

**HOME RULE CHARTER
CITY OF CUERO, TEXAS
*AMENDED BY CHARTER ELECTION 1993
AMENDED BY CHARTER ELECTION 2001
AMENDED BY CHARTER ELECTION 2009***

**ARTICLE I
FORM OF GOVERNMENT AND BOUNDARIES**

SECTION 1.01 INCORPORATION.

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

SECTION 1.02 FORM OF GOVERNMENT.

The municipal government provided by this Charter shall be known as the “Council-Manager government.” Pursuant to this charter and subject only to the limitations imposed by the State Constitution, the statutes of the State and by this charter, all powers of the City shall be vested in an elective council, hereinafter referred to as the “Council”, which shall enact local legislation, adopt budgets, determine policies and appoint the City Manager, who in turn shall execute the laws and administer the government of the City. All powers of the City shall be exercised in the manner prescribed by this charter, or if the manner be not prescribed, then in such manner as may be prescribed by ordinance.

**ARTICLE II
POWERS OF THE CITY**

SECTION 2.01 GENERAL.

The City shall be a Home Rule City, with full power of local self-government, including the right to amend this Charter, as provided by the Constitution and laws of this State. It shall have and may exercise all the powers granted to the cities by the Constitution or laws of Texas including specifically those powers made available to cities of more than 5,000 inhabitants by what is known as the Home Rule Amendment to the Constitution of Texas (Article XI, Section 5) and the Home Rule Enabling Act (Chapter 13, Title 28 of the Revised Civil Statutes of the State of Texas, 1925), as now or hereafter amended. The City may acquire property within or outside its corporate limits for any municipal purpose; may cooperate with the government of Texas or any agency thereof, or with the federal

government or any agency thereof, or with the government of any county, city or political subdivision to accomplish any lawful purpose for the advancement of the health, morals, safety, convenience or welfare of the City or its inhabitants; may sell, lease, mortgage, hold, manage and control such property as its interest may require; provided the City shall not sell, convey, lease, mortgage, or otherwise alienate any public utility without prior approval by the qualified voters of the City; and may exercise the power of eminent domain when necessary or desirable to carry out any of the powers conferred upon it by this charter or the Constitution or laws of Texas. The enumeration of particular powers in this charter shall not be held or deemed exclusive, but in addition to the powers enumerated herein, implied thereby or appropriate to the exercise thereof, the City shall have and may exercise all other powers which under the Constitution and general laws of this State it would be competent for this charter to specifically enumerate.

SECTION 2.02 EMINENT DOMAIN.

The City shall have the full power and right to exercise the power of eminent domain when necessary or desirable to carry out any of the powers conferred upon it by this charter or by the Constitution and laws of the State of Texas. The City may exercise the power of eminent domain in any manner authorized or permitted by the Constitution and laws of this state. The power of eminent domain hereby conferred shall include the right of the City to take the fee in land so condemned and such power and authority shall include the right to condemn public property for such purposes. The City shall have and possess the power of condemnation, for any municipal or public purposes even though not specifically enumerated in this charter.

SECTION 2.03 EXTENSION OR DETACHMENT OF BOUNDARIES.

- (A) The City Council shall have power by ordinance to fix the boundary limits of the City of Cuero; and to provide for the alteration, and extension, of said boundary limits, the detachment of territory, and the annexation of additional territory lying adjacent to the City, with or without the consent of the territory and inhabitants annexed or detached. Before the City may institute annexation or detachment proceedings, the City Council shall provide an opportunity for all interested persons to be heard at a public hearing to be held not more than twenty (20) days nor less than ten (10) days prior to institution of such proceedings. Notice of such hearings shall be published in a newspaper having general circulation in the City and in the territory proposed to be annexed or detached. The notice shall be published at least once in such newspaper not more than twenty (20) days nor less than ten (10) days prior to the hearing. However, amendments not affecting the boundary limits set forth in the

proposed ordinance may be incorporated into the proposed ordinance without the necessity of republication of said notice. Annexation or detachment of territory by the City shall be brought to completion within ninety (90) days of the date on which the City Council institutes annexation or detachment proceedings or be null and void. Provided, however, any period of time during which the City is restrained or enjoined from annexing or detaching any such territory by a court of competent jurisdiction shall not be computed in such ninety (90) days limitation period. Upon final passage of any such ordinance, the corporate limits of the City shall thereafter include (exclude) the territory so annexed (detached); and when any additional territory has been so annexed, the same shall be a part of the City of Cuero, and the inhabitants thereof shall be entitled to all the rights and privileges of all citizens, and shall be bound by the acts and ordinances, resolutions and regulations of the City. Upon the final adoption of any ordinance detaching territory from the City, the corporate limits of the City shall be reduced by the territory so detached, but said territory shall still be liable for its prorata share of any debts incurred while said area was a part of said City, and the City shall continue to levy, assess and collect taxes on the property within said territory to pay the indebtedness incurred while said area was a part of the City as though the same had not been excluded from the boundaries of the City.

(B) ANNEXATION BY ANY OTHER METHOD PROVIDED BY LAW.

Additional territory may also be annexed to the City in any manner and by any procedure that may now be provided by law or that may be hereafter provided by law. Same shall be in addition to the methods herein above provided.

(C) EXTENSION OF MUNICIPAL UTILITIES.

The City shall within three (3) years of the effective date of such annexation provide or cause to be provided such area with governmental and proprietary services, the standard and scope of which are substantially equivalent to the standard and scope of governmental and proprietary services furnished by the City in other areas of the City which have characteristics of topography, patterns of land utilization, and population density similar to that of the particular area annexed. Should the City fail to extend or provide for extension within three (3) years, the owners of the annexed territory may petition Council to de-annex the territory. If the Council fails to act on said petition within three (3) months of the date of filing the owners may then resort to suit in district court to require de-annexation.

SECTION 2.04 ADVERTISING THE CITY.

The City shall have the power to appropriate funds for the purpose of advertising and promoting the City of Cuero in order to attract tourists, commerce, and industry and thereby improve the City and benefit its inhabitants.

**ARTICLE III
THE CITY COUNCIL**

SECTION 3.01 NUMBERS, SELECTION, AND TERM.

- A. The legislative and governing body of the City shall be the “City Council of Cuero”. The members of the City Council shall be the Mayor and six other City Council Members.
- B. The Mayor and two other Council members shall be elected from the city at large by a plurality of the votes cast. One Council member shall be elected from each of the four single-member districts designated 1, 2, 3, and 4 on the map dated November 12, 1992, attached hereto as Exhibit A by a plurality of the votes cast in such single-member district.
- C. The two at-large Council members shall be elected in odd numbered years. They shall not run or be elected by places. The ballot shall instruct voters that in the race for the at-large positions they may “vote for one or two candidates (vote por uno o dos candidatos)”.
- D. Council members for single-member Districts Nos. 1 and 4 shall be elected in odd numbered years. Council members for single-member Districts Nos. 2 and 3 shall be elected in even numbered years. The Mayor shall be elected in even numbered years.
- E. Each member of the City Council shall hold office for two years and/or until his successor is elected and qualified.

**SECTION 3.02 QUALIFICATIONS AS AMENDED BY CHARTER AMENDMENT
ELECTION MAY 9, 2009**

- 1. Each member of the City Council, in addition to having other qualifications prescribed by law:
 - A. Shall be a qualified voter of the City.
 - B. Shall have resided for as at least one year preceding his election within the corporate limits of Cuero; or shall have been a resident for a period of not less than one year immediately preceding his election, of any territory not

formerly within the corporate limits of said City, but which is annexed under the provision of Section 2.03 of this Charter. *If elected at-large, shall maintain their primary residence within the corporate limits of the City of Cuero during his or her term of office. If elected for a single-member district, shall maintain their primary residence within the corporate limits of the City of Cuero and within the single-member district to which they are elected during his or her term of office. EXCEPTION: This residency requirement shall not apply in the event that a Council Member is required to move from his/her primary residence within the City or District due to an Act of God, any Federal Law, State Law or any order, rule or regulation of a governmental authority. (amended May 9, 2009)*

- C. ~~shall not be in arrears in the payment of any taxes or other liabilities due the City; (deleted May 9, 2009)~~
- D. Shall not hold any other office or employment under the City Government while he/she is a member of said Council.
- E. Shall not be an officer or director of any public service corporation within the City or without the City but serving inhabitants of the City, nor shall he be the owner or proprietor of any public service corporation in the City.

