

CITY OF HORSESHOE BAY

ORDINANCE NO. ORD 09-05-19C

CHARTER ADOPTION ORDINANCE

**AN ORDINANCE OF THE CITY OF HORSESHOE BAY, TEXAS
ADOPTING THE HOME RULE CHARTER APPROVED BY THE
MAJORITY OF QUALIFIED VOTERS OF THE CITY OF
HORSESHOE BAY ON MAY 9, 2009; DECLARING AN
EFFECTIVE DATE; REPEALER; SEVERABILITY; AND
PROPER NOTICE AND MEETING**

WHEREAS, the City Council of the City of Horseshoe Bay, Texas ordered a special election to be held in the City on the 9th day of May, 2009 for the purpose of determining whether the City should adopt a Home Rule Charter; and

WHEREAS, the said election was duly and legally held on the 9th day of May, 2009, in conformity with the election laws of the State of Texas and applicable provisions of the Texas Local Government Code; and

WHEREAS, the results of the election have been certified and returned by the proper judges and clerks of the said election and officially canvassed; and

WHEREAS, a majority of the qualified voters voting in the election voted to adopt the home rule charter; and

WHEREAS, the City Council of Horseshoe Bay is authorized by statute to formally adopt the recently approved home rule charter;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF HORSESHOE BAY, TEXAS:

I. FINDINGS OF FACT

All of the above premises are hereby found to be true and correct legislative and factual findings of the City Council, and are hereby approved and incorporated into the body of this Ordinance as if copied in their entirety.

II. ADOPTION OF CHARTER

(a) The City Council of Horseshoe Bay hereby declares that the Home Rule Charter, attached hereto at Exhibit A and incorporated by reference for all purposes, is hereby adopted.

(b) The Mayor is hereby instructed, as soon as practicable, to certify to the Secretary of State an authenticated copy of the Charter under the City's seal showing the approval by the voters of the municipality.

EXHIBIT A
(Home Rule Charter)

CITY OF HORSESHOE BAY



HOME RULE CHARTER

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CHAPTER ONE

INCORPORATION AND BOUNDARIES

SECTION 1.01 INCORPORATION

All inhabitants of the City of Horseshoe Bay, Texas as the boundaries and limits of said City have heretofore been established and now exist, or may hereafter be established, shall constitute a municipal body politic incorporated under and known by the name “City of Horseshoe Bay” with such powers, rights, duties, privileges, and immunities as are herein provided.

SECTION 1.02 BOUNDARIES AND LIMITS

The boundaries and limits of the City of Horseshoe Bay shall be those as established and described in ordinances duly passed by the City Council of the City of Horseshoe Bay in accordance with State law. The City Secretary shall keep a correct and complete description and official map on file, showing recent annexations and disannexations, and also depicting the City’s extraterritorial jurisdiction.

SECTION 1.03 ANNEXATIONS AND DISANNEXATIONS

The City may from time to time alter its boundaries by annexing any territory adjoining its boundaries, as such boundaries may exist from time to time, in any size or shape desired, in any manner provided by State law, with or without consent of the owners of such territory or the inhabitants thereof. The City may from time to time alter its boundaries by disannexing any territory within its boundaries, as such boundaries may exist from time to time, by passage of an ordinance describing the territory being disannexed. Any additional territory annexed to the City shall be a part of the City for all purposes, and the property situated therein shall be subject to the taxes levied by the City as provided by State law. The inhabitants thereof shall be entitled to all rights and privileges of all citizens and shall be bound by the acts, ordinances, and resolutions of the City.

CHAPTER TWO

FORM OF GOVERNMENT AND POWERS

SECTION 2.01 FORM OF GOVERNMENT

The municipal government for the City of Horseshoe Bay shall be a “Council-Manager Government.” Except as otherwise provided by this Charter and the Constitution and laws of the State of Texas, all powers conferred on the City shall be exercised by a City Council to be composed of a Mayor and five (5) Council Members in places 1, 2, 3, 4 and 5 elected by qualified voters for a term of two (2) years.

SECTION 2.02 POWERS OF THE CITY

The City of Horseshoe Bay shall be a Home Rule City under the Constitution and laws of the State of Texas and shall have all powers, functions, rights, privileges, and immunities of every kind and nature granted to a Home Rule City under Article XI, Section 5, of the Constitution of the State of Texas, known as the Home Rule Amendment, and all other laws passed by the Legislature of the State of Texas relating thereto, or which may hereafter be passed by said Legislature in relation to such matters including, but not limited to, the following powers:

- (a) to assess, levy, and collect taxes for general and special purposes on all lawful subjects of taxation;
- (b) to fix and regulate the rates of gas, water, electricity, and other utilities, and to regulate and fix the fares, tolls, and charges of local telephones and exchanges, public carriers and motor vehicles where they are transporting passengers, freight, or baggage, and generally to fix and regulate the rates, tolls, or charges and the kind of service of all public utilities of every kind, to the extent allowed or required by law;
- (c) to sue and be sued, to contract and be contracted with, to buy, sell, lease, mortgage, hold, manage, and control such property as its interests require;
- (d) to make and enforce all police, fire, health, sanitary and other regulations, and pass such ordinances as may be expedient for maintaining and promoting the peace, good government, and welfare of the City, for the performance of the functions thereof, for the order and security of its inhabitants, and to protect the peace, lives, health, and property of such inhabitants, and to provide suitable penalties for the violation of any ordinance enacted by the City;

