

THE CHARTER OF THE CITY OF FLORESVILLE

SECTION I INCORPORATION

1.01 INCORPORATION

The inhabitants of the City of Floresville, within the corporate limits as now established or as hereafter established in the manner provided by law, shall continue to be a municipal body politic and corporate in perpetuity under the name of the City of Floresville hereinafter referred to as the City.

1.02 FORM OF GOVERNMENT

The municipal government provided by this charter shall be known as Council-Manager government. Pursuant to its provisions and subject only to the limitations imposed by the State Constitution, the statutes of this State and by this charter, all powers of 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 were not prescribed, then in such manner as may be prescribed by ordinance, the State Constitution, or the statutes of the State.

1.03 BOUNDARIES

The boundaries and limits of said City shall be shown by metes and bounds and plat description on file in the office of the County Clerk of Wilson County, Texas, together with such additions as may be hereafter adopted by the City Council together with such additions as may be hereafter adopted by the City Council, or as provided for by law.

1.04 EXTENSION OF BOUNDARIES

The boundaries of the City of Floresville may be enlarged and extended by the annexation of additional territory, irrespective of size and configuration, in any of the methods hereinafter designated. All proposed unilateral annexations shall be in compliance with the City's Comprehensive Plan. SEE SECTION VIII.

1.05 SERVICE PLAN

A. **Public hearing on Service Plan**

Before publication of notice of first hearing to annex additional territory unilaterally, the City of Floresville shall prepare a service plan in accordance with State Law. The service plan must provide for extension of full municipal services (services funded in whole or in part by municipal taxes and provided by the municipality with its full purpose boundaries) to the area to be annexed, by any of

the methods by which it extends the services to any other area of the municipality. The proposed service plan must be made available for public inspection and explained at the hearings. The plan may be amended through negotiation but provision of any service may not be deleted.

B. Elements of Service Plan

If the City provides the following services in the current incorporated area, the Service Plan will include those services in the annexed area on the effective date of the annexation:

Police protection; Fire protection, emergency medical services, solid waste collection, operation and maintenance of water and waste water facilities not in the service area of another utility, operation and maintenance of roads and streets, including road and street lighting; operation and maintenance of parks, playgrounds, and swimming pools, and operation and maintenance of any other publicly owned facility, building or service.

C. Capital Improvements and Construction

The service plan must also include a time period under which the City will initiate the acquisition or construction of capital improvements necessary for providing municipal services adequate to serve the area. The City shall extend water and access to wastewater service to any annexed area not within the service area of another water or wastewater utility. The capital improvements must begin within two years after the date of the annexation and shall be substantially completed within a reasonable amount of time. The construction of the facilities must be accomplished in a continuous process and shall be complete as soon as reasonably possible, consistent with generally accepted local engineering and architectural standards and practices.

D. Level of Services

The Service Plan may not provide fewer services or lower levels of services in the area than were in existence in the area immediately preceding the date of the annexation, or that are otherwise available in other parts of the municipality with land uses, population densities and topography similar to those reasonably contemplated or projected in the area.

E. Contractual Obligation

After the service plan is approved by the adoption of the annexation ordinance, the plan becomes a contractual obligation. It may be amended only after hearings and a finding that the plan is unworkable or obsolete, due to changed conditions or subsequent occurrences. An amended service plan must provide for services that are comparable to, or better than, those established in the service plan before amendment.

1.06 DETACHMENT OR CONTRACTION OF BOUNDARIES

Whenever there exists within the corporate limits of the City of Floresville any territory not suitable or necessary for city purposes, the City Council may, upon a petition signed by a majority of the

qualified voters residing in such territory if the same be inhabited, or without any such petition if same be uninhabited on its own initiative, by ordinance duly passed, discontinue said territory as a part of said city; said petition and ordinance shall specify accurately the metes and bounds of the territory sought to be eliminated from the city and shall contain a plat designating such territory so that the same can be definitely ascertained; and when said ordinance has been duly passed, the same shall be entered upon the minutes and records of Floresville and the public records of Wilson County and from and after the entry of such ordinance, said territory shall cease to be a part of said city, but said territory shall still be liable for its pro rata share of any debts incurred while said area was a part of said city, and the city shall continue to levy, assess, and collect taxes on the property within said territory to pay the indebtedness incurred while said area was a part of the city as though the same had not been excluded from the boundaries of the city.

SECTION II POWERS OF THE CITY

2.01 GENERAL POWERS OF THE CITY

The City shall have all the powers now or hereafter granted to municipal corporations by the constitutions and laws of the State of Texas, together with all the implied powers necessary to carry into execution all the powers granted; and, except as prohibited by the constitution of this state or restricted by this Charter, the City shall and may exercise all municipal functions, rights, privileges and immunities of every name and nature whatsoever. The enumeration of particular powers by this charter shall not be deemed to be exclusive, and in addition to the powers enumerated herein or implied hereby, or appropriate to exercise of such powers, it is intended that the City shall have, and may exercise, all powers of local self-government, and all powers enumerated in State Law.

2.02 GENERAL POWER ADOPTED

The enumeration of the particular powers in this charter shall not be held or deemed to be exclusive but in addition to the powers enumerated herein or implied hereby or appropriate to the exercise of such powers, the city shall have and may exercise all power of local self-government and all other powers which, under the constitution and laws of the State of Texas, it would be competent for this charter specifically to enumerate.

2.03 POWERS OF THE CITY

The city shall have perpetual succession as a body politic and corporate; may use a seal; may sue and may enter into contracts for any public purpose; may acquire and hold, in fee simple or any lesser estate or in trust, by gift, deed, bequest, right of eminent domain, purchase, lease, exchange, or otherwise, and may alienate, any character of property, real or personal, within and without the city limits.

2.04 STREET POWERS

The City shall have the power to lay out, establish, open, alter, widen, lower, extend, grade, abandon, discontinue, abolish, close, care for, pave, supervise, maintain and improve streets, alleys, right of ways, sidewalks, squares, parks, public places and bridges and regulate the use thereof and require the removal from streets, sidewalks, alleys, and other public property or places all obstructions and encroachments of every nature or character upon any of said streets, public property and side walks.

2.05 STREET IMPROVEMENT

The City shall have exclusive dominion, control and jurisdiction in, upon, and over and under the public streets, avenues, right of ways, alleys and highways of the City, and may provide for the improvement thereof by paving, repair, raising, grading, draining, or otherwise. The City shall have the power and authority to make assessments against abutting owners for all or part of street, drainage, curb and gutter improvements.

2.06 PUBLIC UTILITIES

The City shall have the power to provide for a water and sanitary sewer system, and to require property owners to connect their premises with such water and sewer system; to provide for fixing penalties for failure to make sanitary sewer connections; to provide rules and regulations for the collection of charges for the use of the water and sanitary sewer system.

2.07 ELECTRICAL

The City Council shall have the power to provide for an electrical system, which may be owned or operated independently by the City or in conjunction with other municipal corporations, and to require residential and business owners whose buildings use electricity to connect their premises with such electrical system; to provide for fixing penalties for failure to make electrical connections; to provide rules and regulations for the collection of charges for use of the electrical system.

2.08 GARBAGE DISPOSAL

The City Council shall have the power to provide for the handling and disposition of all garbage, trash and rubbish within the City, and shall further have the right to fix charges and compensation to be charged by the City for the removal of garbage, trash and rubbish and provide rules and regulations for the collection of such charges or compensation.

2.09 SAFETY AND SANITARY ENFORCEMENT

The City Council shall have the right to provide for the inspection and regulation of the sanitary condition and safety of all premises be it vacant or occupied lots, manufactured homes, substandard or abandoned houses or buildings within the city limits, for the removal of garbage, refuse, and unsanitary vegetation; it shall have the right to fix charges for such removal, provide regulations for the collection of such charges, and provide for establishing a lien against any property for any

expense incurred by the City in enforcing this provision; and further to provide for the making and enforcing of all proper and reasonable regulations for the health and sanitation of said City and its inhabitants.

