

HOME RULE CHARTER

For The

CITY OF HILLSBORO

1981

City of

HILLSBORO TEXAS



POST OFFICE BOX 568
HILLSBORO, TEXAS 76645

OFFICE OF: CITY CHARTER COMMISSION

February 5, 1981

The Honorable Mayor and City Council
Hillsboro, Texas

Gentlemen:

We respectfully submit the proposed new Home Rule Charter for the City of Hillsboro, Texas, as drafted by your Charter Commission. You are requested to submit the proposed Charter to the voters of the City of Hillsboro at the general election to be held on April 4, 1981, and not less than thirty days prior to such election cause the City Secretary to mail a copy of the Charter to each registered voter.

The proposed Charter is the result of over six months of study, discussion and writing. It was drafted by the fifteen members of the Hillsboro Charter commission, initially appointed by the Council as an advisory commission on May 7, 1980, and subsequently elected by a vote of the people on January 17, 1981.

The Commission was divided into subcommittees to prepare initial drafts of the appropriate articles for the Charter. Each article was presented by the subcommittee chairperson or designee, and then reviewed and discussed in its entirety by the Commission as a whole. During its deliberations, the Commission studied the charters of several cities, and "Home-Rule Charters in Texas Cities", a publication of the Institute of Urban Studies, the University of Texas at Arlington, 1978. The City Attorney and Assistant to the City Manager attended each meeting in an advisory capacity.

The Commission spent a great deal of time attempting to write the proposed Charter in an easy to read understandable manner, and we hope that this Charter might be used as a model by other charter commissions.

We recommend this proposed Charter to the citizens of Hillsboro and recommend its adoption. We request that this letter of transmittal be included with the copy of the proposed Charter when it is mailed to the qualified voters.

Respectfully submitted,

HILLSBORO CHARTER COMMISSION

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**HOME RULE CHARTER
CITY OF HILLSBORO, TEXAS**

**ARTICLE 1
FORM OF GOVERNMENT AND BOUNDARIES**

SECTION 1.01 Incorporation:

The citizens of the City of Hillsboro, within the corporate limits as now established or as hereafter established in the manner provided by law, shall continue to be a municipal body politic and corporate in perpetuity under the name of the "City of Hillsboro" with such powers, rights and duties as provided by law and herein.

SECTION 1.02 Form of Government:

The municipal government provided by this Charter shall be known as the "Council-Manager Government." Pursuant to its provisions and subject only to the limitations imposed by the State Constitution, the laws of this State and by this Charter, all powers of the City shall be vested in an elective Council, hereinafter referred to as the "City Council" or "Council," which shall enact local legislation, adopt budgets, determine policies and appoint the City Manager, who in turn shall be responsible to the City Council for the execution of the laws and the administration of the government of the City. All power 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, the State Constitution and/or laws of this State.

SECTION 1.03 The Boundaries

The bounds and limits of the City of Hillsboro, Texas are hereby established and described as being those boundaries heretofore established in the original incorporation proceedings of the said City of Hillsboro, Texas, and those boundaries established and changed thereafter in all annexation ordinances and proceedings of the City of Hillsboro, Texas.

SECTION 1.04 Extension of Boundaries

The boundaries of the City of Hillsboro may be enlarged and extended by the annexation of additional territory, irrespective of size and configuration, in any of the methods hereinafter designated:

- (a) Extending Limits in Accordance with Article 974 of the Revised Civil Statutes of Texas, as amended:
Where such additional territory adjoins the corporate limits of the City and contains three or more inhabitants qualified to vote for members of the State legislature, such adjacent territory may be annexed to the City in the manner and in conformity with the procedure set forth in Article 974 of the Revised Civil Statutes of Texas, as amended.
- (b) Annexation of Unoccupied Lands on Petition of Owners:
The owners or owner of any land which is without residents, or on which less than three voters reside, contiguous and adjacent to the City may, by petition in writing to the City Council, request the annexation of such contiguous and adjacent land, describing it by metes and bounds. The City Council shall thereafter, and not less than five and not more than thirty days after the filing of such petition, hear such petition and the arguments for and against the same, and grant or refuse such petition as the City Council may see fit. If the City Council grants such petition, it may by proper ordinance receive and annex such territory as part of the City.
- (c) Annexation by Amendment to Charter:
The boundary limits of the City may be fixed and additional territory added or annexed thereto by amendment to the Charter of the City.
- (d) Extending Limits by Action of the City Council:
The City Council shall have power by ordinance to fix the boundary limits of the City of Hillsboro 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 residents or the owners of the territory annexed.
- (e) 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 or in such manner as shall be provided by ordinances or resolutions of the City Council. Same shall be in addition to the methods hereinabove provided.
- (f) Annexed Territory to Become Part of the City:
Upon completion of any one of the procedures hereinabove provided, the territory so annexed shall

become a part of the City, and said land and its residents and future residents shall be entitled to all the rights and privileges of other citizens of the City and shall be bound by the acts, ordinances, resolutions and regulations of the City.

SECTION 1.05 Contraction of Boundaries:

Whenever there exists within the corporate limits of the City of Hillsboro any territory not suitable or necessary for City purposes, and lying adjacent to the corporate limits, 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, 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 the City as though the same had not been excluded from the boundaries of the City.

**ARTICLE 2
POWERS OF CITY**

SECTION 2.01 General:

The City of Hillsboro may use a corporate seal; may sue and be sued; may contract and be contracted with; may implead and be impleaded in all courts in all matters whatsoever; may cooperate with the government of the State of Texas or any division of the State of Texas; and shall have all the powers granted to cities by the Constitution and laws of the State of Texas, together with all the implied powers necessary to carry into execution all the powers granted. The city may own or acquire property within or without its boundaries for any municipal purpose in fee simple or in any lesser interest or estate, by purchase, gift, devise, lease or condemnation or may sell, lease, hold, manage, control and police any property now owned by it or which it may hereafter acquire, and shall have the right to lease or let its property whether inside or outside of the corporate limits, subject to the limitations hereinafter set out, and may construct, own, lease, operate and regulate public utilities, may assess, levy and collect taxes for general and special purposes on all lawful subjects of taxation; may borrow money on the faith and credit of the City by the issuance and sale of bonds, certificate of obligation, warrants or notes of the City; may appropriate the money of the City for all lawful purposes; may regulate and control the use, for whatever purpose, of the streets and other public places; may make and enforce all police, health, sanitary and other regulations; and may pass such ordinance as may be expedient for the protection and maintenance of good government, peace and welfare of the City, for the performance of the functions thereof, for the order and security of its residents; and may provide suitable penalties for the violations of any ordinance enacted by the City of Hillsboro; and, except as prohibited by the Constitution and laws of this State or restricted by this Charter, the City may exercise all municipal powers, functions, rights, privileges and immunities of every name and nature whatsoever.

SECTION 2.02 General Powers Adopted:

The enumeration of the particular powers in this Charter shall not be held or deemed to be exclusive but in addition to the powers enumerated herein or implied hereby or appropriate to the exercise of such powers, the city shall have and may exercise all power of local self-government and all other powers which, under the Constitution and laws of the State of Texas, it would be competent for this Charter specifically to enumerate. The City of Hillsboro shall have and may exercise all the powers enumerated in Article 1175, Chapter 13, Title 28, of the Revised Civil Statutes of the State of Texas of 1925 as now or hereafter amended.

SECTION 2.03 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 2.04 Zoning in General:

The Council shall have full power and authority to zone the City and to pass all necessary ordinances, rules and regulations governing the same under and by virtue of the authority given to cities and legislative bodies by Articles 1011A through 1011J inclusive, of the 1925 Revised Civil Statutes of Texas as now or hereafter amended.

**ARTICLE 3
THE CITY COUNCIL**

SECTION 3.01 Number, Term and Selection:

(a) Number and Term:

The Council shall be composed of the Mayor and six (6) members of the Council. The Mayor and all members of the Council shall be elected from the City at large, and each member of the Council shall occupy a position on the Council, such positions being numbered 1 through 6 consecutively. The Mayor and members of the Council shall be elected in the manner provided in Article 5 of this Charter to serve for two (2) year terms except for the one position in the instance provided below.

(b) Selection:

At the first general election held under this Charter on April 3, 1982, four (4) members of the Council shall be elected, being the members of the Council filling positions 2, 4, 5 and 6. At the April 3, 1982, election, the Council members filling positions 2, 4 and 6 shall be elected for two (2) year terms while the council member filling position 5 shall be elected for a one (1) year term. Each even-numbered year thereafter, three (3) members of Council filling positions 2, 4 and 6 shall be elected. The following year, and each odd-numbered year thereafter, the Mayor and three (3) members of the Council shall be elected to fill positions 1, 3 and 5.