- (e) to borrow money on the faith and credit of the City by the issue or sale of bonds, warrants, certificates of obligation, notes, or other securities authorized by the laws of the State of Texas;
- (f) to acquire, by purchase, gift or devise, or by the exercise of the right of eminent domain or condemnation, and own, in fee simple or otherwise, either public or private property located inside or outside of the corporate limits of the City for the extension, improvement, and enlargement of its waterworks system, including riparian rights, water supply reservoirs, stand pipes, watersheds, dams, and the laying, building, maintenance, and construction of water mains, rights-of-way in connection therewith, and the laying, erection, establishment or maintenance of any necessary appurtenances or facilities which will furnish to the inhabitants of the City an abundant supply of wholesome water; for sewerage plants and systems; rights-of-way for water and sewer lines; parks, playgrounds, fire stations, police stations, incinerators, recycling facilities, or other garbage disposal or management plants; streets, boulevards, and alleys, or other public ways; municipal buildings, garages and parking facilities, or any rights-of-way needed in connection with any property used for any purpose hereinabove named; for the straightening or improving of the channel of any stream, branch, or drain, or for any other municipal purpose;
- (g) to institute and prosecute suits without giving security therefor, and appeal from judgments of the courts without giving supersedeas or cost bonds, other bonds, or security whatsoever;
- (h) to have the exclusive right to erect, own, maintain, and operate a waterworks, a sanitary sewer system, and to provide internet services and, if approved by the qualified voters in the City at an election for that purpose, to erect, own, maintain, and operate a gas utility, electric utility, cable television, or another utility or similar type of service, to the extent allowed by law, for the use of said City and its inhabitants and to regulate the same, including the right to prescribe rates for such utilities or services, and to make such rules and regulations as the council may deem expedient, including the power to extend water and sanitary sewer, gas, electric, television, internet, and other lines, pipes and facilities, and assess a portion or all of the cost therefore and affix a lien against the property and the owner thereof, and do anything whatsoever necessary to operate and maintain said utilities and services and to compel the owners of all property and the agents of such owners to pay all charges for water and sanitary sewer services furnished;
- (i) to acquire property within or without its boundaries or within boundaries of other municipalities for any public purpose, in fee simple or lesser interest or estate, by purchase, gift, devise, lease, eminent domain, or condemnation, when necessary or desirable to carry out any of the powers

conferred upon it by this Charter or by the Constitution and the laws of the State of Texas;

- (j) to lay out, open, close, establish, alter, widen, lower, extend, grade, supervise, maintain, and improve streets, alleys, and parks, and to regulate the use thereof and require removal of all obstructions or encroachments of every nature and character upon said public streets, sidewalks, or other public property. The City may assess landowners for the cost of improving a public highway, street, or alley benefiting the owner's land in the manner allowed by State law;
- (k) to create offices, determine the method for selection of officers, and prescribe the qualifications, duties, and tenure of office for officers; and,
- (l) to appropriate the money of the City for all lawful purposes in order to create, construct, regulate, and maintain public works, public improvements of any nature, economic development and to furnish municipal services as may be provided by resolution or ordinance of the City Council, or as required by law.

SECTION 2.03 POWERS - GENERAL

The enumeration of particular powers in the Charter shall not be held or deemed to be exclusive, but shall be in addition to the powers enumerated herein, implied thereby, or appropriate to the exercise thereof, and the City shall have and may exercise all other powers granted to a Home Rule City or not prohibited by the Constitution and laws of the State of Texas.

CHAPTER THREE

CITY COUNCIL

SECTION 3.01 MAYOR

The person elected Mayor shall be the presiding officer of all meetings of the City Council. He/She shall be the official head of the City government and shall not be able to vote on matters coming before the Council, except in case of a tie. The Mayor shall present an annual state of the City message and perform other duties as specified by the City Council, imposed by this Charter, or by applicable law. The Mayor may sign, upon authorization of the City Council, all contracts or conveyances on behalf of the City, and all bonds, warrants, and any other obligations issued under the provisions of this Charter. As the presiding officer of the City Council, the Mayor shall be responsible for preparation of the agenda for each City Council meeting. If requested by a Council Member, the Mayor must include a requested item on an agenda.

SECTION 3.02 QUALIFICATIONS

Each candidate for election to the City Council or office of Mayor shall be a qualified voter of the City, shall be not less than eighteen (18) years of age on the date of filing, shall have resided in the City not less than twelve (12) months immediately preceding the date of filing, and shall meet the requirements of the Texas Election Code. Each Council Member and the Mayor must continually reside within the City during his/her term of office, and any removal of his/her residence from the City during his/her term of office shall constitute a vacancy of his/her office, and such vacancy shall be filled as provided in Section 3.05.

Removal from residence during a term of office shall be presumed in the event that a Council Member or the Mayor is absent from more than three (3) consecutive regular Council meetings or four (4) regular Council meetings during a six month period, or it is found that a Council Member or the Mayor has changed the location of his/her voter registration or homestead exemption for ad valorem tax purposes from within the City to a location outside the City during his/her term of office. Such presumption may be rebutted by a showing that such absence or change was excused by the Council or was due to urgent circumstances beyond the control of the Council Member or the Mayor and the Council finds that it is the Council Member's or the Mayor's bona fide intent to continue to be a resident of the City.

No candidate may file in a single election for more than one (1) office or position as provided by this Charter. No employee of the City shall remain an employee of the City after filing for a place on the City Council or the office of Mayor. Such filing shall constitute a voluntary resignation.

The position of an elected Mayor or Council Member shall become vacant when the person holding such office is elected to another elective public office.

SECTION 3.03 TERM LIMITS

There shall be a limit of four (4) successive terms that a person may serve as Mayor, Council Member, or in a combination of those offices. A person who has served four successive terms may become a candidate for Council Member or Mayor for a subsequent term that commences no less than one (1) two-year term (election cycle rather than calendar year) after the date such person last ceased to hold office. A partial term to which a person is appointed or elected shall not be counted as a full two-year term for the purposes of this Section. Term limits shall apply retroactively in regard to incumbent Council Members and the Mayor in office at the time this Charter is adopted.

SECTION 3.04 COMPENSATION

Members of the City Council, including the Mayor, shall serve without compensation, except that they shall be entitled to reimbursement of all necessary and reasonable expenses incurred in the performance of their official City Council duties.

SECTION 3.05 VACANCIES IN THE CITY COUNCIL; FILLING OF VACANCIES

The office of a Council Member or office of the Mayor shall become vacant upon his/her death, resignation, or removal from office in any manner authorized by law, removal of his/her residence from the City of Horseshoe Bay, or forfeiture of his/her office.

A Council Member or the Mayor shall forfeit his/her office if he/she lacks at any time during his/her term of office any qualification for the office prescribed by this Charter or by law, or if he/she violates any express prohibition of this section or any other provision of this Charter, or if he/she is absent from more than three (3) consecutive regular Council meetings or four (4) regular Council meetings during a six month period without being excused by the City Council. The City Council shall be the final judge in matters involving forfeiture of office by a Council Member or the Mayor.