2.10 LANDS AND OTHER PROPERTIES

The City may acquire lands and other properties, within or without its corporation limits, for any City purpose in fee simple or any lesser interest or estate, by purchase, gift, devise, lease, lease-purchase or condemnation. The City may sell, lease, mortgage, hold, manage and control such property as its interest may require and as provided by law.

2.11 PUBLIC PARKS AND PLAYGROUNDS

The City shall have exclusive control over all City parks and municipal playgrounds, and the right to control, regulate the parks and playgrounds, and remove all obstructions and prevent all encroachments thereupon

2.12 PUBLIC LIBRARY

The City shall have the right to establish and maintain a public library within the City and cooperate with any person, firm, association, corporation or political subdivision of the State of Texas, under such terms as the City Council may prescribe for the establishment or maintenance of such public library.

2.13 AIRPORT

The City shall have the right to operate an airport facility, either by itself or in conjunction with another governmental entity, as authorized by State Law. Voter approval is necessary if it is built or operated with city funds.

2.14 CEMETERIES

The City shall have the power to regulate burial grounds, cemeteries and crematories owned by any person, firm, corporation or association now or hereafter established and to condemn and close any such when health may demand; to purchase, establish, own, regulate and maintain one or more cemeteries, as provided by State Law.

2.15 SALES OF ELECTRICITY, WATER AND SEWER SERVICES

The City Council shall have the power and authority to sell and distribute electricity, either independently or in conjunction with other municipal corporations pursuant to any joint venture, and water and to sell and provide for sewer services and any other utilities to any person, firm or corporation outside the limits of the City, and to permit them to connect with said systems under contract with the City, under such terms and conditions as may appear to be for the best interests of the City; provided the charges fixed for such services outside the city limits shall be reasonable when considered in the light of all circumstances, to be determined by the City Council.

The City Council shall have the power and authority to prescribe the kind of materials used within or beyond the limits of the City where it furnishes the service, and to inspect the same and require them to be kept in good order and condition at all times and to make such rules and regulations as shall be necessary and proper, and prescribe penalties for noncompliance with same.

2.16 EMINENT DOMAIN

The City shall have the full right, power and authority to exercise the power of eminent domain when necessary or desirable to carry out any of the powers conferred upon it by this Charter or by the constitution or laws of the State of Texas. The power of eminent domain shall include the right of the City to take the fee in the lands so condemned and such power and authority shall include the right to condemn public property for such purposes. The City shall have and possess this power of condemnation for any municipal or public purpose, even though not specifically enumerated herein or in this Charter.

SECTION III THE CITY COUNCIL

3.01 NUMBER, SELECTION AND TERM

The legislative and governing body of the city shall consist of a mayor and five council members and shall be known as the "Council of the City of Floresville".

- (a) The mayor and the other members of the City Council shall be elected from the city in the manner provided in Section V.
- (b) The mayor shall conduct City Council meetings following the posted agenda provided by the City Secretary. The mayor 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, only to break a tie vote.
- (c) In each even-numbered year two Council Members and a Mayor shall be elected, and in each odd numbered year three Council Members shall be elected.
- (d) The term of office for the Mayor shall be a period of two years and no more than three terms. An individual who has been elected for 3 terms as Mayor cannot run for that office again for 6 years.
- (e) The term of office for each Council Member shall be a period of two years and no more than three terms. An individual who has been elected for 3 terms as Council Member cannot run for that office again for 6 years.
- (f) An ex-Mayor can run for City Council and an ex City Council Member can run for Mayor with the same time period and term limits as cited in (d) and (e). If an individual elected for the maximum number of terms in each office that individual may not run again for either

office for 6 years.

- (g) No city official can run for an office that will run concurrent with the office currently held by that official unless that city official resigns from his or her current office.

3.02 QUALIFICATIONS

Each member of the City Council shall be a resident of the City of Floresville, shall be a qualified voter of the State of Texas, shall have been a resident of the City of Floresville for a period of not less than one year immediately preceding his election, and shall not be delinquently indebted to the City of Floresville provided, however, that any person with the above qualifications, except as to residence, who shall have been a resident, for a period of not less than one year immediately preceding his election, of any of the territory not formerly within the corporate limits of said city, but which is annexed under the provisions of section 1.03 of this charter, shall be eligible for said office. If the mayor or any council member fails to maintain the foregoing qualifications, or shall be absent from three consecutive regularly scheduled meetings without valid excuse, the City Council may at its next regular meeting declare a vacancy to exist and shall fill said vacancy as set forth in section 3.06 of this charter.

3.03 CITY COUNCIL TO BE JUDGE OF ELECTION QUALIFICATION

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

3.04 COMPENSATION

The City Council shall fix the compensation to be received by its members for attendance at its meetings; Mayor \$100.00 per month, council members \$75.00 per month.

3.05 MAYOR PRO TEM

The City Council, at its first meeting after election of council members shall elect one of its number mayor pro tem and he or she shall perform all the duties of the mayor in the absence or disability of the mayor.

3.06 VACANCIES

When a vacancy occurs in the City Council, the remaining members of the council shall constitute a quorum and within ten business days of said vacancy shall appoint a qualified person to fill the unexpired term. However, the City Council shall not appoint more than one council member in any twelve months' period, and in case a vacancy has been filled by the City Council within twelve 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 days from the date the last vacancy occurred, to be held in accordance with State Law on Special Elections, for the purpose of electing the successor or successors to the office or offices vacated.

3.07 POWERS OF THE CITY COUNCIL

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

- (a) Remove a member of any city board or city commission.
- (b) Establish, consolidate or abolish administrative departments and distribute the work of divisions.
- (c) Adopt the budget of the city.
- (d) Authorize the issuance of bonds by a bond ordinance.
- (e) Inquire into the conduct of any office, department or agency of the city and make investigations as to municipal affairs.
- (f) Provide for such additional boards and commissions, not otherwise provided for in this charter, as may be deemed necessary, and appoint the members of all such boards and commissions. Such boards and commissions shall have all powers and duties now or hereafter conferred and created by this charter, by city ordinance or by law.
- (g) Adopt and modify the official map of the city.
- (h) Adopt, modify and carry out plans proposed by the Planning, Zoning and Annexation Commission for the clearance and rehabilitation of blighted areas.
- (i) Adopt, modify and carry out plans proposed by the planning commission for the planning, improvement and redevelopment of any area or district that may have been destroyed in whole or in part by disaster.
- (j) Regulate, license and fix the charges or fares made by any person, firm or corporation owning, operating or controlling any vehicle of any character used for the carrying of passengers for hire, towing vehicles or the transportation of freight for hire on the public streets and alleys of the city.
- (k) Provide for the establishment and designation of fire codes and prescribe the kind and character of buildings or structures or improvements to be erected therein, and provide for the erection of fireproof buildings within said codes, and provide for the condemnation of dangerous structures or buildings or dilapidated buildings, or buildings calculated to increase the fire hazard and prescribe the manner of their removal or destruction within said limits.
- (l) Set the salaries and compensation of the city officers and employees and conduct the required reviews and evaluation of the City Manager.
- (m) Provide for a sanitary sewer and water system and require property owners to connect their premises with sewer system, and provide for penalties for failure to make sanitary sewer connections.

- (n) Provide for sanitary garbage disposal, and set fees and charges therefor, and provide penalties for failure to pay such fees and charges.
- (o) Provide for an electrical system and set fees and charges therefor and provide penalties for misuses of same.
- (p) Exercise exclusive dominion, control and jurisdiction including the right to close and abandon streets and alleys in, upon, over and under the public streets, avenues, sidewalks, alleys, highways, boulevards and public grounds of the city and provide for the improvement of same as provided in Texas Law as now or hereafter amended.
- (q) Compromise and settle any and all claims and lawsuits of every kind and character in favor of or against the City of Floresville.