SECTION 3.02 Qualifications:

In addition to any other qualifications prescribed by law, the Mayor and each member of the Council shall meet the requirements of Section 5.02 while in office and shall reside within the City while in office.

SECTION 3.03 Judge of Election Qualifications:

The Council shall be the final judge of all elections and of qualifications of its members, candidates for office and any other elected officials of the City.

SECTION 3.04 Compensation:

The Mayor shall be compensated at the rate of One Hundred Dollars (\$100) per month during the time the Mayor shall perform the duties of his office. Members of the Council shall be compensated at the rate of Five Dollars (\$5) for each regular or special meeting of the Council attended. In addition, the Mayor and each member of the Council shall be entitled to all necessary expenses incurred in the performance of their official Council duties, upon approval by the Council.

SECTION 3.05 Mayor and Mayor Pro-Tem:

(a) Mayor:

The Mayor shall be the official head of the City government. The Mayor shall be the chairman and shall preside at meetings of the Council. Although the Mayor is considered as part of the composition of the Council, the Mayor shall vote only in the event of a tie by the Council. The Mayor shall see that all ordinances, policies, and resolutions of the Council are faithfully obeyed and enforced. The Mayor shall, when authorized by the Council, sign all official documents such as ordinances, resolutions, conveyances, grant agreements, official plats, contracts and bonds, and shall perform such other duties consistent with this Charter or as may be imposed by the Council.

(b) Mayor Pro-Tem:

The Mayor Pro-Tem shall be a member of the Council elected by the Council at its first regular meeting following each general City election. The Mayor Pro-Tem shall act as Mayor during the disability or absence of the Mayor, and in this capacity shall have the rights and duties conferred upon the Mayor herein except that the Mayor Pro-Tem shall be entitled to vote irrespective of a tie vote.

SECTION 3.06 Vacancies, Forfeiture, Filling of Vacancies:

(a) Vacancies:

The office of a member of the Council or office of the Mayor shall become vacant upon his death, resignation, removal from office in any manner authorized by law, or forfeiture of his office.

(b) **Forfeiture of Office:**

A member of the Council or the Mayor shall forfeit his office if such officer:

- (1) Lacks at any time during his term of office any qualification for the office prescribed by this Charter or by law,
- (2) Is convicted of a crime involving moral turpitude, or
- (3) Fails to attend three (3) consecutive regular Council meetings without being excused by the Council.

(c) **Filling of Vacancy or Vacancies:**

In the event of a vacancy or vacancies from any cause in the office of Mayor or the Council, such vacancy or vacancies may be filled as follows:

- (1) If no more than one vacancy on the City Council exists, a majority of the remaining members of the City Council may fill such vacancy by appointment, such appointee to serve until the next regular City election; provided, however, in filling such vacancy, the Mayor, if any, shall have a vote only in the event of a tie.
- (2) In lieu of filling one vacancy on the City Council by appointment as provided for in paragraph (1) above, a special election may be called to fill such vacancy.
- (3) If two or more vacancies on the City Council exist at the same time, a special election shall be called to fill such vacancies.
- (4) Any special election to fill a vacancy or vacancies shall be ordered, held, and conducted in accordance with this Charter and the laws of the State of Texas.

SECTION 3.07 General Powers and Duties:

All powers of the City shall be vested in the Council, except as otherwise provided by law or this Charter and the Council shall provide for the exercise thereof and for the performance of all duties and obligations imposed on the City by law.

SECTION 3.08 Prohibitions:

(a) **Holding Other Office:**

Except where authorized by law, no Mayor or member of the Council shall hold any other City office or City employment during his or her term as Mayor or member of the Council, and no former Mayor or member of the Council shall hold any compensated appointive City office or City employment until one year after the expiration of his or her term as Mayor or member of the Council.

(b) **Appointments and Removals:**

Neither the Council nor any of its members shall in any manner dictate the appointment or removal of any City administrative officers or employees whom the Manager or any of his subordinates are empowered to appoint, but the Council may express its views and fully and freely discuss with the Manager anything pertaining to appointment and removal of such officers and employees.

(c) **Interference with Administration:**

Except for the purpose of inquiries and investigations under Section 3.16, the Council or its members shall deal with City officers and employees who are subject to the direction and supervision of the Manager solely through the Manager, and neither the Council nor its members shall give orders to any such officer or employee, either publicly or privately, except as otherwise provided in this Charter.

SECTION 3.09 Meetings of the Council:

The Council shall hold at least two regular meetings each month and as many additional meetings as it deems necessary to transact the business of the City and its citizens. The Council shall fix, by ordinance, the days and time of the regular meetings. Special meetings of the Council shall be held on the call of the Mayor or of a majority of the Council members.

SECTION 3.10 Quorum:

Four Council members shall constitute a quorum for the purpose of transaction of business and no action of the Council, shall be valid or binding unless adopted by a majority of those present, except where a larger number is otherwise required by law or this Charter. The Mayor shall not be counted in the determination of a quorum, but the Mayor Pro-Tem shall be counted even if the Mayor Pro-Tem is acting as Mayor in the absence of the latter.

SECTION 3.11 Rules of Procedure:

The Council shall, by ordinance, determine its own rules and order of business and the rules shall provide that citizens of the City and other interested parties shall have a reasonable opportunity to be heard at any meeting in regard to any matter under consideration.

SECTION 3.12 Minutes and Voting:

(a) Minutes:

The Council shall provide for minutes being taken and recorded of its meetings as may be required by Article 6252-17, Revised Civil Statutes of Texas as now or hereafter amended, and such minutes shall be a public record as may be required by Article 6252-17a, Revised Civil Statutes of Texas as now or hereafter amended. Voting, except on procedural motions, shall be by roll call and the ayes and nays and by whom cast shall be recorded in the minutes.

(b) Voting:

All members of the Council present, with the exception of the Mayor, shall vote upon every resolution or ordinance, except where there is a conflict of interest, the reason for which shall be stated concisely in the record. The Mayor shall vote only in the event of a tie vote as provided in Section 3.05. All members of the Council shall be called upon to vote in the order of their respective positions on the Council, beginning with Position 1.

SECTION 3.13 Ordinances:

(a) Ordinances in General:

Ordinances and resolutions shall be introduced in the City Council only in written or printed form. Ordinances making appropriations shall be confined to the subject of the appropriations. All ordinances except emergency ordinances, or those dealing with fines, penalties, budget, tax, franchises, public utilities, or the setting of their rates, shall not be finally passed until they have been read on two separate days not less than twelve hours apart; provided however, if an ordinance has been introduced at a regular meeting of the Council the requirements for reading on two separate days may be dispensed with by an affirmative vote of all the Council members present. 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 City Council prior to such meeting. The enacting clause of all ordinances shall be: "Be it ordained by the Council of the City of Hillsboro, Texas."

(b) Code of Ordinances:

The City of Hillsboro adopted a Code of Ordinances on November 6, 1973, which became effective January 1, 1974, and said Code shall continue in force and effect with the exception of the Charter contained therein which shall be replaced by this Charter. The Council shall continue to codify its ordinances of a general and permanent nature and shall supplement said Code on a periodic basis and shall include therein, for the convenience of the user, the City Charter, as amended. Special ordinances dealing with only a portion of the inhabitants of the City, rather than all of them, or relating to special purposes, such as ordinance levying special assessments, providing for bond issues, paving and vacating and opening specified streets, etc., need not be included in the Code of Ordinances.

(c) Publication:

All ordinances which levy a fine or penalty and those which deal with budget and/or tax, franchises, public utilities or the setting of their rates, shall be read at two regular meetings followed by publication in full or by caption in at least one issue of the official newspaper of the City of Hillsboro before the same shall become effective.

SECTION 3.14 Emergency Ordinances:

To meet an emergency affecting the public health, safety, welfare or public peace, the Council may adopt emergency ordinances. Such ordinances shall not levy taxes, grant or renew or extend a franchise, or regulate the rate charged by any public utility for its services. Neither shall they authorize the borrowing of money, except as provided in Article 8, Section 8.05. An emergency ordinance shall be introduced in the form and manner generally prescribed for ordinances, except that it shall be plainly designated in the title as an emergency ordinance and shall contain, after the enacting clause, a declaration stating that an emergency exists and describing it in clear and specific terms. Such emergency clause shall require the affirmative vote of four members of the Council. An emergency ordinance may be adopted with or without amendment or rejected at the meeting at which it is introduced. The affirmative vote of four members of the Council shall be required for adoption. After adoption, the ordinance shall be published as required for other adopted ordinances and shall become effective in the same manner.

