

**CITY OF
HUNTSVILLE**

"TO BUILD AND SERVE A BETTER COMMUNITY"

CITY CHARTER

Adopted: September 28, 1968

Amended: January 21, 1992
[includes Ordinance 97-29]

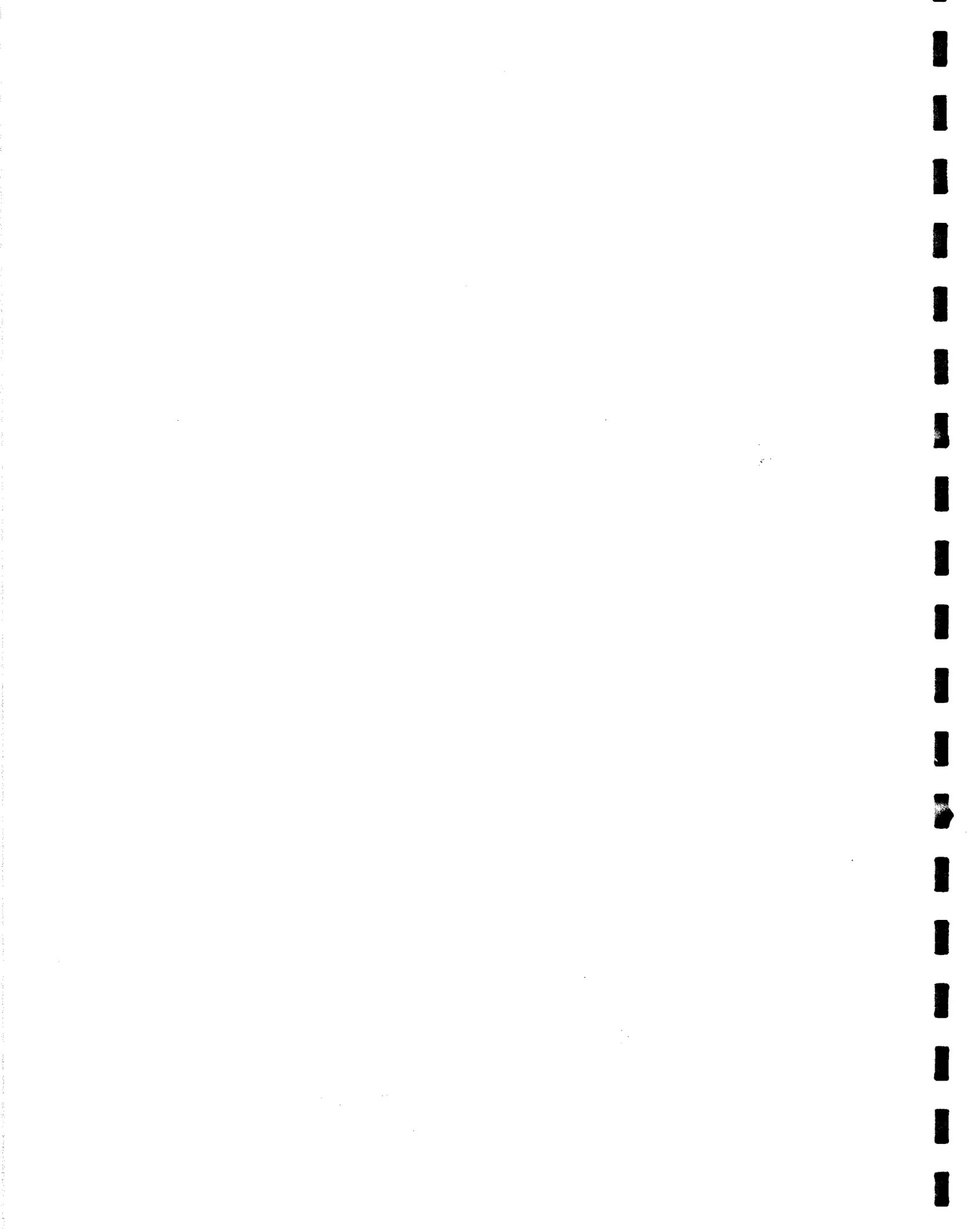


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CHARTER
OF
CITY OF HUNTSVILLE, TEXAS

PREAMBLE

In thankful recognition of the leadership of Almighty God, we, the people of Huntsville, Texas, humbly invoking His blessings, do ordain and establish this Charter.

ARTICLE I.

CORPORATE NAME

SECTION 1.01. CORPORATE NAME.

All the inhabitants of the City of Huntsville, in Walker County, Texas, as the boundaries and limits of said City are now established or as hereafter established in the manner provided by this charter, shall be a body politic, incorporated under and to be known by the name and style of the "City of Huntsville," with such powers, rights and duties as are herein provided.

ARTICLE II.

MUNICIPAL BOUNDARIES

SECTION 2.01. EXTENSION OF BOUNDARIES.

(a) Territory adjoining and contiguous to the corporate limits of the City of Huntsville, as defined herein, may be annexed to said City, regardless of the shape or configuration or size thereof, upon application being made therefor, in writing, to the City Council of the City of Huntsville, describing the territory by metes and bounds, sought to be annexed, which said application shall be signed by a majority of those residing in said territory, who are qualified to vote for members of the Legislature of the State of Texas, which said application shall be proved by the affidavit of one or more persons that the signatures thereto are genuine. In the event it is found by said City Council that a majority of said qualified voters residing in such territory are favorable to annexation, then the said City Council may, by ordinance, declare such territory annexed to the City of Huntsville, and the same shall thenceforth be an integral part of said City. The provisions of this section shall not be construed to prohibit the owner of any uninhabited territory or property contiguous to the City of Huntsville, as defined in this Charter, from making application to the City Council to have same annexed to the City, and when such application is made and

acted upon, an ordinance shall be passed, providing for the annexation of such property, and said property when so annexed, shall be covered by the same rules and regulations as other territory annexed under the provisions of this section.

(b) The 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 the procedural rules prescribed by Title 1, Subtitle C, of the Texas Local Government Code, as heretofore or hereafter amended. Upon the final passage of any ordinance annexing territory, the corporate limits of the City shall thereafter include the territory so annexed, and when any additional territory has been so annexed, the same shall be a part of the City of Huntsville and the property situated therein shall bear its pro rata part of the 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 the acts and ordinances, resolutions 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 so detached or disannexed.

ARTICLE III.

INCORPORATION, FORM OF GOVERNMENT, AND POWERS.

SECTION 3.01. GENERAL POWERS.

The City shall have all the power 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 any political subdivision thereof or with the federal government or any 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, 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 expressly and permissively by the laws of the State of Texas. 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 express 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 Council.

SECTION 3.02. FORM OF GOVERNMENT.

The municipal government provided by this Charter shall be, and shall be known as "Council-Manager Government." Pursuant to the provisions of and subject only to the limitations imposed by the State Constitution, the State laws, and this Charter, all powers of the City shall be vested in and exercised by an elective Council, hereinafter referred to as "The City Council" which shall enact legislation, adopt budgets, determine policies, and appoint the City Manager who shall execute the laws and administer the government of the City.