~~2. If a member of the Council shall cease to possess any of these qualifications or shall be convicted of a felony, he shall immediately forfeit his office. (Placed under Section 3.06 May 9, 2009)~~

~~3. If a member of the City Council fails to attend three (3) consecutive regular City Council meetings without being excused by the City Council, that member shall immediately forfeit his or her office. (Placed under Section 3.06 May 9, 2009)~~

SECTION 3.03 COUNCIL TO BE JUDGE OF ELECTION QUALIFICATION.

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

SECTION 3.04 COMPENSATION.

The Mayor shall receive as compensation for his services the sum of \$175.00 per month and each Councilman shall receive as compensation the sum of \$125.00 per month. Such compensation shall be paid on the first day of each month.

SECTION 3.05 MAYOR PRO-TEM.

The Mayor Pro-Tem shall be appointed by the Mayor from among the members of the Council and shall perform all duties of the Mayor in his absence or disability.

SECTION 3.06 VACANCIES, FORFEITURES OF OFFICE & FILLING VACANCIES AMENDED BY CHARTER AMENDMENT ELECTION MAY 9, 2009

~~In the event of a vacancy existing in the office of the Mayor or any Councilman from any cause whatsoever, the remaining members of the City Council shall by a majority vote thereof, at a regular meeting elect a member or members to fill the vacancy or vacancies thus existing, and such member or members so elected by the City Council shall serve in such position for the remainder of the unexpired term thereof. In the event the City Council fails to elect a member to fill any vacancy on the Council on or before the close of the second regular meeting after such vacancy occurs, the Council shall lose its power to fill such vacancy and the vacancy shall be filled by the qualified voters in a regular or specially called municipal election on the next Uniform Election Date provided by State Law. *(Deleted May 9, 2009)*~~

The processes for vacancies, forfeitures of office, and filling vacancies for Mayor and Councilpersons are as follows:

1. The office of a Councilperson or the Mayor shall become vacant upon their death, resignation, forfeiture of, or removal from office by any manner authorized by law.
2. Any member of the City Council or the Mayor shall automatically be deemed to have forfeited such office and shall be removed therefrom by a majority vote of the remaining members of the Council by resolution and enforced by the Council if that person:
 - A. ceases to possess the required qualifications for their office;
 - B. is convicted of a felony or of a misdemeanor involving moral turpitude;
 - C. fails to attend three(3) regularly scheduled council meetings at the beginning of each month without being excused by the Council; or

- D. willfully and knowingly violates any express provision of this charter.
3. If there is a declared vacancy in the office of Mayor, the Mayor Pro Tem shall assume that office until the office of Mayor is filled pursuant to sections 4 and 5 below.
 4. In the event of a vacancy existing in the office of the Mayor or any Councilperson for any cause whatsoever, the remaining members of the City Council shall by a majority vote thereof, at the next regular meeting elect a member or members to fill the vacancy/vacancies thus existing, and such member or members so elected by the City Council shall serve in such position for the remainder of the unexpired term thereof.
 5. In the event the City Council fails to elect a member to fill any vacancy on the Council on or before the close of the second regular scheduled meeting after such vacancy occurs, the Council shall lose its power to fill such vacancy and the vacancy shall be filled by the qualified voters in a regular or specially called municipal election on the next Uniform Election Date provided by State law.

SECTION 3.07 POWERS OF THE CITY COUNCIL.

All powers and authority which are expressly or impliedly, conferred on or possessed by the City shall be vested in and exercised by the Council; provided, however, that the Council shall have no power to, and shall not; accept or admit liability in, or pay any claim for damages asserted against the City without first obtaining a written opinion from the City Attorney regarding the City's liability therein.

SECTION 3.08 CITY COUNCIL NOT TO INTERFERE IN APPOINTMENTS OR REMOVALS AS AMENDED BY CHARTER AMENDMENT ELECTION MAY 9, 2009

Neither the Council nor any of its members shall instruct or request the City Manager or any of his subordinates to appoint or to remove any person from office or employment. Except for the purpose of inquiry and investigations as set out in Section 3.14 the Council and its members shall deal with the administrative services of the City solely through the City Manager and shall not give orders to any of the Manager's subordinates either publicly or privately. *The City Manager shall appoint and, when he/she deems it necessary for the good of the City, suspend or remove any City employees and appointive administrative officers provided for by or under this Charter, except as otherwise provided by law, this Charter, or personnel rules adopted pursuant to this Charter. (Added on May 9, 2009)*

SECTION 3.09 MEETINGS OF THE CITY COUNCIL.

The City Council shall hold at least one regular meeting in each month at a time to be fixed by it for such regular meetings and it may hold as many additional meetings as may be necessary to transact the business of the City. Special meetings of the Council may be called by the City Secretary upon the written request of the Mayor or of any two (2) members of the City Council. All meetings of the City Council shall be held at City Hall except that the City Council may designate another place for any such meeting and cause notice of such designation to be published prior to such meeting in one issue of a newspaper of general circulation in the City of Cuero. All meetings of the City Council shall comply with the provisions of the State Open Meeting Law.

SECTION 3.10 RULES OF PROCEDURE.

The City Council shall determine by ordinance its own rules of procedure and order of business. A majority of the members of the City Council shall constitute a quorum but no action of the City Council shall be of any force or effect unless it is adopted by the favorable votes of a majority of the entire Council. Minutes of all meetings of the Council, including the “ayes” and “noes” upon the passage of each ordinance and resolution, shall be taken and recorded and such minutes shall constitute a permanent record to which any citizen may have access at all reasonable times.

SECTION 3.11 PROCEDURE FOR PASSAGE OF ORDINANCES AS AMENDED BY CHARTER AMENDMENT ELECTION MAY 9, 2009

The Council shall legislate by ordinance, and the enacting clause of every ordinance shall be, “Be it ordained by the City Council of the City of Cuero.” The City Attorney shall approve all ordinances adopted by the Council, as to the legality thereof, or shall file with the City Secretary his written legal objections thereto. Evidence of approval of an ordinance by the City Attorney may be by notation on the ordinance itself, or by separate paper or instrument. Each ordinance enacted by the Council shall be signed by the Mayor, Mayor Pro-Tem, or by two Councilmen and shall be filed with and recorded by the City Secretary. All ordinances shall be read in open meeting of the City Council on three separate (*changed from several to separate on May 9, 2009*) days; provided that the second and third readings required herein shall be sufficient if they are read by descriptive caption only; provided further, that the rule herein requiring ordinances be read on three separate days shall be dispensed with for the purpose of adopting an emergency ordinance which may be adopted on consent of a majority of the entire Council. Unless otherwise provided by law or by this Charter, no ordinance shall become effective until the expiration of ten (10) days following the date of its final passage, except where an ordinance relating to the immediate preservation of the public peace, health, or safety and containing a statement of the nature of the emergency is adopted as an emergency measure by a favorable vote of a majority of the entire Council.

SECTION 3.12 PUBLICATION OF ORDINANCE.

