

## CHARTER

### ARTICLE I. INCORPORATION, POWERS AND TERRITORY

#### **Sec. 1. Corporate name and status.**

The inhabitants of the City of Edinburg in Hidalgo County, Texas, residing within its territorial limits, as these limits are now established, or are hereafter established in the manner provided by this charter, shall continue to be and are hereby constituted a body politic and corporate by the name of the City of Edinburg, and under that name shall have perpetual succession; may use a corporate seal; may sue and be sued; may acquire property within or without its boundaries for any municipal purpose, in fee simple or lesser interest or estate, by purchase, gift, devise, lease or condemnation and may sell, lease, hold, manage, and control such property as its interest may require; may co-operate with the federal government or any agency of the government of the United States or the government of the State of Texas or any agency of the government of the State of Texas, or any political subdivision of the State of Texas, to accomplish any lawful purpose for the advancement of the interest, welfare, health, morals, comfort, safety and convenience of the city or its inhabitants; and may pass such ordinances as may be expedient for maintaining and promoting the peace and government and welfare of the city and for the performance of the functions thereof; and, except as prohibited by the constitution and laws of the State of Texas or restricted by this charter, the city shall have and may exercise all municipal powers, functions, rights, privileges and immunities of every nature whatsoever.

State law reference(s)—Authority to adopt and amend charter, V.T.C.A., Local Government Code §§ 9.001 et seq.

#### **Sec. 1-A. Appropriation of sales tax revenue for promotion, etc.**

The city council may appropriate sales tax revenue in accordance with appropriate state law.

(Am. Ord. 410, passed 10-21-69 [Amendment #4]; Am. Ord. 1719, passed 1-22-96)

State law reference(s)—Use of sales tax, V.T.C.A., Tax Code §§ 321.506 and 321.507.

#### **Sec. 2. Enumerated powers not exclusive.**

The enumeration of particular powers of this charter shall not be held or deemed to be exclusive but in addition to the powers enumerated therein or implied thereby, or appropriate to the exercise of such powers, it is intended that the City of Edinburg shall have, and may exercise all powers of local self-government not prohibited by the Constitution or state law. All powers of the city; whether expressed or implied, shall be exercised in the manner prescribed by this charter, or if not prescribed therein, then in the manner provided by ordinance or resolution of the city council.

(Am. Ord. 1719, passed 1-22-96)

### **Sec. 3. Provision 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 of 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; 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 belonging 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.

State law reference(s)—Authority, V.T.C.A., Local Government Code § 101.023.

### **Sec. 4. Altering city limits.**

Territory may be annexed to or excluded from the city in any manner in this section provided.

- a) *By petition.* Whenever a majority of the qualified voters who are citizens of the State of Texas and inhabitants of any territory adjoining the then city limits of the City of Edinburg, or in case there are no qualified voters in said territory, then when persons owning a majority in area of the land in said territory, desire the annexation of such territory to Edinburg, they may present a written petition to that effect to the city council and shall attach to said petition the affidavit of one or more of their number to the effect that said petition is signed by a majority of such qualified voters, or in case there are no qualified voters, said affidavit shall be to the effect that there are no qualified voters in said territory and that the persons signing said petition own a majority in area of the land in said territory; and thereupon the city council at a regular session held not sooner than twenty (20) days after the presentation of said petition may by ordinance annex such territory to Edinburg and thenceforth the said territory shall be a part of Edinburg, and the inhabitants thereof shall be entitled to all the rights and privileges of other citizens and shall be bound by the acts, ordinances, resolutions and regulations of said city.
- b) *By the city council.* The city council shall have power by ordinance to fix the boundary limits of Edinburg; and to provide for the extension of said boundary limits and the annexation of additional territory lying adjacent to said city, with or without the consent of the territory and inhabitants annexed. Upon the introduction of such an ordinance by the city council, it shall be published in a newspaper published in the City of Edinburg, and shall not thereafter be finally acted upon until at least thirty (30) days have elapsed after the first publication thereof. Any citizen of Edinburg, or of the territory to be annexed, shall have the right to contest said annexation by filing with the city council a written complaint setting out the reasons for said contest, and after such citizen or citizens shall have been given an opportunity to be heard, said ordinance, in original or amended form, as said city council in its judgment may determine, may be finally passed,

and the territory so annexed shall be a part of Edinburg, and the inhabitants thereof shall be entitled to all rights and privileges of other citizens and shall be bound by the acts, ordinances, resolutions and regulations of said city.

- c) There shall be set forth in every ordinance in and by which territory is annexed to the City of Edinburg a clear and definite description of the territory annexed, either by metes and bounds, or otherwise, so as to clearly and definitely define the same, but it shall not be necessary to embody such description in the title or caption of such ordinance.
- d) All territory annexed to the City of Edinburg under the provisions of this section shall become and be thereafter liable for all just and legal indebtedness of the city without reference to when such debts were contracted, and the city council shall have power to provide for the assessment and collection of taxes upon all property within such annexed territory to meet any such indebtedness, on the same basis as other property in the city.
- e) Whenever there exists within the corporate limits of the City of Edinburg any territory contiguous to such city limits, 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 the same be uninhabited, by ordinance duly passed by a four-fifths (4/5) vote of all members of the city council, 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 said city, 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. All taxes levied by the city on property in the area excluded from the boundaries of the city under the provisions hereof, remaining unpaid at the time of said exclusion, and the liens thereof, and the liability of the owners therefor, shall continue in full force and effect and be collectable and enforceable in the same manner and to the same extent as if said property had remained within and as a part of said city. The city council shall determine, at the time of the exclusion of said area from the city, what unpaid debts of the city said excluded territory is liable for, and shall determine the pro rata part of said indebtedness that said excluded area remains liable for, and such pro rata part, in amount, shall be set forth in the ordinance of exclusion. Said pro rata part of said indebtedness shall be that portion thereof which the assessed valuation of property in the excluded area bears to be the total assessed valuation of the property in the city as a whole, according to the latest assessment rolls of the city, and the property in said excluded area shall remain subject to annual taxation by the city for payment of the pro rata part of said indebtedness for which the property in said excluded area is liable, determined as herein provided, until the entire amount of such pro rata part of said indebtedness shall have been paid. All taxes assessed against the property in said excluded area for the payment of its pro rata part of said indebtedness shall be credited upon the amount of said indebtedness for which said excluded area remains liable; provided that the owners of the taxable property in said excluded area may at any time discharge said property from any further liability for said

indebtedness by paying in a lump sum the then unpaid portion of said indebtedness for which the property in said excluded area remains liable. In the event such payment and discharge for such unpaid portion of said indebtedness, the city council shall execute a recordable instrument, in writing, evidencing such payment and discharge.

(Am. Ord. 1719, passed 1-22-96)

State law reference(s)—Altering city limits, V.T.C.A., Local Government Code § 43.021; Annexation, V.T.C.A., Local Government Code § 43.021 et seq.

## **ARTICLE II. GOVERNING BODY**

### **Sec. 1. The City Council.**

Except as otherwise provided in this charter, all powers of the City of Edinburg shall be vested in a city council of the City of Edinburg.

(Am. Ord. 1719, passed 1-22-96)

State law reference(s)—Form of government, V.T.C.A., Local Government Code § 26.021.

### **Sec. 2. Election and tenure of Mayor and Council Members.**

- a) Except as otherwise provided in this charter the Mayor and four (4) Council Members of the City shall be elected At-large by the qualified voters of the City of Edinburg at general elections to be held for that purpose, and shall hold office for four (4) years and until their successors shall have been elected and qualified. This amendment shall be effective immediately following its passage. As such, the current Mayor and Council Members' terms shall be extended for an additional one (1) year. However, each council member's position shall be designated by place and candidates for such position shall designate the place for which he/she seeks his/her election, and such candidate receiving a plurality of votes in each place shall be considered elected for such term and position.
- b) Elections for Mayor and Council Members will be held in accordance with current Texas law and the uniform election dates.
- c) The Mayor and Council Members who are duly elected shall be prohibited from serving in their respective elective positions for more than three (3) successive terms. This amendment shall be effective on the first opposed or unopposed election of the Mayor and Council Members following its passage.

(Order of 4-15-75 [Amendment #1, #2]; Am. Res. 882, passed 11-17-81 [Amendment #7]; Am. Ord. 1719, passed 1-22-96; Am. Ord. 2011-3535 [Amendment #1, #2, #3])

State law reference(s)—Uniform election dates, V.T.C.A., Election Code § 41.001 et seq.

### **Sec. 3. Qualifications of Mayor and Council Members.**

The mayor and the several council members shall be qualified voters of the City of Edinburg; shall have attained the age of eighteen (18) years; and shall have resided for at least twelve (12) months next preceding his/her election within the corporate limits of the City of Edinburg; provided that if any territory shall have been legally annexed to and incorporated within the boundaries of the City of Edinburg, after the going into effect of this charter, any person who shall have resided in such annexed territory for twelve (12) months next preceding such election and who possesses all other qualifications for council member or mayor herein provided, shall be eligible to be elected mayor or council member. Any mayor or council member ceasing to possess any of the qualifications specified in this section, or who is convicted of a felony while in office, shall ipso facto forfeit and vacate his/her office as mayor or council member, as the case may be.

(Am. Ord. 1719, passed 1-22-96)

State law reference(s)—Qualifications of candidates generally, V.T.C.A., Election Code § 141.001.

### **Sec. 4. Vacancies.**

When a vacancy occurs ~~Vacancies~~ in the city council, including the office of mayor, ~~and the respective unexpired term is twelve (12) months or less, the remaining members of the city council must, within fourteen (14) days of such vacancy, appoint, by majority vote, a qualified person (according to the provisions of Section 3 herein) to fill the unexpired term of such vacancy. However, as required by law, should the respective unexpired term be longer than twelve (12) months, the unexpired term shall be filled by an election ordered and conducted in accordance with the election laws of the State of Texas.~~

~~shall be filled by the remaining members of the city council for the remainder of the unexpired term, by appointment of a person or persons qualified to hold the offices vacated, according to the provisions of Section 3, hereof.~~

(Am. Ord. 1719, passed 1-22-96)

### **Sec. 5. Salaries.**

The mayor and council members shall serve without compensation.

(Am. Ord. 1719, passed 1-22-96)

### **Sec. 6. Forfeiture of offices.**

The mayor or any council member who shall absent himself or herself from as many as three (3) consecutive regular meetings of the city council or from as many as three (3) regular meetings out of five (5) successive regular meetings, shall forfeit his/her office as mayor or

council member, and it shall be the duty of the remainder of the city council in any such case to declare such office vacant and fill the vacancy as provided in Section 4 of Article II of this charter; provided, if any such absence from a meeting has been excused by the city council at or prior to such meeting, and noted in the minutes of the board; or if such absence is found by the remainder of the city council to have been occasioned by illness of such mayor or council member, or his/her justified absence from Hidalgo County, any such absence or excused or occasioned shall not constitute an absence forming a basis for forfeiture of the office of the absentee.

(Am. Ord. 1719, passed 1-22-96)

### **ARTICLE III. PROCEDURES OF THE CITY COUNCIL, LEGISLATION**

#### **Sec. 1. Meeting of the City Council.**

Immediately following the election and qualification of new members, or as soon after such election and qualification as practicable, ~~On the second Tuesday of May following a regular municipal election,~~ the city council shall meet at the usual place for holding its meetings and the newly elected members shall assume the duties of office. Thereafter the city council shall meet at such times as may be prescribed by ordinance or resolution, but not less frequently than once each month. Special meetings shall be called by the city secretary upon request of the city council or the mayor. Any such notice shall state the subject or subjects to be considered at the special meeting and no other subject or subjects shall be there considered. All meetings of the city council and of committees thereof shall be open to the public, and the rules of the city council shall provide that the citizens of the city shall have a reasonable opportunity to be heard at any such meeting in regard to any matter considered thereat; but the city council or a committee thereof may by a majority vote of all the members authorize an executive meeting.