SECTION 3.03. 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.

SECTION 3.04. STREET DEVELOPMENT AND IMPROVEMENT.

The City shall have the power to develop and improve, or cause to be developed and improved, any and all public streets, sidewalks, alleys, highways and other public ways within the corporate limits of the City by laying out, clearing of vegetation, including shrubs, narrowing, widening, straightening, extending, lighting, and establishing building lines along the same; by purchasing, condemning, and taking property therefor; by filling, grading, raising, lowering, paving, repaving and repairing, in a permanent manner, the same; and by constructing, reconstructing, altering, repairing, and realigning curbs, gutters, drains, sidewalks, culverts, and other appurtenances and incidentals in connection with such development and improvement authorized hereinabove, or any combination or part thereof. The cost of such development and improvement may be paid partly or entirely by assessments levied as a lien against the property 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 are ordered constructed in any part of any such area used or occupied by the tracks or facilities of any railway or public utility, then 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 railway or utility, and shall have power by ordinance to provide for the enforcement of such assessment.

As an alternate and cumulative method of developing, improving, and paving any and all public streets, sidewalks, alleys, highways, and other public ways within its corporate limits, the City shall have the power and authority to proceed in accordance with Chapter 106, Page 489, Acts of the Fortieth Legislature of the State of Texas, First Called Session, 1927, as heretofore or hereafter amended, the same being Article 1105b of the Revised Civil Statutes of Texas, 1925.

ARTICLE IV.

THE COUNCIL

SECTION 4.01. NUMBER, SELECTION AND TERM OF OFFICE.

The Council shall be composed of a Mayor and eight Councilmembers. The Mayor, unless sooner removed under the provisions of this Charter, shall serve for two year terms, from the first Tuesday following the election until the first Tuesday following the general election two years later, or until a successor has been elected and duly qualified. Each Councilmember, unless sooner removed under the provisions of this Charter, shall serve for two year terms, from the first Tuesday following their election until the first Tuesday following the general election two years later, or until a successor has been elected and duly qualified.

SECTION 4.02. QUALIFICATIONS.

At the time of election to office and during their tenure of office, the Mayor and each member of the Council shall be a citizen and a qualified registered voter of the State of Texas and the City of Huntsville and, if a Councilmember from a specific Ward, a resident of such Ward. No member of Council shall have resided in the City for less than 12 months next preceding the election and no member shall be less than 21 years old. No member of the Council shall be indebted to the City or be delinquent in the payment to the City of any tax or assessment. No member of the Council shall hold any other office or employment under the City government while a member of the Council. A member of the Council ceasing to possess any of the foregoing qualifications shall immediately forfeit their office.

SECTION 4.03. DESIGNATION OF MEMBERS OF COUNCIL AND RESIDENTIAL REQUIREMENTS.

The Mayor shall be designated as such and as a candidate for such office may reside anywhere within the City. The eight Councilmembers shall be designated as:

- Councilmember -- Ward 1
- Councilmember -- Ward 2
- Councilmember -- Ward 3
- Councilmember -- Ward 4
- Councilmember-at-Large -- Position 1
- Councilmember-at-Large -- Position 2
- Councilmember-at-Large -- Position 3
- Councilmember-at-Large -- Position 4

To be eligible as a candidate for Councilmember from a specific Ward, a person must be a resident of such Ward. Candidates for all positions of Councilmember-at-Large may reside anywhere within the City.

SECTION 4.04. CITY DIVIDED INTO WARDS.

The City is presently divided in four Wards, known as Ward 1, Ward 2, Ward 3, and Ward 4, and shall remain as such until the City is redistricted by ordinance of the City Council.

SECTION 4.05. INVESTIGATIVE BODY.

The 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 Council shall 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 any such contempt in the manner provided by such ordinance. No member of the Council shall ever vote upon any matter involving the consideration of the member's own official conduct.

SECTION 4.06. CITY SECRETARY.

The Council, upon recommendation of the Mayor, shall appoint the City Secretary, who shall serve at the pleasure of the Council. The City Secretary shall keep the records of the Council, and shall have such other duties and responsibilities as may be assigned to

the City Secretary by this Charter or by the Council. The City Secretary shall appoint such assistants as may be authorized by the Council. The City Secretary shall furnish two copies of the minutes of all Council meetings to the City Library within thirty days after their approval; such copies of minutes of the Council shall become and be maintained as permanent public records.

SECTION 4.07. MEETINGS OF THE COUNCIL.

There shall be one or more regular meetings of the City Council each month, which shall be held at such times and places as shall be prescribed by ordinance. Special meetings may be called at any time by the Mayor, the City Manager, or by a majority of the Councilmembers qualified and serving by giving notice to the City Secretary who shall in turn give notice of such special meetings to all members of the Council at least twelve hours prior to such meeting. Provided, however, any member of the Council may either before or after such meeting waive such notice. All meetings of the Council, regular or special, shall be open to the public and shall be held at the City Hall of the City, except as provided by Article 6252-17 of the Texas Civil Statutes, as amended. The term City Hall as used in this Charter shall mean the Council Chambers.

SECTION 4.08. RULES OF PROCEDURE.

The Council shall by ordinance determine its own rules and order of business. A majority of the Council qualified and serving shall constitute a quorum for all meetings for the transaction of all business, but no action of the Council shall be of any force and effect unless it is adopted by the favorable vote of a majority of the members of the Council qualified and serving, unless otherwise provided by this Charter. Minutes of all meetings of the Council shall be taken and recorded, and such minutes shall constitute a public record.

SECTION 4.09. ABSTENTIONS.

The Mayor and each member of the Council in attendance at the Council meeting shall vote on every issue that a vote is called unless that person declares a conflict of interest and files an affidavit stating the nature and extent of the interest. A person who fails or refuses to vote without filing the affidavit describing the conflict of interest shall be recorded as having cast a negative vote.

SECTION 4.10. POWERS OF THE 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 Council; provided, that the Council shall have no power to exercise those powers which are expressly conferred on other City officers by this Charter.

SECTION 4.11. OVERRIDE OF MAYOR'S VETO.

At any meeting of the Council held not less than seven nor more than thirty days after the Mayor has vetoed any ordinance or resolution of the Council, the Council may, by the affirmative vote of a majority of its members qualified and serving, override such veto, in which event such ordinance or resolution shall be considered finally passed and approved and shall not be subject to further veto.

SECTION 4.12. REMOVAL OF OFFICERS APPOINTED BY CITY COUNCIL.

The Council may by preliminary resolution suspend or remove any appointed, salaried officer or employee of the City that the Mayor or Council under this Charter has the power to appoint. If within ten days of such suspension the officer or employee requests in writing a hearing before Council, a hearing shall be held not less than six nor more than twenty days from such request. After such hearing, Council may adopt a final resolution of removal by an affirmative vote of the majority of Council. The action of Council shall be final.