3.08 CITY COUNCIL NOT TO INTERFERE IN APPOINTMENTS

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

3.09 MEETING OF THE CITY COUNCIL

The City Council shall hold two regular meetings in each month if necessary, at a time to be fixed by it for such regular meetings, and may hold as many additional meetings during the month as may be necessary for the transaction of the business of the city and its citizens. All meetings of the City Council shall be public and shall be held at the city hall, except that the City Council may designate another place for such meetings. Except in the case of an emergency, the City Secretary will post notice of City Council meetings at City Hall. Any two (2) elected officials may call special meetings of the City Council at any time. Any council member may place items on the agenda used in City Council meetings.

3.10 RULES OF PROCEDURE

The City Council shall determine its own rules of procedure and may compel the attendance of its members. Three qualified members of the City Council, plus the mayor or mayor pro tem shall constitute a quorum to do business and the affirmative vote of a majority of those present and voting shall be necessary to adopt any ordinance or resolution. Minutes of the proceedings of all meetings of the City Council shall be kept, to which any citizen may have access at all reasonable times and which shall constitute one of the archives of the city. The vote upon the passage of all ordinances and resolutions shall be taken by "ayes" and "nays" and entered upon the minutes, and every ordinance or resolution, upon its final passage, shall be recorded in a book kept for that purpose under full caption, and shall be authenticated by the signature of the presiding officer and the person performing the duties of the City Secretary. Individual citizens will be granted one minute of time for input on the subject of any and all consideration and action items as they come up on the council agenda prior to the council vote. No prior sign up by citizens will be required for their input on agenda items. *[Amendment voted on and approved by Council on May 14, 2009 to*

be effective June 1, 2009. See end notes.]'

3.11 PROCEDURES FOR PASSAGE OF ORDINANCES

Every ordinance shall be introduced in written or printed form and, upon passage, shall take effect at the time indicated therein; provided that any ordinance imposing a penalty, fine or forfeiture for a violation of its provisions shall become effective not less than ten days from the date of its passage; subject to the provisions of article VII of this charter. The clerk shall give notice of the passage of every ordinance imposing a penalty, fine or forfeiture for a violation of the provisions thereof, by causing the caption or title, including the penalty, of any such ordinance to be published in the official newspaper of the City of Floresville at least once within ten days after the passage of said ordinance. The clerk shall note on every ordinance, the caption of which is hereby required to be published, and on the record thereof, the fact that same has been published as required by the charter, and the date of such publication, which shall be prima facie evidence of the legal publication and promulgation of such ordinance; provided, that the provisions of this section shall not apply to the correction, amendment, revision and codification of the ordinances of the city for publication in book or pamphlet form. Except as otherwise provided by article VII of this charter, it shall not be necessary to the validity of any ordinance that it shall be read more than one time or considered at more than one session of the City Council. Every ordinance shall be authenticated by the signature of the mayor and city clerk and shall be systematically recorded and indexed in an ordinance book in a manner approved by the council. It shall only be necessary to record the caption or title of ordinances in the minutes or journal of council meetings. The City Council shall have power to cause the ordinances of the city to be corrected, amended, revised, codified and printed in code form as often as the council deems advisable, and such printed code, when adopted by the council, shall be in full force and effect without the necessity of publishing the same or any part thereof in a newspaper. Such printed code shall be admitted in evidence in all courts and places without further proof.

3.12 ENFORCEMENT OF ORDINANCES, CITIZEN RIGHTS

City ordinances reflect the needs and wishes of the citizens of Floresville. It shall be the City Manager's responsibility to see that all ordinances are enforced in fair and impartial manner. It shall be the City Council's duty to see that the City Manager orders the strict and equitable enforcement of all ordinances. The City Manager shall report enforcement activities as a regular agenda item each month at a regular scheduled City Council meeting.

3.13 OFFICIAL BONDS FOR CITY EMPLOYEES

The City Manager and the City Secretary and such other city officers and employees as the City Council may require, shall, before entering upon the duties of their offices, enter into a good and sufficient fidelity bond in a sum to be determined by the City Council, payable to the City of Floresville and conditioned upon the faithful discharge of the duties of such persons and upon the faithful accounting for all monies, credits, and things of value coming into the hands of such persons, and such bonds shall be signed as surety by some company authorized to do business under the laws of the State of Texas, and the premium on such bonds shall be paid by the City of Floresville, and such bonds must be acceptable to the City Council.

3.14 INVESTIGATION BY THE CITY COUNCIL

The City Council shall have authority to recommend that the proper agency inquire into the conduct of any office, department, agency, officer or employee of the city and to make investigations as to municipal affairs

3.15 AUDIT AND EXAMINATION OF CITY BOOKS AND ACCOUNTS

The City Council shall cause an annual audit to be made of the books and accounts of each and every department of the city. At the close of each fiscal year a complete audit shall be made by a licensed public accountant, who shall be selected by the City Council, and such audit shall include a recapitulation of all audits made during the course of each fiscal year, and all audit

reports shall be filed with the City Council, shall be available for public inspection and shall be made a part of the archives of the city. Such accountant, so selected, shall not maintain or keep any of the city's accounts or records. SEE SECTION IX

SECTION IV ADMINISTRATIVE SERVICES

4.01 CITY MANAGER

(a) Appointment and qualifications. The City Council shall appoint a City Manager that shall be the chief administrative and executive officer of the city and shall be responsible to the City Council for the administration of all the affairs of the city. He shall be chosen by the City Council solely on the basis of his executive and administrative training, experience and ability, and need not, when appointed, be a resident of the City of Floresville. The City Manager shall be required to reside in the City of Floresville after the appointment becomes effective. No member of the City Council or Mayor shall, during the time for which he is elected and for one year thereafter, be appointed City Manager.

(b) Term and salary. The City Manager shall be appointed for a definite term but may be removed at the will and pleasure of the City Council by a vote of the majority of the entire council. The action of the City Council in suspending or removing the city manager shall be final, it being the intention of this charter to vest all authority and fix all responsibility of such suspension or removal in the City Council. In case of the absence or disability of the City Manager, the City Council may designate some qualified person to perform the duties of the office during such absence or disability. The City Manager shall receive compensation as may be fixed by the council.

(c) Evaluation and Performance Review of City Manager. The City Council shall conduct a performance review of the City Manager quarterly, and a complete evaluation annually. All performance reviews and annual evaluations are to be reviewed with the city manager. The standards for the reviews and annual evaluation will be established by the City Council.

All performance reviews and annual evaluations will become a permanent record in the city manager's personnel file.

(d) Duties of the City Manager:

- (1) Appoint and when necessary, remove any employee of the city, except as otherwise provided by this charter.
- (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 desirable.
- (5) Perform such duties as may be prescribed by this charter or may be required of him by

the City Council, not inconsistent with this charter.

- (6) Conduct performance reviews and evaluations of each department head. The City Manager will use the review and evaluation standards established by the City Council.
- (7) See that all laws, provisions of this charter and acts of the City Council, subject to enforcement by the city manager or by officers subject to the manager's direction and supervision, are faithfully executed.
- (8) Prepare and submit a 5 year plan, updated yearly, that covers the budget and requirements of all City Departments. This plan should be coordinated with the 5 year Capital program plan.

4.02 DEPARTMENT OF POLICE

There shall be established and maintained a department of police to preserve order within the city and to secure the residents of said city from violence and the property therein from injury or loss.