(Am. Ord. 1719, passed 1-22-96)

State law reference(s)—Open Meetings Law, V.T.C.A., Government Code § 551.001 et seq.

#### **Sec. 2. Mayor and Mayor Pro Tem.**

At the first ~~regular~~ meeting of the city council ~~each year,~~ immediately following the election and qualification of new members ~~of said board elected at said election,~~ or as soon thereafter as practicable, the city council shall choose one of the council members as mayor pro tem. The mayor shall preside at all meetings of the city council, at which he/she is present, and shall exercise such other powers and perform such other duties as are or may be imposed upon him/her by this charter and the ordinances of the city. He/she shall be recognized as the head of the city government for all ceremonial purposes, by the courts for serving civil processes, and by the governor for purposes of military law. In time of public danger or emergency, the mayor shall, if so authorized by order of the city council, take command of the police, maintain and restore order, and enforce the law; and for that purpose may summon, deputize, and command such additional officers from among the citizenship of the city as he/she may determine

necessary for the purpose. During any absence of the mayor, or his/her inability to act, the mayor pro tem shall have the authority and perform the duties of mayor.

(Am. Ord. 1719, passed 1-22-96)

### **Sec. 3. City Secretary.**

The city council shall appoint a city secretary upon nomination by the city manager, who shall hold his/her office ~~for a term of three (3) years unless sooner until~~ removed by the city council or voluntary separation, but in cases of a removal from office ~~before the expiration of a term~~, shall be allowed a hearing, if requested.

(Am. Ord. 1719, passed 1-22-96)

### **Sec. 4. Rules of the City Council.**

The city council shall be the judge of the election and qualification of its members and, in such cases, shall have the power to subpoena witnesses and compel the production of all pertinent books, records, and papers; but the decision of the city council in any such case shall be subject to review by the courts. The city council shall determine its own rules and order of business and keep a journal of its proceedings. It shall have power to compel the attendance of absent members, may punish its members for disorderly behavior and, by vote of not less than a majority of all its members may expel a member for disorderly conduct or the violation of its rules; but no member shall be expelled unless notified of the charge against him/her and given an opportunity to be heard in his/her own defense.

(Am. Ord. 1719, passed 1-22-96)

### **Sec. 5. Quorum.**

A simple majority to equal fifty-one (51) per cent of all the members of the city council shall constitute a quorum to do business but a less number may adjourn from time to time and compel the attendance of absent members in such manner and under such penalties as may be prescribed by ordinance. The affirmative vote of a majority of all the members of the city council shall be necessary to adopt any ordinance, resolution, or order; except that vote to adjourn, or an action regarding the attendance of absent members, may be adopted by a majority of the members present. No member may be excused from voting except on matters involving the consideration of his/her own official conduct or when his/her financial interests are involved.

(Am. Ord. 1719, passed 1-22-96)

### **Sec. 6. Introduction and passage of ordinances and resolutions.**

Ordinances and resolutions shall be introduced in the city council only in written or printed form. All ordinances, except ordinances making appropriations and ordinances codifying or rearranging existing ordinances or enacting a code of ordinances, shall be confined to one

subject, and the subject, or subjects, of all ordinances shall be clearly expressed in the title. Ordinances making appropriations shall be confined to the subject of appropriations. No ordinance shall be passed until it has been read on three (3) separate days, unless the requirements for reading it on three (3) separate days be dispensed with by a vote of not less than a majority of all the members of the council members. The final reading of each ordinance shall be in full unless a written or printed copy thereof shall have been furnished to each member of the council members prior to such reading. The yeas and nays shall be taken upon the passage of all ordinances and resolutions and entered upon the journal of the proceedings of the city council. The enacting clause of all ordinances shall be “Be it ordained by the City Council of the City of Edinburg, Texas.”

(Am. Ord. 1719, passed 1-22-96)

### **Sec. 7. When ordinances and resolutions shall take effect—Emergency measures.**

Ordinances making the annual tax levy; appropriation ordinances, ordinances and resolutions pertaining to local improvements and assessments, ordinances and resolutions providing for or directing any investigation of city affairs, resolutions requesting information from administrative officers or directing administrative action and emergency measures shall take effect at the time indicated therein. Except as otherwise prescribed in this charter all other ordinances and resolutions passed by the city council shall take effect at the time indicated therein, but not less than ten (10) days from the date of their passage. The affirmative vote of at least a majority of all members of the city council shall be required to pass any ordinance or resolution as an emergency measure. No measure making or amending a grant, renewal or extension of a franchise or other special privilege shall ever be passed as an emergency measure.

(Am. Ord. 1719, passed 1-22-96)

### **Sec. 8. Authentication and publication of ordinances and resolutions.**

Every ordinance shall be published in accordance with state law.

(Am. Ord. 1719, passed 1-22-96)

State law reference(s)—Alternative method of publication, V.T.C.A., Local Government Code § 52.013.

### **Sec. 9. ~~Official newspaper~~ Publish In Accordance with Law.**

The City Council shall, ~~as soon as practicable, after the commencement of each fiscal or municipal year, enter into a contract with a newspaper as the official paper thereof, and continue as such until another is selected, and shall~~ cause to publish ~~therein~~ all ordinances, notices, and other matters as required by the charter or by the ordinances of the City and in accordance with the requirements of state law.

(Am. Ord. 1719, passed 1-22-96; Am. Ord. 2011-3535 [Amendment #4])

## ARTICLE IV. NOMINATIONS AND ELECTIONS

### Sec. 1. Municipal elections.

Regular elections for the choice of members of the city council whose terms of office then expire shall be held on the date prescribed by state law and ordinance.

(Am. Ord. 1719, passed 1-22-96)

State law reference(s)—Uniform election dates, V.T.C.A., Election Code § 41.001 et seq.

### Sec. 2. Regulations of elections.

The city council shall make all necessary rules and regulations, not inconsistent with this charter or with the election laws of the State of Texas, for the conduct of elections, for the prevention of frauds in elections, and for the recount of the ballots in case of doubt or fraud.

(Am. Ord. 1719, passed 1-22-96)

State law reference(s)—Election precincts to be established, V.T.C.A., Election Code § 42.061.

### Sec. 3. Nominations.

Any person possessing the qualifications for office set forth in this charter and by state law may become a candidate for any elected office to be filled at any regular municipal election herein provided for. He/she may have his/her name placed on the official ballot for such office by filing an application in conformity with city ordinance and state law.

(Am. Ord. 1719, passed 1-22-96)

State law reference(s)—Nominations for city elections, V.T.C.A., Election Code § 143.001 et seq.

### Sec. 4. Posting notice.

The city secretary shall, ~~for each city election, at least ten (10) days before the printing of ballots for each city election at which officers are to be elected,~~ post in accordance with the requirements of state law in a conspicuous place in his/her office for inspection of the public a list of the names of all candidates who have filed their own petitions or who have been nominated by petitions for the offices to be voted on at such election.

(Am. Ord. 1719, passed 1-22-96)

### Sec. 5. Ballots.

The full names of candidates who have filed for office in accordance with provisions of this charter and state law shall be printed on the official ballots as candidates for the respective offices in accordance with the requirements of state law.

(Am. Ord. 1719, passed 1-22-96)

State law reference(s)—Ballots, V.T.C.A., Election Code § 52.001 et seq.

### **Sec. 5-A. Election by majority.**

At each election of the mayor, the municipal court judge, and council members, election to each position shall be by a majority of all the votes cast for such position at such election. If no candidate for a position receives a majority of all votes cast for such position at such election, a runoff election shall be ordered and conducted in the manner required by the election laws of the State of Texas.~~the candidates receiving a plurality of votes for said respective offices shall be declared elected.~~

(Am. Res. 882, passed 11-17-81 [Amendment #7]; Am. Ord. 1719, passed 1-22-96)

Editor's note(s)—Ord. 1187, passed 4-15-86, did not specifically amend the Code but provided as follows:

“Section I. When the Edinburg Municipal Runoff Election coincides with the state party primary elections, the date for the holding of such runoff election shall be moved to the Saturday immediately following such primary elections.

Section II. All provisions of V.T.C.A., Election Code § 2.021 et seq. are hereby waived to the extent of any conflict herewith under the provisions of V.T.C.A., Election Code § 2.022.”

### **Sec. 6. Laws governing city elections.**

All city elections shall be governed, except as otherwise provided by this charter, by the laws of the State of Texas governing general and municipal elections, so far as same may be applicable thereto; and in event there should be any failure of the general laws or this charter to provide for some feature of the city elections, then the city council shall have the power to provide for such deficiency, and no informalities in conducting a city election shall invalidate the same, if it be conducted fairly and in substantial compliance with the general laws, where applicable, and the charter and ordinances of the city.

(Am. Ord. 1719, passed 1-22-96)

### **Sec. 7. Canvassing elections.**

All elections held under this charter, whether for the choice of candidates or for the submission of questions to the voters, shall be conducted in accordance with the general election laws of the state; and except as otherwise provided in this charter, such general laws shall be applicable to and control all such elections.

(Am. Ord. 1719, passed 1-22-96)

State law reference(s)—Counting ballots, V.T.C.A., Election Code § 51.033 and § 65.002 et seq.

## **ARTICLE V. ADMINISTRATIVE SERVICE**

### **Sec. 1. The City Manager.**

The city council shall appoint an officer whose title shall be city manager and who shall be the head of the administrative branch of the city government. In case of absence or disability of the manager, the city council may designate a qualified administrative officer of the city to perform the duties of manager during such absence or disability. The manager shall receive such compensation as may be fixed by the city council.

(Am. Ord. 1719, passed 1-22-96)

### **Sec. 2. Qualifications.**

The city manager shall be chosen by the city council solely on the basis of his/her executive and administrative qualifications with special reference to his/her education and actual experience in, or his/her knowledge of, accepted practice in respect to the duties of his/her office as hereinafter outlined. At the time of his/her appointment, he/she need not be a resident of the city or state, but during his/her tenure of office he/she shall reside within the city. No person elected to membership on the city council shall, subsequent to such election, be eligible for appointment as city manager until one year has elapsed following the expiration of the term for which he/she was elected.

(Am. Ord. 1719, passed 1-22-96)

### **Sec. 3. Term and removal.**

The city manager shall hold his/her office ~~for a term of three (3) years unless sooner until~~ removed by the city council or voluntary separation. The manager shall be removable subject to the provisions set forth below, at the will and pleasure of the city council. A majority of the members of the city council may remove the manager, except that no manager who has been in the service of the city for one year or more prior to a regular city election shall be removed within sixty (60) days subsequent to such election except by a four-fifths (  ) vote of the members of the city council. If removed at any time after he/she has served six (6) months, the manager may demand a hearing at a public meeting of the city council, prior to the date on which his/her final removal shall take effect, but pending and during such hearing the city council may suspend him/her from office. The action of the city council in suspending or removing the city manager shall be final, since it is the intention of this charter to vest all authority and fix all responsibility for any such suspension or removal wholly in the city council of the city. The city manager, if any, in office at the time this charter goes into effect shall hold office until the first Tuesday in April, subject to removal as herein provided.

(Am. Ord. 1719, passed 1-22-96)

**Sec. 4. General powers and duties of the Manager.**

It shall be the duty of the city manager to act as chief conservator of the peace within the city; to supervise the administration of the affairs of the city; to see that the ordinances of the city and the laws of the state are enforced; to make such recommendations to the city council concerning the affairs of the city as may seem to him/her desirable; to keep the city council advised of the financial condition and future needs of the city; to prepare and submit to the city council the annual budget estimate; to prepare and submit to the city council such reports as may be required by that body; and to perform such other duties as may be prescribed by this charter or required of him/her by ordinance or resolution of the city council not inconsistent with this charter.