SECTION 4.13. EMPLOYEE GRIEVANCES.

After proper appeal to the City Manager, all City employees, other than those employees appointed by Mayor or Council, may appeal in writing to Council to hear and resolve grievances of personnel matters as they relate to disciplinary actions resulting in a suspension without pay for five working days or more or resulting in termination.

The petition shall be signed by the employee, shall contain the employee's home address, and shall state whether the person desires a public or a private hearing. The petition shall be filed with the City Secretary within ten days of the written decision rendered by the City Manager. If the petition is timely filed, a hearing shall be held not less than six nor more than twenty days from such petition. The City Secretary shall give written notice of the time of such hearing to the suspended employee at the address shown in the petition by certified mail or personal service at least three days prior to the date of such hearing. At the hearing, the Councilmembers and suspended employee shall be given the right to be heard. Within ten days following such hearing, the Council shall render a decision in writing. The Council may affirm, reverse, set aside or reduce any previous decision as well as reinstate the employee with back pay. The action of the Councilmembers on the question of the removal of such suspension or reinstatement shall be final.

SECTION 4.14 PROCEDURE TO ENACT LEGISLATION.

The Council shall legislate by ordinance, and the enacting clause of every ordinance shall be, "Be it ordained by the City Council of the City of Huntsville." The City Attorney shall approve as to legality all ordinances adopted by the Council, or shall file with the City Secretary written legal objections thereto. Evidence of approval of an ordinance by the City Attorney may be made by notation on the ordinance itself or by separate paper or instrument. Each ordinance finally enacted by the Council shall be signed by the Mayor,

subject only to the Mayor's right to veto, and shall be filed with and recorded by the City Secretary. In the event the Mayor fails or refuses to sign an ordinance after the period in which the Mayor may veto the same has expired or in the event the Mayor fails or refuses to sign an ordinance passed over the veto, such ordinance shall be signed by the Mayor Pro Tem or by two Councilmembers. Every ordinance shall be introduced in written or printed form, and, upon passage, shall take effect at the time indicated therein. Except as otherwise provided in this Charter, it shall not be necessary to the validity of any ordinance that it shall be passed at more than one session of the City Council.

SECTION 4.15. PUBLICATION OF ORDINANCES.

Except as otherwise provided by law or by 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 every other ordinance required by law or by this Charter to be published, by causing the ordinance, or its descriptive caption and penalty, to be published at least twice within ten days after final passage thereof in the official 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. Such ordinances shall take effect ten days after final passage, provided that any penal ordinance passed as an emergency measure shall take effect immediately upon publication.

SECTION 4.16. CODE OF ORDINANCES.

The 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 shall be enacted as an amendment to the code. The 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 Council, the printed code 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.

SECTION 4.17. LIMITATION OF NUMBER OF TERMS OF COUNCILMEMBER.

No person shall be elected to more than four consecutive regular two year terms as a Councilmember.

SECTION 4.18. COMPENSATION OF COUNCILMEMBERS.

Each Councilmember shall receive a salary of Ten Dollars (\$10.00) for each regular meeting which the member attends.

SECTION 4.19. VACANCIES IN THE OFFICE OF COUNCILMEMBER.

Vacancies in the office of Councilmember arising from any cause shall be filled for the remainder of the unexpired term at an election not less than sixty (60) days after the occurrence of the vacancy. A special election shall be called in the manner provided for City general elections to elect successors to fill such unexpired terms. Any person elected to fill a vacancy in the office of Councilmember shall possess all of the qualifications herein required for the office.

SECTION 4.20. FORFEITURE OF OFFICE OF COUNCILMEMBER BECAUSE OF ABSENCE.

Any Councilmember who is absent from more than four consecutive regular meetings of the Council, unless such absences are the result of illness or the conduct of official City business, shall be deemed to have forfeited the office and the Council shall fill such vacancy in the manner prescribed by the Charter.

ARTICLE V.

THE MAYOR.

SECTION 5.01. MAYOR.

The Mayor shall preside at all meetings of the Council and shall be recognized as head of the City Government for all ceremonial purposes, for the purpose of receiving services of civil process, for emergency purposes, and for military purposes, but the Mayor shall have no administrative duties.

It shall be the Mayor's duty to see to the general welfare of the City, to keep abreast of and project the needs of the City, and to recommend legislation to the Council to meet these objectives. The Mayor shall conduct, in person or by naming someone to represent the Mayor, all intercourse and business of the City with other governmental entities.

SECTION 5.02. MAYOR PRO TEM.

At the first meeting following each general City election, the Council shall by election designate one of its member Councilmembers as Mayor Pro Tem. The Mayor Pro Tem shall act as Mayor during the absence, disability or disqualification of the Mayor and shall have the power to perform every act the Mayor could perform if present.

SECTION 5.03. ACTING MAYOR.

In the event of the absence, disability, or disqualification of both the Mayor and Mayor Pro Tem at any particular meeting of the Council, the remaining members of the Council shall by election designate one of their members as Acting Mayor and that member shall act as Mayor for such particular meeting and shall have power to perform every act, except the power to remove or suspend officers and employees and the power of veto, the Mayor could perform if present.

SECTION 5.04. VACANCY.

In the event of a vacancy in the office of Mayor arising from any cause, the Mayor Pro Tem shall become Mayor for the completion of the unexpired term if one year or less of such unexpired term remains. If more than one year of such unexpired term remains, however, the Council shall within ten days following such vacancy call a special election to be held within not less than forty nor more than sixty days thereafter to fill such vacancy for the unexpired term. The Mayor Pro Tem shall act as Mayor until a successor to the office of Mayor has been elected and duly qualified.

SECTION 5.05. GENERAL POWERS OF THE MAYOR.

The Mayor shall have and exercise such powers, prerogatives, and authorities as are expressly or impliedly conferred on the office by this Charter or by the Council.

SECTION 5.06. PRIVILEGE OF VOTE AND VETO.

The Mayor, as a member of the Council, shall vote upon all matters considered by the Council, except in those instances where such privilege of vote is specifically denied the Mayor by this Charter. The Mayor shall have the power to veto any ordinance or resolution enacted or adopted by the Council, except those ordinances or resolutions which are not subject to the initiative or referendum process under the provisions of this Charter. To be effective, such veto must be accomplished by a veto message setting forth in writing the Mayor's reason for such veto, which such veto and veto message must be filed with the City Secretary within such three day period. The City Secretary shall deliver the Mayor's veto and veto message to the Council at its next regular meeting.

SECTION 5.07. REMOVAL OF APPOINTED, NON-PAID PERSONS.

The Mayor may, with approval of Council, remove from office or position all persons appointed by the Mayor to serve on boards, commissions, or committees, or agencies of the City or to serve in any similar non-paid offices or positions of the City. The action of the Mayor and Council shall be final.

SECTION 5.08. OTHER DUTIES AND POWERS.