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

SECTION 3.13 OFFICIAL BONDS FOR CITY EMPLOYEES AS AMENDED BY CHARTER AMENDMENT ELECTION MAY 9, 2009

~~The Council shall require bonds of all municipal officers and employees who receive or pay out any monies of the City. The amount of such bonds shall be determined by the Council and the cost thereof shall be borne by the City. (Deleted May 9, 2009)~~

The City Manager, Director of Finance and such other City officers and employees as the City council may require, shall, before entering upon the duties of their offices, enter into a good and sufficient corporate surety bond in the sum to be determined by State law or by the City Council. The bonds shall be payable to the City of Cuero and conditioned upon the faithful discharge of the duties of such persons and upon the faithful accounting of all monies, credits and things of value coming into the hands of such persons, and such bonds shall be signed as surety by a corporate surety bond company authorized to do business under the laws of the State of Texas, and the premium on such bonds shall be paid by the City of Cuero, and such bonds must be acceptable to the City Council. The City Council may also require new bonds at any time, if in its opinion, the existing bond on any employee is insufficient.

SECTION 3.14 INVESTIGATION BY THE CITY COUNCIL AS AMENDED BY CHARTER AMENDMENT ELECTION MAY 9, 2009

The City Council shall, as a body, have the power to inquire into the official conduct of any officer, department, agency, officer, or employee 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 material to the inquiry. The Council shall provide by ordinance penalties for contempt in failing or refusing to obey any such subpoena or to produce any such books, papers, or other evidence, and shall have the power to punish any such contempt in the manner provided by ordinance. Nothing in this section shall be construed to authorize any Council member individually to inquire into or investigate the official conduct of any office, department, agency, officer, or employee of the City or to investigate as to municipal affairs without the express authorization of a majority

of the entire Council. *In the event it is found by the City Council that a Council member has inquired into or investigated the official conduct of any office, department, agency, officer, or employee of the City or to investigate as to municipal affairs without the express authorization of a majority of the entire Council, then that Council member shall be deemed to have violated this provision of the charter. The only exception to this provision would be an inquiry by a Council member for the sole purpose of obtaining information needed by them in the normal discharge of their duties, including response to constituent requests. (Added May 9, 2009)*

SECTION 3.15 AUDIT AND EXAMINATION OF CITY BOOKS AND ACCOUNTS.

The City Council shall cause an annual audit to be made of the books and accounts of each and every department of the City. At the close of each fiscal year a complete audit shall be made by a Certified Public Accountant, who shall be selected by the City Council, and who shall have no personal interest, direct or indirect, in the fiscal affairs of the City Government or of any of its officers. Such audit shall include a recapitulation of all internal audits made during the course of each fiscal year, and all audit reports shall be filed with the City Council, shall be available for public inspection, and shall be made a part of the archives of the City. Such accountant, so selected, shall not maintain or keep any of the City's accounts or records.

ARTICLE IV

ADMINISTRATIVE SERVICES

SECTION 4.01 CITY MANAGER AS AMENDED BY CHARTER AMENDMENT ELECTION MAY 9, 2009

A. Appointment and Qualifications:

The City Council shall appoint a City Manager who shall be the Chief administrative and executive officer of the City, and shall be responsible to the City Council for the administration of all affairs of the City. He shall be chosen by the City Council solely on the basis of his/her executive and administrative training, experience, and ability; and need not, when appointed, be a resident of the City of Cuero. No member of the City Council shall, during the time for which he is elected, and for one(1) year thereafter, be appointed City Manager.

B. Term and Salary:

The City Manager shall not be appointed for a definite term, but may be removed at the will and pleasure of the City Council, by a vote of the majority of the entire Council. The action of the City Council in suspending or removing the City Manager shall be final, it being the

intention of this Charter to vest all authority and fix all responsibility of such suspension or removal, in the City Council. ~~In case of temporary absence or disability, the City Manager may designate by letter filed with the City Secretary a qualified administrative officer of the City to perform the duties of the City Manager for a period not to exceed thirty (30) days. In the event of failure of the City Manager to make such designation, the Council may by resolution appoint an officer of the City to perform the duties of the City Manager, until he shall return or his disability shall cease. The City Manager shall receive compensation as may be fixed by the Council.~~ *(New Section C - Acting City Manager)*

C. Acting City Manager

In case of temporary absence or disability, the City Manager may designate by letter filed with the City Secretary a qualified administrative officer of the City to perform the duties of the City Manager for a period not to exceed thirty (30) days. In the event of failure of the City Manager to make such designation or in event said designation exceeds thirty(30) days, the Council may by resolution appoint an officer of the City to perform the duties of the City Manager, until he shall return or his disability shall cease. The City Manager shall receive compensation as may be fixed by the Council.

D. Duties of the City Manager:

1. Appoint and remove any employee of the City, ~~except as otherwise provided by this Charter.~~ *(Deleted May 9, 2009)*
2. Shall have the responsibility to select the Department heads.
3. Prepare the budget annually and submit it to the City Council, and be responsible for its administration after adoption.
4. Prepare and submit to the City Council as of the end of the fiscal year a complete report on the finances and administrative activities of the City for the preceding year.
5. Keep the City Council advised of the financial condition and future needs of the City and make such recommendations as may seem desirable.
6. Perform such duties as may be prescribed by this Charter or may be required of him by the City Council, not inconsistent with this Charter.

7. Attend all meetings of the Council, except when he/she is under discussion, with the right to take part in the discussions, but having no vote; and he/she shall be notified of all special meetings of the Council.
8. Promote partnerships among council, staff, and citizens in developing public policy and building a sense of community.
9. Keep a written inventory of all real property and all permanent equipment owned by the City, said inventory to be audited annually. A system shall be established to control the use and accountability of all permanent, non-expendable equipment and the use and replacement of expendable equipment, as well.
10. The City Manager may abolish or consolidate, subject to Council approval, such offices and departments as he/she may deem to be in the best interest of the City, and may divide and sub-divide the administration of any such departments as he/she may deem advisable; may create new departments and may discontinue any offices or departments at his/her discretion, except those specifically established by this Charter.

SECTION 4.02 CITY SECRETARY.

The City Council shall appoint the City Secretary, and such assistant City Secretaries as the Council shall deem advisable. The City Secretary, or an Assistant City Secretary, shall give notice of Council meetings, shall keep the minutes of the proceedings of such meetings, shall authenticate by his signature and record in full in a book kept and indexed for that purpose, all ordinances and resolutions, and shall perform such other duties as the City Manager shall assign to him, and those elsewhere provided for in this Charter.

SECTION 4.03 MUNICIPAL COURT AS AMENDED BY CHARTER AMENDMENT ELECTION MAY 9, 2009

- (a) There shall be established and maintained a court, designated the Municipal Court, for the trial of misdemeanors with all the powers and duties that are now or may hereafter be prescribed by Law of the State of Texas relative to Municipal Courts.