(Am. Ord. 1719, passed 1-22-96)

**Sec. 5. Responsibility of Manager—Powers of appointment and removal.**

The city manager shall be responsible to the city council for the proper administration of all affairs of the city placed in his/her charge, and to that end, and except as otherwise provided herein, he/she shall have the power to appoint and remove all officers and employees in the administrative service of the city; but the manager may authorize the head of a department or office responsible to him/her to appoint and remove subordinates in such department or office. Appointments made by, or under the authority of, the city manager shall be on the basis of executive and administrative ability and of the training and experience of such appointees in the work which they are to perform. All such appointments shall be without definite terms unless for provisional, temporary, or emergency service not to exceed the maximum periods prescribed by such regulations as may be imposed under the authority of this charter.

(Am. Ord. 1719, passed 1-22-96)

**Sec. 6. Removal of officers and employees.**

Any employee who serves under the city manager is an employee at will. Any employee may be removed by the city manager, by the head of a department or by other appointing officer at any time in accordance with applicable law.

(Am. Ord. 1719, passed 1-22-96)

**Sec. 7. City Council not to interfere in appointments or removals.**

Neither the city council nor any of its committees or members shall direct or request the appointment of any person to, or his/her removal from, office by the city manager or any of his/her subordinates; or, except as is or may be otherwise provided under the terms of this charter, in any manner take part in the appointment or removal of officers and employees in the

administrative service of the city. Except for the purpose of inquiry, the city council and its members shall deal with the administrative service solely through the manager, and neither the city council nor any member thereof shall give orders to any subordinate of the city manager either publicly or privately. Any violation of the provisions of this section by a member of the city council shall subject him/her to whatever discipline the remaining members of the city council may under the terms of Article III, Section 4, see fit to impose upon him/her.

(Am. Ord. 1719, passed 1-22-96)

### **Sec. 8. Administrative departments.**

There shall be a department of law, a department of finance, a police department, a fire department, and a fire marshal, and such other departments, divisions, bureaus, and offices as may be established by ordinance. Except as otherwise provided in this charter, the city council may change or abolish any department or office established by ordinance and may prescribe, distribute, or discontinue the functions and duties of departments and offices so established. In establishing departments and offices, providing for their organization and defining and distributing their functions, the city council shall pass a general ordinance with the title "An ordinance to establish an Administrative Code." After the passage of such ordinance, which thereafter shall be known as "The Administrative Code," all subsequent changes made by the city council in the number, functions, and organization of departments and offices, shall be in the form of amendments or additions thereto. The purpose of the foregoing requirements is that the city council shall provide a comprehensive and systematic plan of administrative organization for the city, and that all acts of the city council relating thereto may be found in one ordinance. The city secretary shall prepare and keep constantly revised at least three (3) copies of the administrative code. One such copy shall be kept on file in the office of the city secretary, one shall be for the use of the city manager, and one for the city attorney. Pending the passage of "The Administrative Code," the manager may establish temporary regulations for the administrative services.

(Am. Ord. 1719, passed 1-22-96)

Cross reference(s)—Administrative Code, ch. 30.

### **Sec. 9. Director of departments.**

At the head of each department there shall be a director who shall have supervision and control thereof, subject to supervision and approval by the city manager except as specifically provided otherwise by this charter. Each director shall have power to prescribe rules and regulations, not inconsistent with this charter and the ordinances passed in pursuance thereof for the conduct of the officers and employees of the department of which he/she is in charge; for the distribution and transaction of its business; and for the custody of the books, records, papers, and property under its control.

(Am. Ord. 1719, passed 1-22-96)

## **Sec. 10. Department divisions.**

The work of each department shall be distributed among such divisions thereof as may be established by ordinance upon the recommendation of the manager, provided that pending the passage of an ordinance or ordinances distributing the work of departments under the supervision and control of the manager among specific divisions thereof, the manager may establish temporary divisions.

## **Sec. 11. Investigation by City Council or Manager.**

The city council, the manager, or any person or committee authorized by either of them, shall have the power to inquire into the conduct of any department, office, or officer of the city, and to make investigations as to municipal affairs, and for that purpose may subpoena witnesses, administer oaths, and compel the production of books, papers, and other evidence, and it shall be the duty of the city manager to designate a police officer to serve such subpoena.

(Am. Ord. 1719, passed 1-22-96)

## **ARTICLE VI. DEPARTMENT OF LAW**

### **Sec. 1. City Attorney: duties.**

The head of the department of law shall be the city attorney, who shall be appointed by the city council. The city attorney shall be an attorney at law who shall have practiced in the State of Texas for at least three (3) years. He/she shall be the chief legal adviser of and attorney for the city and all departments and offices thereof in matters relating to their official power and duties. It shall be his/her duty, either personally or by such assistants as he/she may designate to perform all services incident to the department of law; to attend meetings of the city council whenever requested by the city council to do so; to give advice in writing when so requested, to the city council, the city manager, or the director of any department; to prosecute or defend, as the case may be, all suits or cases to which the city may be a party, to prosecute for all offenses against the ordinances of the city and for such offenses against the laws of the state as may be required of him/her by law; to prepare all contracts, bonds, and other instruments in writing in which the city is concerned, and to endorse on each his/her approval of the form and correctness thereof; and to perform such other duties of a legal nature as the city council may by ordinance require. In addition to the duties imposed upon the city attorney by this charter or required of him/her by ordinance or resolution of the city council, he/she shall perform any duties imposed upon the chief legal officers of municipalities by law. The city attorney shall at the time of his/her appointment maintain his/her professional office in the City of Edinburg. The City Attorney shall be a full-time city employee subject to the same employment policies, benefits, and working conditions as other city administrative employees. The City Attorney shall report to the City Council.

~~The term of office of the city attorney shall be three (3) years, corresponding with terms of office of the mayor.~~ He/she shall receive such compensation as may be fixed from time to time by the city council. The city council, in any instance in which the circumstances or the

importance of case or matter warrant, may employ special counsel to act with or in lieu of the city attorney in connection with any matter or case.

(Am. Ord. 1719, passed 1-22-96)

## **Sec. 2. Removal from office.**

The city attorney shall hold his/her office until removed by the city council or voluntary separation. The city attorney shall be removable at any time ~~during his/her term of office~~, subject to the provisions set forth below, at the will and pleasure of the city council. If removed at any time after he/she has served six (6) months of his/her then current term of office, the city attorney may demand a hearing at a public meeting of the city council, prior to the date on which his/her final removal shall take effect, but pending and during such hearing the city council may suspend him/her from office. The action of the city council in suspending or removing the city attorney shall be final since it is the intention of this charter to vest all authority and fix all responsibility for such suspension or removal wholly in the city council. ~~The city attorney in office when this charter goes into effect shall hold office until the first Tuesday in April, 1950, subject to removal as herein provided.~~

(Am. Ord. 1719, passed 1-22-96)

## **ARTICLE VII. DEPARTMENT OF FINANCE**

### **Sec. 1. Organization, powers and duties of Department of Finance.**

The director of the Department of Finance shall be the head of such department and he or she shall have knowledge of municipal accounting and taxation and shall have had experience in budgeting and financial control. ~~The director of the department of finance shall be the city manager himself/herself, who may, however, delegate the administration of such financial matters as he/she may regard it expedient to delegate, to an administrative assistant who shall be known as the assistant director of finance.~~ The director of the Department of Finance ~~city manager~~ shall designate a member of the department of finance as ex-officio assessor and collector of taxes and he/she shall also designate a member of the department of finance as ex-officio city treasurer. One member of the department of finance may be permitted to hold both titles. The director of the Department of Finance shall report to the City Manager. The department of finance shall have authority and shall be required:

1. To prepare the budget, as outlined in Sections 3, 4 and 5 of this article, and to assist the manager in its execution after authorization by the city council, as required by Section 6.
2. To maintain accounting control over the finances of the city government, for which purpose it is empowered to operate a set of general accounts embracing all the financial transactions of the city, and such subsidiary accounts and cost records as may be required by ordinance or by the city manager for purposes of administrative direction and financial control; to prescribe the forms of receipts, vouchers, bills, or

- claims to be filed by all departments and agencies of the city government; to examine and approve all contracts, orders, and other documents by which the city incurs financial obligations, having ascertained before approval that moneys have been duly appropriated and allotted to meet such obligations and will become available when the obligations have become due and payable; to audit and approve all bills, invoices, payrolls, and other evidences of claims, demands, or charges against the city government and to determine the regularity, legality, and correctness of such claims, demands, or charges; to make monthly reports on all receipts and expenditures of the city government, to make monthly reports on funds, appropriations, allotments, encumbrances, and authorized payments to the manager, the city council, and the head of the department or agency directly concerned; to inspect and audit any accounts or records of financial transactions which may be maintained in any department or agency of the city government apart from or subsidiary to the general accounts; and to perform such other duties pertaining to the financial records of the city government as the city council may require by ordinance.
3. To control the purchase, storage, and distribution of all supplies, materials, equipment and contractual services required by the city government, or by any department or agency thereof, in the manner provided by ordinance; to establish and enforce standard specifications with respect to such supplies, materials, and equipment; to inspect or supervise the inspection of all deliveries of supplies, materials and equipment, and to determine their quality, quantity, and conformance with specifications; to have charge of such general storerooms and warehouses as the city council may provide by ordinance; and to transfer to or between city departments or to sell surplus, obsolete or unused supplies, materials, and equipment.
  4. To assess all property within the city for taxation, to prepare tax maps, and to make all special assessments for public improvements, and to give such notice of these assessments to the property owners as may be required by law.
  5. To collect, have custody of, and disburse all taxes, licenses, fees, and other moneys belonging to the city government, subject to the provisions of this charter and ordinances enacted thereunder; to have custody of all investments and invested funds of the city or in possession of the city in a fiduciary capacity; and to keep a record of such investments, and to have custody of all bonds and certificates of city indebtedness, including such bonds and certificates unissued or cancelled, and the receipt and delivery of city bonds and certificates for transfer, registration, or exchange.

(Am. Ord. 1719, passed 1-22-96)

State law reference(s)—Authority to control finances, V.T.C.A., Local Government Code § 101.022.

**Sec. 2. Fiscal year.**

The fiscal year of the city government shall begin on the first day of October each year and shall end on the last day of September the following year. Such year shall constitute the budget year of the city government.

State law reference(s)—Authority to fix fiscal year, V.T.C.A., Local Government Code § 101.022.

**Sec. 3. City budget: to be itemized.**

~~The director of the Department of Finance~~ ~~The city manager as director of the department of finance~~ shall prepare each year not later than August fifteenth, a budget to cover all proposed expenditures of the government of the city for the succeeding year. Such budget shall be carefully itemized so as to make as clear a comparison as practicable with the information then at hand, between expenditures included in the proposed budget and actual expenditures for the same or similar purposes for the preceding year. The budget must also be so prepared as to show as definitely as possible each of the various projects for which appropriations are set up in the budget, and the estimated amount of money carried in the budget for each of these projects. The budget shall also contain a complete financial statement of the city showing all outstanding obligations of the city, the cash on hand to the credit of each and every fund, the funds received from all sources during the previous year, the funds available from all sources during the ensuing year, the estimated revenue available to cover the proposed budget, and the estimated rate of tax which will be required.

State law reference(s)—Municipal budgets, V.T.C.A., Local Government Code § 102.001 et seq.

**Sec. 4. City budget: filing.**

The budget prepared by the ~~director of the Department of Finance~~ ~~city manager~~ in the manner hereinabove described shall be filed with the city secretary not less than thirty (30) days prior to the time the city council makes its tax levy for the current fiscal year, and such budget shall be available for inspection of any taxpayer.