SECTION 3.15 Bonds for City Employees:

The Council shall require bonds of all municipal officers and employees who receive (other than their own individual compensation and expenses) 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.

SECTION 3.16 Investigative Body:

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

**ARTICLE 4
ADMINISTRATIVE AND JUDICIAL SERVICE**

SECTION 4.01 City Manager:

(a) Appointment and Qualifications:

The Council by majority vote of entire Council shall appoint a City Manager. The method of selection shall be left to the discretion of the City Council so long as the method insures orderly, nonpartisan action toward securing a competent and qualified person to fill the position. The City Manager shall be chosen solely upon the basis of his executive and administrative training, experience and ability and need not when appointed be a resident of the City; however, during the tenure of his office he shall reside within the City. The City Manager shall be bonded at City expense in an amount of not less than Ten Thousand Dollars (\$10,000).

(b) Compensation:

The City Manager shall receive compensation as may be fixed by the Council according to his or her experience, education, and training. The compensation shall be agreed upon before appointment with the understanding that the Council may change same at its discretion.

(c) Term and Removal:

The City Manager shall be appointed for an indefinite term and shall serve at the will and pleasure of the Council; however, the City Council may remove the City Manager from office only in accordance with the following procedures:

(1) The Council shall adopt by affirmative vote of a majority of all of its members a preliminary resolution which must state specifically the reasons for removal and may suspend the City Manager from duty for a period not to exceed thirty (30) days. A copy of the resolution shall be delivered promptly to the City Manager.

(2) Within five (5) days after a copy of the resolution is delivered to the City Manager, the City Manager may file with the Council a written request for a public hearing. The hearing shall be held at a Council meeting not earlier than ten (10) days nor later than twenty (20) days after the request is filed. The City Manager may file with the Council a written reply not later than three (3) days before the hearing.

(3) The City Council may adopt a final resolution of removal, which may be made effective immediately by affirmative vote of a majority of all of its members at anytime after the expiration of five (5) days from the date when a copy of the preliminary resolution was delivered to the City Manager if the City Manager has not requested a public hearing, or at anytime after the public hearing if a hearing has been so requested. The City Manager shall continue to receive his compensation until the effective date of a final resolution of removal. The action of the City Council in suspending or removing the City Manager shall be final.

(d) Powers and Duties:

The City Manager shall be the Chief Administrative Officer of the City, and shall be responsible to the Council for the proper administration of all the affairs of the City and to that end shall have the power and be required to:

- (1) See that all State laws and City Charter provisions and ordinances are effectively enforced.
- (2) Appoint, suspend or remove all or any one of the employees or appointed officers of the City with the exception of the judge of the Municipal Court, the City Attorney and the City Health Officer.

- (3) Attend all meetings of the Council except when excused by Council, and shall have the right to take part in the discussions.
 - (4) Prepare the budget annually and submit it to the Council and be responsible for its administration after its adoption.
 - (5) Prepare and submit to the Council at the end of the fiscal year a complete report on the finances and administrative activities of the City for the preceding year.
 - (6) Keep the Council advised of the financial condition and future needs of the City and make such recommendations as may seem to the City Manager advisable.
 - (7) Make such other reports as the Council may require concerning the operations of City departments, offices and agencies subject to his or her direction and supervision.
 - (8) Perform such other duties as may be prescribed by this Charter or required by the Council, as consistent with this Charter.
- (e) **Acting City Manager:**
 The City Manager, within sixty (60) days after taking office, shall designate by letter filed with the City Secretary, a qualified administrative officer of the City to perform the duties of the City Manager in his or her absence or disability. Such designation shall be subject to approval by Council. No member of Council shall serve as Acting City Manager. From time to time the City Manager may remove and/or appoint another Acting City Manager.

SECTION 4.02 Administrative Departments:

There shall be such administrative departments as are established by this Charter and may be established by ordinance and, excepting as otherwise provided in this Charter, these administrative departments shall be under the direction of the City Manager.

The Council shall have power by ordinance to establish administrative departments or offices not herein provided by this Charter. The Council may discontinue, redesignate, or combine any of the departments and/or administrative offices. No changes shall be made by the Council in the organization of the administrative service or departments of the City until the recommendations of the City Manager thereon shall have been heard by the Council.

The head of each department shall be a director who shall have supervision and control over his or her department. Two or more departments may be headed by the same individual and the City Manager may head one or more department.

SECTION 4.03 Municipal Court:

- (a) There shall be established and maintained a court, designated as a "Municipal Court" for the trial of misdemeanor offenses, with all such powers and duties as are now, or may hereafter be prescribed by laws of the State of Texas relative to municipal courts.
- (b) The judge of said court shall be appointed by the Council to serve at the discretion of the Council. The judge may be either an attorney licensed and practicing in the State of Texas or a qualified lay person, and shall receive such salary as may be fixed by the Council.
- (c) There shall be a clerk of said court appointed by the City Manager upon recommendation of the judge of said court.
- (d) The clerk of said court and 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) The City Council shall have the power to create and appoint additional judges as provided by law.
- (f) All costs and fines imposed by the Municipal Court shall be paid into the City Treasury for the use and benefit of the City.
- (g) In the event of the disability or absence of the judge of said court, the Council may appoint a substitute judge or the Mayor may, upon request by the Council, act as judge of said court, and either may be compensated at the same salary as the judge for whom the replacement is acting during such period of disability or absence.

SECTION 4.04 City Attorney:

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

SECTION 4.05 City Secretary:

The City Manager shall appoint the City Secretary and such Assistant City Secretaries as may be necessary and advisable. The duties of the City Secretary, or an Assistant City Secretary shall be as follows:

- (a) To give notice of Council meetings,
- (b) To keep the minutes of the proceedings of such meetings,
- (c) To authenticate by his or her signature and record in full in a book kept and indexed for the purposes, all ordinances and resolutions, and,
- (d) To perform such other duties as the City Manager shall assign, and those elsewhere provided for in this Charter.

**ARTICLE 5
NOMINATIONS AND ELECTIONS**

SECTION 5.01 City Elections:

- (a) Schedule:
The regular City Election to elect the Mayor and other members of the City Council will be held annually on the first Saturday in April. The Council shall be responsible to specify places for holding such election.
- (b) Special Elections:
The Council may, by resolution, order a special election under conditions specified elsewhere in this Charter, for ordinances, bond issues, charter amendments, recall or other purposes deemed appropriate by Council. The Council will fix time and places for holding such special elections and provide all means for holding same.
- (c) Voter Eligibility List:
A certified list of voter registrants within the City, as prepared by the County Tax Assessor-Collector shall be maintained current by the City Secretary. If for a purpose relating only to a City election or to candidates or issues involved in such election, any organization, group, or person requests a list of qualified voters of the City, permission to copy the current list shall be granted by the City Secretary.
- (d) Conduct and Regulation of 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. Municipal elections shall be conducted by the election officials appointed or approved by the Council.

SECTION 5.02 Filing for Office:

- Eligibility to File. Each candidate for an elective city office shall meet the following qualifications:
- (a) Shall be twenty-one (21) years of age or older on the commencement of the term to be filled at the election.
 - (b) Shall be a registered and qualified voter of the City.
 - (c) Shall have resided for at least twelve (12) months preceding the election within the corporate limits of the City, including territory annexed prior to the filing deadline.
 - (d) Shall not be in arrears in the payment of any taxes or other liabilities due the City. "In arrears" is defined herein to mean that payment has not been received within ninety (90) days from due date.
 - (e) An incumbent seeking reelection as a member of the Council must file for the same position number the incumbent is presently serving.
 - (f) No candidate may file for more than one office or position number per election.
 - (g) No employee of the City shall continue in such position after being elected to any elective municipal office.

SECTION 5.03 Official Ballots:

All official paper ballots for any general or special election shall be printed and prepared as specified in the Texas Election Code, as amended.

SECTION 5.04 Canvassing:

The returns of every municipal election shall be delivered from the election judges to the City Secretary at the City Offices not later than twelve (12) hours after the closing of the polls. One extra copy shall be delivered for the Mayor at this time. The Council shall canvass the returns in sufficient time to declare the official results of the election at the next regular Council meeting after the closing of the polls. The returns of every municipal election shall be recorded in the minutes of the Council, by totals for each candidate, or, for or against each issue submitted.

SECTION 5.05 Election by Plurality:

All candidates are to be elected by a plurality vote; that is, the candidate who receives the highest number of votes cast for the office concerned is elected, even though it may be less than fifty percent of the total number of votes cast for that office. Where only one officer is to be elected in a race, the candidate receiving the highest vote is the winner; where two are to be elected from the same slate, the two highest candidates are the winners; where three are to be elected, the three highest are the winners; and so on.