Chief of Police. The chief of police shall be the chief administrative officer of the department of police. He shall, with the approval of the city manager, appoint and remove the employees of said department and shall perform such duties as may be required of him by the city. The chief of police shall be appointed by the city manager with the approval of the City Council, for an indefinite term, as provided by Texas State Law, as now or hereafter amended. The chief of police shall be responsible to the city manager for the administration of his department and the carrying out of the directives of the city. He may be removed from office by the City Manager with the majority approval vote of the entire City Council. *[Amendment voted on and approved by Council on May 14, 2009 to be effective June 1, 2009. See end notes.]²*

4.03 CITY SECRETARY

The city manager shall appoint the city secretary and such assistant city secretaries, as the City Council shall deem advisable. The city secretary, or an assistant city secretary, shall give notice of council meetings, shall keep the minutes of the proceedings of such meetings, shall authenticate by his signature and record in full in a book kept and indexed for the purpose, all ordinances and resolutions, and shall perform such other duties as the city manager shall assign to him or her, and those elsewhere provided for in this charter.

4.04 MUNICIPAL COURT

- (a) There shall be established and maintained a court designated as a "Municipal Court" for the trial of misdemeanor offenses, with all such powers and duties as are now or hereafter may be prescribed by laws of the State of Texas relative to municipal courts.
- (b) The judge of said court shall be a qualified voter of the city, shall be appointed by the City Council, shall hold his office at the pleasure of the City Council and shall receive such salary as may be fixed by ordinance of the City Council. The City Council may appoint an alternate judge if necessary.
- (c) The city secretary or an assistant city secretary shall be **ex officio** clerk of said court.
- (d) The clerk of said court and his deputies shall have the power to administer oaths and affidavits, make certificates, affix the seal of said court thereto, and generally do and perform any and all acts usual and necessary by the clerk of courts in issuing process of said courts and conducting the business thereof.

4.05 CITY ATTORNEY

The City Council shall appoint a competent and duly licensed attorney practicing law in Texas, who shall be the city attorney. He or she shall receive for his services such compensation as may be fixed by the City Council and shall hold his office at the pleasure of the City Council. The city attorney, or such other attorneys selected by the City Attorney with the approval of the City Council, shall represent the city in all litigation and other legal matters. He or she shall be the legal advisor of, and attorney and counsel for, the city and all officers and departments thereof.

4.06 OTHER DEPARTMENTS

The City Council may abolish or consolidate such offices and departments as it may deem to be to the best interest of the city, and may divide the administration of any such departments as it may deem advisable; may create new departments, and may discontinue any offices or departments at its discretion, except those specifically established by this charter

**SECTION V
NOMINATIONS AND ELECTIONS**

5.01 MUNICIPAL ELECTIONS

The general City election shall be held annually each spring election date as designated by the Texas Election Code between the hours of 7:00 a.m. and 7:00 p.m. at which time the officers will be elected to fill those offices which become vacant that year.

The City Council shall fix the place for holding such election. The City Council may, by ordinance, order a special election, fix the place for holding same and provide all means for holding such special election. Notice of the general election shall be given in accordance with the requirements set forth in

the Texas Election Code. The Council may cancel an election as authorized by the state law if only one or no candidate files for a particular seat.

5.02 OFFICIAL BALLOT

The official ballot shall be drawn up by the City Secretary and will contain the names of all candidates for office, except those that may have been withdrawn, deceased, or become ineligible as provided by state law. Names will be placed on the ballot without party designation, and position on the ballot will be determined by drawing.

5.03 ELECTION OF COUNCIL MEMBERS

The council shall be composed of five member elected by the voters of the city at large by place. The mayor shall be elected at large.

At the appropriate time in the future, either the Council or the citizens by referendum may propose amending this Charter to institute the election of the City Council by single-member districts which will be presented to the voters. This charter amendment shall follow the provisions of this charter and state law.

At the regular municipal election, the candidate for any office who shall have received the 50 % of the votes cast in such elections for the office for which he or she is a candidate shall be declared elected.

In the event that no candidate receives a majority of all votes cast for any one place at such election, the Council shall, upon completion of the official canvass of the ballots, issue a call for a runoff election to be held in accordance with the provisions of the Texas Election Code. At such runoff election, the two (2) candidates receiving the highest number of votes (or three (3) persons in case of a tie for second place) for any one place in the first election shall again be voted for.

Name of persons qualifying for such runoff election shall be reprinted on said official ballot in an order to be determined by the drawing of lots; provided, however, that any qualified runoff

candidate may request that his or her name shall not appear on the official ballot at such runoff election, in which case, the candidate for such place standing next highest in the computation of votes shall be placed on the runoff ballot.

All runoff elections will be decided by plurality. In the event of a tie between the two (2) candidates for any office at said runoff election; the candidates shall cast lots to determine who shall be elected to such office.

5.04 OATH OF OFFICE

Every elected official, the city manager and city secretary 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, _____, do solemnly swear (or affirm), that I will faithfully execute the duties of the office of _____, of the City of Floresville, 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 or indirectly paid, offered, or promised to pay, contributed, 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 VI RECALL OF OFFICERS

6.01 SCOPE OF RECALL

Any elected city official, whether elected to office by the qualified voters of the city or appointed by the council to fill a vacancy, shall be subject to recall, and removal from office by the qualified voters of the city on grounds of incompetence, misconduct or malfeasance in office. A recall of an elected City official must not be within, six months before or after the regular municipal election of the officer or within six months after a recall election for such officer's recall.

6.02 PETITIONS FOR RECALL

Before the question of recall of an elected city official goes before the voters, a Petition asking for recall shall be submitted to the city secretary; the petition shall specify the grounds alleged for the removal of the officer in plain and intelligible language and must cite the time and place of the occurrence of each act alleged as a ground for removal with enough certainty as the nature of the case permits. ; The petition must be signed by 10% of the registered voters and represent at least 20% of the number of votes cast at the last regular municipal election of the city whether voting at large or by district, but in no event less than 500 such petitioners. Each petitioner shall personally sign his or her name in ink. All other information (printed name, physical address, and date of birth and place of residence) can be written or printed by the petitioner or by the petition gatherer. No post office box numbers are allowed.

6.03 VARIOUS PAPERS CONSTITUTING THE PETITION

All papers comprising a recall petition shall be in original writing, no copies are to be submitted to the City Secretary. No signatures to such petition shall remain effective or be counted which were placed thereon more than forty-five days prior to the filing of such petition with the City Secretary. The City Secretary shall immediately notify, in writing the officer to be removed, by mailing such notice by certified mail.

6.04 PRESENTATION OF PETITION TO CITY COUNCIL

Within ten business days after the date of the filing of the petition the City Secretary shall verify the legal voters who signed the petition. The City Secretary shall present such petition to the City Council at the next regular council meeting and at that same meeting the council must set a date for a public hearing to be held in not less than five business days. At said public hearing, the person whose removal is sought may present facts and witnesses pertinent to the charges in the recall petition. *[Amendment voted on and approved by Council on May 14, 2009 to be effective June 1, 2009. See end notes.]³*

6.05 ELECTION TO BE CALLED

If the officer whose removal is sought does not resign within ten (10) business days after the date of the public hearing, the City Council shall, at the next regularly scheduled City Council meeting, order an election and fix a date for holding such recall election in accordance with State Law. *[Amendment voted on and approved by Council on May 14, 2009 to be effective June 1, 2009. See end notes.]⁴*

6.06 BALLOTS IN RECALL ELECTION

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

- a. 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?"
- b. Immediately below each such question there shall be printed the following words, one above the other, in the order indicated:

"YES"

"NO"

[This provision renumbered on account of Amendments effective June 1, 2009.]

6.07 RESULTS OF RECALL ELECTION

If a majority of the votes cast at a recall election shall be "NO" that is against recall, the person on the ballot shall continue in office for the remainder of his or her unexpired term, subject to recall as before. If a majority of the votes cast at such an election be "YES" for recall, the position is declared to be vacant. *[This provision renumbered on account of Amendments effective June 1, 2009.]*

6.08 FAILURE OF CITY COUNCIL TO CALL AN ELECTION

Should the City Council fail or refuse to order any election as provided for in this Charter, when all the requirements of such election are complied with by the petitioning voters, then any citizen can seek mandamus to order the City Council to order an election. *[This provision renumbered on account of Amendments effective June 1, 2009.]*

**SECTION VII
LEGISLATION BY THE PEOPLE
INITIATIVE AND REFERENDUM**

7.01 POWER OF INITIATIVE

The people of the city of Floresville 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. Any initiated ordinance may be submitted to the council by a petition signed by qualified voters of the city, except an ordinance appropriating money or authorizing the levy of taxes.