(Am. Ord. 1719, passed 1-22-96)

**Sec. 5. City budget: finalization.**

The city council shall each year provide for a public hearing on such budget, which hearing shall take place on some date to be fixed by the city council not less than fifteen (15) days subsequent to the time such budget is filed as provided in Section 4, and prior to the time the city council makes its tax levy. Public notice of the hour, date and place of such hearing shall be given by the city council by publication in a newspaper published in the City of Edinburg for at least two (2) issues immediately preceding the date of said hearing, and any taxpayer of the city shall have the right to be present and participate in such hearing. At the conclusion of such hearing the budget as prepared by the city manager shall be acted upon by the city council. The city council shall have the authority to make such changes in the budget as in its judgment the law warrants and the best interest of the taxpayers of the city demand. When the budget has been

finally approved by the city council, the budget as so approved shall be filed with the city secretary and taxes levied only in accordance therewith, and no expenditure of the funds of the city shall thereafter be made except in strict compliance with such adopted budget, except that in case of grave public necessity, emergency expenditures to meet unusual and unforeseen conditions, which could not, by reasonable diligent thought and attention, have been included in the original budget, may from time to time be authorized by the city council. Immediately after the adoption of said budget, or any amendment thereto, the city manager shall file or cause to be filed, a true copy of said approved budget and all amendments thereto, in the office of the county clerk of Hidalgo County, Texas, and with the state comptroller at Austin, Texas. In the preparation of the budget, the city manager shall have the authority to require the heads of all departments to furnish such information as may be necessary for him/her to have in order that the budget covering the expenditures of the city may be properly prepared. Any funds collected in excess of taxes levied for the budget year may be expended for any purpose authorized by this charter.

(Am. Ord. 1719, passed 1-22-96)

#### **Sec. 6. Work program and allotments.**

The budget shall include a projected work program for the operation and maintenance of the city. The budget shall not include projected expenditures in excess of budgeted amounts.

(Am. Ord. 1719, passed 1-22-96)

#### **Sec. 7. Transfer of appropriations.**

The city council may, upon the recommendation of the manager, transfer any unencumbered appropriation balance or any portion thereof within a department or agency of the city government or from one department or agency to another.

(Am. Ord. 1719, passed 1-22-96)

#### **Sec. 8. Money drawn in accordance with appropriation.**

No money shall be drawn from the treasury of the city, nor shall any obligation for the expenditure of money be incurred, except in pursuance of the annual appropriation ordinance or of such ordinance when changed as authorized by this charter. At the close of each fiscal year any unencumbered balance of an appropriation shall revert to the fund from which appropriated and shall be subject to reappropriation; but appropriations may be made by the city council, to be paid out of income of the current year, in furtherance of improvements or other objects or works which will not be completed within such year, and any such appropriation shall continue in force until the purpose for which it was made shall have been accomplished or abandoned.

(Am. Ord. 1719, passed 1-22-96)

#### **Sec. 9. Purchase procedures.**

All purchases and all contracts for work for the city and/or its departments shall comply with state law. The city council shall prescribe, by ordinance, policy guidelines and additional requirements for city purchases and contracts.

(Am. Ord. 1323, passed 3-7-89 [Amendment #1]; Am. Ord. 1719, passed 1-22-96)

State law reference(s)—Requirements governing advertisement for bids, V.T.C.A., Local Government Code § 252.001 et seq.

### **Sec. 10. Custody of city monies.**

All monies received by any department or agency of the city for or in connection with the business of the city government shall be paid promptly into the treasury and shall be deposited with the depository of the city, which shall be selected as provided by law for selecting city depositories. All interest on monies belonging to the city shall accrue to the benefit of the city government.

### **Sec. 11. Issuance of bonds.**

The city may issue bonds to pay for any property or public improvement which it may lawfully acquire or construct, to pay for any improvement the cost of which is to be assessed wholly or in part against abutting or benefiting property, or to fund or refund any indebtedness outstanding at the time this charter takes effect for which inadequate provision for payment has been made; but no bonds shall be issued to pay current expenses. The enumeration, in the preceding sentence, of particular powers of the city in connection with the issuance of bonds shall not be held or deemed to be exclusive; and, in addition to the powers enumerated or implied in the preceding sentence, or appropriate to the exercise of such powers, it is intended that the City of Edinburg shall have and may exercise the authority to issue revenue bonds for the purchase of utilities or any other self-liquidating asset for which revenue bonds may lawfully be issued. It is intended that the City of Edinburg shall have and may exercise the authority to issue bonds for the construction and maintenance of dams or airports or comparable improvements or facilities within or without the city limits. All tax bonds of the city shall be authorized by ordinance passed by an affirmative vote of at least a majority of the members of the city council, and approved by a majority of the qualified voters of the City of Edinburg who are property taxpayers voting at the election called for the purpose of authorizing the issuance of tax bonds. Such bond issue election shall be ordered by the city council and notice thereof shall be given for the period of time and in such manner as is prescribed by state law. Bonds for the acquisition of property, or the construction of improvements, shall be issued for a period not to exceed the probable usefulness of the property or improvement for which they are used; but in no case shall bonds be issued for a longer period than forty (40) years. All bonds hereafter issued by the city shall mature in annual installments and the first installment of principal shall fall due and be payable not later than two (2) years after the date of issue.

(Am. Ord. 410, passed 10-21-69 [Amendment #1]; Am. Ord. 1719, passed 1-22-96)

State law reference(s)—Authority, V.T.C.A., Local Government Code § 101.022.

**Sec. 12. Temporary borrowing.**

For the purpose of temporary borrowing, the city council shall have the power by ordinance to raise money on the credit of the city by the issuance of notes in anticipation of the collection of taxes or of special assessments.

(Am. Ord. 1719, passed 1-22-96)

**Sec. 13. Reserved.**

Editor's note(s)—This section was repealed by Ord. 1323, passed 3-7-89 [Amendment #1].

**Sec. 14. Independent audit.**

As soon as practicable after the close of each fiscal year, an independent audit shall be made of all accounts of the city government by certified public accountants, selected by the city council, who have no personal interest directly or indirectly, in the financial affairs of the city government, or any of its officers. The result of this audit shall be published immediately upon its completion.

(Am. Ord. 1719, passed 1-22-96)

State law reference(s)—Audits, V.T.C.A., Local Government Code § 103.001 et seq.

**ARTICLE VIII. MUNICIPAL COURT**

**Sec. 1. Municipal Court Judge.**

At the regular City elections there shall be elected a Municipal Court Judge, whose term of office shall be for four (4) years. This amendment shall be effective immediately following its passage. As such, the current Municipal Court Judge's term shall be extended for an additional one (1) year. The municipal court judge shall possess the same qualifications of office as provided in this charter for the mayor and council members, except that the Municipal Court Judge shall also be an attorney at law who shall have practiced in the State of Texas for at least three (3) years. The municipal court judge shall be the judge of the municipal court, which shall have the jurisdiction, and shall be conducted in the manner prescribed and authorized by ~~Chapter 16, Title 28, of the Revised Civil Statutes of Texas, 1925~~state law, or as may hereafter be otherwise provided by law or the charter of Edinburg. All costs and fines imposed by the municipal court, or by any other court in cases appealed from judgments of the municipal court, shall be paid into the city treasury for the use and benefit of the city. The municipal court judge shall receive such compensation as may be provided by ordinance from time to time. The present municipal court judge shall hold office until his/her successor shall have been elected and qualified. In the event of a vacancy in the office of municipal court judge, whether the same occur or exist by reason of resignation, death, disability, or failure to elect a municipal court

judge at the expiration of a term, or otherwise, the same shall be filled by appointment of the city council for the term or unexpired term.

(Am. Ord. 1719, passed 1-22-96; Am. Ord. 2011-3535 [Amendment #5])

Editor's note(s)—The provisions of Chapter 16, Title 28, of the Revised Civil Statutes of Texas, 1925, have been recodified. For current municipal court provisions, see V.T.C.A., Government Code § 29.001 et seq.

## **Sec. 2. Municipal Court Clerk.**

The city council shall appoint a municipal court clerk ~~for a term not to exceed three (3) years~~, and said clerk shall be removable at the pleasure of the city council. Such municipal court clerk shall receive such compensation as may be fixed by ordinance.

(Am. Ord. 1719, passed 1-22-96)

## **ARTICLE IX. CITY PLANNING AND ZONING COMMISSION**

### **Sec. 1. Establishment, membership, duties and terms.**

The city council shall maintain a city planning and zoning commission of seven (7) members to serve without compensation and have such powers and duties as may be prescribed under the authority of applicable state law.

(Order of 4-15-75 [Amendment #4]; Am. Ord. 1719, passed 1-22-96)

## **ARTICLE X. TAXATION**

### **Sec. 1. Powers to tax.**

The city council shall have the power under provisions of state law to levy, assess, and collect an annual tax upon taxable properties within the city.

(Am. Ord. 1719, passed 1-22-96)

State law reference(s)—Property tax authorized, V.T.C.A., Tax Code § 302.001 and § 302.002.

**Sec. 2. Assessment and collection of taxes.**

The city council shall have the power by ordinance to regulate the assessment and collection of taxes and to adopt such measures as the city council may deem advisable to secure the assessment and collection of taxes on all property subject to taxation within the city. The city council will also provide for the equalization of all such taxes assessed to the maximum extent allowable by state law and the state and federal constitutions.

(Am. Ord. 1719, passed 1-22-96)

**Sec. 3. Board of Equalization.**

The city council shall either sit each year as a board of equalization for the purpose of equalizing assessments upon all property assessed for city purposes, or shall appoint three (3) residents who shall be qualified voters and real property owners as a board for that purpose, or shall by written contract with another taxing body, which assesses much of the same property for its purpose, jointly appoint a board of equalization composed of five (5) members, at least two (2) of whom are directly or indirectly appointed by the city council and at least three (3) of whom must be actual residents of the City of Edinburg. The board of equalization shall act under such rules as may be prescribed by ordinance. It shall be the duty of such board to examine and, if necessary, revise assessments as returned by city assessor and collector, to the end that all property within the city shall be assessed as fairly and equally as possible. Not less than one (1) week before the first meeting of the board of equalization in any year, notice shall be given of the time and place of such meeting by publication in at least one (1) paper published in the city. Notice of the first meeting of the board may also be given by other means. The first meeting of the board of equalization shall be held on June first of each year, or as soon thereafter as practicable. After such first meeting, the board may adjourn from time to time, and a vote of adjournment to a particular time and place shall be sufficient notice of the meeting so held. Any person who may object or complain as to the assessment of his/her property for city purposes shall have the right to appeal to the board of equalization either in person or by authorized agent, and such appeal may be made either by personal appearance before the board or in writing. The board of equalization shall have power to summon any property owner of the city before them, to take testimony under oath, and to require the production of books, papers, accounts and other evidence of the ownership and value of property within the city. Any person failing to appear before the board when summoned, or failing to give or produce such testimony or evidence, shall be guilty of contempt and may be punished by the board with a fine not to exceed one hundred dollars (\$100.00). The assessment of property for city purposes as revised or fixed by the board of equalization after the property owner has had an opportunity for hearing as provided by state law shall be final.

(Order of 4-15-75 [Amendment #5]; Am. Ord. 1719, passed 1-22-96)

**Sec. 4. Seizure and sale for delinquent taxes.**

The city council shall have full power and authority to provide by ordinance for the seizure and sale by the city assessor and collector of a sufficient amount of personal property of any delinquent taxpayer to pay all taxes due on said personal property by said delinquent to the city, together with all interest, penalties and costs, which seizure and sale shall be made without necessity of any writ and by virtue of the tax rolls of said city, which shall be sufficient warrant for said purpose, and such sale shall be conducted and notice shall be given in the same manner now provided by law for the sale of personal property by county tax collectors, and at such sale the purchaser shall acquire absolute title to the property sold.

(Am. Ord. 1719, passed 1-22-96)

State law reference(s)—Tax delinquency and foreclosures, V.T.C.A., Local Government Code §§ 214.004 and 214.015; V.T.C.A., Tax Code § 33.91 et seq.