SECTION 5.06 Tie Vote:

At any election, general or special, if two or more candidates are tied for high place, where only one is to be elected, the candidates may agree in writing upon a method for settling the tie. The Mayor shall set a deadline for the candidates to come to a decision on whether they can resolve the tie by agreement and upon their failure to file such written agreement prior to the deadline, the Mayor shall immediately order another election to fill such office in accordance with the procedures as set forth in the current edition of the Texas Election Code, as amended.

**ARTICLE 6
RECALL OF OFFICERS**

SECTION 6.01 Scope of Recall:

Any elected city official, whether elected to office by the qualified voters of the City or appointed by the City Council to fill a vacancy, shall be subject to recall and removal from office by the qualified voters of the City on ground of incompetency, noncompliance with this Charter, malfeasance in office, or upon any other grounds set forth in the Constitution and laws of the State of Texas.

SECTION 6.02 Petitions for Recall:

Before the question of recall of such officer shall be submitted to the qualified voters of the City, a petition demanding such question to be so submitted shall first be filed with the person performing the duties of City Secretary; which said petition shall be signed by registered and qualified voters of the City equal in number to at least twenty-five percent (25%) of the number of votes cast in the last regular municipal election of the City, or 200, whichever is greater. Each signer of such recall petition shall personally sign his or her own name thereto in ink or indelible pencil followed by his place of residence, giving name of street and number, or place of residence, and the day, the month and year the signature was affixed.

SECTION 6.03 Recall Procedure:

Any registered voter of the City may make and file with the person performing the duties of City Secretary an affidavit containing the name or names of the officer(s) whose removal is sought and a statement of the grounds for removal. The City Secretary shall immediately notify in writing the officer(s) sought to be removed that the affidavit has been filed and shall inform the officer(s) of its statement of grounds. The City Secretary shall within a period of two (2) working days from the time the affidavit was filed thereupon deliver to the registered voters making such affidavit copies of petition blanks demanding such removal. The City Secretary shall keep a sufficient number of such printed petition blanks on hand for distribution. Such blanks when issued by the City Secretary shall bear the signature of the City Secretary and be of such form as prescribed in Section 6.04 of this Article, and shall be numbered, dated, and indicate the name of the person to whom issued. The City Secretary shall enter in a record to be kept in his or her office the name of the registered voters to whom the petition blanks were issued and the number issued.

SECTION 6.04 Form of Recall Petition:

The recall petition mentioned above must be addressed to the City Council of the City of Hillsboro, must distinctly and specifically state the ground(s) upon which such petition for removal is predicated, and, if there be more than one ground, such as for incompetency, noncompliance with this Charter, misconduct or malfeasance in office, shall specifically state each ground with such certainty as to give the officer sought to be removed notice of such matters and things with which the officer is charged. Recall petition papers provided by the person performing the duties of City Secretary shall be in form substantially as follows:

We the undersigned registered voters of the City of Hillsboro hereby demand the question of removing (name of person) from the office of (name of office) be submitted to a vote of the registered

voters of the City. The charges and specifications upon which this demand for removal is predicated are as follows:

NAME	ADDRESS	DATE
_____	_____	_____
_____	_____	_____

The signatures shall be verified by oath in the following form:

STATE OF TEXAS S
COUNTY OF HILL S

I, _____, being first duly sworn, on oath depose and say that I am one of the signers of the above petition; and that the statements made therein are true, and that each signature appearing thereto was made in my presence on the day and date it purports to have been made, and I solemnly swear that the same is the genuine signature of the persons whose name it purports to be.

Sworn and subscribed to before me this _____ day
of _____, 19_____.

Notary Public, Hill County, Texas

SECTION 6.05 Various Papers Constituting Recall Petition:

- (a) The petition may consist of one or more copies, or subscription list, circulated separately and the signatures thereto may be upon the paper or papers containing the form of petition, or upon other papers attached thereto. Verifications provided for in the next preceding section of this article may be made by one or more petitioners, and the several parts or copies of the petition may be filed separately and by different persons; but no signatures to such petition shall remain effective or be counted which were placed thereon more than forty-five (45) days prior to the filing of such original petition or petitions with the person performing the duties of City Secretary on the same day, and the said Secretary shall immediately notify, in writing by registered mail, the officer so sought to be removed, by mailing such notice to the officer's Hillsboro address.
- (b) Certification procedures as described in Section 7.04 shall be followed in certification of the recall petition.

SECTION 6.06 Presentation of Recall Petition to City Council:

The person performing the duties of City Secretary shall present such certified petition to the City Council at the next regular Council meeting.

SECTION 6.07 Public Hearing to be Held on Recall Petition:

The officer whose removal is sought may, within five (5) days after such recall petition has been presented to the City Council request that a public hearing be held before the City Council to permit the officer to present facts pertinent to the charges specified in the recall petition. In this event, the City Council shall order such public hearing to be held, not less than five (5) days nor more than fifteen (15) days after receiving such request for a public hearing. Reasonable notice of the public hearing shall be afforded to the officer whose removal is sought.

SECTION 6.08 Recall Election to be Called:

If the officer whose removal is sought does not resign, then it shall become the duty of the City Council to order an election and fix a date for holding such recall election, the date of which election shall be on the date of the annual regular election or under a date specified for special elections in the Texas

Election code, as amended, whichever is earlier, but the date of said election shall not be less than twenty-five (25) days from the date such petition was presented to the City Council, or from the date of the public hearing, if one was held.

SECTION 6.09 Ballots in Recall Election:

Ballots used at recall elections shall, subject to the requirements of the Texas Election Code, as amended, conform to the following:

- (a) With respect to each person whose removal is sought, the question shall be submitted:
"Shall (name of person) be removed from the office (name of office) by recall?"
- (b) Immediately below each such question there shall be printed the two following propositions, one above the other, in order indicated:
"FOR the removal of _____ by recall."
"AGAINST the removal of _____ by recall."

SECTION 6.10 Result of Recall Election:

If a majority of the votes cast at a recall election shall be against the recall of the person named on the ballot, that person shall continue in office for the remainder of the unexpired term, subject to recall as before. If a majority of the votes cast at such an election be for the recall of the person named on the ballot, the person shall, regardless of any technical defects in the recall petition, be deemed removed from office and the vacancy shall be filled as vacancies in the City Council are filled.

In no instance shall an officer(s) removed from office by recall election succeed himself or herself, nor shall his or her names appear on a ballot for elective office of the City of Hillsboro within a period of two (2) years following the date of the election at which the officer or officers were removed from office.

SECTION 6.11 Recall, Restrictions Thereon:

No recall petition shall be filed against any officer of the City of Hillsboro within three (3) months after his election or appointment, or within three (3) months after an election for such officer's recall. No recall election shall be called if the term of office of the officer being recalled expires on the next date authorized hereunder or by law for such election.

SECTION 6.12 Failure of City Council to Call an Election:

In cases where all of the requirements of this Charter shall have been met and the City Council shall fail or refuse to receive the recall petition, or order such recall election, or discharge any other duties imposed upon said City Council by the provisions of this Charter with reference to such recall, then the District Judge of Hill County, Texas, shall discharge any such duties herein provided to be discharged by the person performing the duties of City Secretary or by the City Council.

**ARTICLE 7
INITIATIVE AND REFERENDUM**

SECTION 7.01 General Authority:

- (a) Initiative:
The qualified and registered voters of the City shall have power to propose ordinances to the Council, except ordinances appropriating money or levying of taxes, or ordinances repealing ordinances appropriating money or levying taxes, or applicable to zoning, not in conflict with this Charter, the State Constitution, or the State laws; and, if the Council fails to adopt an ordinance so proposed, to adopt or reject it at a City election.
- (b) Referendum:
The qualified and registered voters of the City shall have power to require reconsideration by the Council of any adopted ordinance and, if the Council fails to repeal an ordinance so reconsidered, to approve or reject it at a City election, provided that such power shall not extend to the budget or capital program or any emergency ordinance or ordinance relating to appropriation of money or levy of taxes, or to bonds issued pursuant to the authority of an election or elections theretofore held.

SECTION 7.02 Commencement of Proceedings; Petitioners' Committee; Affidavit; City Attorney Review:

- (a) Filing Affidavit, Fee and Petitioner's Committee:
Any five (5) registered and qualified voters of the City may commence initiative or referendum proceedings by filing with the City Secretary a filing fee of \$100 and an affidavit stating they will

constitute the petitioners' committee and be responsible for circulating the petition and filing it in proper form, stating their names and addresses and specifying the address(es) to which all notices to the committee are to be sent, and setting out in full the proposed initiative ordinance or citing the ordinance sought to be reconsidered.