If for any reason one or more vacancies exist on the Council, the remaining Council Members shall fill such vacancy or vacancies by appointment unless a majority of the remaining Council Members votes to call a special election on the next available uniform election date for that purpose. The vacant office shall be filled for the unexpired term. A person serving as a Council Member shall be eligible for appointment or election to fill a vacancy in the office of the Mayor.

SECTION 3.06 MEETINGS; QUORUM

Regular meetings of the City Council shall be held at such times as may be prescribed from time to time by resolution of the City Council, but shall be no less frequent than one meeting each month. Special meetings shall be called by the City Secretary upon the written request of the Mayor or two (2) Members of the City Council. Notice of any regular or special meetings of the City Council shall state the subject to be considered at the meeting. All official meetings of the Council and of all committees thereof shall be open to the public as provided by law. A quorum shall consist of three (3) Members, excluding the Mayor. No action of the City Council, except as specifically provided in this Charter, shall be valid or binding unless adopted by the affirmative vote of at least two (2) Council Members. The Council shall determine its own rules of procedure, may punish its Members for misconduct, and may compel the attendance of absent Members.

SECTION 3.07 MAYOR PRO TEM

At the first meeting following each regular City election, the City Council shall elect one of its Members as Mayor Pro Tem, who shall perform the duties of Mayor in the case of the absence or inability of the Mayor to perform the duties of his/her office, and who shall, during that time, be vested with all the powers and responsibilities belonging to the Mayor. The Mayor Pro Tem shall retain the right to vote as a Council Member while serving as the Mayor.

SECTION 3.08 ABSTENTION

Should any Council Member choose to abstain from voting on any question or matter before the City Council, where such abstention is not required by law, this Charter, or an Ordinance of the City, the Council Member's abstention shall be recorded as an abstention in the official minutes of the meeting but shall be counted as a negative vote for the purpose of determining the outcome of the question that is the subject of the vote.

SECTION 3.09 INVESTIGATION BY THE CITY COUNCIL

The City Council shall have the power to inquire into the conduct of any office, department, agency, officer, or employee of the City and to make investigations as to municipal affairs, and for that purpose may subpoena witnesses, administer oaths, and compel the production of books, papers and other evidence. Failure to obey such subpoena or produce books, papers, or other evidence, as ordered under the provisions of this section shall constitute a misdemeanor and shall be punishable by fine not to exceed Five Hundred Dollars (\$500.00).

CHAPTER FOUR

CITY MANAGER

SECTION 4.01 QUALIFICATIONS; APPOINTMENT AND REMOVAL; DUTIES; COMPENSATION

The City Council shall appoint a City Manager who shall be the chief administrative and executive officer of the City, and who shall serve at the will of the City Council. The City Manager shall be appointed solely on the basis of his/her ability, experience, and training. The City Manager shall administer the business of the City, and the City Council shall ensure that such administration is in the best interests of the City. The City Council may by ordinance delegate to the City Manager any additional powers or duties it considers proper for the efficient administration of City affairs. The City Council may require the City Manager to execute a bond conditioned that he/she will faithfully perform the duties of City Manager in an amount prescribed by ordinance adopted by the City Council. The City Council shall be authorized to enter into a Contract of Employment with the City Manager and to prescribe such compensation therein as it may fix. A City Manager may not be appointed or removed except by a vote of a majority of the full City Council. The action of the City Council in suspending or removing the City Manager shall be final, it being the intention of this Charter to vest all authority and responsibility for such suspension or removal in the City Council.

SECTION 4.02 DIRECTION AND SUPERVISION OF EMPLOYEES; NON-INTERFERENCE BY COUNCIL; APPOINTMENTS AND REMOVALS OF DEPARTMENT HEADS

Except for the purpose of inquiries and investigations as provided by this Charter or otherwise by law, the City Council or its Members shall deal with City officers and employees who are subject to the direction and supervision of the City Manager through the City Manager. No Member of the Council shall give orders to any subordinate of the City Manager, either publicly or privately. It shall be permissible for a subordinate of the City Manager to answer questions and communicate information to a member of the Council, provided that such questions and information are also made known to the City Manager. Neither the Council nor any of its Members shall direct the appointment of any person to office by the City Manager or by any of his/her subordinates. The City Manager shall be responsible for, and shall have the power to appoint, suspend, and/or remove all or any one of the heads of the departments of the City with the concurrence of the City Council, except as otherwise provided by this Charter.

SECTION 4.03 SPECIFIC POWERS AND DUTIES

The City Manager shall be responsible to the City Council for the proper administration of the affairs of the City and shall have the power and duty to:

- (a) exercise control over all departments and subdivisions thereof created by this Charter or by ordinance;
- (b) prepare and recommend to the Mayor items for inclusion in the official agenda of all City Council meetings and to Chairpersons for meetings of the Boards and Commissions established by this Charter or by ordinance;
- (c) prepare and submit to the City Council the annual budget and capital program, and administer the budget as adopted by the City Council;
- (d) be responsible for the proper administration of all City affairs placed in his/her hands;
- (e) see that all terms and conditions imposed in favor of the City or inhabitants in any public utility franchise are faithfully kept and performed;
- (f) see that all laws and ordinances are enforced;
- (g) keep the City Council at all times fully advised as to the financial condition and needs of the City. Prepare and submit to the City Council an annual report and such periodic reports as are requested by the City Council on the finances and administrative activities of the City, including the report of the annual audit required by law;
- (h) appoint, suspend, and/or remove employees not otherwise provided for in this Charter. Appointments made by him/her shall be on the basis of experience and ability;
- (i) attend City Council meetings and take part in the discussion of City business;
- (j) recommend to the City Council for adoption such measures as he/she may deem necessary or expedient, execute deeds, deeds of trust, easements, releases, contracts, and all other legal instruments on behalf of the City when authorized by ordinance or resolution of the City Council; and,
- (k) perform such other duties as are specified in this Charter or as may be required by the City Council by ordinance or resolution, not inconsistent with this Charter.