### **Sec. 5. Advertisement and sale of property; delinquent taxes.**

The city council shall have full power and authority to pass all ordinances necessary to regulate advertisements and sales, by the assessor and collector, of personal property upon which taxes may be unpaid, and to provide for the perpetuation of all proceedings with reference to such advertisements and sale; and to pass all ordinances necessary to enforce the collection of such taxes.

(Am. Ord. 1719, passed 1-22-96)

### **Sec. 6. Taxes; when due and payable, interest and penalties.**

All taxes, excises and charges heretofore levied or made by the City of Edinburg, and remaining unpaid, in whole or in part, at the time this charter takes effect, shall remain subject to and governed by the laws of the state, and the ordinances, rules and regulations of the City of Edinburg, now existing applicable thereto. All ad valorem taxes levied by the City of Edinburg shall become payable on the first day of October of each year for which such taxes are levied, and shall become delinquent on February first, next following the year in which they are levied. All such taxes not paid before February first next following the year in which they are levied shall thereafter bear interest at the rate of six (6) per cent per annum until paid; and in addition thereto, there shall be collected the following penalty thereon, to wit: During the month of February, one (1) per cent; during the month of March, two (2) per cent; during the month of April, three (3) per cent; during the month of May, four (4) per cent; during the month of June, five (5) per cent; and on and after the first day of July, eight (8) per cent, together with costs in the amount of one dollar (\$1.00) each year tax is cleared by redemption receipt. Interest, penalties and costs shall become a part of the tax and collected in the same manner. In any case in which suit is brought for collection of delinquent taxes, there shall also be charged and collected an amount equal to ten (10) per cent of the taxes, penalties and interest due, as collection costs, and the same shall be secured by the lien securing the payment of such taxes.

All taxes due and to become due to the City of Edinburg shall be payable at the office of the city assessor and collector, and no demands shall be required to be made upon any taxpayer, it being the duty of each taxpayer to attend at the collector's office and pay his/her taxes.

A lien is hereby created on all property, real and personal, in favor of the City of Edinburg for all taxes, ad valorem, occupation, or otherwise, assessed against such property. Said lien shall exist from the first day of January in each year during which the tax is levied until the taxes are paid; such lien shall be prior to all other claims, and no gift, sale, assignment, or transfer of any kind, or judicial writ of any kind can ever defeat such lien, but the assessor and collector of taxes can pursue such property and whenever found may seize and sell enough thereof to satisfy such taxes, or the city may enforce and foreclose said liens, by suit or otherwise, in any court having jurisdiction, and may cause all or any part of such property to be sold to satisfy such taxes.

The city council may by ordinance provide that all taxes, either current or delinquent, due the city may be paid in installments.

(Am. Ord. 158, passed 3-3-53 [Amendment #2]; Am. Ord. 1719, passed 1-22-96)

#### **Sec. 7. Tax liens.**

The annual assessment of taxes made by the city upon landed property shall be a special lien thereon, and all property; both real and personal, belonging to any delinquent taxpayer shall be liable to seizure and sale for the payment of all taxes and penalties due by such delinquent; provided that the homestead of such delinquent shall only be liable for the taxes, interest, penalties and costs due or accruing thereon.

All real property in the City of Edinburg upon the first day of January of each year and subject to taxation by said city, shall stand charged with a special lien in favor of the city for all taxes levied against the owner thereof during the year, superior to all mortgages and other liens thereupon, except the liens for taxes due other public taxing units authorized by law to levy taxes thereon and for which taxes lien is given by law on such property, and all persons purchasing the same after the first day of January of any year shall take the same subject to such lien, and the city may intervene in any suit for the foreclosure of any other lien and assert its right or may institute an independent suit and make all mortgages and lienholders and subsequent purchasers parties for the purpose of enforcing its lien, or recovering personal judgment for its taxes, and said city shall be authorized and it is hereby made the duty of the city assessor and collector to file the proper statement of the taxes in any court of bankruptcy administering the estate of any bankrupt taxpayer.

In all cases where a taxpayer makes an assignment of his/her property for the payment of his/her debts, or where his/her property is levied upon by creditors by writs of attachment or otherwise, or where the estate of a decedent has become insolvent and the taxes assessed against such in whole, the amount of such unpaid taxes shall be a first lien upon all such property; provided that when taxes are due upon the estate of a deceased person the lien herein provided for shall be subject to the allowances to widows and minors, funeral expenses and expenses of

last sickness, and such unpaid taxes shall be paid by the assignee when said property has been assigned, by the sheriff out of the proceeds of sale in case such property has been seized by attachment or other writ, and by the administrator or other legal representatives of decedents; and if said taxes shall not be paid, all said property may be levied on by tax collector and sold for such taxes in whomsoever's hands it may be found.

(Am. Ord. 1719, passed 1-22-96)

### **Sec. 8. Personal property; removal and procedure.**

If it comes to the knowledge of the city assessor and collector at any time after the levy of taxes for the year that any personal property subject to taxation in the city is about to be removed from the city, and the owner of such property has no other tangible property in the city sufficient to satisfy all assessments against him/her, the assessor and collector shall, if said property has not been assessed, proceed at once to assess the same and he/she shall thereupon levy upon a sufficiency of such property to satisfy such taxes and all costs and sell the same as provided in the preceding section; and the ordinance levying taxes for the year and the assessment made upon such property shall be sufficient warrant for so doing and to vest title in the purchaser.

(Am. Ord. 1719, passed 1-22-96)

### **Sec. 9. Tax suits: foreclosure and redemption.**

The City of Edinburg shall be authorized and it is hereby given the right to institute suit in any court in Hidalgo County having jurisdiction under the constitution and laws of the state at any time after taxes become due and are delinquent as herein provided, and recover personal judgment for the amount of taxes remaining unpaid by any person, firm or corporation, together with all interest, penalties, and costs, and if any part of such delinquent tax shall be due upon any lands or personal property, the city shall have the right in the same or any subsequent suit to have its lien thereon foreclosed and such property sold as provided by law for the foreclosure and sale of property under mortgage or other liens; provided that in all cases where lands are sold the owner shall have the right within two (2) years from the date of the filing of the tax deed to redeem his/her land from the purchaser under such judgment, as provided by Section 12, Acts 1937, 45th Leg., Ch. 506, p. 1494-a, as amended, or as may hereafter be provided by the laws of Texas or by ordinance of the city and failing to do so, the title of the purchaser shall become absolute without further act or proceeding. The privilege of redemption shall constitute part of the judgment and deed made to the purchaser and in such cases need not be inserted therein.

(Am. Ord. 1719, passed 1-22-96)

State law reference(s)—Foreclosure, V.T.C.A., Tax Code § 33.91 et seq.; Redemption, V.T.C.A., Tax Code § 34.21 et seq.

### **Sec. 10. Tax suits: parties and process.**

The applicable provisions of the laws and rules of civil procedure of the state relating to parties and process in suits for the collection of delinquent ad valorem taxes and the foreclosure of the liens thereof shall govern in such tax suits of the City of Edinburg.

**Sec. 11. Tax suits: citation by publication and trial.**

In all tax suits in which service of process is by publication or posting, the case shall stand for trial at the same time and in the manner as provided by law or the rules of civil procedure in similar cases. The suit shall be held in all respects to be a proceeding in rem, and the court shall hear proof and render judgment in favor of the city against each parcel of land for the amount of the tax, interest, penalty and costs legally chargeable against the same and shall foreclose the lien of the city thereon and condemn the land to be sold as under execution for the purpose of satisfying such judgment; provided, that for the purpose of foreclosing the lien of the city on all lands and lots where the owners thereof are alleged to be unknown, it shall not be necessary to institute a separate suit against each piece of property, and all such property may, if the city so elects, be embraced in one suit and judgment entered against each parcel and condemning the same to be sold as aforesaid.

**Sec. 12. Tax suits: procedure.**

It shall be competent in all cases to supplement the description contained in the assessment rolls with full proof of the identity of the whole tract or parcel of land therein assessed, and in suits to enforce collection of taxes by the city, such additional matters may be inserted in the petition, and reference may be made to any map, plat or survey of said city or any addition or subdivision made thereto or to any deed or decree or other instrument describing the same, which shall be on file or of record in the general land office of Texas or in the office of the district or county clerk of Hidalgo County, and such reference shall constitute part of such petition and all proceedings had in said suit.

**Sec. 13. Tax suits: evidence.**

In all suits for the collection of taxes which have been heretofore or which may hereafter be levied upon the tax rolls of said city a certified statement made therefrom by the assessor and collector shall be prima facie evidence of the truth of all recitation and facts shown by said rolls and shall be held to be sufficient proof (subject to rebuttal only by pleading and proof by defendant) of the following facts, viz:

- a) That the person, firm or corporation therein shown to be a taxpayer was such and owned the property therein listed, and that such property was subject to taxation in said city and was rendered by such person, firm or corporation or by his/her or its agent at the value placed thereon in such rolls, or was unrendered and placed on the unrendered rolls.
- b) That the taxes due upon such property were duly and legally levied for the purpose shown in such rolls and that the same are valid and unpaid.
- c) That all acts and proceedings required by law or by ordinance of said city in the manner for rendering, appraising and fixing the values of said property and the giving of all

notices to such taxpayers have each and all been performed and complied with at the time and in the manner and form required and that all things that might be construed as conditions precedent to the lawful demand upon such taxpayers to pay the amount of taxes in such rolls shown to be due by him/her or them have been performed at the time and in the manner required by law, provided that in the event that defendant shall show that his/her property was voluntarily rendered by him/her, and that the valuation of the same was subsequently changed by the assessor or board of equalization without notice to him/her or his/her agent, or shall show that the said rate of taxation for any purpose was to any extent illegal, judgment shall thereupon be rendered against his/her for the proper amount due, based upon the value of his/her property as rendered by him/her and the amount of tax which is found to be legal.

(Am. Ord. 1719, passed 1-22-96)

**Sec. 14. Cost in tax suits.**

In all suits for the collection of taxes the costs of such proceedings shall be collected in the same manner provided by law for the collection of costs in suits for taxes by the state and county.

State law reference(s)—Recovery of costs and expenses, V.T.C.A., Tax Code § 33.48.

**Sec. 15. Tax sales; purchases.**

When any property, real or personal, is sold to enforce the collection of taxes the City of Edinburg shall not become the purchaser thereof unless no one else is present who will purchase the same and pay the full amount due the city, including all costs and penalties, and it is hereby made the duty of the city attorney or the person acting as such to attend all sales and bid therefor for the city, and upon such sale the officer making the same shall execute to the city or other purchaser proper evidence of the title and place the purchaser of personal property in possession thereof.

**Sec. 16. Assessment of taxes; supplemental.**

If the city assessor and collector shall discover any property, real or personal, which was subject to taxation for any year heretofore and which from any cause has escaped taxation, he/she shall require the same to be listed and assessed according to the rate of taxation levied for the year or years it was omitted and enter the same as a supplement to his/her next roll, stating the year, and the taxes thereon shall be collected in the same manner as other assessments and be subject to the same penalties; providing that such supplemental rolls shall be due at once upon the approval of such rolls by the city council, and if not paid within sixty (60) days thereafter shall bear interest at the rate of six (6) per cent per annum, and may be collected by seizure and sale or suit as herein provided for the collection of other taxes.

(Am. Ord. 1719, passed 1-22-96)

**Sec. 17. Tax lien; unrendered property, unknown owner.**

The city assessor shall list all property which for any cause has not been rendered to him/her for taxation in such form as may be prescribed by the city council, such valuation thereon as he/she may deem just, provided same shall not be higher than rendered property of like character. If the owners of such property are unknown to the assessor he/she shall so state, and such assessment shall be sufficient warrant for the collection of taxes due upon said property by seizure and sale or suit as herein provided for the collection of taxes on other property.