(b) City Attorney Review:

Immediately after the affidavit and fee of \$100 is filed, the City Secretary shall forward the affidavit to the City Attorney. The City Attorney shall review the affidavit and advise the petitioners' committee as to the proper form and language and, with the consent of the petitioners' committee, may redraft the text of the proposed initiative ordinance or ordinance sought to be reconsidered as necessary or desirable to achieve its purposes. The City Attorney shall return the affidavit containing the proposed in its final form to the City Secretary within twenty (20) days from the receipt of same by his or her office unless the period of time for review by the City Attorney is extended with the consent of the petitioners' committee.

(c) Issuance of Petitions:

Promptly after the affidavit of the petitioners' committee is returned by the City Attorney to the City Secretary, the latter shall issue to the petitioners' committee approved copies of the appropriate petition blanks in the number requested by the committee. The City may charge for each copy a reasonable fee set by the City Manager to cover the cost of providing it.

SECTION 7.03 Petitions:

(a) Number of Signatures:

Initiative and referendum petitions must be signed by registered and qualified voters of the City equal in number to at least twenty-five percent (25%) of the number of votes cast in the last regular municipal election of the City, or 200, whichever is greater.

(b) Form and Content:

All papers of a petition shall be uniform in size and style and shall be assembled as one instrument for filing. Each signature shall be executed in ink or indelible pencil and shall be followed by his or her place of residence by street and number or other description sufficient to identify the place. Petitions shall contain or have attached thereto throughout their circulation the full text of the ordinance proposed or sought to be reconsidered. The City may prescribe any other reasonable standards of form and design for the petition to be circulated for signatures.

(c) Affidavit of Circulator:

When filed, each paper of a petition shall have attached to it an affidavit executed by the circulator, who must be a member of the petitioners' committee, therein stating that the circulator personally circulated the paper, the number of signatures thereon, that all the signatures were affixed in his or her presence, that he or she believes them to be the genuine signatures of the persons whose names they purport to be and that each signer had an opportunity before signing to read the full text of the ordinance proposed or sought to be reconsidered. No circulator shall receive compensation in return for circulation of petitions for signatures and the above affidavit shall also state and confirm that no such compensation has been received by the circulator.

(d) Time for Filing Petitions:

Referendum petitions must be filed within thirty (30) days after issuance of the appropriate blanks for reconsideration of any ordinance adopted by the Council. Initiative petitions must be filed within thirty (30) days after issuance of the appropriate blanks for the proposal of any ordinance. Additional time as specified in Section 7.04 shall be allowed for amending petitions.

SECTION 7.04 Determination of Sufficiency:

(a) Certificate of City Secretary:

Within ten (10) days after the petition is filed, the person performing the duties of City Secretary shall complete a certificate as to its sufficiency, specifying, if it is insufficient, the particulars wherein it is defective and shall immediately upon completion of certification send a copy of the certificate to each member of the petitioners' committee by certified mail.

(b) Sufficient Petition, Final Determination:

If the petition is certified sufficient, the person performing the duties of City Secretary shall present the certificate to the Council by the next regular Council meeting and the certificate shall be a final determination as to the sufficiency of the petition.

(c) Insufficient Petition, Final Determination:

If a petition is certified insufficient, and the petitioners' committee does not elect to amend or request Council review under subsections (d) and (e) of this section within the time required, the City Secretary shall present a certificate to the Council by the next regular Council meeting which shall be a final determination of the insufficiency of the petition.

- (d) **Insufficient Petition, Appeal:**
If a petition has been certified insufficient and the petitioners' committee does not file notice of intention to amend it as in Section 7.04(e), the committee may, within two (2) working days after receiving the copy of such certificate, file a request that it be reviewed by the Council. The Council shall review the certificate at its next regular meeting following the filing of such request and approve or disapprove it, and the Council's determination shall then be a final determination.
- (e) **Insufficient Petition, Amending:**
A petition certified insufficient for lack of required number of valid signatures may be amended once if the petitioners' committee files a notice of intention to amend it with the City Secretary within two (2) working days after receiving the copy of his certificate, and files a supplementary petition with additional names within two (2) weeks after receiving the copy of such certificate. Such supplementary petition shall comply with the requirements of Section 7.03(b) and (c). Within five (5) days after amended petition is filed, the person performing the duties of City Secretary shall complete a certificate as to the sufficiency of the petition as amended and shall within twenty-four (24) hours send a copy of such certificate to each member of the petitioners' committee by certified mail as in the case of an original petition. The final determination as to the sufficiency of an amended petition shall be determined in the same manner as prescribed for original petitions in Section 7.04(b), (c), and (d), except that no petition, once amended, may be amended again.
- (f) **Court Review; New Petition:**
A final determination as to the sufficiency of a petition shall be subject to review in a court or courts of competent jurisdiction. A final determination of insufficiency, even if sustained upon court review, shall not prejudice the filing of a new petition for the same purpose.

SECTION 7.05 Referendum Petitions; Suspension of Effect of Ordinances:

When a referendum petition is determined to be sufficient, the ordinance sought to be reconsidered shall be suspended, and such suspension shall continue until the Council repeals the ordinance or the ordinance is upheld by election.

SECTION 7.06 Action on Petitions:

- (a) **Action by Council:**
Within sixty (60) days after the date the initiative or referendum petition has been finally determined sufficient, the Council shall:
 - (1) Adopt a proposed initiative ordinance without any change in substance, or
 - (2) Repeal a referred ordinance, or
 - (3) Call an election on the proposed or referred ordinance as specified in Section 7.06(b).
- (b) **Submission to Voters:**
The vote of the City on a proposed or referred ordinance shall be held at the next general election or at a special election on one of the specified dates for same in the current edition of the Texas Election Code, however, said election shall not be held less than thirty (30) days after the final Council vote. Special elections on initiated or referred ordinances shall not be held more frequently than once each six (6) months, and no ordinance substantially the same as an initiated ordinance which has been defeated or substantially the same as a referred ordinance which has been approved by any election may be initiated by the voters within two (2) years from the date of such election. Copies of the proposed or referred ordinance shall be made available at the polls.
- (c) **Publication of Proposed and Referred Ordinance:**
The person performing the duties of City Secretary shall publish at least once in the official newspaper of the City the proposed or referred ordinance within fifteen (15) days of the election, and shall give such other notices and do such other things relative to such election as are required in regular municipal elections or by the ordinance calling said election.
- (d) An initiative or referendum petition may be withdrawn at any time prior to the time the petition has been determined to be sufficient by filing with the City Secretary a request for withdrawal signed by at least four (4) members of the petitioners' committee. Upon filing of such request, the petition shall have no further force or effect and all proceedings thereon shall be terminated.

SECTION 7.07 Form of Ballots:

The ballots used when voting upon such proposed or referred ordinances shall set forth their nature sufficiently to identify them and shall also set forth upon separate lines the words:

"FOR THE ORDINANCE," and
"AGAINST THE ORDINANCE."

SECTION 7.08 Results of Election:

(a) Initiative:

If a majority of the registered electors voting on a proposed initiative ordinance vote in its favor, it shall be considered adopted upon certification of the election results and shall be treated in the same manner as ordinances of the same kind adopted by the Council. If conflicting ordinances are approved at the same election, the one receiving the greater number of affirmative votes shall prevail.

(b) Repeal or Amendment of an Initiated Ordinance:

An ordinance adopted by initiative may be repealed or amended at any time after the expiration of two (2) years by a vote of four (4) or more of the Council members qualified and serving.

(c) Referendum:

If a majority of the registered electors voting on a referred ordinance vote against the ordinance, it shall be considered repealed upon certification of the election results. If a majority of the registered electors voting on a referred ordinance vote for the ordinance, it shall be considered in effect upon certification of the election results.

(d) Adoption of an Ordinance Repealed by Referendum:

An ordinance repealed by referendum may be re-enacted at any time after the expiration of two (2) years by a vote of four (4) or more of the Council members qualified and serving.

**ARTICLE 8
FINANCIAL ADMINISTRATION**

SECTION 8.01 Fiscal Year:

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

SECTION 8.02 Public Records:

Copies of the budget adopted shall be public records and shall be made available to the public for inspection upon request.