7.02 POWER OF REFERENDUM

The people reserve the power to approve or reject at the polls any legislation enacted by the council,

which is subject to the initiative process under this Charter. Exceptions are ordinances enacted for the immediate preservation of the public peace, health or safety, which contains a statement of its urgency, and which is adopted by a Supermajority vote of council members. Prior to the effective date of any ordinance that is subject to referendum, a petition signed by 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 thereunder shall be suspended if it shall have gone into effect, until and unless it is approved by the voters as herein provided.

7.03 FORM OF PETITIONS

Initiative or Referendum petition papers shall contain the full text of the proposed legislation in the form of an ordinance including a descriptive caption. Before the Initiative or Referendum goes before the voters, a Petition shall be submitted to the City Secretary. The petition must be signed by 10% OF qualified voters and represent at least 20% of the number of votes cast at the last regular municipal election of the city, but in no event less than 500 such petitioners. Each petitioner shall personally sign his or her name in ink. All other information (printed name, physical address, and date of birth and place of residence) can be written or printed by the petitioner or by the petition gatherer. No post office box numbers are allowed.

7.04 FILING, EXAMINATION AND CERTIFICATION OF PETITIONS

Initiative or referendum petitions shall be filed with the City Secretary. Upon receipt the City Secretary shall provide a copy of the ordinance specified in the petition to the City Council and the City Attorney.

7.05 COUNCIL CONSIDERATION AND SUBMISSION TO VOTERS

When the council receives an authorized petition certified by the city secretary to be sufficient, the council shall either:

- a) Pass the initiated ordinance without amendment within ten (10) business days after the date of the certification to the council; or
- b) Order an election and submit said initiated ordinance without amendment to a vote of the qualified voters of the city of Floresville at the next allowable election date authorized by state law after the certification to the council.

When the council receives an authorized referendum petition certified by the city secretary to be sufficient, the council shall reconsider the referred ordinance, and if upon such reconsideration such ordinance is not repealed, it shall be submitted to the voters of the city of Floresville at the next allowable election date authorized by state law after the date of the certification to the council. Special election on initiated or referred ordinances shall not be held more frequently than once each six (6) months, and no ordinance on the same subject as an initiated ordinance which has been defeated at any election may be initiated by the voters within two (2) years from the date of such election.

7.06 BALLOT FORM AND RESULTS OF ELECTION

The ballot used in voting upon an initiated ordinance shall state the caption of the ordinance and below the caption shall set forth on separate lines the words:

FOR THE ORDINANCE

AGAINST THE ORDINANCE.

The ballot used in voting on a referendum shall state the caption of the referendum and below the caption shall set forth on separate lines the words:

FOR THE REPEAL OF THE ORDINANCE:

AGAINST THE REPEAL OF THE ORDINANCE.

Any number of ordinances may be voted on at the same election in accordance with the provisions of this Charter. An ordinance so adopted may be repealed or amended at any time after the expiration of two (2) years by a majority vote of the City Council.

7.07 NON-BINDING REFERENDUMS

At any regular municipal election the City Council may place no more than three non-binding referendums on the election ballot. The wording must be sufficient to state clearly the intent of the referendum. Below the proposed referendum the following words shall be set forth on separate lines.

YES _____

NO _____

Non-binding referendum(s) may be placed on the ballot and must be the last item(s) on the ballot .

**SECTION VIII
MUNICIPAL PLANNING, ZONING
AND ANNEXATION OF PROPERTY**

8.01 SUBDIVISION AND EXTRA TERRITORIAL JURISDICTION

- (a) Hereafter, every owner of any tract of land situated within the corporate limits of the City of Floresville who may divide the same shall comply with the provisions of state law, as now or hereafter amended and any applicable city ordinances.
- (b) The provisions of section 1. (a) above shall apply similarly to the owner of any tract of land situated within the extraterritorial jurisdiction of the City of Floresville as provided by state law.

8.02 CITY COUNCIL SCOPE OF PARTICIPATION

The City Council shall cooperate in every manner possible with persons interested in the development of property within or beyond the city limits. No expenditure of public funds, however, shall be authorized for the development of privately owned subdivisions situated within or beyond the corporate limits of the city, except the council may expend public funds for extension of utilities or services to such areas, and except as provided by State law.

8.03 DESIGNATION OF A PLANNING, ZONING AND ANNEXATION COMMISSION

Consistent with all applicable federal and state laws with respect to land use, development, and environmental planning, the Planning, Zoning and Annexation Commission shall:

- (a) Carry out the planning, zoning and annexation oversight functions and such decision-making responsibilities as may be specified by ordinance;
- (b) Propose a comprehensive plan and determine to what extent zoning and other land use ordinances must be consistent with the plan;
- (c) Determine to what extent the comprehensive plan and zoning and other land use ordinances must be consistent with regional plan(s);
- (d) Propose development regulations, to be specified by ordinance, to implement the plan; and
- (e) Recommend annexation plan guidelines and criteria to the council.

The Planning, Zoning and Annexation Commission, City Manager, Mayor and City Council shall seek to act in cooperation with other jurisdictions and organizations in their region to promote integrated approaches to regional issues.

8.04 COMPREHENSIVE PLAN

All annexations shall be coordinated with the city's adopted comprehensive plan. The comprehensive plan shall be amended in order to reflect the annexations and the zoning instituted by the City Council.

**SECTION IX
MUNICIPAL FINANCE**

9.01 FISCAL YEAR

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

**9.02 CITY MANAGER RESPONSIBLE FOR ANNUAL BUDGET
AND MULTI-YEAR CAPITAL PLAN**

The City Manger will present the budget and multi-year capital plan in fiscal terms and terms of work programs. The budget should present the manager's program for accomplishing the City Council's goals and priorities for the City and other material the City Manager deems desirable.

9.03 SUBMISSION OF BUDGET

The City Manager, in no less than 60 days prior to the beginning of each fiscal year, shall submit to the City Council a proposed budget, which shall contain a complete financial plan for the coming fiscal year with explanations for salient changes from the previous fiscal year in expenditure and revenue items. The Budget must contain a complete financial statement that shows by program all outstanding obligations of the municipality including debt service, cash on hand to credit of each fund and the estimated tax rate required to cover the proposed budget. The annual budget must include and be coordinated with the multi-year capital program

9.04 REVENUES AND EXPENDITURES COMPARED WITH OTHER YEARS

In preparing the budget, the City Manager shall show the revenue and expenditure items side by side: (1) for the last completed fiscal year, (2) for the current year a total of actual and anticipated revenues and expenditures, and (3) the proposed revenues and expenditures for the new fiscal year. In addition the City Manager shall show the percentage of each revenue and expenditure item to the whole for each of the three years.

9.05 PROPOSED BUDGET AND APPROVED BUDGET A PUBLIC RECORD

The budget and all supporting schedules shall be submitted to the City Council and shall be a public record. The City Manager shall make copies available to all interested persons.

9.06 NOTICE OF PUBLIC HEARING ON BUDGET

At the meeting of the City Council at which the budget is submitted, the council shall cause a notice to be published that sets forth the time and place of a public hearing on the submitted budget. This notice will be published in a newspaper of general circulation at least ten days but no more than thirty days before the date of the hearing.

9.07. PUBLIC HEARING ON BUDGET

At the time and place so advertised, the City Council shall hold a public hearing on the budget as submitted, to which all interested persons shall be given an opportunity to be heard, for or against any item or amount of an item contained therein.

