The authority, duties, functions, and responsibilities of such boards, agencies, and commissions shall be such as are specified by ordinance. The authority, duties, functions, and responsibilities thus granted to and conferred on such boards, agencies, and commissions shall not be incompatible with the provisions of this Charter and shall in no manner conflict with, usurp or transfer any privilege, authority, duty, function, or responsibility specifically granted herein or by the Laws of the State of Texas to another officer, board, agency, or commission of the City.

**Sec. 10.14. Rearrangement and Renumbering.**

The City Council shall have the power, by ordinance, to renumber and rearrange all Articles, Sections, and paragraphs of this Charter or any amendments thereto, as it shall deem appropriate, and upon the passage of any such ordinance a copy thereof, certified by the City Secretary, shall be forwarded to the Secretary of State for filing.

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**Sec. 10.15. Judicial Notice.**

This Charter shall be deemed a public act, shall have the force and effect of a general law, may be read in evidence without pleading or proof, and judicial notice shall be taken thereof in all courts and places without further proof.

**Sec. 10.16. Construction of Charter.**

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

**Sec. 10.17. Severability Clause.**

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

**Sec. 10.18. Submission of Charter to Voters.**

The Charter Commission in preparing this Charter finds and declares that it is impracticable to segregate each subject so that the voter may vote "Yes" or "No" on the same, for the reason that the Charter is so constructed that in order to enable it to work and function it is necessary that it should be adopted in its entirety. For these reasons the Charter Commission directs that said Charter be voted upon as a whole and that it be submitted to the qualified voters of the City at an election to be held for that purpose on the 6th day of May, 2000. Such election shall be held in accordance with applicable law. After said Charter is approved by a majority of the qualified voters voting at said election, it shall become the Charter of the City of Sweeny upon the entering upon the records of said City of the governing body of the City an official order declaring the adoption of said Charter.