(Am. Ord. 1719, passed 1-22-96)

**Sec. 18. Statute of limitations; regularities or procedure.**

No taxes due the City of Edinburg shall ever be held to be barred by any statute of limitation and no irregularities in the time and manner of making the annual levy of taxes or in making any inventory, list or appraisal, or in making or returning the city assessment rolls or the approval thereof shall ever be held to invalidate any assessment, and all taxes heretofore levied by the city council of said city and which are unpaid, are hereby continued in force and may be collected by seizure and sale of the property of the person owning the same or by suit as herein provided.

(Am. Ord. 1719, passed 1-22-96)

**Sec. 19. Property subject to taxation.**

All property, real or personal or mixed, made taxable by the laws of the State of Texas, which is situated in the City of Edinburg on the first day of January of each year, and all personal property owned and controlled by persons residing herein and taxable by law at the place where the owner or agent in charge may reside, shall be subject to taxation by said city for all purposes provided in this charter.

**Sec. 20. Laws continued in force; occupation tax.**

The city council shall have the power to levy and collect in annual occupation tax on all occupations, callings, businesses and professions taxed by the State of Texas from time to time to the amount of one-half (1/2) of occupation tax levied by the state, and shall have power by ordinance to provide adequate means for enforcing the collection of same.

All laws and parts of laws now in force providing for the levy and collection of taxes not in conflict with this charter relating to the city are hereby continued in full force and effect. If the city council shall fail, refuse or neglect to pass an ordinance levying the taxes for any year, the ordinance last passed levying taxes shall be considered in force and a failure to pass such an ordinance shall in no wise invalidate the collection of any taxes.

(Am. Ord. 1719, passed 1-22-96)

State law reference(s)—Amount of occupation tax authorized, see Tex. Const. Art. VIII, § 1.

## **ARTICLE XI. CONDEMNATION AND SPECIAL ASSESSMENT**

### **Sec. 1. Power of condemnation and special assessment.**

The city shall have power:

- (1) To acquire property by condemnation within or without its corporate limits for any municipal purpose, and, for the purpose of (a) protecting, preserving, and facilitating an improvement or (b) financing an improvement or (c) bringing about such developments of property along or in the vicinity of an improvement as will make such development harmonious with and adjusted to the improvement or (d) any combination of such purposes, to require by condemnation property in excess of that needed for the actual improvement and to sell or lease such excess property with or without imposing building and use restrictions and conditions.
- (2) To provide for the payment of all or any part of the costs of public improvements by the levying and collecting of special assessments upon properties specially benefited, in accordance with authorizations provided by state laws and such amendments as may be made thereto.

State law reference(s)—Condemnation, V.T.C.A., Local Government Code § 251.001 et seq.

### **Sec. 2. Special assessment method and procedure.**

The method and procedure for determining the amount to be assessed, the spread and apportionment of the amount to be assessed, and the boundary and location of the property, lots, district or area to be assessed, for making and approval of the plans and specifications, for the notices to property owners and other interested parties, for the hearings, for the composition, organization and procedure of boards of revision or appraisal, for the levy of the assessment and for any and all other determinations, steps, measures, resolutions, ordinances, and actions in relation to the assessment shall be governed by either (a) the provisions of the special assessment statutes of Texas, or (b) the provisions of a general ordinance setting forth such method and procedure, which general ordinance may be enacted by the city council and shall be subject to amendment or repeal. Relative to subsection (a) above, it is the intent and purpose hereof to incorporate and make a part of the charter of the City of Edinburg the powers, terms, and provisions contained in state law related to special assessments.

(Am. Ord. 1719, passed 1-22-96)

State law reference(s)—Statutory provisions, see V.T.C.A., Transportation Code § 312.061 et seq.

### **Sec. 3. Street improvements; legislative acts invoked.**

As exclusive of the powers described in this article and the municipal powers stated or implied elsewhere in this charter and wholly alternative to these powers, the city shall have the power, by ordinance, to adopt all and singular the rights, powers, and provisions of applicable state law.

(Am. Ord. 1719, passed 1-22-96)

State law reference(s)—Control of highway assets, see V.T.C.A., Transportation Code § 312.001 et seq.

#### **Sec. 4. Eminent domain.**

In addition, or as alternatives, to all other powers on the subject conferred by this charter or existing by law, the City of Edinburg shall have and may exercise all the powers enumerated in applicable state law relating to the acquisition of property.

(Am. Ord. 1719, passed 1-22-96)

State law reference(s)—Eminent domain, V.T.C.A., Local Government Code § 251.001 et seq.

### **ARTICLE XII. FRANCHISES AND PUBLIC UTILITIES**

#### **Sec. 1. Powers of the city.**

In addition to the city's power to buy, own, construct, maintain and operate utilities and to manufacture and distribute electricity, gas, or anything else that may be needed or used by the public (see powers made part of this charter in Article I, Section 2), the city shall have further powers as may now or hereafter be granted under the constitution and laws of the State of Texas.

#### **Sec. 2. Franchise; power of City Council.**

Subject to the requirements of applicable state law regarding petitions and referendum, the city council shall have the power by ordinance to grant, amend, renew and extend all franchises of all of public utilities of every character operating within the City of Edinburg, and for such purpose is granted full power. No public utility franchise shall be transferable except with the approval of the city council by ordinance.

(Am. Ord. 1719, passed 1-22-96)

State law reference(s)—Authority to grant franchise, V.T.C.A., Local Government Code § 282.003.

#### **Sec. 3. Term and plans of purchase.**

Any public utility franchise may be terminated by ordinance at specified intervals of not more than five (5) years after the beginning of operation, whenever the city shall determine to

acquire by condemnation or otherwise the property of such utility necessarily used in or conveniently useful for the operation thereof within the city limits.

#### **Sec. 4. Right of regulation.**

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

- a) To repeal the same by ordinance at any time for failure to begin construction or operation within the time prescribed or otherwise to comply with the terms of the franchise, such power to be exercised only after due notice and hearing;
- b) 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;
- c) To establish reasonable standards of service and quality of products and prevent unjust discrimination in service or rates;
- d) At any time to examine and audit the accounts and other records of any such utility and to require annual and other reports, including reports on local operations by each public utility;
- e) To impose such reasonable regulations and restrictions as may be deemed desirable or conducive to the safety, welfare and accommodation of the public;
- f) To at any time require such compensation and rental as may be permitted by the laws of the State of Texas.

State law reference(s)—Authority to regulate rates, see Tex. Rev. Civ. Stat. Art. 1175(2) and Art. 1446c-O, Subtitle C.

#### **Sec. 5. Consent of property owners.**

The consent of abutting and adjacent property owners shall not be required for the construction, extension, maintenance or operation of any public utility; but nothing in this charter or in any franchise granted thereunder shall ever be construed to deprive any right of action for damage or injury to his/her property as now or hereafter provided by law.

(Am. Ord. 1719, passed 1-22-96)

#### **Sec. 6. Extensions.**

All extensions of public utilities within the city limits shall become a part of the aggregate property of the public utility, shall be operated as such, and shall be subject to all the obligations and reserved rights contained in this charter and in any original grant hereafter. The right to use and maintain any extension shall terminate with the original grant and shall be terminable as provided in Section 4. In case of an extension of a public utility operated under a

franchise hereafter granted, such right shall be terminable at the same time and under the same conditions as the original grant.

### **Sec. 7. Other conditions.**

All franchises heretofore granted are recognized as contracts between the City of Edinburg and the grantee, and the contractual rights as contained in any such franchise shall not be impaired by the provisions of this charter, except that the power of the City of Edinburg 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 provided for to regulate the rates and services of a grantee 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 public utility franchise hereafter granted shall be held subject to all terms and conditions contained in the various sections of this article 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 city council or the electors of the city in imposing terms and conditions as may be reasonable in connection with any franchise grant.

(Am. Ord. 1719, passed 1-22-96)

### **Sec. 8. Franchise records.**

Within six (6) months after this charter takes effect every public utility and every owner of a public utility franchise shall file with the city, as may be prescribed by ordinance, 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.

### **Sec. 9. Accounts of municipally owned utilities.**

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

(Am. Ord. 158, passed 3-3-53 [Amendment #3]; Am. Ord. 1719, passed 1-22-96)

State law reference(s)—City owned utilities, Tex. Rev. Civ. Stat. Art. 1106 et seq. and V.T.C.A., Local Government Code § 402.001 et seq.

**Sec. 10. Regulation of rate and service.**

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

(Am. Ord. 1719, passed 1-22-96)

State law reference(s)—Authority to regulate rates, Tex. Rev. Civ. Stat. Art. 1175(2) and Art. 1446c-O, Subtitle C.

**ARTICLE XIII. RECALL**

**Sec. 1. General provision.**

Any elective officer of the City of Edinburg may be removed from office by recall. Any voter of the city may make and file with the city secretary an affidavit containing the name or names of any officer or officers whose removal is sought and a statement of the grounds for removal. The city secretary shall thereupon deliver to the voter making such affidavit, copies of petition blanks demanding such removal, of form to be prescribed by the city council promptly after this charter goes into effect. Such blanks shall be issued by the city secretary with his/her signature and official seal thereto attached; they shall be dated and addressed to the city council and shall indicate the name of the person to whom issued, the number of blanks so issued and the name of the officer whose removal is sought. A copy of the petition shall be entered in a record book to be kept for the purpose in the office of the city secretary. The recall petition to be effective must be returned and filed with the city secretary within thirty (30) days after the filing of the affidavit, and it must be signed by qualified voters of the city equal in number to at least bear the signature of the voters of the city to the number of at least twenty-five (25) percent of the number of votes cast in the number of voters who cast their votes at last preceding regular municipal election; provided, however, that the petition shall not be effective unless it bears the signature of at least three hundred (300) voters of the city.

(Am. Ord. 1719, passed 1-22-96)

**Sec. 2. Recall election ordered.**

If a recall petition, or amended petition as defined in Article XVI, Section 3, shall be certified by the city secretary to be sufficient he/she shall at once submit it to the city council with his/her certificate to that effect and notify the officer whose removal is sought by such action. If the officer whose removal is sought does not resign within five (5) days after such notice, the city council shall thereupon fix a day for holding a recall election. Any such election shall be held not less than thirty (30) days or more than sixty (60) days after the petition has been presented to the city council, and at the same time as any other special or general election held

within such period; but if no such election is to be held within such period, the city council shall call a special election to be held within the time aforesaid.

(Am. Ord. 1719, passed 1-22-96)

### **Sec. 3. Ballots in recall elections.**

Ballots used at recall elections shall conform to the following requirements: with respect to the officer whose removal is sought the question to be submitted shall be “SHALL (name of person) BE REMOVED FROM THE OFFICE OF \_\_\_\_\_ BY RECALL:” Immediately below such question there shall be printed on the ballots the two (2) following propositions, one above the other, in the order here indicated:

“Against the recall of (name of person)”

“For the recall of (name of person)”

### **Sec. 4. Result of recall election.**

If a two-thirds ( $\frac{2}{3}$ ) majority of such votes be for the recall of the officer indicated on the ballots, he/she shall, regardless of any defect in the recall petition, be deemed removed from office, and his/her place shall be filled in the manner prescribed in this charter for filling vacancies in such office.

(Am. Ord. 1719, passed 1-22-96)

### **Sec. 5. Limitation on recall petition.**

No recall petitions shall be filed against an officer within three (3) months after he/she takes office nor, in respect to an officer subjected to a recall election and not removed thereby, until at least six (6) months after such election.