9.08 AMENDMENTS BEFORE ADOPTION

After the public hearing, the City Council may adopt the budget with or without amendment. In amending the budget, it may add or increase programs or amounts and may delete or decrease any programs or amounts, except expenditures required by law or debit service. No amendment to the budget shall increase the authorized expenditures to an amount greater than estimated income.

9.09 VOTE REQUIRED FOR ADOPTION

The budget shall be adopted by the favorable vote of at least a majority of the City Council.

9.10 DATE OF FINAL ADOPTION OF BUDGET

The City Manager shall submit a proposal budget in accordance with sections 9.03, 9.04 and 9.05 at least sixty (60) days prior to the end of the fiscal year. The City Council shall adopt an approved budget no less than thirty (30) days prior to the end of the fiscal year. *[Amendment voted on and approved by Council on May 14, 2009 to be effective June 1, 2009. See end notes.]⁵*

9.11 COPIES MADE AVAILABLE.

Upon final adoption, the budget shall be in effect for the fiscal year. A copy of the budget, as finally adopted, shall be filed with the City Secretary, County Clerk of Wilson County, and the State Comptroller of Public Accounts at Austin. The final budget shall be reproduced and sufficient copies shall be made available for the use of all offices, department, and agencies and for the use of interested persons and civic organizations. The budget can be posted to the city Website and published in a local newspaper.

9.12 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. The City

Council shall not increase taxes above the rate imposed by State law on Type A General Law municipalities.

9.13 ADMINISTRATION AND FIDUCIARY OVERSIGHT OF THE BUDGET.

The City Council shall provide by ordinance the procedures for administration and fiduciary oversight of the budget.

The council is entrusted with the fiduciary responsibility for the city and as such must provide review and oversight of the budget. The city manager administers the budget and manages the work programs and spending by departments within the policy goals and appropriations set by the council. As chief administrator, the manager must have the authority to revise the allotments at any time during the year and for any reason.

9.14 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 real and personal property within the city to the maximum provided by the constitution and general laws of the State of Texas.

9.15 PROPERTY SUBJECT TO TAX

All real and personal property within the City of Floresville not expressly exempted by law shall be subject to annual taxation.

9.16 CITY'S REPRESENTATIVE ON APPRAISAL REVIEW BOARD

The city's appointed representative to the County Appraisal Review Board will report to the City Council at a regular or special meeting actions or policies of the Wilson County Appraisal District that would impact the real property owners in the City of Floresville. These reports will be scheduled by the City Council.

9.17 DEPOSITORY

At the beginning of the fiscal year, the City Council shall designate a financial institution in or out of the City as the City depository which shall be selected for a period of two years and the financial institution that shall bid the highest rate of interest on the average daily balance and which shall be acceptable to the City Council shall be selected. If the Council requests the bid or bids offered by the financial institution(s) in the City, the City Council may also seek bids from financial institutions outside the City but these institutions must have a place of business in the State of Texas.

9.18 ISSUANCE OF BONDS

In accordance with the Constitution of the State of Texas, and not contrary thereto, the City of Floresville shall have the power to borrow money against the credit of the city for any public purpose that is not now nor hereafter prohibited by the Constitution and laws of the State of Texas.

The City shall have the power to issue all tax bonds, revenue bonds, funding and refunding bonds, time warrants, and any other evidences of indebtedness as now authorized or may be authorized hereafter to cities by the laws of the State of Texas.

9.19 REVENUE BONDS

The City of Floresville shall have the power to borrow money for such purposes constructing, purchasing, improving, expansion of, or repair of public utilities, recreational facilities, or other facilities of self-liquidating municipal function not now or hereafter prohibited by the laws of the State of Texas; and to issue revenue bonds as evidence of the obligation so created. Such bonds shall be a charge upon and payable solely from the properties or interest therein acquired and the income therefrom, and these bonds shall never become a "debt of the City." The Council shall have authority to provide for the terms and form of any purchase agreement, contract, mortgage, bond or document, desired or necessary, for the issuance of revenue bonds, and the acquisition and operation of any such property or interest.

9.20 APPROVAL AND REGISTRATION

All bonds, warrants, and certificates of indebtedness shall be signed by the mayor, countersigned by the City Secretary, and sealed with the official seal of the City, and forwarded to the attorney general of the State of Texas for approval and for registration by the comptroller of public accounts as may be required by law.

9.21 BOND REGISTER

There shall be kept as a public record by the City Secretary a register showing bonds, warrants, and certificates of indebtedness issued, the date, amount, rate of interest, where payable, and the maturity contained thereon. When such indebtedness and/or its interest has been paid, that payment shall be recorded in said register.

9.22 MANNER OF ISSUANCE

All bonds, warrants, or other indebtedness shall be issued in the manner provided the general laws of the State of Texas. None of it shall be deemed invalid because they are sold for less than par value and accrued interest.

9.23 CAPITAL PROGRAM

The city manager shall prepare and submit to the City Council a five (5) multi-year capital program no later than 30 days before taking action on the budget.

9.24 CONTENTS OF CAPITAL PROGRAM

A clear general summary of its contents. Identification of the long-term goals of the community. A list of all capital improvements and other capital expenditures which are proposed to be undertaken during the fiscal years next ensuing with appropriate supporting information as to the necessity for each. Cost estimates and recommended time schedules for each improvement or other capital expenditure. Method of financing upon which each capital expenditure is to be reliant. The estimated annual cost of operating and maintaining the facilities to be constructed or acquired. A commentary on how the plan addresses the sustainability of the community and the region of which it is a part. Methods to measure outcomes and performance of the capital plan related to the long-term goals of the community. The multi-year capital program provisions should compel long-range, goal-oriented planning of capital improvement.

9.25 CITY COUNCIL ACTION OF CAPITAL PROGRAMS

The City Council shall publish the general summary of the capital program. In addition to the initial capital expenditure the summary shall include estimated operating and maintenance costs of proposed capital facilities. This provides a more realistic projection of future expenditures and it also discourages neglect of maintenance through lack of budgeting.

9.26 HEARING AND NOTICE OF CAPITAL PROGRAMS

The procedures for hearing and notice of the City budget should be applied to capital programs.

9.27 INDEPENDENT AUDITS OF CITY ACCOUNTS

The City Council shall provide for an independent annual audit of all city accounts and may provide for more frequent audits, as it deems necessary. An independent certified public accountant or firm of such accountants shall make such audits. Such audits should be performed in accordance with Generally Accepted Auditing Standards (GAAS) and generally Accepted Governmental Auditing Standards (GAGAS).

The Council shall designate no fewer than three of its members to serve as an Audit committee. This Committee shall:

- (1) Lead the process of selecting an independent auditor;
- (2) Direct the work of the independent auditor as to the scope of the annual audit and any matters of concern with respect to internal controls; and
- (3) Receive the report of the internal auditor and present that report to the City Council with any recommendations from the Committee.

The council shall, using competitive bidding, designate such accountant or firm annually, for a period not exceeding five years, but the designation for any particular fiscal year all be made no later than 30 days after the beginning of such fiscal year. The standard for independence is that the auditor must be capable of exercising objective and impartial judgment on all issues encompassed within the audit engagement. No accountant or firm may provide any other services to the city during the time it is retained to provide dependent audits to the city. The City Council may waive this requirement by a majority vote at a public hearing. If the state makes such an audit, the council may accept it as satisfying the requirements of this section.

SECTION X FRANCHISE AND PUBLIC UTILITIES

10.01 POWERS OF THE CITY

In addition to the City's power to buy, own, construct, maintain, and operate utilities within or without the city limits and to manufacture and distribute electricity, gas or anything else that may be needed or used by the public, either by itself or in conjunction with other municipal corporations pursuant to any agreement entered into between the City and such other municipal corporations, the City shall have further powers as may now or hereafter be granted under the Constitution and the laws of the State of Texas.