Unless otherwise provided by law or by this Charter, the powers and responsibilities of the Mayor shall include, but shall not be limited by the following:

- (a) To appoint, subject to the confirmation and approval of the Council, the City Secretary, the City Attorney, the Municipal Court Judge, the Certified Public Accountant, and all members of all Boards, Commissions and Committees of the City.
- (b) To recommend to the Council such measures, resolutions and ordinances as the Mayor may deem proper and necessary.
- (c) To perform such other duties as may be prescribed by this Charter or required of the Mayor by the Council.

SECTION 5.09. COMPENSATION OF MAYOR.

The Mayor shall receive a monthly salary of \$50.00.

SECTION 5.10. LIMITATION ON NUMBER OF TERMS OF MAYOR.

No person shall be elected to more than four consecutive regular two year terms as Mayor.

ARTICLE VI.

ELECTIONS.

SECTION 6.01. GENERAL ELECTIONS.

Regular City general elections shall be held on the first Saturday in May*. All Councilmembers and the Mayor shall be elected for two year terms, provided that the Mayor and Councilmembers from all Wards shall be elected on odd numbered years and all Councilmembers-at-Large shall be elected on even numbered years. In all odd year elections, each qualified voter shall vote for not more than one candidate for Mayor and for not more than one candidate for Councilmember from the qualified voter's ward. In all even year elections, each qualified voter shall vote for not more than one candidate for each of the four Council-at-Large positions. Each election shall be ordered by the Mayor, or in the event the Mayor fails to do so by the Council. The City Secretary shall give notice of such election by causing the notice to be published at least forty days prior to the date of such election in the official newspaper of the City.

* Ordinance 97-29, adopted 9-09-97 (state law)

SECTION 6.02. RUN-OFF ELECTIONS.

In the event any candidate for Mayor or Councilmember fails to receive a majority of all votes cast for a particular office at any regular or special election, the Mayor or, if the Mayor fails to do so, the Council shall on the first day following the completion of the official count of ballots cast at the first election, order a second election to be held on a Saturday within thirty (30) days following the date of such order, at which election the two candidates receiving the highest number of votes cast for such particular office in the first election, at which no one was elected to such office by receiving a majority of all votes cast for all candidates for such particular office, shall again be voted for, and the one receiving the highest number of votes cast shall be elected to such office. The City Secretary shall give notice of such run-off election by causing said notice to be published at least ten days prior to the date of such election in the official newspaper of the City.

SECTION 6.03. ORDER OF NAMES ON BALLOT.

In all elections, regular or special, first or run-off, the order of names of candidates for a particular office on the ballot shall be determined by the Texas Election Code.

SECTION 6.04. REGULATION OF ELECTIONS.

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

SECTION 6.05. FILING OF CANDIDATES.

Any qualified person who desires to become a candidate for election to the office of Mayor or Councilmember shall file with the City Secretary at least thirty days prior to the date of election an application for that person's name to appear on the ballot. Such application shall clearly designate the office and, if a candidate for Councilmember, the Ward or At-Large position to which the candidate seeks election and shall contain a sworn statement by the candidate that the person is fully qualified under the laws of the State of Texas and the provisions of this Charter to hold the office the person seeks.

SECTION 6.06. FILING FEES.

An application to become a candidate for Mayor and/or Councilmember must be accompanied by a filing fee of One Dollar (\$1.00). The payment of such filing fees shall be in cash.

SECTION 6.07. CANVASSING ELECTION AND DECLARING RESULTS.

The returns of every municipal election shall be delivered forthwith by the Election Judges to the City Secretary. The Council shall canvass the returns, investigate the qualifications of the candidates, and declare the official results of the election not later than three days following the delivery of the votes to the City Secretary. The returns of every municipal election shall be recorded in the minutes of the Council by Ward totals when applicable. At each first election the qualified person receiving a majority of all votes cast for the office that person seeks shall thereupon be declared by said Council elected. The decision of the Council as to qualifications of candidates shall be conclusive and final for all purposes.

SECTION 6.08. NOTIFICATION AND QUALIFICATION OF CITY OFFICIALS.

It shall be the duty of the City Secretary to notify all persons elected or appointed to office of their election or appointment. All officials newly elected at a City general election may enter upon their duties on the first Tuesday following the date of their election. All other newly elected or appointed officials may enter upon their duties immediately. All elected or appointed officials must qualify by taking and subscribing their oath of office within thirty days following the date of their election or appointment; otherwise, the office shall be deemed vacant.

SECTION 6.09. SPECIAL ELECTIONS.

The Council may by ordinance or resolution call such special elections as are authorized by the laws of the State of Texas and by this Charter, fix the time and place of holding same, and provide all means for holding such special elections, provided that every special election shall be called and held as nearly as practicable according to the provisions governing City general elections. It is specifically provided, however, that if the laws of the State of Texas specify a different period or method of notice of any special election, the time and method provided for therein shall prevail over the general provisions of this Charter.

ARTICLE VII.

INITIATIVE, REFERENDUM, AND RECALL.

SECTION 7.01. 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 ordinances appropriating money or levying taxes, or ordinances repealing ordinances appropriating money or levying taxes, not in conflict with this Charter or the Constitution of the laws of the State of Texas. Any initiated ordinance may be submitted to the Council by a petition signed by the qualified voters of the City equal in number to at least twenty percent of the qualified voters of the City.

SECTION 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 of the initiative process under this Charter, except 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 days after the effective date of any ordinance which is subject to referendum, a petition signed by at least ten percent 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.

SECTION 7.03. 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 Council, the full text of the ordinance sought to be referred shall be included in such papers. For a petition signature to be valid, a petition must contain, in addition to the signature, the printed name of the signer, the signer's voter registration number, the signer's residence address, the signer's ward or precinct number, and the date of signing. No signature shall be counted where there is a reason to believe it is not the actual signature of the purported signer or that it is a duplication either of name or of handwriting used in any other signature on the petition. Before the signatures on any petition paper may be counted, one of the signers of such petition paper, a qualified voter, shall make oath before the City Secretary or any 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 that person's presence.

SECTION 7.04. FILING, EXAMINATION, AND CERTIFICATION OF PETITIONS.

Within thirty 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 7.03 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 the signers found not qualified. After completing the examination of the petition, the City Secretary shall certify the results thereof to the 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 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, except as provided in Section 7.06 below.

SECTION 7.05. COUNCIL CONSIDERATION AND SUBMISSION TO VOTERS.

When the Council receives an authorized initiative petition certified by the City Secretary to be sufficient, the Council shall either: (a) pass the initiated ordinance without amendment within twenty-one days after the date of the certification to the 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 within sixty days after the date of 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 within twenty-one days, it shall be submitted to the qualified voters of the City at a regular or special election to be held not more than sixty days after the date of the certification to the Council.

Special elections on initiated or referred ordinances shall not be held more frequently than once each six months, and no ordinance on the same subject as an initiated ordinance which has been defeated or on the same subject as a referred ordinance which has been approved at any election may be initiated by the voters within two years from the date of such election.