- (b) ~~The Judge of said Court shall be appointed by the City Council and shall receive such salary as may be fixed by the City Council. (Deleted May 9, 2009)~~ The City Council shall appoint a qualified Municipal Court Judge and a qualified Associate Judge who shall each serve a two (2) year term. In the event the City Council does not make said appointment(s) to fill said judge position(s), the municipal judge or associate judge who is not reappointed by the 91st day following the expiration of a term of office shall, absent action by the City Council, continue to serve for another term of office beginning on the date the previous term of office expired. In the case of the disability or absence of the Municipal Court Judge, the Associate Judge shall act as Judge of said municipal court. The Judge of said municipal court and Associate Judge shall receive such salary as may be fixed by the City Council.
- (c) There shall be a Clerk of said Court appointed by the City Manager ~~with the approval of the City Council. (Deleted May 9, 2009)~~
- (d) The Clerk of said Court and his/her deputies shall have the power to administer oaths and affidavits, make certificates, affix the seal of said Court thereto, and generally do and perform any and all acts usual, and necessary to be performed, by the Clerks of Courts, in issuing process of said Courts, and conducting the business thereof.
- (e) ~~In the case of the disability or absence of the Judge of the Municipal Court, the Mayor shall act as Judge of said Court. (Deleted May 9, 2009)~~

SECTION 4.04 CITY ATTORNEY AS AMENDED BY CHARTER AMENDMENT ELECTION MAY 9, 2009

The City Council shall appoint a competent and duly qualified and licensed Attorney, practicing Law in the State of Texas, who shall be the Attorney for the City (and may also be referred to as City Attorney). He shall receive for his services such compensation as may be fixed by the City Council and shall hold his office at the pleasure of the City Council. The Attorney for the City, or such other attorneys selected by him, with the approval of the City Council, shall represent the City in all litigation. He shall be the legal Advisor of, and Attorney and counsel for, the City and all officers and departments thereof; provided, that the City Council may retain Special Counsel at any time they deem same appropriate and necessary. At the discretion of said Council the City Attorney shall appear at its meeting. He shall prepare or review all ordinances and advise the City Council of the same; ~~he shall represent the City in the Corporation Court in all cases where the defendant retains legal counsel or asks for a jury trial. (Deleted May 9, 2009)~~ **He shall conduct all prosecutions in the Municipal Court. (Added May 9, 2009)**

SECTION 4.05 DEPARTMENT OF HEALTH AND SANITATION. (DELETED BY SEVENTH AMENDMENT OF 1991 CHARTER AMENDMENT ELECTION).

SECTION 4.06 OTHER DEPARTMENTS.-DELETED IN ITS ENTIRETY AS SAME IS PROVIDED FOR IN SECTION 4.01(“CITY MANAGER”) BY CHARTER AMENDMENT ELECTION OF MAY 9, 2009.

~~The City Manager may abolish or consolidate, subject to Council approval, such offices and departments as he may deem to be to the best interest of the City, and may divide and subdivide the administration of any such departments as he may deem advisable; may create new departments and may discontinue any offices or departments at its discretion, except those specifically established by this Charter.~~

ARTICLE V NOMINATIONS AND ELECTIONS

SECTION 5.01 ELECTIONS AS AMENDED BY CHARTER AMENDMENT ELECTION MAY 9, 2009

The regular City Election shall be held annually on the second Saturday in May or at such other time as may be required by statute, at which time persons shall be elected to fill those positions which become vacant that year. The City Council shall fix the places for holding such election. The City Council may, by resolution, order a special election, fix the date and place for holding same, and provide all means for holding such special election.

SECTION 5.02 REGULATION OF ELECTIONS.

All elections shall be held in accordance with the laws of the State of Texas regulating the holding of municipal elections and in accordance with the ordinances adopted by the City Council for the conduct of elections. Provided that the City Council shall appoint the election judges and other election officials. Voting precincts shall be established by ordinance and may be altered from time to time in like manner.

SECTION 5.03 FILING FOR OFFICE AS AMENDED BY CHARTER AMENDMENT ELECTION MAY 9, 2009

Any qualified person who desires to become a candidate for election to a place on the City Council shall file with the City Secretary not later than 5:00 P.M. of the 45th day before the election day an application for a place on the ballot. Such application shall designate the place on the Council to which the candidate seeks election and shall contain all the information required by Section 141.031 of the Texas Election Code and amendments thereof. ~~No member of City Council who has more than 12 months remaining on his or her term may file for a different seat on the City Council without resigning the seat presently held. The act of filing for the different seat shall act as an immediate resignation of the presently held seat. The vacancy created by such resignation shall be filled as provided by Section 3.06 of this Charter. (Deleted May 9, 2009)~~ **Those members of the City Council who have more than 12 months remaining on their term may file to run for the office of Mayor on the City Council without resigning the seat presently held. Any vacancy created shall be filled according to Section 3.06 of this City Charter. (Added May 9, 2009)**

SECTION 5.031 WRITE-IN CANDIDATES.

A declaration of write-in candidacy may be filed with the City Secretary not later than 5:00 P.M. on the 30th day before the municipal election day. The declaration must contain all the information required for an application for a place on the ballot. A write-in vote may not be counted unless the name written in is the name of a candidate who has timely filed a declaration of write-in candidacy. The City Secretary shall prepare a list containing the name of each write-in candidate who has filed a declaration of write-in candidacy. Copies of the list shall be distributed to each presiding judge with the other election supplies. A copy of the list shall be posted in each polling place.

SECTION 5.04 THE OFFICIAL BALLOT AS AMENDED BY CHARTER AMENDMENT ELECTION MAY 9, 2009

The names of all candidates for office, except such as may have withdrawn, died, or become ineligible, shall be printed on the official ballots without party designation. The order on the ballot of the names of the candidates for each respective council place shall be determined by lot in a drawing to be held under the supervision of the City Secretary, at which drawing each candidate or his named representative shall have a right to be present. **The candidate shall be notified of the time and place for drawing for the candidate order on the ballot as provided by the Texas Election Code. (Added May 9, 2009)**

SECTION 5.05 ELECTION RESULTS.

At any regular or special municipal election the candidates in each place on the ballot who shall have received the greatest number of votes cast in such election for such place shall be declared elected.

SECTION 5.06 LAWS GOVERNING CITY ELECTIONS.

All City elections shall be governed by the Constitution of the State of Texas, general laws of the State, this charter, and ordinances of the City, in the order named.

SECTION 5.07 CONDUCTING AND CANVASSING ELECTIONS.

The returns of every municipal election shall be delivered by the election judges to the City Secretary not later than 12 hours after the closing of the polls. Returns of the elections, general and special, shall be presented to the City Council on the first Wednesday next following said election at which time the Council shall canvass and declare the results of such election.

SECTION 5.08 OATH OF OFFICE. (DELETED BY TWELFTH AMENDMENT OF 1991 CHARTER AMENDMENT ELECTION).

SECTION 5.08 STATEMENT OF ELECTED OFFICER AND OATH OF OFFICE AS AMENDED BY CHARTER AMENDMENT ELECTION MAY 9, 2009

Before entering upon the duties of their respective office, the Mayor and Council Members shall take and subscribe to a statement of elected officer and oath of office as required by the Constitution and the General laws of the State of Texas. *(Added May 9, 2009)*

SECTION 5.09 CONFLICT OF INTEREST ADDED BY CHARTER AMENDMENT ELECTION MAY 9, 2009

Any member of the City Council having a conflict of interest, pursuant to any State Laws or City Ordinances regulating conflicts of interest of municipal officers, with an agenda item then before the Council, shall openly declare same before discussion proceeds, and is thereby prohibited from participating in the discussion of the item or voting on the item. *(Added May 9, 2009)*

SECTION 5.10 CODE OF ETHICS AS ADDED BY CHARTER AMENDMENT ELECTION MAY 9, 2009

The City Council shall have a Code of Ethics, pursuant to all Federal Laws, State Laws and Local Laws, governing the City Council which shall include, but not limited to, the following: wrongful influence, wrongful interference, employees' political activities, penalties, conflict of interest, acceptance of gifts, conduct of members, and confidential information" *(Added May 9, 2009)*

**ARTICLE VI
INITIATIVE, REFERENDUM AND RECALL**

SECTION 6.01 POWER OF INITIATIVE

The people of the City reserve the power of direct legislation by initiative, and in the exercise of such power may propose any ordinance, except ordinances appropriating money or levying taxes, or ordinances repealing ordinances appropriating money or levying taxes, not in conflict with this Charter, the State Constitution, or the State Laws. Any initiated ordinance may be submitted to the Council by a petition signed by qualified voters of the City equal in number to at least ten (10%) per cent of the qualified voters voting in the last regular City election or two hundred fifty (250) whichever is the greater.

SECTION 6.02 POWER OF REFERENDUM.