SECTION 8.03 Annual Budget:

(a) Content:

The budget shall provide a complete financial plan of all City funds and activities and, except as required by law or this Charter, shall be in such form as the Manager deems desirable or the Council may require. A budget message explaining the budget both in fiscal terms and in terms of the work programs shall be submitted with the budget. It shall outline the proposed financial policies of the City for the ensuing fiscal year, describe the important features of the budget, indicate any major changes from the current year in financial policies, expenditures, and revenue, with reasons for such changes. It shall also summarize the City's debt position and include such other material as the Manager deems desirable. The budget shall begin with a clear general summary of its contents; shall show in detail all estimated income, indicating the proposed property tax levy, and all proposed expenditures, including debt service, for the ensuing fiscal year. The proposed budget expenditures shall not exceed the total of estimated revenues. The budget shall be so arranged as to show comparative figures for actual and estimated revenues and expenditures of the current fiscal year and actual income and expenditures of the preceding fiscal year, compared to the estimate for the budgeted year. It shall include in separate sections:

- (1) An itemized estimate of the expense of conducting each department, division and office.
- (2) Reasons for proposed increases or decreases of such items of expenditure compared with the current fiscal year.
- (3) A separate schedule for each department, indicating tasks to be accomplished by the department during the year, and additional desirable tasks to be accomplished if possible.
- (4) A statement of the total probable income of the City from taxes for the period covered by the estimate.
- (5) Tax levies, rates, and collections for the preceding five years.
- (6) An itemization of all anticipated revenue from sources other than the tax levy.

- (7) The amount required for debt service payments on the City's bonds and other debt obligations.
- (8) The total amount of outstanding City debts, with a schedule of repayment.
- (9) Such other information as may be required by the Council.
- (10) Anticipated net surplus or deficit for the ensuing fiscal year of each utility owned or operated by the City and the proposed method of its disposition; subsidiary budgets for each such utility giving detailed income and expenditure information shall be attached as appendices to the budget.
- (11) A Capital Program, which may be revised and extended each year to indicate capital improvements pending or in process of construction or acquisition, and shall include the following terms:
 - a. A summary of proposed programs.
 - b. A list of all capital improvements which are proposed to be undertaken during the five fiscal years next ensuing, with appropriate supporting information as to the necessity for such improvements.
 - c. Cost estimates, method of financing and recommended time schedules for each such improvement; and,
 - d. The estimated annual cost of operating and maintaining the facilities to be constructed or acquired.
- (b) Submission:
On or before the first day of August of each year, the Manager shall submit to the Council a proposed budget and an accompanying message. The Council shall review the proposed budget and revise as deemed appropriate prior to general circulation for public hearing.
- (c) Public Notice and Hearing:
The Council shall post in the City Hall and publish in the official newspaper a general summary of their proposed budget and a notice stating:
 - (1) The times and places where copies of the message and budget are available for inspection by the public; and
 - (2) The time and place, not less than two weeks after such publication, for a public hearing on the budget.
- (d) Amendment Before Adoption:
After the hearing, the Council may adopt the budget with or without amendment. In amending the budget, it may add or increase programs or amounts and may delete or decrease any programs or amounts, except expenditures required by law or for debt service or for estimated cash deficit, provided that no amendment to the budget shall increase the authorized expenditures to an amount greater than the total of estimated income plus funds available from prior years.
- (e) Adoption:
The budget shall be finally adopted not later than the twenty-seventh day of the last month of the fiscal year. Adoption of the budget shall constitute a levy of the property tax therein proposed. Should the Council take no final action on or prior to such day the budget, as submitted, together with its proposed tax levy, shall be deemed to have been finally adopted by the Council. No budget shall be adopted or appropriations made unless the total of estimated revenues, income and funds available shall be equal to or in excess of such budget or appropriations, except as otherwise provided in this Article. Immediately after adoption of the budget the City Manager shall file, or cause to be filed, true copies of the budget with any and all governmental authorities as may be required under the laws of the State of Texas.

SECTION 8.04 Administration of Budget:

- (a) Payments and Obligations Prohibited:
No payment shall be made or obligation incurred against any allotment or appropriation except in accordance with appropriations duly made and unless the City Manager or his designee first determines that there is a sufficient unencumbered balance in such allotment or appropriation and that sufficient funds therefrom are or will be available to cover the claim or meet the obligation when it becomes due and payable. However, this prohibition shall not be construed to prevent the making or authorizing of payments or making of contracts for capital improvements to be financed wholly or partly by the issuance of bonds, time warrants, certificates of indebtedness, or certificates of obligation, or to prevent the making of any contract or lease providing for payments beyond the end of the fiscal year, provided that such action is made or approved by ordinance.
- (b) Budget Amendments:
At anytime in any fiscal year, Council may, if it determines that emergency conditions have arisen which could not reasonably had been foreseen in the normal process of planning the budget, amend

or change the budget to provide for any additional expense to protect the public health, safety or welfare. These amendments shall be made only upon recommendation of the City Manager and shall be by ordinance, which ordinance shall be an attachment to the original budget.

(c) **Transfer of Funds:**

Notwithstanding anything contained in this Section 8.04 to the contrary, upon written recommendation of the City Manager, the City Council may at anytime transfer any unencumbered appropriation or allotment balance or any portion thereof within a department, office or agency to another.

(d) **Financial Reports:**

The City Manager shall submit to the Council at its second regular meeting each quarter the financial condition of the City by budget item, budget estimate versus actual accruals for the preceding quarter, and for the fiscal year to date, along with comparative figures of the preceding year.

SECTION 8.05 Borrowing to Meet Emergency Appropriations:

In the absence of unappropriated available revenues or other funds to meet emergency appropriations provided for under the preceding Section 8.04, the Council may by resolution, authorize the borrowing of money to meet such deficit as provided by law.

SECTION 8.06 Borrowing in Anticipation of Property Taxes:

In any fiscal year, in anticipation of the collection of the ad valorem property tax for such year, whether levied or to be levied in such year, the Council may by resolution authorize the borrowing of money, not to exceed in any fiscal year an amount equal to ten percent (10%) of the budget for that fiscal year. Such borrowing shall be by the issuance of negotiable notes of the City, each of which shall be designated, "Tax Anticipation Note for the Year 19_____" (stating the tax year). Such notes shall mature and be payable not later than the end of the fiscal year in which issued.

SECTION 8.07 Depository:

All monies received by any person, department or agency of the City for or in connection with affairs of the City shall be deposited promptly in the City depository or depositories, which shall be designated by the Council in accordance with such regulations and subject to such requirements as to security for deposits and interest thereon as may be established by ordinance. All checks, vouchers, or warrants for the withdrawal of money from the City depositories shall be signed by the Mayor and countersigned by the City Manager or City Secretary. Provided, that the Council, under such regulations and limitations as it may prescribe, may by ordinance authorize the use of machine-imprinted facsimile signatures of said Mayor and City Manager on such checks, vouchers, and warrants.

SECTION 8.08 Purchase Procedure:

All purchases made and contracts entered into 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 the City Manager or his designee approves the same. All purchases made and contracts entered into by the City shall be in accordance with the procedural requirements of the Constitution and laws of the State of Texas, intending hereby to adopt the competitive bidding procedures as set forth in the Revised Civil Statutes of Texas, as amended from time to time. Provided, however, that the Council, or the City Manager in such cases as he is authorized to contract for the City, shall have the right to reject any and all bids. Contracts for personal or professional services shall not be let on competitive bids. No individual purchase or contract requiring payment in excess of \$300 shall be paid by the City until examined and approved by at least two (2) members of the City Council.

SECTION 8.09 Independent Audit:

At the close of each fiscal year, and at such other times as it may be deemed necessary, the Council shall cause an independent audit to be made of all accounts of the City by a certified public accountant. The certified public accountant so selected shall have no personal interest, directly or indirectly, in the financial affairs of the City or any of its officers. Upon completion of the audit, the summary thereof shall be published immediately in the official newspaper of the City of Hillsboro and copies of the audit placed on file in the City Secretary's office as public record.