SECTION 7.06. PETITION SIGNED BY LESS THAN TWENTY PERCENT OF QUALIFIED VOTERS.

If any authorized initiative petition or referendum petition be signed by qualified voters of the City equal in number to at least ten percent but less than twenty percent of the qualified voters of the City, then such ordinance, without amendment or alteration, shall be submitted by the Council to the qualified voters of the City at the next City general election that shall be held at any time after sixty days from the date of the City Secretary's certification of sufficiency attached to the petition accompanying said initiated or referred ordinance.

SECTION 7.07. 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 so adopted may be repealed or amended at any time after the expiration of two years by a vote

of two thirds of the Councilmembers 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 and may not be reenacted by the Council for a period of two years.

SECTION 7.08. POWER OF RECALL.

The people of the City reserve the power to recall any elected officer of the City of Huntsville 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 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.

SECTION 7.09. RECALL ELECTIONS.

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 Council shall within ten days thereafter order an election to be held within thirty-five days thereafter to determine whether such officer shall be recalled.

SECTION 7.10. 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 Council shall immediately declare that office vacant, and a special election for the filling of such vacancy shall be called and held forthwith in accordance with provisions of this Charter on elections. An officer thus removed shall not be eligible to hold office again in the City of Huntsville within a period of two years from the date of the recall.

SECTION 7.11. LIMITATION ON RECALL.

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

ARTICLE VIII.

CITY MANAGER, ADMINISTRATIVE OFFICES AND DEPARTMENTS

SECTION 8.01. THE CITY MANAGER.

The 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 Council solely on the basis of the person's executive and administrative training, experience, and ability, and need not, when appointed, be a resident of the City of Huntsville; however, during the tenure of office, the City Manager 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 Council with or without cause, by the vote of a majority of all Councilmembers qualified and serving. The action of the 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 Council. The City Manager shall receive such compensation as may be fixed by the Council.

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

SECTION 8.02. POWERS AND DUTIES OF THE CITY MANAGER.

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

SECTION 8.03. 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 Council may abolish or combine one or more departments created by it, and may assign or transfer duties of any department of the City from one department to another by ordinance.

SECTION 8.04. 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 Chief 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. Except for the purpose of inquiry the Council and its members shall deal with the administrative service solely through the City Manager, and shall not give orders to any of the Manager's subordinates, either publicly or privately.

SECTION 8.05. RIGHTS OF THE CITY MANAGER AND OTHER OFFICERS IN COUNCIL.

The City Manager, and such other officers of the City as may be designated by vote of the Council shall be entitled to seats at the Council table but shall not be members thereof, and shall have no vote therein. The City Manager shall have the right to take part in the discussion of all matters coming before the Council, and other officers shall be entitled to take part in all discussions of the Council, relating to their respective offices, departments or agencies.

SECTION 8.06. BONDS OF CITY OFFICERS.

The Council may require any officer of the City to give bond with such surety and in such sum as may be prescribed by ordinance, which sum shall be of sufficient amount to protect the City. The premium of such bond shall be paid for by the City.

ARTICLE IX.

DEPARTMENT OF LAW.

SECTION 9.01. CITY ATTORNEY.

There shall be a Department of Law, the head of which shall be the City Attorney. The Council, upon recommendation of the Mayor, shall appoint a competent and duly licensed attorney who shall be its City Attorney. The City Attorney shall be the legal advisor of and attorney for all of the offices and departments of the City, and shall represent the City in all litigation and legal proceedings. The City Council may engage other attorneys to assist the City Attorney. The City Attorney shall draft, approve or file any written legal objections to every ordinance adopted by the Council, and shall pass upon all documents, contracts, and legal instruments in which the City may have an interest.

SECTION 9.02. ASSISTANT CITY ATTORNEYS.

There shall be such Assistant City Attorneys as may be authorized by the Council. Such Assistant City Attorneys shall be authorized to act for and on behalf of the City Attorney.

ARTICLE X.

MUNICIPAL COURT.

SECTION 10.01. MUNICIPAL COURT.

There shall be a Department of Justice known as the Municipal Court of the City of Huntsville, which Court shall be deemed always open for the trial of causes, and with such jurisdiction, powers and duties as are given and prescribed by the laws of the State of Texas.

SECTION 10.02. JUDGE OF THE MUNICIPAL COURT.

The Municipal Court shall be presided over by a magistrate who shall be known as the Judge of the Municipal Court. The Council, upon recommendation of the Mayor, shall appoint such Judge, who may be either a layman or an attorney at law.

In the event the Judge of the Municipal Court is temporarily unable to act for any reason, a qualified person shall be appointed to act in the Judge's place.

The Council shall have the power to appoint on recommendation of the Mayor more than one Judge of the Municipal Court, each of whom shall be a magistrate.

SECTION 10.03. CLERK OF THE MUNICIPAL COURT.

There may be a Clerk of the Municipal Court who shall be appointed by the City Manager. Such Clerk 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 may be such Deputy Clerks of the Municipal Court as may be authorized by the Council and appointed by the City Manager, which Deputy Clerks shall have authority to act for and on behalf of the Clerk of the Municipal Court.

Any Clerk and Deputy Clerk of the Municipal Court shall be responsible to the City Manager and shall be subject to the City Manager's direction and control.

SECTION 10.04. PROCESS AND PROCEDURE IN THE CORPORATION COURT.

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

All jurors shall be residents of said City and 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 Court.

SECTION 10.05. COURT SEPARATE FROM ALL DEPARTMENTS.

The Municipal Court of the City shall always be separate and apart from all departments of the City.

ARTICLE XI.

FINANCE.

SECTION 11.01. DEPARTMENT OF FINANCE.

There shall be a Department of Finance, headed by the City Manager or an appointee. The City Manager may appoint a deputy Director of Finance.

SECTION 11.02. FISCAL PROCEDURES.

The Director of Finance shall administer and supervise all financial affairs of the City, and to that end shall have authority and may be required to:

- (a) Have custody of and be responsible for all monies belonging to or under the control of the City or any office, department or agency thereof, and shall promptly deposit all such monies in the City depository or depositories.
- (b) Examine all contracts, orders, and other documents by which the City government incurs financial obligations, having previously ascertained that money has been appropriated and allotted and will be available when the obligation becomes due and payable.
- (c) Prescribe the forms of receipts, vouchers, bills, claims and bookkeeping procedures to be used by all offices, departments and agencies of the City.
- (d) Audit and approve before payment all bills, invoices, payrolls, and other evidence of claims, demands or charges against the City. The Director of Finance shall, when it is deemed necessary, seek the written advice of the City Attorney in order to determine the regularity, legality, and correctness of such claims, demands, or charges, prior to presentation of the same to the Council for approval.
- (e) Submit to the Council through the Mayor a quarterly statement of all receipts and disbursements in sufficient detail to show the exact financial condition of the City. A copy of such statements shall be submitted to the Huntsville Public Library.
- (f) Publish in the official newspaper of the City, a financial statement of the financial condition of the City, including the status of all general and special accounts, and bonded and other indebtedness of the City in the form and as often as a majority of the Councilmembers qualified and serving may require, but at least once each fiscal year. Such financial report must be audited by a Certified Public Accountant which shall be the same one as appointed under Section 11.16 of this Charter and shall possess the qualifications as set out in

said Section. Such audit shall be on a non-certified basis. Prior to publication, the financial report shall be submitted to the Council for acceptance or rejection. Such acceptance or rejection must be made at a regular meeting of the Council and the results shall be made a matter of record and shall be reflected on the report when published as above provided. A copy of the financial report as approved or rejected shall be submitted to the Huntsville Public Library for its public journals at the same time it is released for official publication, and one or more copies of such report shall be made available in the office of the Director of Finance for public inspection during normal office hours.