(Am. Ord. 1719, passed 1-22-96)

## **ARTICLE XIV. INITIATIVE**

### **Sec. 1. Power to initiate ordinances.**

The voters shall have power to propose any ordinance, with the exception of ordinances levying taxes; ordinances relating to the issuance, sale, and delivery of bonds; ordinances relating to the city's finances and budgeting; and ordinances causing the city (directly or indirectly) to appropriate or spend money~~except an appropriation ordinance or an ordinance making a tax levy~~, and to adopt or reject the same at the polls, such power being known as the initiative. Any initiated ordinance may be submitted to the city council by petition signed by qualified voters of the city equal in number to at least twenty-five (25) percent of the number of votes cast in the~~signed by voters of the city equal in number to at least ten (10) per cent of those~~

~~who voted at the last preceding~~ regular municipal election, provided, however, that the petition must bear the signatures of at least ~~one-three~~ hundred (~~1300~~) voters of the city. All petition papers circulated with respect to initiated resolution or ordinance shall be uniform in character and shall contain the proposed resolution or ordinance in full.

(Am. Ord. 1719, passed 1-22-96)

## **Sec. 2. Consideration of initiated ordinance.**

If an initiative petition, or amended petition as defined in Article XVI, Section 3, be found sufficient by the city secretary, he/she shall immediately so certify and promptly submit the ordinance therein set forth to the city council, which shall at once read the proposed ordinance and refer it to an appropriate committee, which may be a committee of the whole. Provision shall be made for a public hearing upon the proposed ordinance before the committee to which it is referred. Thereafter the committee shall report the ordinance to the city council, with its recommendation thereon, not later than sixty (60) days after the date on which such ordinance was submitted to the city council by the city secretary. Upon receiving the ordinance from the committee, the city council shall proceed at once to consider it and to take final action thereon within thirty (30) days from the date of such committee report.

(Am. Ord. 1719, passed 1-22-96)

## **Sec. 3. Submission of initiated ordinances to electors.**

If the city council fails to pass an ordinance proposed by initiative petition, or pass it in form different from that set forth in the petition thereof, the committee of the petitioners hereinafter provided for may, by an additional petition signed by voters, in no case less than fifty (50) in number and equal in number to at least five (5) per cent of the number who voted at the last regular municipal election, who did not sign the petition by which the ordinance was originally proposed to the city council, require that it be submitted to a vote of the electors either in its original form or with any change or amendment which was presented in writing during the consideration thereof by the city council or its committee. If the committee of petitioners require the submission of a proposed ordinance to a vote of the voters they shall certify that fact to the city clerk and file in his/her office a certified copy of the measure, in the form in which it is to be submitted, together with the additional petition as provided in this section, within ten (10) days after final action on such ordinance by the city council.

(Am. Ord. 1719, passed 1-22-96)

## **Sec. 4. Election of initiated ordinance.**

Upon receipt of the certified copy of a proposed ordinance and the additional petition presented in accordance with the foregoing section from the committee of the petitioners, the city clerk shall, if he/she finds the additional petition sufficient, certify that fact to the city council at its next regular meeting, and the proposed ordinance shall be submitted to a vote of the voters, at a special election to be held not earlier than thirty (30) days, nor later than sixty (60) days, after

the receipt of the clerk's certificate as aforesaid, which election shall be called and fully provided for by the city council. If, when submitted to the voters, a majority of those voting on the proposed ordinance shall vote in favor thereof, it shall thereupon be an ordinance of the municipality.

(Am. Ord. 1719, passed 1-22-96)

#### **Sec. 5. Initiated ordinance passed by the City Council in amended form.**

When an ordinance proposed by initiative petition is passed by the city council in a changed or amended form, and the committee of the petitioners requires that such proposed ordinance be submitted to a vote of the voters as provided in Article XIV, Section 3, hereof, the ordinance as passed by the city council shall not take effect until after such vote and, if the proposed ordinance so submitted be approved by a majority of the voters voting thereon, the ordinance as passed by the city council shall be deemed repealed.

(Am. Ord. 1719, passed 1-22-96)

#### **Sec. 6. Initiated repealing ordinances.**

Proposed ordinances for repealing any existing ordinance or ordinances, in whole or in part, may be submitted to the city council as provided in the preceding sections for initiating ordinances. Initiated ordinances adopted by the voters shall be published, and may be amended or repealed by the city council, as in the case of other ordinances.

(Am. Ord. 1719, passed 1-22-96)

### **ARTICLE XV. THE REFERENDUM**

#### **Sec. 1. Power of referendum.**

The voters shall have power to approve or reject at the polls any ordinance passed by the city council, or submitted by the city council to a vote of the voters, with the exception of ordinances levying taxes; ordinances relating to the issuance, sale, and delivery of bonds; ordinances relating to the city's finances and budgeting; and ordinances causing the city (directly or indirectly) to appropriate or spend money, except an appropriation ordinance or an ordinance making the annual tax levy, such power being known as the referendum. Ordinances submitted to the city council by initiative petition and passed by the city council without change, or passed in an amended form and not required by the committee of the petitioners to be submitted to a vote of the voters, shall be subject to the referendum in the same manner as ordinances.

(Am. Ord. 1719, passed 1-22-96)

#### **Sec. 2. Referendum petition.**

Within not more than thirty (30) days after the final passage by the city council of any ordinance which is subject to referendum, a petition signed by qualified voters of the city equal in number to at least twenty-five (25) percent of the number of votes cast in the preceding signed by the voters of the city equal in number to at least twenty (20) per cent of those who voted in the last preceding regular municipal election, and in no case less than ~~two~~three hundred (~~23~~300) voters, may be filed with the city clerk requesting that any such ordinance, or any specified part thereof, be either repealed or submitted to a vote of the voters.

(Am. Ord. 1719, passed 1-22-96)

### **Sec. 3. Consideration of referred ordinance by City Council; referendum election.**

If a referendum petition or amended petition as defined in Article XVI, Section 3, be found sufficient by the city secretary he/she shall certify that fact to the city council at the next regular meeting. Upon receipt of the secretary's certificate the city council shall proceed to reconsider the ordinance or part thereof and its final vote upon such consideration shall be upon the question "Shall the ordinance (or part of the ordinance) specified in the referendum petition be repealed?" If upon reconsideration the ordinance, or part thereof, be not repealed it shall be submitted to the voters at a special election to be held not less than thirty (30) days nor more than sixty (60) days after such final vote by the city council, which special election shall be called and caused to be held, and fully provided for, by the city council.

(Am. Ord. 1719, passed 1-22-96)

### **Sec. 4. Form of ballot for initiated and referred ordinances.**

Ordinances, or parts thereof, submitted to a vote of the voters in accordance with the initiative and referendum provisions of this charter shall be submitted by ballot, title of which shall be prepared in all cases by the city attorney or as directed by the city council. The ballot title may be distinct from the legal title of any such initiated or referred ordinance, shall be a clear, concise statement, without argument or prejudice, descriptive of the substance of such ordinance or part thereof. The ballot used in voting upon any ordinance, or part thereof, shall have below the ballot title the following propositions, one above the other, in the order indicated:

"FOR THE ORDINANCE"

"AGAINST THE ORDINANCE"

Any number of ordinances, or part thereof, may be voted at the same election and may be submitted on the same ballot, but the ballot shall be for that purpose only.

(Am. Ord. 1719, passed 1-22-96)

### **Sec. 5. Preliminary action under ordinances.**

In case a petition be filed requiring that an ordinance passed by the city council involving the expenditures of money, a bond issue, or a public improvement be submitted to a vote of the voters, all steps preliminary to such actual expenditure, actual issuance of bonds, or actual execution of the contract for such improvement, may be taken prior to the election.

(Am. Ord. 1719, passed 1-22-96)

#### **Sec. 6. Publicity for ordinances and amendments submitted to voters.**

The city secretary, at least fifteen (15) days before any election at which any ordinance or charter amendment is to be submitted to the voters, shall have printed in the official newspaper the full text of all ordinances or charter amendments submitted, with their respective ballot titles. The text of every ordinance or charter amendment shall also be displayed at the polling place in such election; but the validity of an ordinance or charter amendment approved by the voters shall not be questioned because of errors or irregularities in publication or display.

(Am. Ord. 1719, passed 1-22-96)

#### **Sec. 7. Conflict of ordinances adopted or approved.**

If two (2) or more ordinances adopted or approved at the same election conflict in respect of any of their provisions, they shall go into effect in respect of such of their provisions as are not in conflict and the one receiving the highest affirmative vote shall prevail insofar as their provisions conflict.

### **ARTICLE XVI. INITIATIVE, REFERENDUM, AND RECALL PETITIONS**

#### **Sec. 1. Signatures to petitions.**

The signatures to initiative, referendum or recall petitions need not all be appended to one paper. No signatures to a petition shall remain effective or be counted which were placed thereon more than thirty (30) days prior to the filing of such petition or petitions with the city pursuant to this Charter. ~~but to~~ To each separate petition there shall be attached an affidavit of the circulator thereof as provided in this section. Each signer of any such petition paper shall sign his/her name in ink or indelible pencil and shall indicate after his/her name his/her place of residence by street and number, or other description sufficient to identify the place. ~~There shall appear on each petition the names and addresses of five (5) voters of the city, and on each paper the names and addresses of the same five (5) voters, who, as a committee of the petitioner, shall be regarded as responsible for the circulation and filing of the petition, but such five (5) voters shall only be counted one time in the total voters signing the petition.~~ The affidavit attached to each petition shall be as follows:

STATE OF TEXAS )  
COUNTY OF HIDALGO )

, \_\_\_\_\_ being duly sworn, deposes and says that he/she, and he/she only, personally circulated the foregoing paper, that all the signatures appended thereto were made in his/her

presence and that he/she believes them to be the genuine signatures of the persons whose names they purport to be.

SIGNED \_\_\_\_\_  
(Signature of Circulator)

Subscribed and sworn to before me this day \_\_\_ of \_\_\_\_\_, 20\_\_ .

\_\_\_\_\_

Notary Public (or other officer, authorized to administer oaths)

The foregoing affidavit shall be strictly construed and any affiant convicted of swearing falsely as regards to any particular thereof shall be punishable in accordance with existing law.

(Am. Ord. 1719, passed 1-22-96)

### **Sec. 2. Filing, examination and certificate of petitions.**

All petition papers comprising an initiative, referendum or recall petition shall be assembled and filed with the city secretary as one instrument. Within ten (10) days after a petition is filed, the city secretary shall determine whether each paper of the petition is properly attested and whether the petition is signed by a sufficient number of voters. The city secretary shall declare any petition paper entirely invalid which is not attested by the circular thereof as required by Article XVI, Section 1, of this charter. Upon completing his/her examination of the petition, the city secretary shall certify the result of his/her examination to the city council. If he/she shall certify that the petition is insufficient, he/she shall set forth in his/her certificate the particulars in which it is defective and shall at once notify the committee of the petitioners of this finding.

(Am. Ord. 1719, passed 1-22-96)

### **Sec. 3. Amendment of petitions.**

An initiative, referendum, or recall petition may be amended at any time within ten (10) days after the making of a certificate of insufficiency by the city secretary, by filing a supplementary petition upon additional papers signed and filed as provided in case of an original petition. The city secretary shall, within five (5) days after such an amendment is filed, make examination of the amended petition and, if his/her certificate shall show the petition to be insufficient, he/she shall file it in his/her office and notify the committee of the petitioners of his/her findings and no further actions shall be had on such insufficient petition. The findings of the insufficiency of a petition shall not prejudice the filing of a new petition for the same purpose.

(Am. Ord. 1719, passed 1-22-96)

## **ARTICLE XVII. GENERAL PROVISIONS**

### **Sec. 1. Publicity records.**

All records and accounts of every office, department or agency of the city shall be open to inspection by any citizen, any representative of the press at all reasonable times and under reasonable regulations established by the city manager.

State law reference(s)—Public Information Act (previously the Open Records Act), V.T.C.A., Government Code § 552.001 et seq.

### **Sec. 2. Personal interest.**

No member of the city council or any officer or employee of the city shall have a financial interest, direct or indirect, or by reason of ownership of stock in any corporation, in any contract or in the sale to the city or to a contractor supplying the city of any land or rights or interest in any land, material, supplies, or services, or in any matter in which he/she acts for the city. Any willful violation of this section shall constitute malfeasance in office, and any officer or employee of the city found guilty thereof shall thereby forfeit his/her office 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 the city council.