SECTION 4.04 TEMPORARY AND INTERIM CITY MANAGER

The City Manager shall appoint a City officer who shall fulfill the duties of City Manager during any temporary absence of the City Manager. In the event that the City Manager is unable to perform the duties of the office, or the office becomes vacant for any reason, the City Council shall appoint an Interim City Manager who shall fulfill the duties of the office until the office is filled, but who shall not be entitled by virtue of such appointment to the compensation or employment contract rights of the City Manager.

CHAPTER FIVE

CITY SECRETARY

SECTION 5.01 APPOINTMENT; REMOVAL; COMPENSATION

The City Council shall appoint, suspend, and/or remove the City Secretary. The City Secretary shall receive such compensation as shall be fixed by the City Manager with the concurrence of the City Council.

SECTION 5.02 DUTIES OF THE CITY SECRETARY

The City Secretary shall:

- (a) attend meetings of the City Council and keep accurate records of all actions taken by the Council;
- (b) maintain the official records and files of the City;
- (c) attain and maintain status as a Notary Public, and administer oaths as authorized by law;
- (d) attest contracts, assessment certificates, ordinances, resolutions, and other legal instruments when executed by the authorized officers of the City;
- (e) serve as the election official for all City elections;
- (f) hold and maintain the City Seal and affix it to all appropriate documents as required; and,
- (g) perform such other duties as may be required by the City Manager or the City Council, this Charter, or the laws of the State of Texas.

SECTION 5.03 TEMPORARY AND INTERIM CITY SECRETARY

The City Secretary shall appoint a City officer or employee who shall fulfill the duties of City Secretary during any temporary absence of the City Secretary. In the event that the City Secretary is unable to perform the duties of the office or the office becomes vacant for any reason, the City Council shall appoint an Interim City Secretary who shall fulfill the duties of the office until the office is filled, but who shall not be entitled by virtue of such appointment to the compensation of the City Secretary.

CHAPTER SIX

MUNICIPAL COURT

SECTION 6.01 CREATION

The City Council shall, by ordinance, create and provide for a Municipal Court to be known as the Municipal Court of the City of Horseshoe Bay, Texas, and shall appoint, suspend, and/or remove one or more Municipal Judges to serve in such Court. The Court shall have all the powers and duties as are now or as may hereafter be prescribed by the laws of the State of Texas in connection with the adjudication of misdemeanor offenses within its jurisdiction.

SECTION 6.02 MUNICIPAL COURT JUDGES

The Judges of the Municipal Court shall be competent, duly qualified, and licensed attorneys in the State of Texas. The Judges of the Municipal Court shall be appointed by the City Council to a term of two (2) years and may be appointed to additional and consecutive terms. The Judges shall serve at the will and pleasure of the City Council and receive such compensation as may be determined by the City Council. This compensation shall be fixed and be commensurate with the duties performed by the Judges.

SECTION 6.03 CLERK OF THE COURT

There shall be a Clerk of the Municipal Court, and such deputy clerks as are needed, appointed, suspended, and/or removed by the City Council, who shall have the power to administer oaths and affidavits, make certificates, affix the seal of said Court as necessary and as required by law, and in general, do and perform any and all acts usual and necessary to be performed by clerks and deputy clerks of municipal courts of the State of Texas.

SECTION 6.04 JURISDICTION, POWER, AND FINES

The Municipal Court shall have jurisdiction:

- (a) over the forfeiture and collection of bonds given in proceedings therein, and to order the forfeiture of cash acceptance bonds upon the failure of the defendant to appear, and to accept the same in lieu of a fine;
- (b) concurrent with the appropriate State Court on all criminal cases arising under the criminal laws of the State, where the offense is committed within the City limits and the penalty does not exceed that which is established for Municipal Courts by State law;
- (c) over all criminal cases arising under the ordinances of the City within the City limits and outside the City limits to the extent authorized by State law;

- (d) to punish for contempt, admit to bail, and forfeit bonds under such circumstances and as provided by State law;
- (e) to enforce all processes of the Courts in accordance with State law and ordinances, punish witnesses for failing to obey subpoenas, and compel their attendance by process of attachment;
- (f) to enforce all City ordinances and to impose such fines, forfeitures, and penalties, criminal and civil, as are provided therein; and,
- (g) to exercise all powers and authority granted to municipal judicial bodies under State law.

SECTION 6.05 COSTS, FINES, AND PENALTIES

All costs, fines, and penalties imposed by the Municipal Court shall be paid into the City Treasury for the use and benefit of the City, as may be consistent with present and future State laws.

CHAPTER SEVEN

CITY ATTORNEY

SECTION 7.01 APPOINTMENT

The City Council shall appoint a competent licensed attorney of recognized ability, and he/she shall be known as the City Attorney. The City Attorney shall serve at the will and pleasure of the City Council.

SECTION 7.02 COMPENSATION

The City Attorney shall receive for his/her services such compensation as may be fixed by the City Council at the time of his/her appointment, and from time to time by appropriate resolution.

SECTION 7.03 DUTIES OF THE CITY ATTORNEY

The City Attorney shall be the legal adviser of, and attorney for, all of the offices and departments of the City and shall represent the City in all litigation and legal proceedings, provided, however, that the Council may retain special counsel at any time it deems appropriate and necessary. The City Attorney shall perform other duties prescribed by the Charter, ordinance, or resolution of the City Council.

CHAPTER EIGHT

CITY DEPARTMENTS

SECTION 8.01 ADMINISTRATIVE DEPARTMENTS

There shall be such administrative departments as are established by this Charter and as may be established by ordinance, and, except as otherwise provided in this Charter, such administrative departments shall be under the direction and supervision of the City Manager. The Council may discontinue, re-designate, or combine any of the departments and/or administrative offices of the City. The head of each department shall be appointed by the City Manager with the concurrence of the Council, except as otherwise provided by this Charter, and such Department head shall have supervision and control over his/her department. The same individual may head two (2) or more departments, and the City Manager may head one (1) or more departments.

SECTION 8.02 POLICE AND FIRE DEPARTMENTS

There shall be a Police Department of the City of Horseshoe Bay, at the head of which shall be the Chief of Police. There shall be a Fire Department of the City of Horseshoe Bay, at the head of which shall be a Fire Chief. The head of each of these departments shall be appointed, suspended, and/or removed by the City Council, and such Department head shall have supervision and control over his/her department. The duties of the Chief of Police and Fire Chief and the other officers and personnel of such departments shall be as provided by ordinance.