The people reserve the power to approve or reject at the polls any legislation enacted by the Council which is subject to the initiative process under this Charter, except that ordinances authorizing the issuance of bonds (either tax bonds or revenue bonds), whether original or refunding bonds, shall not be subject to such referendum. Prior to or within thirty (30) days after the effective date of any ordinance which is subject to referendum a petition signed by qualified voters of the City equal in number to at least ten (10%) per cent of the qualified voters voting in the last regular City election or two hundred fifty (250) whichever is the greater may be filed with the City Secretary requesting that any such ordinance be either repealed or submitted to the vote of the people. When such a petition has been certified as

sufficient by the City Secretary, the ordinance specified in the petition shall not go into effect, or further action thereunder shall be suspended if it shall have gone into effect, until and unless it is approved by the voters as herein provided.

SECTION 6.03 FORM OF PETITIONS.

Initiation petition papers shall contain the full text of the proposed legislation in the form of an ordinance, including a descriptive caption. Referendum petition papers shall contain a sufficient description of the ordinance sought to be referred to identify it, or if the ordinance has been passed by the Council, the full text of the ordinance sought to be referred shall be included in such papers. The signatures to the initiative or referendum petitions need not be all appended to one paper, but each signer shall sign his name in ink or indelible pencil, together with a notation showing his residence address. No signature shall be counted where there is reason to believe it is not the actual signature of the purported signer or that it is a duplication either of name or of handwriting used in any other signature on the petition, and no signature shall be counted unless the residence address of the signer is shown, or unless it is signed exactly as the name of the voter appears on the official copy of the current list of exempt voters. Before signatures on any petition paper may be counted one of the signers of such petition paper, a qualified voter, shall make oath before the City Secretary or any other officer competent to administer oaths, that the statements made therein are true, that each signature to the paper appended is the genuine signature of the person whose name purports to be signed thereto, and that such signatures were placed thereon in his presence.

SECTION 6.04 FILING, EXAMINATION AND CERTIFICATION OF PETITIONS.

Within thirty (30) days after an initiative or referendum petition is filed, the City Secretary shall determine whether the same is properly signed by the requisite number of qualified voters. The City Secretary shall declare void any petition paper which does not have an affidavit attached thereto as required in Section 6.03 of this Article. In examining the petition the Secretary shall write the letters "D.V" in red ink opposite the names of the signers found not qualified. After completing examination of this petition the Secretary shall certify the result thereof to the Council at its next regular meeting. If the certificate of the City Secretary shall show an initiative or referendum petition to be insufficient, the Secretary shall notify the person filing the petition, and it may be amended within ten (10) days from the date of such notice by filing a supplementary petition upon additional papers signed and filed as provided for in the original petition. With thirty (30) days after such amendment is filed, the Secretary shall examine the amended petition and certify as to its sufficiency. If the amended petition is then found to be insufficient no further proceedings shall be had with regard to it.

SECTION 6.05 COUNCIL CONSIDERATION AND SUBMISSION TO VOTERS.

When the Council receives an authorized initiative petition certified by the City Secretary to be sufficient, the Council shall either:

- A. pass the initiated ordinance without amendment within thirty (30) days after the date of the certification to the Council; or
- B. submit said initiated ordinance without amendments to a vote of the qualified voters of the City at a regular or special election to be held within ninety (90) days after the date of the certification to the Council; or
- C. at such election submit to a vote of the qualified voters of the City said initiated ordinance without amendment, and an alternative ordinance on the same subject proposed by the Council; the voters being given the opportunity to accept either or reject both.

When the Council receives an authorized referendum petition certified by the City Secretary to be sufficient, the Council shall reconsider the referred ordinance, and if upon such reconsideration such ordinance is not repealed within thirty (30) days, it shall be submitted to the qualified voters of the City at a regular or special election to be held not more than ninety (90) days after date of the certification to the Council. Special elections on initiated or referred ordinances shall not be held more frequently than once each six months, and no ordinance on the same subject as an initiated ordinance which has been defeated or on the same subject as a referred ordinance which has been approved at any election may be initiated by the voters within two (2) years from the date of such election.

SECTION 6.06 RESULTS OF ELECTIONS.

Any number of ordinances may be voted on at the same election in accordance with the provisions of this Article. If a majority of the legal votes cast is in favor of an initiated ordinance, it shall thereupon be effective as an ordinance of the City. An ordinance so adopted may be repealed or amended at any time after the expiration of two (2) years by a vote of three fourths of the Council members qualified and serving. A referred ordinance which is reflected by a majority of the legal votes cast in a referendum election shall be deemed thereupon repealed.

SECTION 6.07 POWER OF RECALL AS AMENDED BY CHARTER AMENDMENT ELECTION MAY 9, 2009

The people of the City reserve the power to recall any elected officer of the City of Cuero. Such power may be exercised by filing with the City Secretary a petition demanding the removal of such elected officer. In the case of the Mayor or a Council member elected at large, the petition must be signed by at least ten per cent (10%) of the number of qualified voters voting in the last regular City election for all candidates for such office OR by two hundred fifty (250) qualified voters, whichever number is greater. In the case of a Council member elected from a single-member district the petition must be signed by at least ten per cent (10%) of the number of qualified voters ~~voting in the last regular City election~~ **from that single-member district (Amended May 9, 2009)** voting in the last regular City election for all candidates for such office or by seventy-five (75) qualified voters, whichever number

is greater. Only residents of the single-member district may sign a petition seeking recall of a Council member elected from a single-member district.

SECTION 6.08 RECALL ELECTION.

The provisions regulating examination, certification and amendments of initiative petitions shall apply to recall petitions. If the petition is certified by the City Secretary to be sufficient, the Council shall order and hold an election forthwith to determine whether such officer shall be recalled.

SECTION 6.09 RESULTS OF RECALL ELECTION.

If a majority of the votes cast at a recall election shall be against removal of the City Council Member named on the ballot, he shall continue in office. If the majority of the votes cast at such election be for the removal of the City Council Member named on the ballot, the Council shall immediately declare his office vacant and such vacancy shall be filled in accordance with the provisions of this Charter for the filling of vacancies. A City Council Member thus removed shall not be a candidate to succeed himself in an election called to fill the vacancy thereby created.

SECTION 6.10 LIMITATION ON RECALL.

No recall petition shall be filed against a City Council Member within six months after he takes office, and no City Council Member shall be subject to more than one (1) recall election during a term of office.

ARTICLE VII MUNICIPAL PLANNING AND ZONING

SECTION 7.01 PLANNING COMMISSION AS AMENDED BY CHARTER AMENDMENT ELECTION MAY 9, 2009

The Council shall appoint a City Planning Commission consisting of not less than five nor more than fifteen members who shall be residents of ~~of and own real property in the City, and shall serve without compensation.~~*(amended May 9, 2009)* **and/or own real property in the City, and shall serve without compensation.**

SECTION 7.02 TERM OF OFFICE AS AMENDED BY CHARTER AMENDMENT ELECTION MAY 9, 2009

Members shall be appointed **by the City Council** *(added May 9, 2009)* for a three year term with one-third to be appointed each year on a continuing basis.

SECTION 7.03 VACANCIES

Vacancies occurring in the commission shall be filled within thirty (30) days by the Council for the remainder of the unexpired term. Membership shall be accompanied by active participation in the activities of the commission, and any member who is absent three consecutive regular meetings, shall automatically be dropped from membership and the commission shall immediately notify the Council that a vacancy exists.

SECTION 7.04 ORGANIZATION.

The commission shall elect a chairman from its membership annually, and shall establish rules of procedure which shall include the following:

- A. A quorum shall consist of a majority of the membership and an affirmative vote of a majority of the membership shall be necessary to pass upon pending questions.
- B. The chairman shall be entitled to vote upon any question.
- C. Minutes shall be kept of the proceedings of the commission and shall be a public record.
- D. All meetings shall be open to the public.