- (g) Invest all funds deemed in excess of current needs in the manner authorized by the laws of the State of Texas; current needs are hereby defined as expenditures to be made within a given ninety (90) day period.
- (h) Have custody of all investments in investor funds of the City, or in the possession of the City in a fiduciary capacity, and have the safe keeping of all bonds and notes of the City and the receipt and delivery of City bonds, warrants, and notes for transfer, registration or exchange. The Director of Finance shall be responsible for the destruction of redeemed, paid and canceled bonds, warrants and notes.
- (i) Maintain a general accounting system for the City government and each of its offices, departments and agencies; keep books for and exercise financial budgetary control over each office, department, and agency; keep separate accounts for the items of appropriations contained in the City budget, each of which account shall show the amount of the appropriations, the amount paid therefrom, the unpaid obligations against it and the unencumbered balance; require reports of receipts and disbursements from each receiving and spending office, department or agency of the City to be made daily or at such intervals as the Director may deem expedient.
- (j) Pay no claim against the City unless it is evidenced by bill or voucher submitted and approved by the head of the department for which the indebtedness was incurred. Each officer and their surety shall be liable to the City for all loss or damage sustained by the City by reason of negligence or corrupt approval of such claim.

SECTION 11.03. DEPOSITORY.

All monies received by any person, department or agency of the City, for and in connection with the affairs of the City shall be deposited promptly in the City depository or depositories, which shall be designated by the Council in accordance with such regulations and subject to such requirements as to security for deposits and interest thereon as may be established by ordinance. All checks, vouchers, or warrants for the withdrawals of money

from the City depositories shall be signed by the Mayor and countersigned by the City Manager. Provided, that the Council, under such regulations and limitations as it may prescribe, may by ordinance authorize the use of machine imprinted, facsimile signatures of said Mayor and City Manager on such checks, vouchers and warrants.

SECTION 11.04. FISCAL YEAR.

The fiscal year of the City shall begin on the first day of October and end on the last day of September of the succeeding year. All funds collected by the City during any fiscal year and except for funds derived to pay interest and create a sinking fund of the bonded indebtedness of the City, may be applied to the payment of expenses incurred during such fiscal year, except as provided in this Charter. All revenues uncollected at the ends of any fiscal years, and any unencumbered funds actually on hand, shall become resources of the next succeeding fiscal year.

SECTION 11.05. BUDGET PREPARATION AND ADOPTION.

At least thirty days prior to the end of each fiscal year, the City Manager shall submit to the Council a proposed budget presenting a complete financial plan for the ensuing fiscal year. Such budget shall be prepared and public hearings shall be held thereon in the manner prescribed by the laws of the State of Texas relating to budgets in cities and towns. The budget shall be finally adopted not later than the 27th day of the last month of the fiscal year. Should the Council take no action on or prior to such day, the budget, as submitted, shall be deemed to have been finally adopted by the Council. 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.

SECTION 11.06. APPROPRIATIONS.

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 each fiscal year, any unencumbered balance of any appropriation shall revert to the fund from which appropriated and become available for reappropriation for the next fiscal year. The Council may transfer any unencumbered appropriated balance or portion thereof from one office, department, or agency to another at any time. The Council shall have the authority to transfer appropriation balances from one expenditure account to another within a single office, department, or agency of the City.

SECTION 11.07. EMERGENCY APPROPRIATIONS.

At any time in any fiscal year, the Council may, pursuant to this Section, make emergency appropriations to meet a pressing need for public expenditures, for other than regular or recurring requirements, to protect the public health, safety, or welfare. Such appropriations shall be by ordinance adopted by the favorable votes of two-thirds of the Councilmembers qualified and serving and shall be made only upon the recommendation of the City Manager.

Should the unappropriated and unencumbered revenues, income and available funds of the City for such fiscal year be not sufficient to meet the expenditures under the appropriation authorized by this Section, thereby creating a deficit, it shall be the duty of the Council to include the amount of such deficit in its budget for the following fiscal year, and said deficit shall be paid off and discharged during the current fiscal year.

SECTION 11.08. BORROWING TO MEET EMERGENCY APPROPRIATIONS.

In the absence of unappropriated available revenues or other funds to meet emergency appropriations under the provisions of the next preceding Section, the Council may by resolution authorize the borrowing of money to meet such deficit by the issuance of notes, each of which shall be designated "Emergency Note" and may be renewed from time to time, but all such notes of any such fiscal year and any renewals thereof shall mature and be payable not later than the last day of the fiscal year in which the emergency appropriation was made.

SECTION 11.09. 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 Council may by resolution authorize the borrowing of money, not to exceed in any fiscal year an amount equal to ten percent of the budget for that fiscal year. Such borrowing shall be made by the issuance of negotiable notes of the City, each of which shall be designated "tax anticipation note for the year 19__" (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.

SECTION 11.10. 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 bonds shall be issued in conformity with the laws of the State of Texas.

SECTION 11.11. LIMITATIONS ON BONDED INDEBTEDNESS PAYABLE FROM TAXES.

The maximum bonded indebtedness of the City outstanding at any one time and payable from taxation shall not exceed ten percent of the assessed valuation of all taxable property on the City's tax rolls.

SECTION 11.12. REVENUE BONDS.

The City shall have the power to borrow money for the purpose of constructing, purchasing, improving, extending or repairing of 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.

SECTION 11.13. SALE OF BONDS.

All bonds issued by the City shall be sold at public sale upon sealed bids after at least fourteen days notice thereof has been published at least once in a publication carrying municipal bond notices and devoted primarily to financial news, and at least fourteen days notice thereof has been published at least once in the official newspaper of the City. Such sealed bids must be opened at a meeting of the Council.

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 purchaser 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.

SECTION 11.14. USE OF BOND PROCEEDS.

The proceeds of all bonds authorized, issued, and sold by the City shall be used only for the purpose for which voted or authorized and the diversion of any such bond proceeds to any other purpose may be enjoined by any property tax paying citizen of the City.