CHAPTER NINE

CITY FINANCE

SECTION 9.01 TAX ADMINISTRATION

There shall be a Department of Taxation to assess and collect taxes, at the head of which shall be the City Tax Assessor and Collector, who shall be appointed by the City Manager with concurrence of the City Council. The Tax Assessor and Collector shall provide a bond with such sureties and in such amount as the Council may require, and the premiums on such bond shall be paid by the City. The City Council may provide for such services by contract.

The City Council shall have the power, and is hereby authorized to levy, assess, and collect annual taxes not to exceed the maximum limit set by the Constitution and laws of the State of Texas, as they now exist or as they may be amended, on each one hundred dollars (\$100) assessed valuation of all property having a location within the corporate limits of the City and not exempt from taxation by the Constitution and laws of the State of Texas.

All taxes due the City shall be payable at the office of the Assessor and Collector and may be paid at any time after the tax rolls for the year have been completed and approved, which completion and approval shall be not later than October 1. Taxes shall be paid before February 1 of each year succeeding the year for which the taxes are levied, and all such taxes not paid prior to such date shall be deemed delinquent and shall be subject to such penalty and interest as may be provided by law. Failure to levy and assess taxes through omission in preparation of the approved tax rolls shall not relieve the person, firm, or corporation so omitted from the obligation to pay such current or past due taxes shown to be payable by recheck of the rolls and receipts for the years in question, unless otherwise provided by law.

All property having its location in the City on the first day of January of each year shall stand charged with a lien in favor of the City from said date for the taxes due thereon. The lien provided hereby shall be superior to all other liens except other tax liens, regardless of when such other liens were created. All persons purchasing any of said property on or after the first day of January in any year shall take the same subject to the lien herein provided. In addition to the lien herein provided on the first day of January of any year, the owner of property subject to taxation by the City shall be personally liable for the taxes due thereon for such year. The City shall have the power to sue for and recover personal judgment for taxes without foreclosure, or to foreclose its lien or liens, or to recover both personal judgment and foreclosure. In such suit where it appears that the description of any property in the City assessment rolls is insufficient to identify such property, the City shall have the right to plead a good description of the property to be assessed, to prove the same, and to have its judgment foreclosing the tax lien and/or for personal judgment against the owner for such taxes as such ownership and property appears on the approved tax rolls furnished by the Central Appraisal District of the County where the property is located.

SECTION 9.02 FISCAL YEAR

The fiscal year of the City shall begin on the first day of October and end on the thirtieth day of September of the following year, provided that the fiscal year may be changed by the Council by ordinance.

SECTION 9.03 SYSTEM OF INTERNAL CONTROL

The City, under the direction of the City Manager, shall maintain a documented system of internal control designed to safeguard from loss all City assets, to assure timely and accurate reporting of its financial position and operating results and to assure compliance with applicable laws and regulations.

The City shall request its independent Auditor to recommend improvements related to internal control weaknesses, if any, identified in the annual audit. Any such recommendations shall be evaluated under the direction of the City Manager, who shall report the results of the evaluation and any resulting changes in controls to the City Council.

The City Council may, by ordinance, require a bond with such surety and in such amount as the Council deems appropriate for any officer or employee of the City who receives, disburses, or has custody of or frequent access to public monies, funds, notes, bonds, or other securities belonging to the City. The premiums on such bonds shall be paid by the City.

SECTION 9.04 ANNUAL BUDGET

It shall be the duty of the City Manager to submit an annual budget not later than thirty (30) days prior to the date the City Council makes its tax levy for the fiscal year. Such annual budget shall reflect authorized expenditures equal to or less than estimated income for the year, plus funds available from prior years. The Council shall call a public hearing or hearings on the budget. The Council may adopt a budget, with or without amendments, only by a vote of a majority of the full Council. The Council may increase or decrease amounts or programs and may delete any programs or amounts except expenditures required by law or for debt service, provided that no increase may cause the authorized expenditures to exceed the total of the estimated income for the current fiscal year, plus funds available from prior years. During the fiscal year the City shall spend municipal funds in strict compliance with the budget and the City Council may make changes to the budget it considers warranted by the law or by the best interest of the City. The Council may authorize an emergency expenditure only in the event of grave public necessity to meet an unusual and unforeseen condition that could not have been included in the original budget through the use of diligent thought and attention. At the close of each fiscal year, the unencumbered balance of each appropriation shall revert to the fund from which it was appropriated and shall be subject to future appropriations, but appropriations may be made in furtherance of improvements or other objects of work of the City which will not be completed within the current year.

SECTION 9.05 FAILURE TO ADOPT ANNUAL BUDGET

If the Council fails to adopt the budget by the thirtieth day of September, the amounts appropriated for the current fiscal year shall be deemed adopted for the ensuing fiscal year on a month-to-month basis with all items in it prorated, until such time as the Council adopts a budget for the ensuing fiscal year. The property tax levy will be set to equal the total current fiscal year tax receipts, unless the ensuing fiscal year budget is approved by the thirtieth day of September of the current fiscal year.

SECTION 9.06 CAPITAL IMPROVEMENTS PLAN

During the fiscal year in which this Charter is adopted, and annually thereafter, the City Manager shall prepare, and the City Council shall modify as it deems appropriate and shall adopt a Capital Improvements Plan that identifies future capital projects and equipment purchases, provides a planning schedule, and identifies options for financing the Plan. Goals of the Plan shall be to allow for a systematic evaluation of all potential projects, the ability to stabilize debt and consolidate projects in order to reduce costs and borrowing, and to serve as a public relations and economic development tool. The Plan should rank projects in order of preference, justify such projects, and to the extent feasible, include a timetable for the commencement, construction, and completion of projects. The Plan shall cover a period of not less than five years from the date of its adoption, review, or amendment, and shall be reviewed, updated, and amended annually by the City Council during the budget preparation and adoption process.