SECTION 7.05 POWERS AND DUTIES.

The commission shall have the power and be required to:

- A. Be responsible to and act as an advisory body to the Council;
- B. Make, amend, extend, and add to a master plan for physical development of the City;
- C. Recommend to the Council approval or disapproval of proposed changes in the zoning plan;
- D. Review all plans for platting or sub-dividing of land within the City and within adjacent areas as permitted by law and submit findings and recommendations to the Council
- E. Require information from the other departments of the City government in relation to its work;
- F. Submit annually to the City Manager, not less than ninety days prior to the beginning of the **budget (added May 9, 2009)** year, a list of recommended capital improvements found necessary or desirable; and
- G. Perform such other duties and be vested with such other powers as the Council may prescribe in accordance with the Laws of the State of Texas.

**ARTICLE VIII
FINANCIAL PROCEDURE**

SECTION 8.01 FISCAL YEAR.

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

SECTION 8.02 PREPARATION AND SUBMISSION OF BUDGET.

The City Manager, between sixty and ninety days prior to the beginning of each fiscal year, shall submit to the Council a proposed budget, which budget shall provide a complete financial plan for the fiscal year, and shall contain the following:

- A. A budget message, explanatory of the budget, which message shall contain an outline of the proposed financial policies of the City for the ensuing fiscal year, shall set forth the reasons for salient changes from the previous fiscal year in expenditure and revenue items, and shall explain any major changes in financial policy.
- B. A consolidated statement of anticipated receipts and proposed expenditures for all funds.
- C. An analysis of property valuations.
- D. An analysis of tax rate.
- E. Tax levies and tax collections by years for the five (5) preceding years.
- F. General fund resources in detail.
- G. Special fund resources in detail.
- H. Summary of proposed expenditures by function, department, and activity.
- I. Detailed estimates of expenditures shown separately for each activity to support summary (H) above.
- J. A revenue and expense statement for all types of bonds.
- K. A description of all bond issues outstanding, showing rate of interest, date of issue, maturity date, amount authorized, amount issued and amount outstanding.
- L. A schedule of requirements for the principal and interest of each issue of bonds.
- M. The appropriation ordinance.

N. The tax levying ordinance.

SECTION 8.03 ANTICIPATED REVENUE COMPARED WITH OTHER YEARS IN BUDGET.

In preparing the budget, the City Manager shall place in parallel columns opposite the several items of revenue: the actual amount of each item for the last completed fiscal year, the estimated amount for the current fiscal year, and the proposed amount for the ensuing fiscal year.

SECTION 8.04 PROPOSED EXPENDITURES COMPARED WITH OTHER YEARS. AS AMENDED BY CHARTER AMENDMENT ELECTION MAY 9, 2009

The City Manager in the preparation of the budget shall place in parallel columns opposite the various items of expenditures: the actual amount of such items of expenditures for the last completed fiscal budget year, the estimated amount for the current fiscal budget-year and the proposed amount for the ensuing fiscal budget year. *(amended May 9, 2009)*

SECTION 8.05 BUDGET A PUBLIC RECORD.

The budget and all supporting schedules shall be filed with the person performing the duties of City Secretary, submitted to the City Council and shall be a public record. The City Manager shall provide copies for distribution to all interested persons.

SECTION 8.06 NOTICE OF PUBLIC HEARING ON BUDGET.

At the meeting of the City Council at which the budget is submitted, the City Council shall fix the time and place of public hearing on the budget and shall cause to be published in one or more newspapers of general circulation in the City of Cuero a general summary of the proposed budget and a notice of the hearing setting forth the time and place thereof at least seven (7) days before the date of such hearing.

SECTION 8.07 PUBLIC HEARING ON BUDGET AS AMENDED BY CHARTER AMENDMENT ELECTION MAY 9, 2009

~~At the time and place set forth in the notice required by Section 8.06, or at any time and place to which such public hearing shall from time to time be adjourned, the City Council shall hold a public hearing on the budget submitted and all interested persons shall be given an opportunity to be heard for or against any item or the amount of any item therein contained.~~

At the City Council meeting when the proposed budget is submitted, the City Council shall set the dates and place of two(2) public hearings and shall publish in the official newspaper of the City, in accordance with state law, the time and place, which will be not less than ten days nor more than thirty days after the date of notice. At this hearing, interested citizens

may express their opinions concerning items of expenditures, giving their reasons for wishing to increase or decrease any items of expense. (*amended May 9, 2009*)

SECTION 8.08 PROCEEDINGS ON BUDGET AFTER PUBLIC HEARING.

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

SECTION 8.09 VOTE REQUIRED FOR ADOPTION.

The budget shall be adopted by the favorable vote of a majority of the members of the whole City Council.

SECTION 8.10 DATE FINAL ADOPTION.

The budget shall be finally adopted not later than fifteen (15) days prior to the expiration of the fiscal year, and should the City Council fail to so adopt a budget, the existing budget together with its tax-levying ordinance and its appropriation ordinance, shall be deemed adopted for the ensuing fiscal year.

SECTION 8.11 EFFECTIVE DATE OF BUDGET; CERTIFICATION; COPIES MADE AVAILABLE AS AMENDED BY CHARTER AMENDMENT ELECTION MAY 9, 2009

Upon final adoption, the budget shall be in effect for the fiscal year. A copy of the budget, as finally adopted, shall be filed with the person performing the duties of City Secretary and such other officials as may be designated by law. The final budget shall be printed, ~~mimeographed,~~ (*deleted May 9, 2009*) or otherwise reproduced and copies thereof shall be made available for the use of all offices, departments and agencies and for the use of interested persons and civic organizations.

SECTION 8.12 BUDGET ESTABLISHES APPROPRIATIONS.

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

SECTION 8.13 BUDGET ESTABLISHES AMOUNT TO BE RAISED BY PROPERTY TAX.

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

City in the corresponding tax year; provided, however, that in no event shall such levy exceed the legal limit provided by the laws and constitution of the State of Texas.

SECTION 8.14 CONTINGENT APPROPRIATION.

Provision shall be made in the annual budget and in the appropriation ordinance for a contingent appropriation in amount not more than three (3%) per cent of the total budget, to be used in case of unforeseen items of expenditure. Such contingent appropriation shall be under the control of the City Manager and distributed by him, after approval of the City Council. Expenditures from this appropriation shall be made only in case of established emergencies and a detailed account of such expenditures shall be recorded and reported.

SECTION 8.15 ESTIMATED EXPENDITURES SHALL NOT EXCEED ESTIMATED RESOURCES.

The total estimated expenditures of the general fund and debt service fund shall not exceed the total estimated resources of each fund (prospective income plus cash on hand). The classification of revenue and expenditure accounts shall conform as nearly as local conditions will permit to the uniform classification as promulgated by the National Committee on Governmental Accounting or some other nationally accepted classification.

SECTION 8.16 OTHER NECESSARY APPROPRIATIONS.

The City budget may be amended and appropriations altered in accordance therewith in cases of public necessity, the actual fact of which shall have been declared by the City Council.

SECTION 8.17 PURCHASE PROCEDURE AS AMENDED BY CHARTER AMENDMENT ELECTION MAY 9, 2009

All purchases made and contracts executed by the City shall be pursuant to a requisition from the head of the office, department or agency whose appropriation will be charged and no contract or order shall be binding upon the City unless and until the City Manager certifies that there is to the credit of such office, department or agency a sufficient unencumbered appropriation and an allotment balance to pay for the supplies, materials, equipment or contractual services for which the contract or order is to be issued. Before the City makes any purchase or contract for supplies, materials, equipment or contractual services, opportunity shall be given for competition. The Council may by ordinance confer upon the City Manager general authority to contract for expenditures without further approval of the Council for all budgeted items with a cost to the City that is equal to or less than \$25,000.00 ~~less than the maximum legal dollar amount for which mandatory competitive bidding is not required as prescribed by law.~~ *(amended May 9, 2009)*

**ARTICLE IX
BORROWING FOR CAPITAL IMPROVEMENTS**

SECTION 9.01 POWER TO BORROW.