SECTION 11.15. PURCHASE PROCEDURES.

All purchases made and contracts executed by the City shall be pursuant to a requisition from the head of the office, department, or agency, appropriation will be charged, and no contract or order shall be binding on 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 used. Before the City makes any purchase or contract for supplies, materials, equipment or contractual services, opportunity shall be given for competition. The Council may by ordinance confer upon the City Manager's general authority to contract for expenditures without further approval of the Council for all budgeted items.

SECTION 11.16. INDEPENDENT AUDIT.

At the close of each fiscal year, and at such other times as it may deem necessary, the Council shall cause an independent audit to be made of all accounts of the City by a Certified Public Accountant, appointed by the Mayor with approval of the Council. The Certified Public Accountant so selected shall have no personal interest, directly or indirectly, in the financial affairs of the City or any of its officers. Upon completion of the audit, the results thereof shall be published immediately in a newspaper of the City of Huntsville and copies placed on file in the office of the Director of Finance and the Huntsville Public Library as public record.

ARTICLE XII.

TAXATION.

SECTION 12.01. POWER OF TAXATION.

The City shall have the powers to levy, assess, and collect taxes of every character and type not prohibited by the Constitution and Laws of the State of Texas, and for any municipal purpose. Except as otherwise provided by law or by this Charter, the Council shall have the power to provide by ordinance for the assessment and collection of all taxes, and to make such rules, regulations, and mode of procedure to enforce the collection by and payment to the City Tax Assessor and Collector as it may deem expedient, and may provide such penalties for the failure to pay such taxes as it may deem expedient.

SECTION 12.02. AD VALOREM TAXES.

All property, real, personal, or mixed, situated within the corporate limits of the City of January 1 of each year, not expressly exempt by law, shall be subject to taxation by the City for such year.

ARTICLE XIII.

FRANCHISES AND PUBLIC UTILITIES.

SECTION 13.01. 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 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 such public streets, highways, sidewalks, alleys, parks, public squares, public places and other real property, except as provided in this Charter.

SECTION 13.02. POWER TO GRANT FRANCHISE.

The 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 the consent of the franchise holder, to amend the same. Provided, however, that no franchise shall be granted for an indeterminate term, and that no franchise shall be granted for a term of more than thirty years.

SECTION 13.03. ORDINANCE GRANTING FRANCHISE.

Every ordinance granting, renewing, extending, or amending a public utility franchise shall be presented in writing at two regular meetings of the Council and shall not be finally acted upon until thirty days after the first presentation thereof. Within five days following each of the two presentations of the ordinance, a descriptive caption of the ordinance stating in summary the purpose of the ordinance shall be published one time in the official newspaper of the City, and the expense of such publication shall be borne by the prospective franchise holder.

SECTION 13.04. TRANSFER OF FRANCHISE.

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

SECTION 13.05. FRANCHISE VALUE NOT ALLOWED.

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

SECTION 13.06. REGULATION OF FRANCHISE.

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

- (a) 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.
- (b) To impose reasonable regulations to insure safe, efficient, and continuous service to the public.
- (c) To require such expansion, extension, enlargement, and improvement of plants and facilities as are necessary to provide adequate service to the public.
- (d) 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 properties of the City, and to regulate and control the location, relocation, and removal of such facilities.
- (e) 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 represent the increased cost of such operation resulting from the occupancy of such public places by such public utility, and such proportion of the cost of such operations as results from the damage to or the 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.
- (f) 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 Council such use shall be in the public interest, provided that in such an event a reasonable rental shall be paid such owner of the facilities for such use. Provided further, that inability of such public utilities to agree upon rental facilities shall not be an excuse for failure to comply with such requirement by the Council.

- (g)
 - (1) 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 kind of such franchise holder.
 - (2) To examine and audit at any time during business hours the accounts and other records of any franchise holder.
 - (3) To require reports on the operation of the utility, which shall be in such form and contain such information as the Council shall prescribe.
- (h) To require that the public utility give notice to any subscriber to its service prior to the permanent or temporary discontinuance or disruption of such service by the public utility, except in cases of emergency, and to require that no officer, agent, servant, or employee of the public utility nor any vehicles or equipment under their control shall make use of, go upon or across any private property in the City without first obtaining the permission of the owner or occupant of such property, except in cases of emergency, and to provide a penalty for the violation of such requirements.
- (i) To impose such other reasonable regulations, restrictions, requirements and conditions as may be deemed necessary or desirable to promote the health, safety, welfare, or accommodations of the public.

SECTION 13.07. FRANCHISE RECORDS.

Within six months after the effective date of this Charter every public utility operating in the City and every owner of public utility franchise within the City shall file with the City Secretary certified copies of all franchises owned or claimed or under which such utility is operating in the City of Huntsville. The City shall compile and maintain a public record of public utility franchises.

SECTION 13.08. REGULATION OF RATES.

The Council shall have full power after notice and hearing to regulate by ordinance the rates, charges, and fares of every public utility franchise holder operating in the City, provided that no such ordinance shall be passed as an emergency measure. Every franchise holder who shall request an increase in rates, charges or fares shall have, at the hearing of the Council called to consider such request, the burden of establishing by clear, competent, and convincing evidence the value of its investments properly allowable to service in the City, and the amount and character of its expenses and revenues connected with the rendering of such service. If, upon such hearing, the Council is not satisfied with the sufficiency of the evidence so furnished, it shall be entitled to call upon such public utility for the furnishing of additional evidence at a subsequent date to which said hearing may be adjourned. No public utility 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 for a specific date 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. Such motion shall be deemed overruled unless acted upon by the Council within a reasonable time, not to exceed ninety days from the filing of such motion for rehearing; provided, that the Council may by resolution extend such time limit for acting on said motion for rehearing from ninety days to one hundred eighty days.

ARTICLE XIV.

GENERAL PROVISIONS.

SECTION 14.01. 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 of the office or employment which, under this Charter, succeeds to the same general powers and duties of such office or employment under the previous Charter.

SECTION 14.02. EFFECT OF CHARTER ON EXISTING LAW.

All ordinances, resolutions, rules and regulations in force in the City on the effective date of this Charter, and not in conflict with this Charter, shall remain in force until altered, amended, or repealed by the 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 at such date, shall be valid when properly fixed or established either under the law in force at the time of the beginning of such proceedings or under the law after the adoption of this Charter.

SECTION 14.03. OFFICIAL OATH.

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

SECTION 14.04. 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, provided that police records, vital statistic records, records and files of the Department of Law, and any other records closed to the public by law, shall not be considered public records for the purpose of this section. During normal office hours, any citizen of the City or any duly authorized representative of the press or other news media shall have the right to make copies thereof under such reasonable rules and regulations as may be prescribed by the Council.

SECTION 14.05. OFFICIAL NEWSPAPER.

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

SECTION 14.06. NOTICE OF CLAIM.