SECTION 9.07 BONDS AND OTHER EVIDENCES OF INDEBTEDNESS

The City shall have the right and power to borrow money on the credit of the City for public purposes by whatsoever method it may deem to be in the public interest. The City shall further have the power to borrow money on the credit of the City and to issue general obligation bonds and other evidences of indebtedness 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 and other evidences of indebtedness of the City previously issued. All such bonds shall be issued in conformity with the laws of the State of Texas. The City shall further have the power to borrow money for the purpose of constructing, acquiring, improving, extending, or repairing of public utilities, recreational facilities, or any other self-liquidating municipal functions not prohibited by the Constitution and laws of the State of Texas and to issue revenue bonds to evidence the obligations created thereby. Such bonds shall be a charge upon and payable from the properties, or interest therein pledged, or the income therefrom, or both. All such bonds shall be issued in conformity with the laws of the State of Texas. The City shall have the power to borrow money for public improvements or any public purpose in any other manner provided by law, including tax anticipation notes, time warrants, certificates of obligation, or by any other municipal financing method allowed by law. All bonds and evidences of indebtedness of the City having been approved by the Attorney General and registered by the Comptroller of Public Accounts shall thereafter be incontestable in any court or other forum for any reason and shall be valid and binding obligations of the City in accordance with their terms for all purposes.

SECTION 9.08 GENERAL OBLIGATION BOND ORDINANCES AND ELECTION

The City Council may only authorize the issuance of general obligation bonds by a bond ordinance passed by an affirmative vote of a majority of all members of the City Council and approved by a majority of the qualified voters voting in an election called for the purpose of authorizing the issuance of such bonds.

The bond ordinance shall provide for proper notice, the calling of the election, and the propositions to be submitted. The latter shall distinctly specify:

- (a) the purpose for which the bonds are to be issued, and, where possible, the probable period of usefulness of the improvements for which the bond funds are to be expended;
- (b) the amount thereof;
- (c) the estimated rate of interest;
- (d) the estimated levy of taxes sufficient to pay debt service; and,
- (e) that the bonds to be issued shall mature serially within a given number of years not to exceed forty (40).

The bond ordinance and the manner of conducting the election shall in all respects conform to the laws of the State of Texas.

CHAPTER TEN

BOARDS AND COMMISSIONS

SECTION 10.01 PLANNING AND ZONING COMMISSION

The City Council shall create a Planning and Zoning Commission of the City of Horseshoe Bay to the extent required by law and shall provide for its administration and functions by ordinance. The Comprehensive Plan for Development, zoning ordinance, and zoning maps adopted by the City prior to adoption of this Charter shall remain in effect and shall be utilized by the Commission until amended or modified, as may be necessary.

SECTION 10.02 BOARD OF ADJUSTMENTS

The City Council may appoint a Board of Adjustments of the City of Horseshoe Bay to the extent allowed by law and shall provide for its administration and functions by ordinance. The City Council shall be authorized to perform all of the functions of the Board of Adjustments, and serve as such, if no Board of Adjustments is appointed.

SECTION 10.03 OTHER BOARDS AND COMMISSIONS

The City Council shall have the power and is hereby authorized to create, abolish, establish, and appoint such other boards, commissions, and committees, composed of citizens of the City of Horseshoe Bay or residents within the City's extraterritorial jurisdiction, as it deems necessary to carry out the functions of the City and to prescribe the purpose, functions, and tenure of each board, commission, or committee.

CHAPTER ELEVEN

ORDINANCES

SECTION 11.01 PROCEDURE FOR PASSING ORDINANCES AND RESOLUTIONS

The City Council shall evidence its official actions by written ordinances, resolutions, or oral motions. The style of all ordinances shall be: "BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF HORSESHOE BAY, TEXAS" and the style of all resolutions shall be "BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF HORSESHOE BAY, TEXAS." Each proposed ordinance shall not be amended or repealed except by adoption of another ordinance. All ordinances and resolutions passed by the City Council shall become effective immediately from and after passage except where publication of a caption is required or where the ordinance, law, or other provisions of this Charter provide otherwise, in which case the effective date shall be as prescribed in the ordinances.

SECTION 11.02 PUBLICATION OF ORDINANCES

The descriptive caption or title of each ordinance containing a penalty shall be published at least once in the official newspaper of the City, unless otherwise provided by law or this Charter.

SECTION 11.03 CODE OF ORDINANCES

The City Council shall have the power to cause the ordinances of the City to be printed, in code form, as often as the Council may deem advisable, provided that failure to print the ordinances as herein provided shall not affect the validity of the same.

SECTION 11.04 ORDINANCES AND RESOLUTIONS NOW IN EFFECT

All ordinances, portions thereof, resolutions, contracts, bonds, obligations, rules and regulations now in force under the City government of the City of Horseshoe Bay and not in conflict with the provisions of this Charter, shall remain in force under this Charter until altered, amended, or repealed by the City Council in the manner required by law.

CHAPTER TWELVE

ELECTIONS

SECTION 12.01 CITY ELECTIONS

Beginning on the uniform election date for November, 2009, and on the November election date in odd-numbered years thereafter, each qualified voter shall be entitled to vote for the office of Mayor and Council Member for Places 4 and 5 for a term of two (2) years. On the uniform election date for November, 2010, and on the November election date in even-numbered years thereafter, the Council Members for Places 1, 2, and 3 shall be elected for a term of two (2) years. The Mayor shall be elected by a majority vote, and Council Members shall be elected at large by a plurality vote. All qualified voters of the State who are registered voters of the City of Horseshoe Bay shall have the right to vote in City elections. Each voter shall have one vote for each place being filled. The candidate for a Council position receiving the most votes will be designated as elected to the lowest numbered place, the candidate receiving the second most votes will be designated as elected to the next lowest numbered place, and if three places are being contested, the candidate receiving the third most votes shall fill the third numbered place. The City Council may change the regular city election to an alternative uniform date by ordinance.

SECTION 12.02 SPECIAL ELECTIONS

The City Council, by ordinance or resolution, may call such special or run-off elections as are authorized by the law or this Charter, shall fix the time and place of holding the same, and shall provide all means for holding such special or run-off elections, provided that every such election shall be called and held according to applicable State law governing elections.

SECTION 12.03 REGULATION OF ELECTIONS

All City elections shall be governed by the Constitution of the State of Texas, general laws of the State of Texas, this Charter, and by ordinance of the City regulating the holding of municipal elections. The City Council shall appoint the Election Judges and other election officials and shall provide for the compensation of all election officials in City elections and for all other expenses in holding said elections.