The City of Cuero shall have the right and power to borrow money on the credit of the City for permanent public improvements or for any other public purpose not prohibited by the Constitution or Statutes of the State of Texas. The City shall also have the power to borrow money against the revenues of any municipally-owned utility and to mortgage the physical properties of such utilities in payment of such debt. In no event, however, shall revenue bonds be considered an indebtedness of the City nor repaid with funds secured by taxation.

SECTION 9.02 BOND REGISTER AS AMENDED BY CHARTER AMENDMENT ELECTION MAY 9, 2009

The ~~City Treasurer~~ (*deleted May 9, 2009*) Chief Financial Officer shall prepare, maintain and cause to be filed in his office a complete bond register, showing all bonds, the date and amount thereof, the rate of interest, a schedule of maturity dates and a record of all bonds and all other transactions of the City Council having reference to the refunding of any indebtedness of the City of Cuero. When bonds or their coupons are paid, their payment or cancellation shall be noted in the register.

SECTION 9.03 MISAPPLICATION OF BOND FUNDS.

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

**ARTICLE X
TAX ADMINISTRATION**

The City shall have the power to levy, assess, and collect taxes as may be provided by the Constitution of Texas, the Texas Tax Code, and other applicable laws of the State of Texas.

*Ordinance No. 97-07 approved February 6, 1997

**ARTICLE XI
FRANCHISE AND PUBLIC UTILITIES**

SECTION 11.01 POWERS OF THE CITY.

In addition to the City's power to buy, construct, lease, maintain, operate, and regulate public utilities and to manufacture, distribute, and sell the output of such utility operations, the City shall have such further powers as may now or thereafter be granted under the Constitution and Laws of the State of Texas.

SECTION 11.02 POWER TO GRANT FRANCHISE.

The council shall have the power, by ordinance, to grant, renew, extend and amend by mutual agreement, all franchises of all public utilities of every character operating with the City. No franchise shall be for an indeterminate period, and no franchise shall be granted for a term of more than fifteen (15) years from the date of the grant, renewal or extension.

SECTION 11.03 GRANT NOT TO BE EXCLUSIVE.

No grant or franchise to construct, maintain, or operate a public utility and no renewal or extension of any such grant shall be exclusive.

SECTION 11.04 ORDINANCE GRANTING FRANCHISE.

All ordinances granting, renewing, extending or amending a public utility franchise shall be read at three separate regular meetings of the Council, and shall not be finally passed until thirty days after the first reading; and not such ordinance shall take effect until thirty days after its final passage; and the full text of such ordinance shall be published once, within fifteen (15) days following the first reading, in a newspaper of general circulation in the City, and the expense of such publication shall be borne by the prospective franchise holder.

SECTION 11.05 TRANSFER OF FRANCHISE.

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

SECTION 11.06 FRANCHISE VALUE NOT TO BE ALLOWED.

No value shall be assigned to any franchise granted by the City in fixing reasonable rates and charges for utility service within the City and in determining the just compensation to be paid by the City for public utility property which it may acquire by condemnation or otherwise.

SECTION 11.07 RIGHT OF REGULATION.

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

- A. To forfeit any such franchise by ordinance at any time for the failure of holder thereof to comply with the terms of the franchise, such power to be exercised only after notice and hearing, and an opportunity to correct the default.
- B. To require such expansion and extension of plant and facilities as are necessary to provide adequate service to the public and maintain 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. To impose regulations to insure safe, efficient and continuous service to the public. In opening and refilling of all openings made by franchise holder, it shall re-lay the pavement and do all other work necessary to complete restoration of streets, sidewalks or grounds to a condition equally as good or better or when disturbed.
- E. To examine and audit at any time during regular business hours the accounts and records of any such utility which are relevant to the City's right of regulation.
- F. To prescribe the form of accounts kept by each such utility; provided, that if the utility shall keep its accounts in accordance with the uniform system of accounts for said utility prescribed by the National Association of Railroad and Public Utility Commissioners, the Federal Power Commission, the Federal Communications Commission, or the Railroad Commission of Texas, their successor, or successors, this shall be deemed sufficient compliance with this paragraph.
- G. To require such compensation and rental as may be permitted by the Laws of the State of Texas.

SECTION 11.08 PUBLIC SERVICE CORPORATIONS TO FILE ANNUAL REPORTS AS AMENDED BY CHARTER AMENDMENT ELECTION MAY 9, 2009

It shall be the duty of the City Council to pass an ordinance requiring all public service corporations operating within the corporate limits of the City to file a sworn annual report of the receipts from the operation of the said business for the current year, how expended, how much thereof for betterment or improvements, the rate of tolls or charges for services rendered to the public, and any other facts or information that the Council may deem pertinent for its use in intelligently passing upon any questions that may arise between the City and the said public service corporations; said reports to be filed with the City Secretary, and preserved for the use of the City Council. Such reports shall be reviewed annually by the Council to determine the propriety of the rates being ~~changed~~-charged.

SECTION 11.09 REGULATION OF RATES AS AMENDED BY CHARTER AMENDMENT ELECTION MAY 9, 2009

The Council shall have full power, after notice and hearing, to regulate by ordinance, the rates of every public utility operating in the City provided that no such ordinance shall be passed as an emergency measure; shall have the employ expert advice and assistance in determining a rate and equitable profit to the public utility; and shall have the power to require within the franchise grant, or any extension or renewal thereof, or as a condition precedent to any hearing concerning rates and service of any public utility operating within the City, that the public utility seeking the rate or service change pay the cost of such expert advice and assistance as ~~those~~-chosen and deemed necessary by the Council.

SECTION 11.10 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 and all liabilities, appropriately 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 actual capital cost to the City of each utility owned. The accounts shall show as nearly as possible the cost of any service furnished to or rendered by any such utility to any city department. The Council shall cause an annual report to be made by a Certified Public Accountant and shall publish such report showing the financial results of such City ownership and operation, giving the information specified in this section and such other data as the Council shall require.

SECTION 11.11 SALES OF MUNICIPAL SERVICES.

- A. The City Council shall have the power and authority to sell and distribute electricity and water and to sell and provide for sewer services, and any other utilities to any person, firm or corporation outside the limits of the City of Cuero, and to permit them to connect with said system under contract with the City, under such terms and conditions as may appear to be for the best interests of the City; provided the charges fixed for such services outside the City Limits shall be reasonable when considered in the light of all circumstances, to be determined by the City Council.

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

**ARTICLE XII
GENERAL PROVISIONS**

SECTION 12.01 PUBLICITY OF RECORDS.

All records and accounts of every office, department, or agency of the City shall be open to inspection by any citizen or by any representative of the press at all reasonable times and under such reasonable regulations as may be established by the City Council or the Mayor, except records and documents the disclosure of which would tend to defeat the lawful purposes which they are intended to accomplish.

SECTION 12.011 PROCEDURE OF BOARDS, COMMITTEES, AND COMMISSIONS.

All boards, committees, and commissions appointed by the City Council shall conduct their business in open meetings except in cases where closed meetings are permitted by law. Each

such board, committee, and commission shall determine by resolution its own rules of procedure and order of business. Accurate minutes shall be kept of all meetings of such boards, committees, and commissions and shall constitute a public record of such meetings.

SECTION 12.02 PERSONAL INTEREST.

No officer or employee of the City shall have a financial interest, direct or indirect, in any contract with the City, nor shall be financially interested, directly or indirectly, in the sale to the City of any land, or right or interest in any land, materials, supplies or service. The above provision shall not apply where the interest is represented by ownership of stock in a corporation involved, provided such stock ownership amounts to less than 10% of the corporation stock. Any violation of this section shall constitute malfeasance in office, and any office, and any officer or employee of the City found guilty thereof shall thereby forfeit his office or position. Any violation of this section with the knowledge, express or implied, of the person or corporation contracting with the City shall render the contract voidable by the City Manager or the City Council.