The City of Huntsville shall not be held responsible on account of any claim for damages or injuries to any person, whether such damages or injuries resulted in death or not, or property unless the person making such complaint or claiming such damages or injuries, shall within six months after the time in which it is claimed such damages or injuries were inflicted upon such person or property, file with the City Secretary a true statement under oath as to the nature and character of such damages or injuries, the extent of the same, and the place where same happened, the circumstances under which it happened, the conditions causing same, and a detailed statement of each item of damages and the amount thereof and, if it be for personal injuries, whether resulting in death or not, giving a list of witnesses, if any, known to affiants who witnessed such accident.

SECTION 14.07. ASSIGNMENT, EXECUTION, AND GARNISHMENT.

The property, real and personal, belonging to the City shall not be liable for sale or appropriation under any writ of execution. The funds belonging to the City, in the hands of any person, firm, or corporation, shall not be liable to garnishment, attachment, or sequestration; nor shall the City be liable to garnishment 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 by its employees.

SECTION 14.08. SECURITY OR BOND NOT REQUIRED.

It shall not be necessary in 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 proceeding shall be conducted in the same manner as if such bond, undertaking, or security had been given. The City shall have all remedies of appeal provided by law to all courts in this State without bond or security of any kind. For all 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 bond, undertaking, or security in ordinary cases had been given and executed.

SECTION 14.09. PERSONAL INTEREST IN CITY CONTRACTS.

No City official or employee shall participate in a vote or decision on any matter involving a business entity or real property in which the official or employee has a substantial interest as provided by state law.

SECTION 14.10. NEPOTISM.

No person related within the second degree by affinity or within the third degree by consanguinity to the Mayor, any member of the Council or City Manager, shall be appointed to any office, position, clerkship or other service of the City. Nothing herein contained shall prevent the appointment, voting for, or confirmation of any person who shall have been continuously employed in any office, position, clerkship, employment or duty for the following period prior to the election or appointment, as applicable, of the officer or member related to such employee in the prohibited degree:

- (1) at least thirty days, if the officer or member is appointed; or
- (2) at least six months, if the officer or member is elected.

SECTION 14.11. LIMITATION ON REIMBURSEMENT OF EXPENSES.

The Council may authorize the reimbursement of actual and receipted expenses incurred by any officer or employee of the City while acting in the City's behalf in their official capacity; provided, the Mayor shall not be entitled to such reimbursements exceeding Five Hundred Dollars for each fiscal year and Councilmembers shall not be entitled to such reimbursements exceeding Five Hundred Dollars each for each fiscal year. It is specifically provided, however, that such limitations shall apply only to reimbursed expenses and shall not restrict or limit the authority of the Council to authorize expenditures by the Mayor or Councilmember for such purposes in excess of such amounts prior to the time such expenditures are made.

SECTION 14.12. MINERAL LEASES ON CITY OWNED PROPERTY.

No City owned property or any part thereof shall be leased for the purpose of prospecting for, mining, drilling, or producing oil, gas, or other minerals therefrom unless such lease agreement specifically provides that the City shall retain a royalty interest equivalent to at least one-eighth of the total production of such oil, gas, or other minerals therefrom.

SECTION 14.13. SALE OR LEASE OF REAL ESTATE.

- (a) No public park shall be sold, or any part thereof, until the question of such sale has been submitted to a vote of the qualified voters of the City and approved by a majority of the votes cast at such elections.

- (b) No sale or lease of real estate shall be made by the Council without first causing to be advertised for bids by a notice in the official newspaper of the City for two consecutive weeks setting out the property proposed to be sold or leased, the conditions under which the bids would be received and the time and place they would be opened.

SECTION 14.14. LIMITATIONS ON CONTRACTS.

The Council may award contracts only at regular meetings of the Council except in the event of grave public emergency or calamity. It is further provided that from the date of any City general election until the members of the Council elected at such election have duly qualified and taken office, the Council shall not create, make, or enter into any contract for the purchase of materials, supplies, land, or buildings, or for the construction or repair of any public building or the carrying on of any public work, or professional services requiring or authorizing any expenditure in excess of one thousand dollars which creates or imposes on the City any obligation or liability of any nature or character whatsoever, except in the event of grave public emergency or calamity. It is specifically provided, however, that this provision shall not apply to contracts lawfully authorized prior to any City general election or to contracts which may hereafter be lawfully authorized by a vote of the qualified voters of the City, or to contracts made for the purpose of continuing the normal functions of any regularly established department of the City. Any and all contracts hereafter made by the City in violation of the terms of this provision shall be void and shall not be enforceable in any court of this State and the performance of same and the payment of any money thereunder may be enjoined by any property tax paying citizen of the City.

SECTION 14.15. QUALIFICATIONS OF CONTRACTORS.

All contractors who bid and/or contract with the City for the construction or repair of public works must meet the bid requirements and possess the qualifications as required by the City Council.

SECTION 14.16. PARTICIPATION OF CITY EMPLOYEES OR USE OF CITY EQUIPMENT IN MUNICIPAL POLITICS.

No officer or employee of the City shall be required to participate in any City election in behalf of any candidate for Mayor or Councilmember, nor shall any City equipment be used by or in behalf of any candidate for Mayor or Councilmember.

SECTION 14.17. 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 may deem proper to create, operate, amend, and contract for an insurance plan covering health, life, and accident insurance, or any of them, for any and all City officers and employees, except members of the Council, and to pay any portion of the premiums therefor.

SECTION 14.18. PUBLICITY OF REPORTS RELATING TO MUNICIPAL MATTERS.

All reports made by the State of Texas or any of its agencies, or departments concerning the City or any function performed by it shall be read publicly at the first regular meeting of the Council following receipt of such report.

SECTION 14.19. VIOLATION OF CHARTER PROVISIONS OR LAWS OF THE STATE OF TEXAS.

Any willful violation of the provisions of this Charter or of the laws of the State of Texas relating to Home Rule Cities shall constitute malfeasance in office, and any officer or employee of the City guilty thereof shall immediately forfeit their office or position, and said office or position shall be deemed vacant.

SECTION 14.20. REARRANGEMENT AND RENUMBERING.

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

SECTION 14.21. 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 IX, Section 5, of the Constitution of Texas, which it would be competent for the people of the City of Huntsville to grant expressly to the City, shall be construed to be granted to the City by this Charter.

SECTION 14.22. 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.

SECTION 14.23. AMENDMENT.

- (a) Amendments to this Charter shall be framed and submitted to the voters of the City in the manner provided by Chapter 9 of the Texas Local Government Code, as heretofore or hereafter amended.

- (b) Every five years the Mayor, with approval of Council, shall appoint at least three persons to a Charter Review Committee. The Committee shall report to City Council amendments, if any, to the City Charter that it recommends for submission to the City at a municipal election.

ADOPTED: September 28, 1968
AMENDED: November 17, 1970
AMENDED: November 28, 1972
AMENDED: April 7, 1979
AMENDED: April 3, 1982
AMENDED: April 5, 1986
AMENDED: January 21, 1992