SECTION 12.04 CANDIDATES; FILING FOR OFFICE

Any qualified person as prescribed by Section 3.02 may make application to have his/her name placed on the official ballot for the position of Council Member or Mayor. The application shall be made in accordance with all applicable laws and shall state that the candidate agrees to serve if qualified and elected. Each candidate shall execute such oath and other official form of affidavit as may be required by the City Secretary pursuant to the Texas Election Code. The City Secretary shall review the application and notify the candidate whether or not the

application satisfies the requirements of this Charter and the Texas Election Code. If an application is insufficient, the City Secretary shall return it immediately to the candidate with a statement of such insufficiency. The candidate may file a new application within the regular time for filing applications. The City Secretary shall keep on file all applications found sufficient at least until the expiration of the term of office for which such candidates filed.

SECTION 12.05 OFFICIAL BALLOT

The order on the ballot of the names of the candidates shall be determined by the City Secretary in accordance with the procedures set out in the Texas Election Code. The name of each candidate seeking an elective office, except those who have withdrawn, died, or become ineligible prior to the time permitted for withdrawal, shall be printed on the official ballot in the name designated by the candidate in accordance with the Texas Election Code. Provisions for early voting shall be made as provided by the Texas Election Code.

SECTION 12.06 CANVASSING AND ELECTION RESULTS

Returns of every municipal election shall be delivered forthwith by the Election Judges to the City Secretary, with a copy of the returns being sent to the Mayor. The City Council shall canvass the returns, validate the qualifications of the candidates as prescribed in Section 3.02, and shall declare the official results of the election not less than three (3) days nor more than eleven (11) days after the date of the election, or as may be otherwise provided by the Texas Election Code.

CHAPTER THIRTEEN

FRANCHISES

SECTION 13.01 POWER TO GRANT FRANCHISE

The City Council shall have the power, subject to the provisions hereof, by ordinance to confer upon any person, firm, corporation, or other legal entity the franchise or right to use the public property of the City for the purpose of furnishing to the public any general public service or benefit, including but not limited to, heat, light, power, telephone service, transportation, cable, or other telecommunication providers for compensation or hire. No franchise shall be granted by the City to any person, firm, corporation, or other legal entity to own, control, or operate a waterworks therein, except for the purpose of utilizing public property for transmission of service through the City. The City shall have the power by ordinance to grant, renew, and extend all franchises of all public utilities of every character operating within the City. No such franchise shall be granted until after a public meeting shall have been called and held and until such ordinance shall have been passed and accepted by the franchisee. No such ordinance shall become effective until forty-five (45) days after its passage.

SECTION 13.02 TRANSFER OF FRANCHISE

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

SECTION 13.03 OWNERSHIP, USE, AND CONTROL OF STREETS

No franchise or easement involving the right to use the same either along, over, across, under, or upon the streets, alleys, highways, parks, and public ways shall be valid unless granted in compliance with the terms of this chapter. No granting of a franchise by ordinance pursuant to this chapter shall convey any ownership or interest in any property of the City other than the right to use the public property for purposes of such franchisee's operations as expressed in the ordinance granting such franchise.

SECTION 13.04 RIGHT OF REGULATION

In granting, amending, renewing, and extending public service and utility franchises, the City shall retain the right to:

- (a) repeal such franchise by ordinance for failure to comply with the terms thereof, such power to be exercised only after due notice and hearing;
- (b) require an adequate extension of plant and service, as is necessary to provide adequate service to the public, and maintenance of the plant and fixtures at the highest reasonable standard of efficiency;

- (c) establish reasonable standards of service and quality of products to the extent allowed or required by law;
- (d) impose regulations to ensure safe, efficient, and continuous service to the public. The franchise holder in opening and refilling all earth openings shall re-lay the pavement and do all other work necessary to complete restoration of streets, sidewalks, or grounds to a condition equally as good as or better than when disturbed;
- (e) regulate, locate, or prohibit the erection of any and all poles, wires, or other utility equipment, conveyance, facilities, or structures, on the streets, alleys, and public places of the City, and to cause the same to be changed, removed, altered, increased, diminished, placed underground, or be supported by poles of such material, kind, quality, and class as may be determined by the City Council whether the same be telephone, electric, cable television, or otherwise, and to enforce the provisions hereof by appropriate action in any court of competent jurisdiction; and,
- (f) require the relocation of poles, wires, or other utility equipment, conveyance, or structures located on or in public property, solely at the expense of the owner of such facilities, in order to accommodate the construction, installation, repair, removal, or modification of any public works project of the City.

SECTION 13.05 COMPENSATION FOR FRANCHISE

All persons, corporations, or association of persons, to whom a franchise or privilege may hereafter be granted shall pay to the City for such privilege such compensation as may be fixed by the City Council in the grant of such franchise or privilege. Such compensation as fixed by contract or provided by any Texas statute or statutes and any amendments thereto shall become due and payable at such time as the City Council shall establish in the grant of such franchise or privilege. The failure of any franchisee to pay said compensation when due shall result in forfeiture of the franchise or privilege.

SECTION 13.06 COUNCIL TO FIX AND REGULATE CHARGES, FARES, OR RATES

Subject to law, the City Council shall determine, fix, and regulate the charges, fares, or rates of any person, firm, or corporation enjoying a franchise or privilege granted under the provisions of this chapter and shall prescribe the kind of service to be furnished to the public by such person, firm, or corporation and the manner in which it shall be rendered and may from time to time alter or change such rules, regulations, and compensation after reasonable notice and public hearing, provided that the rates, charges, and fares so fixed shall at all times be reasonable and permit a reasonable net return on the actual value of the physical properties and equipment of such utilities. In this connection, the City Council may require any utility or franchise holder to furnish such financial reports and information as the City Council may request, including

reports of actual operating costs and the financial condition of its operations within the City, and the City Council may employ, at the expense of such franchisee, necessary outside experts to examine and audit the accounts and records of the franchisee to determine the reasonableness of such charges, fares, and rates.