10.02 INALIENABILITY OF PUBLIC PROPERTY

The right of control and use of the public streets, highways, sidewalks, right of ways, easements, 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 Council or any officer or agent of the City shall be construed to grant, renew, extend, or amend by estoppel or implication, any right, franchise or easement affecting said public street, highways, sidewalks, right of ways, easements, alleys, parks, public squares, public places and other real property.

10.03 POWER TO GRANT FRANCHISE

The Council shall have the power by ordinance to grant, renew, and extend all franchises of all utilities used by the public of every character operating within the City, and, with consent of the franchise holder, to amend the same. Provided, however, that no franchise shall be granted to an indeterminate term and no more than 20 years.

10.04 ORDINANCE GRANTING FRANCHISE

Every ordinance granting, renewing, extending, transferring or amending a franchised utility used by the public shall be read at two (2) regular meetings of the Council, and shall not be finally acted upon until thirty (30) days after the first reading thereof. Within five days following the first reading of the ordinance, the caption thereof shall be published for two consecutive weeks in a newspaper with general circulation in the City, and the expense of such publication shall be borne by the prospective franchise holder.

10.05 TRANSFER OF FRANCHISE

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

10.06 REGULATION OF FRANCHISES

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 notice and hearing;
- (2) To impose reasonable regulations to insure safe, efficient and continuous service to the public;
- (3) To require such expansion and extension 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, extent and condition 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 its fair and just proportion of the expense of excavating, grading, paving, repaving, constructing, reconstructing, draining repairing, maintaining, lighting, sweeping, and sprinkling such portions of the

alleys, bridges culverts, viaducts, and other public places and ways of the City as may be occupied or used in whole or in part by such utilities; or to compel such public utility to perform, at its own expense such excavating, relocation, grading, paving, repaving constructing, reconstructing, draining repairing, maintaining, lighting, sweeping and sprinkling as may hereafter be required by ordinance and any other obligations regarding construction in the right of way.

- (6) To require every franchise holder to allow other public utilities to use its tracts, poles, wires pipes or other facilities, including bridges and viaducts, wherever in the judgment of the Council such use shall be in the public interest and without damage to the franchise holder, provided that in such event the Council shall fix a reasonable rental to be paid to the owner of the facility for such use, after notice to the interested parties and a hearing of the facts;
- (7)
 - a. To prescribe the form of accounts kept by every franchise holder;
 - b. To examine and audit at any time the accounts and other records of any franchise holder;
 - c. 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;
- (8) To require and collect any compensation and rental or taxes not now or hereafter prohibited by the laws of this state;
- (9) To require such franchise holders who request an increase in rates, charges or fares, to reimburse the City for reasonable expenses incurred in employing attorneys, engineers, accountants and rate consultants to conduct investigations and present evidence and advise the Council on such requested increase.

10.07 REGULATION OF FRANCHISE RATES

The Council shall have full power after notice and hearing to regulate by ordinance the rates charges and fares of any franchise holder operating in the City. 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

10.08 OTHER CONDITIONS

All franchises, contracts, and agreements heretofore granted are recognized as contracts between the City and the grantee, and the contractual rights as contained in any such franchises shall not be impaired by the provisions of this Charter, except that the power of the City to exercise the right of

eminent domain in the acquisition of any utility property, is in all things reserved, and except the general power of the City heretofore existing and herein provided for, which shall include the right to require proper and adequate extension of plant and service, and the maintenance of the plant and fixtures at the highest reasonable standard of efficiency. Every franchise hereafter granted, shall be held subject to all the terms and conditions contained in the various sections of this Charter on Franchises, whether or not such terms are specifically mentioned in the franchise. Nothing in this Charter shall operate to limit in any way, as specifically stated, the discretion of the Council or the electors of the City in imposing terms and conditions as may be reasonable in connection with any franchise grant.

10.09 FRANCHISE RECORDS

Six (6) months after this Charter takes effect, every public utility and every owner of a public utility franchise shall file with the City certified copies of all franchises owned or claimed, or under which such utility is operated. The City shall compile and maintain a public record of public utility franchises.

10.10 ACCOUNTS OF MUNICIPALLY OWNED UTILITIES

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

**SECTION XI
APPOINTMENTS TO COMMITTEES**

11.01 COUNCIL MEMBERS SERVING ON COMMITTEES

Council Members are prohibited from appointing themselves to any committee or board, even if permitted under state law. Specifically, no council member, mayor, or city employee may serve on any 4A or 4B corporation of the city. These corporations shall follow state law including the requirements specified in the city charter. *[This section inserted pursuant to Amendment voted on and approved by Council on May 14, 2009 to be effective June 1, 2009. See end notes]*⁶

**SECTION XII
CONSTRUCTION PROJECT REQUIREMENTS**

12.01 PROJECTS FOR APPROVAL

All new construction projects over \$25,000 entered into by the city or the 4A and 4B corporations of the city must be competitively bid.

Before the council can consider a project, the back up documents for the project presented to the City Council must include professional architectural/engineered drawings, the specifications and costs of the project, and the draft of the advertisement for bid that will be published for the project.

In the cases of competitive bid projects, state law requirements shall be followed.

Construction projects entered into by the city, whether competitively bid or not, must be approved by the City Council meeting. *[This section inserted pursuant to Amendment voted on and approved by Council on May 14, 2009 to be effective June 1, 2009. See end notes.]*⁷

**SECTION XIII
GENERAL PROVISIONS**

*Previously Section XI and renumbered. See end notes.*⁸

13.01 PUBLICITY OF RECORDS

All records and accounts of every office, department, or agency of the city shall be open as may be provided by the Texas Public Information Act to inspection by any citizen or by any representative of the press at all reasonable times and under such reasonable regulations established by the City Council or the Mayor except for those records which may be exempt from disclosure under the Texas Public Information Act or other law.

13.02 PERSONAL INTEREST

No officer of the city shall have a financial interest, direct or indirect, in any contract with the city, nor shall he be financially interested, directly or indirectly, in the sale to the city of any land, or rights or interest in any land, materials, supplies or service. The above provision shall not apply where the interest is represented by ownership of stock in a corporation involved, provided such stock ownership amounts to less than 1% of the corporation stock. Any violation of this section shall constitute malfeasance in office, and any officer of the city found guilty thereof shall thereby forfeit his office or position. Any violation of this section with the knowledge, express or implied, of the person or corporation contracting with the city shall render the contract voidable by the city manager or a majority of the City Council. An officer is not considered to have an interest described above if the officer complies with the requirements of Texas Local Government Code Chapter 171.

13.03 NEPOTISM

No person related within the second degree by affinity (marriage), or within the third degree by consanguinity (family blood) to any elected officer of the city, or to the city manager, shall be appointed to any paid office, position or clerkship or other service of the city.

Employment of relatives of other employees is permitted with the following exceptions:

- (1) No family member may exercise supervisory authority over another family member who is within the 2nd degree of affinity or 3rd degree of consanguinity; or
- (2) Within the same degree of affinity and consanguinity, hold occupational positions in such relationships as would impair internal control of any system of financial or property accountability.

13.04 PROVISIONS RELATING TO ASSIGNMENT, EXECUTION AND GARNISHMENT

The property, real and personal, belonging to the city shall not be liable to be sold or appropriated under any writ or execution or cost bill. 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 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 except those mandated by State Law.

13.05 CITY NOT REQUIRED TO GIVE SECURITY OR EXECUTE BOND

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

13.06 SPECIAL PROVISIONS COVERING DAMAGE SUITS

Before the city shall be liable to damage claim or suit for personal injury, or damage to property, the person who is injured or whose property is damaged or someone in his behalf shall give the city manager or the person performing duties of city secretary, notice in writing within six (6) months after the occurrence of the incident giving rise to the claim of the alleged injury, or damage, stating specifically such notice when, where and how the injury or damage was sustained, and setting forth the extent of the injury or damage as accurately as possible. No action at law for damages shall be brought against the city for personal injury or damage to property prior to the expiration of thirty days after the notice herein before described has been filed with the city manager or the person performing the duties of city secretary, no later than two years after the occurrence of the injury or damage to property. In case of injuries resulting in death, before the city shall be liable in damages thereof the person or persons claiming such damages shall after the death of the injured person give notice as above required in case of personal injury. Provided, however, that nothing herein contained shall be construed to mean that the City of Floresville waives any rights, privileges, defenses or immunities in tort actions which are provided under the common law, the constitution and general laws of the State of Texas.