(Am. Ord. 1719, passed 1-22-96)

### **Sec. 3. Increasing personnel or payroll before elections.**

Neither the personnel nor payroll of or for any department of the city shall be increased within sixty (60) days before any election of council members unless same be necessary to provide for an emergency first formally declared by resolution of the city council which resolution shall state the nature of the emergency and specify the necessary increase in personnel and/or payroll to meet the same. In the event of any violation of any provision of this section, any such attempted increase shall be void and any and every person in any manner participating in the authorization or carrying out of any such increase shall be personally liable to the city for any money paid out on account of any such increase; and also be subject to removal from any position or office with or of the city which he/she may hold at the suit or complaint of any taxpayer of the city. Any such emergency in support of increase of personnel or payroll of any city-owned utility under the management of an independent board shall be declared by order or resolution of such board.

(Am. Ord. 1719, passed 1-22-96)

### **Sec. 4. Oath of office.**

Every officer of the city shall, before entering upon the duties of his/her 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 Edinburg, 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 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.”

(Am. Ord. 1719, passed 1-22-96)

### **Sec. 5. Official bonds.**

- (a) The mayor and each of the council members shall, upon entering office, execute official bonds to be approved by the city council, in the amount, conditioned, and payable as provided by Article 1162, Revised Civil Statutes of Texas, 1925, or as may be provided by ordinance passed by the unanimous vote of the entire city council.
- (b) The city manager shall, before, or as soon as possible after, entering upon his/her duties enter into a bond to be approved by the city council, in the sum of ten thousand dollars (\$10,000.00), or any other amount that may be provided by ordinance, for the faithful performance of the duties of his/her office as prescribed in this charter.
- (c) All other officers and employees of the city whose duties require or involve the handling or possession of any funds, personal property; or supplies or other things of value of the city shall enter into bonds to be approved by the city council, conditioned that they will faithfully account for and pay over or deliver all funds and personal property and other things of value belonging to the city coming into their possession. Said bonds shall be in such respective amounts as may be fixed by the city council.

The premiums of all bonds herein provided for shall be paid by the city.

It shall be the duty of the city council and of the city manager to see to the execution of all bonds herein provided for.

(Am. Ord. 1719, passed 1-22-96)

Editor’s note(s)—The provisions of Article 1162, Revised Civil Statutes of Texas, 1925, have been recodified at V.T.C.A., Local Government Code § 24.024. This statute establishes the bond amounts required in a Type C General Law Municipality.

### **Sec. 6. Reserved.**

Editor’s note(s)—This section was repealed by Ord. 410, passed 10-21-69 [Amendment #2].

### **Sec. 6-A. Continuance of contracts.**

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

**Sec. 7. Employment by independent utility board.**

Any officer or employee of the city (including the city manager) may, with the consent and approval of the city manager and the city council, be employed by an independent board controlling and operating a utility owned by the city, to fill any office or position of, or to perform any services for, such independent board. In any such case the total compensation of such officer or employee whose services are so shared between the city and such independent board shall be paid by the city and such independent board in the proportions that may be agreed upon between the city council and such independent board.

(Am. Ord. 1719, passed 1-22-96)

**Sec. 8. 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 Edinburg is a party, for any bond, undertaking or security to be demanded or executed by or on behalf of said city in any state courts, but in all such actions, suits, appeals or proceedings same shall be conducted in the same manner as if bond, undertaking or security had been given as required by law, and city shall be just as liable as if security or bond had been duly executed.

**Sec. 8-A. Claims for damages from city, written notice required.**

1. The City of Edinburg shall never be liable for any claim for property damage or for personal injury, whether such personal injury results in death or not, unless the person damaged or injured, or someone in his/her behalf, or in the event the injury results in death, the person or persons who may have a cause of action under the law by reason of such death or injury, shall, within sixty (60) days or within six (6) months for good cause shown from the date the damage or injury was received, give notice in writing to the mayor and city council of the following facts:
  - A. The date and time when the injury occurred and the place where the injured person or property was at the time when the injury was received.
  - B. The nature of the damages or injury sustained.
  - C. The apparent extent of the damage or injury sustained.
  - D. A specific and detailed statement of how and under what circumstances the damage or injury occurred.
  - E. The amount for which each claimant will settle.

- F. The actual place of residence of each claimant by street, number, city and state on the date the claim is presented.
  - G. In the case of personal injury or death, the names and addresses of all persons who, according to the knowledge or information of the claimant witnessed the happening of the injury of any part thereof and the names of the doctors, if any, to whose care the injured person is committed.
  - H. In the case of property damage, the location of the damaged property at the time the claim was submitted along with the names and addresses of all persons who witnessed the happening of the damage or any part thereof.
2. No suit of any nature whatsoever shall be instituted against the City of Edinburg unless the plaintiff applied to the city council for redress, satisfaction, compensation, or relief, as the case may be, and that the same was, by vote of the city council, refused.
  3. All notices required by this ordinance [section] shall be effectuated by serving them upon the City Manager at the following location: City of Edinburg, 415 West University Drive, Edinburg, Texas 78539, and all such notices shall be effective only when actually received in the office of the person named above.
  4. The above written notice requirements shall be waived if the city has actual knowledge of death, injury or property likely to result in a claim against the city. The city shall not be deemed to have actual knowledge unless that knowledge is attributable to an appropriate city official whose job duties include the authority to investigate and/or settle claims against the city.
  5. The written notice required under this ordinance [section] shall be sworn to by the person claiming the damage or injuries or by someone authorized by him/her to do so on his/her behalf. Failure to swear to the notice as required herein shall not render the notice fatally defective, but failure to do so verify the notice may be considered by the city council as a factor relating to the truth of the allegations and to the weight to be given to the allegations contained therein.

(Am. Ord. 410, passed 10-21-69 [Amendment #3]; Am. Ord. 1458, passed 11-19-91; Am. Ord. 1719, passed 1-22-96; Am. Ord. 2011-3535 [Amendment #6])

State law reference(s)—Authority to provide for exemption from liability, V.T.C.A., Local Government Code § 51.077; Tort Claims Act, see Tex. Civ. Pract. and Rem. Code § 101.001 et seq.

### **Sec. 9. Effect of this charter on existing laws.**

All ordinances, resolutions, rules and regulations now in force under the city government of Edinburg and not in conflict with the provisions of this charter shall remain in force and under

this charter until altered, amended or repealed by the city council after this charter takes effect; and all rights of the City of Edinburg under existing franchises and contracts are preserved in full force and effect.

(Am. Ord. 1719, passed 1-22-96)

#### **Sec. 10. Reserved.**

Editor's note(s)—This section was repealed by Ord. 1719, passed 1-22-96.

#### **Sec. 11. Amending the charter.**

This charter may be amended, and all amendments shall be made in the form and manner and under the procedure prescribed by the laws of the State of Texas for the amendment of city home rule charters. The City Council shall appoint a charter review committee, consisting of at least five members, each year ending in 0 or 5 (except for the year 2025). The charter review committee shall review the City Charter and recommend amendments, if any, to the City Council.

(Am. Ord. 158, passed 3-3-53 [Amendment #4])

State law reference(s)—Amending charter, V.T.C.A., Local Government Code § 9.001 et seq.

#### **Sec. 12. 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.

#### **Sec. 13. Submission of charter to voters.**

This charter shall be submitted to the qualified voters of the City of Edinburg at an election to be held for that purpose on the fifth day of April, 1949, and if a majority of the qualified voters voting in such election shall vote in favor of the adoption of this charter, it shall become the charter of the City of Edinburg, on and after thirty (30) days from the date of said election and not before, and after the returns have been canvassed, the same shall be declared adopted and the city clerk shall file an official copy of the charter with the records of the city clerk. The clerk shall furnish the mayor a copy of said charter, which copy of the charter so adopted, authenticated, and certified by his/her signature and seal of the city, shall be forwarded by the mayor to the secretary of state of the State of Texas and shall show the approval of such charter by majority vote of the qualified voters voting at such election. In not less than thirty (30) days prior to such election the city commission shall cause the city clerk to mail a copy of this charter to each qualified voter of the City of Edinburg as appears from the tax collector's latest roll.

We, the undersigned members of the Edinburg Charter Commission, heretofore duly appointed to prepare a charter for the City of Edinburg, Texas, do hereby certify that this publication constitutes a true copy of the proposed and recommended charter of the City of Edinburg, Texas.

Dated this fifth day of February, 1949.

Sawnie B. Smith, Chairman	Mrs. H. A. Hodges
Holland Morton, Vice-Chairman	Vance D. Raimond
Victor Bobo, Secretary	Mrs. Sid L. Hardin
A. A. Aldrich	C.T. Van Way
Mrs. A. Fernandez	Santos Goerner, Jr.
Keener C. Hudson	Domingo Lopez
M. C. Harris	J.R. Alamia

I, A. R. Ramirez, Mayor of the City of Edinburg, Hidalgo County, Texas, do hereby certify that the within and foregoing instrument constitutes and is a true, complete and correct copy of the charter of said City of Edinburg, Texas, adopted and approved by a majority vote of the qualified voters of said city at an election held in said city on the fifth day of April, A.D. 1949, and as amended April 7, A.D. 1953, as the same appears of record in the office of the city clerk of the City of Edinburg, Texas.

**Sec. 14. Suspension From Office**

1. Any elected official of the City may, by a majority vote of the members of City Council not including the elected official who is the subject of the removal, be suspended from office upon that elected official being indicted for a felony while serving as an elected official of the City.
2. The elected official against whom removal is sought shall be entitled to reasonable notice that the issue of his or her suspension shall be heard by City Council and shall be permitted to testify in his or her own behalf and present such other relevant evidence as determined by the majority of the other members of Council at such Council meeting.
3. Council shall be the sole judge of the grounds constituting suspension from office. Council shall initiate the process to establish grounds for suspension from office by motion.
4. Upon a vote by a majority of the members of Council, other than the elected official who is the subject of the suspension, that grounds exist which subject such elected official to suspension from office, Council shall instruct the City Secretary to notify the elected official in writing of such suspension.
5. Such suspension shall terminate upon (a) the dismissal of the indictment; (b) a conviction for a crime other than a felony; or (c) a conviction for a felony.

6. This Section shall not apply to felony indictments that occurred prior to enactment of this Section.

## **ARTICLE XVIII. TERM LIMITS**

### **Sec. 1. In General.**

For the purposes of term limits, city elective offices are mayor, city council member, and municipal judge. ~~Appointed officials are those as provided in the city Charter.~~ The term of office for a city elective ~~or appointed~~ office shall be four years. Except as otherwise provided herein, no person shall be eligible to be elected ~~or appointed~~ to more than two, four-year terms.

( Ord. No. 2018-4266 , § IV(1), passed 11-20-18)

### **Sec. 2. Eligibility.**

For positions to be elected at the city general election to be held in November 2019 and 2021, the eligibility of a person currently serving a term shall be eligible to seek two additional terms of four years duration. A person having then served two additional terms of four years duration shall not be eligible to subsequently seek election.

( Ord. No. 2018-4266 , § IV(2), passed 11-20-18)

### **Sec. 3. Continuance of term limited.**

Person's term limited under prior law shall continue to be term limited. Persons who served a single term prior to 2019 who are not serving in city elective office in 2018 and thus not subject to section 2, shall be eligible to serve one additional four-year term.

( Ord. No. 2018-4266 , § IV(3), passed 11-20-18)

### **Sec. 4. Article to supersede.**

Article XVIII shall supersede any other provision of the city Charter in conflict with this article.

( Ord. No. 2018-4266 , § IV(4), passed 11-20-18)

### **Sec. 5. Effective date.**

This article shall be effective upon its adoption by city council in November 2018.

( Ord. No. 2018-4266 , § IV(5), passed 11-20-18)