SECTION 12.03 NEPOTISM.

The City of Cuero shall be subject to the provisions of Article 5996(a), Texas Revised Civil Statutes, and amendments thereof, relating to nepotism.

SECTION 12.04 PROVISIONS RELATING TO ASSIGNMENT, EXECUTION AND GARNISHMENT.

The property, real and personal, belonging to the City shall not be liable to be sold or appropriated under any writ or execution or cost bill. The funds belonging to the City, in the hands of any person, firm or corporation, shall not be liable to garnishment, attachment, or sequestration; nor shall the City be liable to garnishment on accounts of any debt it may owe or funds or property it may have on hand or owing to any person. Neither the City nor any of its officers or agents shall be required to answer any such writ of garnishment on any account whatever. The City shall not be obligated to recognize any assignment of wages or funds by its employees, agents or contractors.

SECTION 12.05 CITY NOT REQUIRED TO GIVE SECURITY OR EXECUTE BOND.

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

SECTION 12.06 SPECIAL PROVISIONS COVERING DAMAGE SUITS AS AMENDED BY CHARTER AMENDMENT ELECTION MAY 9, 2009

Before the City shall be liable to damage claim or suit ~~suite~~ for personal injury, or damage to property, the person who is injured or whose property is damaged or someone in his behalf shall give the City Manager or the person performing the duties of City Secretary, notice in writing, duly verified, after the occurrence of the alleged injury, or damage, stating specifically in such notice when, where and how the injury or damage was sustained and setting forth the extent of the injury or damage as accurately as possible. No action at law for damages for personal injury or property damage shall be brought against the City prior to the expiration of thirty days after the said notice has been filed with the City Manager or person performing the duties of City Secretary no later than one (1) year after the occurrence of the injury or damage. In case of injuries resulting in death, before the City shall be liable in damages therefore the person or persons claiming such damages shall after the death of the injured person give notice as above required in case of personal injury. Provided, however, that nothing herein contained shall be construed to mean that the City of Cuero waives any right, privileges, defenses or immunities in tort actions which are provided under the common law, the constitution and general laws of the State of Texas.

SECTION 12.07 SEPARABILITY 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 inseparable connected in meaning and effect with the section or part of section to which such holding shall directly apply.

SECTION 12.08 EFFECT OF THIS CHARTER ON EXISTING LAW.

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

SECTION 12.09 APPLICABILITY OF GENERAL LAWS AS AMENDED BY CHARTER AMENDMENT ELECTION MAY 9, 2009

The Constitution of the ~~Sate~~ State of Texas, the statutes of said State applicable to Home-Ruled Municipal Corporations, as now or hereafter enacted, this Charter and ordinances enacted pursuant hereto shall, in order mentioned, be applicable to the City of Cuero, but the City shall also have the power to exercise any and all powers conferred by the laws of the State of Texas upon any other kind of city, town or village, not contrary to the provisions of said home-rule statutes, charter and ordinances, but the exercise of any such powers by the City of Cuero shall be optional with it, and it shall not be required to conform to the law governing any other cities, towns or villages unless and until by ordinance it adopts same.

SECTION 12.10 AMENDING THE CHARTER.

Amendments to this charter may be framed and submitted to the voters of the City in the manner provided by Chapter 13 of Title 28 of the Revised Civil Statutes of Texas, 1925, as now or hereafter amended.

The City Council shall appoint at its first regular meeting in July of each even-numbered year, a Charter Review Commission. The Commission shall consist of ~~at least four (4), but no more than seven~~ (*deleted May 9, 2009*) (7) citizens from the City of Cuero, with each single member district within the City having at least one (1) appointed member on the Commission. City Council Members that represent a single member district shall submit a name from their respective single member district's electorate. The Mayor and At-Large City Council Members ~~may~~ (*deleted May 9, 2009*) shall each submit a name to be placed on the Commission from any District.

A. Duties of the Commission:

1. Inquire into the operation of the City Government under the charter provisions and determine whether any such provisions require revision. To this end public hearings may be held; and the Commission shall have the power to compel the attendance of any officer or employee of the City and to require the submission of any of the City records which it may deem necessary to the conduct of such hearing.
2. Propose any recommendations it may deem desirable to insure compliance with the provisions of the charter by the several departments of the City government.
3. Propose, if it deems desirable, amendments to this charter to improve the effective application of said charter to current conditions.
4. Report its finding and present its proposed amendments, if any, to the City Council.

B. Action by the City Council:

The City Council shall receive and have published in a newspaper of general circulation published in Cuero any report presented by the Charter Review Commission, shall consider any recommendations made, and if any amendments be presented as a part of such report, may order such amendment or amendments to be submitted to the voters of the City in the manner provided by Chapter 13 of Title 28 of the Revised Civil Statutes of Texas, 1925, as now or hereafter amended.

C. Term of office:

The term of office of such Charter Review Commission shall be six months, and, if during such term no report is presented to the City Council, then all records of the proceedings of such Commission shall be filed with the person performing the duties of the City Secretary and shall become a public record.

SECTION 12.13 REARRANGEMENT AND RENUMBERING OF CHARTER PROVISIONS AS AMENDED BY CHARTER AMENDMENT ELECTION MAY 9, 2009

~~In order to preserve unity the Council shall have the power, by ordinance, to renumber and rearrange all articles, sections, and paragraphs of this Charter or any amendments thereto, and upon the passage of any such ordinance, a copy thereof certified by the City Manager shall be forwarded to the Secretary of State for filing.~~ **The City Council may, without approval of the voters, adopt an ordinance that corrects scrivener's errors in spelling, grammar, cross-references, punctuation and provides gender neutral language where applicable. A revision adopted under this section is not intended to and is not to be interpreted as making any substantive change in any charter provision. A copy of said ordinance thereof, certified by the City Secretary shall be forwarded to the Secretary of State for filing. (Amended May 9, 2009)**

SECTION 12.14 SUBMISSION OF CHARTER TO VOTERS.

The Charter Commission in preparing this charter finds and decides that it is impracticable to segregate each subject so as to permit a vote of "yes" or "no" on the same, for the reason that the charter is so constructed that in order to enable it to work and function it is necessary that it should be adopted in its entirety. For these reasons, the Charter Commission directs that the said charter be voted upon as a whole and that it shall be submitted to the qualified voters of the City of Cuero at an election to be held for that purpose. Not less than thirty days prior to such election, the City Council shall cause the City Secretary to mail a copy of this charter to each qualified voter of the City of Cuero as appears from the latest tax collector's roll. 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 Cuero, and after the returns have been canvassed, the same shall be declared adopted and the City Secretary shall file an official copy of the charter with the records of the City. The Secretary shall furnish the Mayor a copy of said charter, which copy of the charter so adopted, authenticated and certified by his signature and the 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.

We, the undersigned members of the Cuero Charter Commission heretofore duly appointed to prepare a charter for the City of Cuero, Texas, do hereby certify that this publication constitutes a true copy of the proposed charter for the City of Cuero, Texas, as unanimously adopted by the members thereof.

Charles Riebschlaeger
Walter Richter
Dewey Henderson
C.P. Ernster
Jimmy Crain
J. J. Fischer, Jr.
Henry F. Sheppard

Herbert Dornbluth
Dr. John C. Davis
Nathan Post
Errol J. Dietze
Mrs. E. H. Nielsen
Allen L. Dietze

As amended by Charter Amendment Election held in the year 1993.

As amended by Charter Amendment Election held in the year 2001.

As amended by Charter Amendment Election held in the year 2009.