13.07 SEVERABILITY CLAUSE

If any section or part of 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 section so held invalid may appear, except to the extent that an entire section or part of section may be inseparably connected in meaning and effect with the section or part of section to which such holding shall directly apply.

13.08 EFFECT OF THIS CHARTER ON EXISTING LAW

All ordinances, resolutions, rules, and regulations now in force under the city government of Floresville 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 Floresville under existing franchises and contracts are preserved in full force and effect to the City of Floresville

13.09 INTERIM MUNICIPAL GOVERNMENT

From and after the date of the adoption of this charter, the persons then filling elective offices, which are retained under this charter, will continue to fill those offices for the terms to which they were elected. At the first regular city election after the adoption of this charter, three council members shall be elected, and each shall serve a two year term. Thereafter, the City Council and mayor shall be elected as provided in Section V of this Charter. Persons, who on the date this charter is adopted are filling appointive positions with the City of Floresville which are retained under this charter, may continue to fill these positions for the term for which they were appointed. However, any currently elected and sitting Council member or Mayor who has completed the six

year term limit set by this Charter, prior to the adoption of this Charter, shall be precluded from running again for the position in which term limits have been met. The waiting period to run again are applicable to these members.

13.10 APPLICABILITY OF GENERAL LAWS

The constitution of the State of Texas, the statutes of said state applicable to home-ruled municipal corporations, as now or hereafter enacted, this charter and ordinances enacted pursuant hereto shall, in the order mentioned, be applicable to the City of Floresville, but the city shall also have the power to exercise any and all powers conferred by the laws of the State of Texas upon any other kind of city, town or village, not contrary to the provisions of said home-rule statutes, charter and ordinances, but the exercise of any such powers by the City of Floresville shall be optional with it, and it shall not be required to conform to the law governing any other cities, towns or villages.

13.11 AMENDING THE CHARTER

Amendments to this charter may be framed and submitted by the City Council or by referendum legislation by the people, to the voters of the city as prescribed in section seven of this Charter and as prescribed by State Law.

13.12 CHARTER REVIEW COMMISSION

The City Council may call for an election of a charter review commission of fifteen citizens of the City of Floresville.

¹ HISTORICAL NOTES

2009 AMENDMENT

- 3.10 RULES OF PROCEDURE - *Amendment effective June 1, 2009, added the following language at the end:*

“Individual citizens will be granted one minute of time for input on the subject of any and all consideration and action items as they come up on the council agenda prior to the council vote. No prior sign up by citizens will be required for their input on agenda items.”

2

2009 AMENDMENT

- 4.02 DEPARTMENT OF POLICE - *Amendment effective June 1, 2009, inserted the following language:* “There shall be established and maintained a department of police to preserve order within the city and to secure the residents of said city from violence and the property therein from injury or loss.”

Deleted “council” to now read “required of him by the city.”

Also inserted “the city manager for the administration of his department and the carrying out of the

directives of the city.”

3 **2009 AMENDMENT**

- 6.04 PRESENTATION OF PETITION TO CITY COUNCIL - *Amendment effective June 1, 2009, deleted the following language:* “and the council shall then set a date for a public hearing.”

The following language was added at the end “and at that same meeting the Council must set a date for a public hearing to be held in not less than five business days. At said public hearing, the person whose removal is sought may present facts and witnesses pertinent to the charges in the recall petition.”

4 **2009 AMENDMENT**

- 6.05 PUBLIC HEARING – *Deleted in its entirety and included in 6.05 Amendment effective June 1, 2009, see below.*

- 6.05 ELECTION TO BE CALLED - *Amendment effective June 1, 2009, renumbered old 6.06 and deleted the following language:* “If the officer whose removal is sought does not resign within ten business days of notice receipt of certified mail for the public hearing or within 10 business days of the public hearing, then it shall become the duty of the City Council to.”

And substituted the following language: “If the officer whose removal is sought does not resign within ten (10) business days after the date of the public hearing, the City Council shall, at the next regularly scheduled City Council meeting,” *and deleted at the end* “on Special Elections.”

5 **2009 AMENDMENT**

- 9.10 DATE OF FINAL ADOPTION, FAILURE TO ADOPT - *Deleted in its entirety and rewritten pursuant Amendment effective June 1, 2009, see below.*

Deleted language: “The budget shall be finally adopted not later than the twenty-seventh day of the last month of the fiscal year. Should the City Council take no final action on or prior to such day, the budget proposed by the City Manager shall go into effect.”

This section rewritten as follows: “9.10 DATE OF FINAL ADOPTION OF BUDGET. The City Manager shall submit a proposal budget in accordance with sections 9.03, 9.04 and 9.05 at least sixty (60) days prior to the end of the fiscal year. The City Council shall adopt an approved budget no less than thirty (30) days prior to the end of the fiscal year.”

6 **2009 AMENDMENT**

SECTION XI. APPOINTMENTS TO COMMITTEES – *this section added pursuant to Amendment effective June 1, 2009.*

7 **2009 AMENDMENT**

SECTION XII. CONSTRUCTION PROJECT REQUIREMENTS – *this section added pursuant to Amendment effective June 1, 2009.*

8 **2009 AMENDMENT**

SECTION XIII. GENERAL PROVISIONS – *this section previously Section XI and renumbered in its entirety due to addition of new sections XI and XII pursuant to Amendment effective June 1, 2009.*

Upon motion of _____, seconded by _____, with the following ____ voting in the affirmative, ____ voting in the negative, ____ absent, and ____ abstaining, to approve and file with the Secretary of State the Amended Charter of the City of Floresville, including the amendments voted on and approved May 9, 2009, and subsequently approved by the City Council on May 14, 2009, with the amendments to be effective June 1, 2009, is duly PASSED and APPROVED this 26th day of May, 2009.

DANIEL M. TEJADA
Mayor


Attest:

MARGARET DE HOYOS
City Secretary

**CERTIFICATION OF AUTHENTICITY
OF THE CITY OF FLORESVILLE'S CHARTER
AS AMENDED EFFECTIVE JUNE 1, 2009**

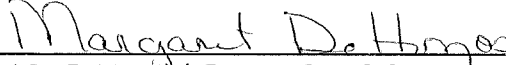
I, Daniel M. Tejada, in my capacity as Mayor for the City of Floresville, Texas, do hereby certify that the attached Charter of the City of Floresville includes the amendments voted on and approved May 9, 2009, and subsequently approved by the City Council on May 14, 2009. The amendments are to be effective June 1, 2009. The adopted amendments are noted within the Charter and are further explained in the Historical Notes set forth at the end of the Charter.

To certify which, witness my hand and seal of said City this 20th day of May, 2009.



DANIEL M. TEJADA
Mayor

Attest:



MARGARET DE HOYOS
Secretary of the City of Floresville



CERTIFICATION BY SECRETARY

I, **Margaret De Hoyos**, do hereby certify that I am the Secretary of the City of Floresville (hereinafter called the "City"), that the above and foregoing is a true, full and correct copy of Amended Charter of the City of Floresville duly adopted by the City Council of the City of Floresville at its duly noticed Council meeting of **Tuesday, May 26, 2009**, and entered into the Minutes Book of the City, that the meeting was duly held in accordance with the Charter of the City, and that such Charter has not been rescinded or modified.

To certify which, witness my hand and seal of the City of Floresville this 26th day of May, 2009.



Margaret De Hoyos
MARGARET DE HOYOS
City Secretary
City of Floresville