**ARTICLE 9
BONDS**

SECTION 9.01 Borrowing for Capital Improvements:

- (a) Borrowing:
The Council shall have the power, except as prohibited by law, to borrow money or otherwise incur debt by whatever method it may deem to be in the public interest.
- (b) General Obligation Bonds and Certificates of Obligation:
The City shall have the power to borrow money on the credit of the City and to issue general obligation bonds and certificates of obligation for permanent public improvements or for any other public purpose not prohibited by the Constitution and laws of the State of Texas, and to issue refunding bonds to refund outstanding bonds of the city previously issued. All such bonds or certificates of obligation shall be issued in conformity with the laws of the State of Texas and shall be used only for the purpose for which they were issued.
- (c) Revenue Bonds:
The City shall have the power to borrow money for the purpose of constructing, purchasing, improving, extending or repairing of public utilities, recreational facilities or any other self-liquidating municipal function not prohibited by the Constitution and the laws of the State of Texas, and to issue revenue bonds to evidence the obligation created thereby. Such bonds shall be a charge upon and payable from the properties, or interest therein pledged, or the income therefrom, or both. The holders of the revenue bonds shall never have the right to demand payment thereof out of monies raised or to be raised by taxation. All such bonds shall be used in conformity with the laws of the State of Texas and shall be used only for the purpose for which issued.
- (d) The procedure for adoption of any ordinance relative to borrowing for capital improvements shall be:
 - (1) A copy of the proposed ordinance shall be furnished to (1) each member of the City Council, (2) the City Attorney, and (3) any citizen of the City for inspection upon request to the City Secretary, at least three (3) days before the date of the meeting at which the ordinance is to be considered.
 - (2) Any ordinance relative to borrowing for capital improvements may be adopted and finally passed at the meeting at which it is introduced.

**ARTICLE 10
TAX ADMINISTRATION**

SECTION 10.01 Department of Taxation:

There may be established a Department of Taxation to assess and collect taxes, the head of which shall be the City Tax Collector, which office shall be filled by appointment by the City Manager. The Tax Collector shall give a surety bond for faithful performance of his duties, including compliance with all controlling provisions of the State law bearing upon the functions of his office, and a sum which shall be fixed by the City Council at not less than \$5,000.

SECTION 10.02 Power of Taxation:

The City Council shall have the power to levy, assess and collect taxes of every character and type not prohibited by the Constitution and laws of the State of Texas, and for any municipal purpose. The City Council shall also have the power to enact tax exemptions in accordance with the Constitution and laws of the State of Texas. The City Council shall also have the power to assess and collect such occupation taxes, licenses and franchise taxes upon trades, professions, occupations and any business transactions carried on in the City as may be authorized by the Constitution and laws of the State of Texas. All existing taxes, assessments and charges of whatever kind or nature heretofore levied by the City of Hillsboro shall remain in full force and effect until and unless expressly repealed or changed by this Charter or by ordinance.

SECTION 10.03 Taxes; When Due and Payable:

All taxes due the City of Hillsboro on real or personal property shall be payable at the office of the City Tax Collector and may be paid at any time after the tax rolls for the year have been completed and approved, but shall not be later than October 1. Taxes shall be paid before February 1 of the following year, and all such taxes not paid prior to such date shall be deemed delinquent, and shall be subject to such penalty and interest as the City Council may provide by ordinance or in the absence of such ordinance as is provided by laws of the State of Texas. The City Council may provide further by ordinance

that all taxes, either current or delinquent, due the City of Hillsboro may be paid in installments. Failure to levy, assess or collect taxes through omission and preparation of the approved tax roll shall not relieve the person, firm, corporation or other entity so omitted from the obligation to pay such current or past due taxes as shown to be payable by a recheck of the rolls and receipts for the years in question.

SECTION 10.04 Tax Liens:

The tax levied by the City is hereby declared to be a lien, charge or encumbrance upon real or personal property as of January 1 upon which the tax is due, which lien, charge or encumbrance the City is entitled to enforce and foreclose in any court having jurisdiction over the same. The lien, charge or encumbrance on the property is such as to give the state courts jurisdiction to enforce and foreclose said lien on the property on which the tax is due, not only as against any resident of this State or person whose residence is unknown, but also as against a non-resident. All taxes upon real estate and personal property shall especially be a lien and a charge upon the property on which the taxes are due, which lien may be foreclosed in any court having jurisdiction.

SECTION 10.05 Arrears of Taxes Offset to Debt Against City:

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

SECTION 10.06 Property Subject to Tax; Method of Assessment:

All property, real, personal, or mixed, lying and being within the corporate limits of the City of Hillsboro on the first day of January of each year, not expressly exempted by law, shall be subject to annual ad valorem taxation at its true market value. The mode and manner of making renditions, tax lists, assessments, tax rolls, delinquent tax rolls, collections and procedures for enforcing collection of such taxes shall be in accordance with the laws of the State of Texas governing the levy and collection of ad valorem taxes by cities, school districts and counties. All owners of property subject to taxation in the City of Hillsboro shall, between January 1, and April 1 of each year, file with the Tax Collector a full and complete sworn inventory rendition of such property held, owned or controlled within the City limits on January 1 of each year.

SECTION 10.07 Unrendered Property:

The Tax Collector shall assess all property subject to taxation which for any cause has not been rendered, placing such valuation thereon in accordance with law.

SECTION 10.08 Board of Equalization:

The City Council shall each year appoint three (3) residents, each of whom shall be qualified voters, real property owners and shall be well informed of property values within the City, as the Board of Equalization. The Board shall choose from its membership a chairman, who shall preside at all meetings of the Board, and a vice-chairman who shall act in the chairman's absence. The Board of Equalization shall convene as soon as practicable after June 1 and shall give public notice of the time and place of meeting. The Board shall adjust assessed values and, in addition to the powers herein granted, shall have all of the powers of a County Commissioners Court in regard to the equalization of assessed values of property for taxation.

SECTION 10.09 Other Rules and Regulations:

Except as otherwise provided by law or by this Charter, the Council shall have the power to provide by ordinance for the assessment and collection of all taxes, and to make such rules, regulations and mode of procedure to enforce the collection by and payment to the City Tax Collector as it may deem expedient, and may provide such penalties for the failure to pay such taxes as it may deem appropriate.

SECTION 10.10 Property Tax Code; Contract for Tax Procedures:

The City Council shall be empowered to contract by ordinance or resolution with any other entity or district for the appraisal, assessment, equalization and/or collection of taxes, as may be authorized by the Constitution and laws of the State of Texas. It is expressly provided that if any provision of this Article 10 is contrary to or in conflict with any provision of the Property Tax Code of the State of Texas, as amended, or any valid contract entered into by the City with another entity as provided by the Interlocal Cooperation Act to perform tax services for the City, the terms and provisions of the Property Tax Code and any such contract shall control.

ARTICLE 11
FRANCHISE OF 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 other further powers as may now or hereafter be granted under the Constitution and laws of the State of Texas.

SECTION 11.02 Franchise, Power of Council:

The Council shall have power to grant, amend, renew or extend by ordinance all franchises of all public utilities of every character including any person, business or corporation providing cable television or community antenna television service, operating within the City of Hillsboro, and for such purposes is granted full power. No public utility franchise shall be transferable except to persons, firms or corporations taking all or substantially all of the holder's business in the City and except with the approval of the Council expressed by ordinance. No franchise shall be granted for an indeterminate term.

SECTION 11.03 Franchise Value Not To Be Allowed:

In determining the just compensation to be paid by the City for public utility property which the City may acquire by condemnation or otherwise, nothing shall be included as to the value of any franchise granted by the City.

SECTION 11.04 Right of Regulation:

All grants, renewals, extensions or amendments to 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 for failure otherwise to comply with the terms of the franchise, such power to be exercised only after due notice and hearing.
- (b) To require an adequate and reasonable extension of plant and service, and the maintenance of the plant and fixtures at the standard necessary to render the highest reasonable quality of utility service to the public.
- (c) To establish reasonable standards of service and quality of products and prevent unjust discrimination in service or rates.
- (d) To prescribe the form of accounts kept by each such utility. If the franchise or ordinance does not prescribe the form of accounts kept by each utility, then it shall keep its accounts in accordance with the utility system of accounts for said utility prescribed by the appropriate State and/or Federal utility regulatory agencies.
- (e) To examine and audit the accounts and other records of any such utility at any time and to require annual and other reports, including reports on local operations by each such public utility.
- (f) To impose such reasonable regulations and restrictions as may be deemed desirable or conducive to the safety, welfare and accommodation of the public.
- (g) Procedural rules and regulations dealing with public utilities shall conform to the requirements of the appropriate State regulatory agencies.

SECTION 11.05 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 such property owners of any right of action for damage or injury to their property as now or hereafter provided by law.

SECTION 11.06 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 made. The right to use and maintain any extension shall terminate with the original grant. In case of an extension of 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.

SECTION 11.07 Other Conditions:

All franchises heretofore granted are recognized as contracts between the City and the grantee, and the contractual rights as contained in any such franchises shall not be impaired by the provisions of this Charter, except that the power of the City to exercise the right of eminent domain in the acquisition of any utility property is in all things reserved, and except the general power of the City heretofore existing and herein provided for to regulate the rates and services of a utility, which shall include the right to require adequate and reasonable extension of plant and service and the maintenance of the plant fixtures at the standard necessary to render the highest reasonable quality of utility service to the public. Every public utility franchise hereafter granted shall be held subject to all the terms and conditions contained in the various sections of this Article whether or not such terms are specifically mentioned in the franchises. Nothing in this Charter shall operate to limit in any way, as specifically stated, the discretion of the Council or the voters of the City in imposing terms and conditions as may be reasonable in connection with any franchise grant, including the right to require such compensation or rental as may be permitted by the laws of the State of Texas.

SECTION 11.08 Franchise Records:

The City shall compile and maintain a public record of all public utility franchises.

Section 11.09 Regulation of Rates:

The City Council shall have the power by ordinance to fix and regulate, after public hearing and reasonable notice as provided in Section 3.13 of this charter, the price of water, gas, electric lights, electric power and steam heat and to regulate and fix the fares, charges of all public transportation of every kind, whether transporting passengers, freight or baggage, and generally to fix and regulate the rates and charges of all public utilities of every kind operating within the corporate limits of the City of Hillsboro, including any person, business or corporation providing cable television or community antenna television services. However, as may be provided under the Constitution and laws of this State, the City shall also have the power to delegate such authority to the appropriate State or Federal utility regulatory agencies.

**ARTICLE 12
BOARD AND COMMISSIONS**

SECTION 12.01 Board and Commissions:

The City Council shall have authority to establish by ordinance such boards and commissions as it may deem necessary for the conduct of City business and management of municipal affairs. The authority, functions and responsibilities of such boards and commissions shall be such as is spelled out in the ordinance establishing them. All existing boards and commissions heretofore established shall be continued in accordance with the ordinance or other acts under which they have been created, or until the City Council shall by ordinance abolish, modify or alter the ordinances or acts under which they exist. Notwithstanding any other provision of this Charter the elected City Council shall have paramount authority over all matters in connection with boards and commissions affecting the budgets, appropriation of funds, expenditures, purchases and sale of properties and procedures for accounting therefor, consistent with the express provisions of this Charter and applicable provisions of the Constitution and laws of this State.

**ARTICLE 13
GENERAL PROVISIONS**

SECTION 13.01 Publicity of Records:

All public records of every office, department or agency of the City shall be open to inspection as provided in Article 6252-17a, Revised Civil Statutes of Texas, as amended, known as the Open Records Act.

SECTION 13.02 Official Newspaper:

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

SECTION 13.03 Nepotism:

No person related, within the second degree by affinity or within the third degree by consanguinity, to the Mayor or any member of the City Council or City Manager shall be employed or appointed to any office, position or clerkship of the City. This prohibition shall not apply, however, to any person who shall have been employed by the City at least two (2) years prior to and at the time of the election or appointment of the officer related in the prohibited degree.

SECTION 13.04 Personal Financial Interest:

No member of the ". . . City Council, Mayor, 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 rights or interest in any land, materials, supplies or service. The above provision shall not apply where the interest is represented by ownership of stock in a corporation involved provided such stock ownership amounts to less than one percent (1%) of the corporation stock or as falls within the scope of Article 2529c of the Revised Civil Statutes of Texas as now or hereafter amended. Any willful violation of this section shall constitute malfeasance in office, and any officer or employee of the City in violation hereof shall forfeit his office or position. Any violation of this section with the knowledge, express or implied, of the persons or corporation contracting with the City shall render the contract voidable by the City Manager or the City Council.

SECTION 13.05 Assignment, Execution and Garnishment:

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

SECTION 13.06 Power to Settle Claims:

The Council shall have the authority to compromise and settle any and all claims and lawsuits of every kind and character in favor of or against the City.

SECTION 13.07 Notice of Claim Against City:

Before the City shall be liable to damage, claim or suit for personal injury, death or damage to property, the person who is injured or whose property has been damaged or someone in his behalf shall give the City Manager or the City Secretary notice in writing, duly sworn, within thirty (30) days after the date of the alleged damage or injury stating specifically in such notice when, where and how the injury or damage was sustained, setting forth the extent of the injury or damage as accurately as possible, and giving the names and addresses of all witnesses known to the claimant upon whose testimony claimant is relying to establish the injury or damage. Nothing herein contained shall be construed to mean the City waives any rights, privileges, defenses or immunities in actions which are provided under the common law, the Constitution and laws of the State of Texas.

SECTION 13.08 Prohibited:

(a) Activities Prohibited:

- (1) No person shall be appointed to or removed from, or in any way favored or discriminated against, with respect to any City position or appointive City administrative office because of race, sex, political or religious opinions or affiliations.
- (2) No person who seeks appointment or promotion with respect to any City position or appointive City administrative office shall directly or indirectly give, render, or pay any money, service or other valuable thing to any person for or in connection with his test, appointment, proposed appointment, promotion or proposed promotion.
- (3) No City officer, employee or candidate for City office shall orally, by letter or otherwise solicit or assist in soliciting any assessment, subscription or contribution for any candidate or for any political party or political purpose whatever from any person holding any compensated City position.

(b) Penalties:

Any person who either by himself or with others willfully violates any provisions of the foregoing Sections 13.08(a) shall be ineligible for appointment or election to a position in the City for a period

of four (4) years, and if he is an officer or employee of the City at the time of such violation, he shall immediately forfeit the office or position he holds.

SECTION 13.09 Fire Limits:

The present fire limits, as they have from time to time been extended by various ordinances, are now retained and confirmed, subject to future change in the fire limits as may from time to time be made by ordinance. The City Council may by ordinance restrict the type of construction and activity allowed within the fire limits.

SECTION 13.10 Separability:

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

Section 13.11 Submission of Charter to Voters:

The Charter Commission in preparing this charter concludes 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 voters of the City of Hillsboro at the regular election to be held on April 4, 1981. Not less than thirty (30) days prior to such election, the City Council shall cause the City Secretary to mail a copy of this Charter to each registered voter of the City of Hillsboro, 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 the State of Texas and shall show the approval of such Charter by majority vote of the registered voters voting at such election.

SECTION 13.12 Amendment of 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.

SECTION 13.13 Rearrangement and Renumbering of Charter Provisions:

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 Mayor, shall be forwarded to the Secretary of State for filing.

SECTION 13.14 Administration of Oaths:

The Mayor and City Secretary, along with any other person authorized by the laws of the State of Texas, are hereby authorized to administer oaths in all affairs of the City.

SECTION 13.15 Judicial Notice:

This Charter shall be deemed a public act, may be read in evidence without pleading or proof, and judicial notice shall be taken thereof in all courts and places.

**ARTICLE 14
TRANSITIONAL PROVISIONS**

SECTION 14.01 Schedule:

- (a) Except as hereinafter provided, this Charter shall become effective immediately following its adoption by the voters on April 4, 1981, and shall be fully operable within one year following such adoption.
- (b) From and after the adoption of this Charter and until the first regular election hereunder on April 3, 1982, the composition of the City Council shall continue as provided under the prior Charter. The Mayor and members of the Council elected and qualified as of the regular election on April 4, 1981, shall continue in office until the first regular election hereunder to be held on April 3, 1982, in accordance with Section 3.01(b).

- (c) All provisions in this Charter pertaining to the size of the Council, the quorum for its meetings and voting by the council shall not become effective until after the election on April 3, 1982, and until that time all such matters shall be governed by the provisions of the prior Charter.
- (d) Section 8.01 providing for a fiscal year of the City beginning on the first day of October and ending on the last day of September shall not become effective until October 1, 1981. However, all procedures set forth in Section 8.03 shall be followed for the preparation and approval of the 1981-82 October through September fiscal year budget. The current fiscal year beginning on April 1, 1981, shall be for a period of six (6) months only ending on September 30, 1981.

SECTION 14.02 Officers and Employees:

- (a) Rights and Privileges Preserved:
Nothing in this Charter, except as otherwise specifically provided, shall affect or impair the rights or privileges of persons who are City officers or employees at the time of its adoption.
- (b) Continuance of Office or Employment:
Except as specifically provided by this Charter, if at the time this Charter takes full effect a City administrative officer or employee holds any office or position which is or can be abolished by or under this Charter, he shall continue in such office or position until adoption of some specific provision or specific action is taken under this Charter directing that he vacate the office or position.

SECTION 14.03 Effect of Charter on Existing Law:

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

SECTION 14.04 Pending Matters:

All rights, claims, actions, orders, contracts, franchises and legal or administrative proceedings in existence at the time of the adoption of this Charter shall continue until consummation. All renewals or new rights, claims, actions, orders, contracts, franchises, and legal or administrative proceedings arising after the adoption of this Charter shall be conducted pursuant to this Charter.