CHAPTER FOURTEEN

INITIATIVE, REFERENDUM, AND RECALL

SECTION 14.01 POWER OF INITIATIVE

The people of the City reserve the power to direct legislation by initiative and, in the exercise of such power, may propose any ordinance not in conflict with this Charter or law, except an ordinance appropriating money or authorizing the levy of taxes, an ordinance amending an ordinance appropriating money or levying taxes, or an ordinance repealing an ordinance appropriating money or levying taxes. Any initiated ordinance may be submitted by a petition signed by registered voters of the City equal in number to at least twenty (20) percent of the number of registered voters residing in the City at the time the petition is filed.

SECTION 14.02 POWER OF REFERENDUM

The people of the City reserve the power to approve or reject at the polls any legislation enacted by the City Council, which is subject to the initiative process under this Charter, unless the repeal of such legislation would cause the City to be in breach of an executed contract with a third party. Within forty-five (45) days after the final adoption or publication, whichever date is later, of any ordinance which is subject to referendum, a petition, signed by registered voters of the City equal in number to at least twenty (20) percent of the number of registered voters residing in the City at the time the petition is filed, may be filed with the City Secretary requesting that any such ordinance be either repealed or submitted to a vote of the people. When such a petition has been certified as sufficient by the City Secretary, the ordinance so specified in the petition shall not go into effect, or further action shall be suspended if it shall have gone into effect, until and unless it is approved by the voters as herein provided.

SECTION 14.03 FORM OF PETITION FOR INITIATIVE AND REFERENDUM

All petition papers circulated for the purpose of an initiative or referendum shall be uniform in size and style and in accordance with the petition requirements of the Texas Election Code.

SECTION 14.04 FILING, EXAMINATION, AND CERTIFICATION OF PETITIONS

All papers comprising a petition for initiative or referendum shall be assembled and filed with the City Secretary as one instrument. Within thirty (30) days after the petition is filed, the City Secretary shall determine whether each paper of the petition has a proper statement of the circulator and whether the petition has been signed by a sufficient number of registered voters and shall hold any petition paper entirely invalid which does not have attached thereto the statement signed by the circulator thereof. If the City Secretary fails to act within thirty (30)

days then the petition will be deemed certified. The City Secretary shall certify the result of this examination to the City Council at its next regular meeting. If the City Secretary shall certify that the petition is insufficient, the certificate shall specify the particulars in which it is defective and shall at once notify in writing the person filing the petition of this finding. A petition may be amended at any time within ten (10) days after a notice of insufficiency has been sent by the City Secretary, by filing a supplementary petition. In such event, the same procedures shall then be followed by the City Secretary and City Council as in the case of the original petition for the same purpose. The finding of insufficiency of an initiative petition shall not prejudice the filing of a new petition for the same purpose.

SECTION 14.05 COUNCIL CONSIDERATION AND SUBMISSION TO VOTERS

When the City Council receives an authorized initiative petition, certified by the City Secretary to be sufficient, the City Council shall either (a) pass the initiated ordinance without amendment within twenty (20) days after the date of the certification to the City Council or (b) submit the initiated ordinance without amendment to a vote of the qualified voters of the City at a regular or special election to be held on the next available uniform election date of the State of Texas.

When the City Council receives an authorized referendum petition, certified by the City Secretary to be sufficient, the City Council shall reconsider the referred ordinance. If, upon such reconsideration, such ordinance is not repealed, it shall be submitted to the voters of the City at a regular or special election to be held on the next available uniform election date of the State of Texas.

Special elections on initiated or referred ordinances shall not be held more frequently than once each six (6) months, and no ordinance on the same subject as an initiated ordinance which has been defeated at any election may be initiated by the voters within a two-year term voting cycle (rather than calendar years) after the date last considered.

SECTION 14.06 BALLOT FORM AND RESULTS OF ELECTION

Ordinances submitted to the qualified voters in accordance with the initiative and referendum provisions of this Charter shall be submitted by ballot title, which shall contain a clear, concise statement, without argument, of the substance of such ordinance. The ballot used shall have below the ballot title the following proposition, one above the other in the order indicated:

_____ “FOR”	ADOPTION OF THE ORDINANCE
_____ “AGAINST”	ADOPTION OF THE ORDINANCE

Any number of ordinances may be voted on at the same election and may be submitted on the same ballot.

If a majority of the qualified voters voting on a proposed initiated ordinance shall vote in favor thereof, it shall thereupon become an ordinance of the City. A referred ordinance which is not approved by a majority of the voters voting thereon shall thereupon be deemed repealed. If conflicting ordinances are approved by the voters at the same election, the one receiving the greatest number of affirmative votes shall prevail to the extent of such conflict.

SECTION 14.07 POWER OF RECALL

The people of the City reserve the power to recall the Mayor or any other Member of the City Council and may exercise such power by filing with the City Secretary a petition, signed by registered voters of the City equal in number to at least thirty (30) percent of the number of registered voters residing in the City at the time the petition is filed, demanding the removal of the Mayor or other Member of the City Council. The petition shall be signed and verified in the manner required for an initiative petition, shall contain a statement of the grounds upon which the removal is sought, and one of the signers of each petition paper shall make an affidavit that the statements made therein are true.

SECTION 14.08 RECALL ELECTIONS

All papers comprising a recall petition shall be assembled and filed with the City Secretary. Within thirty (30) days after the petition is filed, the City Secretary shall determine that the petition meets the requirements of Section 14.07 and, if found to be sufficient, shall certify this fact to the City Council at its next regular meeting. If a recall petition is found to be insufficient, it may be amended within ten (10) days after notice of such insufficiency by the City Secretary, by filing a supplementary petition. In that event, the same procedures shall then be followed by the City Secretary and the City Council as in the case of an original petition. The finding of insufficiency of a recall petition shall not prejudice the filing of a new petition for the same purpose.

The City Council Member or Mayor whose removal is sought by a recall petition may, within five (5) days after such petition has been certified and presented to the City Council, request in writing that a public hearing be held to permit him/her to present facts pertinent to the charges specified in the petition. In this event, the City Council shall order such public hearing to be held not less than five (5) days or more than fifteen (15) days after receiving such request for a public hearing.

If the City Council Member or Mayor whose removal is sought does not resign, the City Council shall order a recall election and fix a date for such election to be held on the next available uniform election date of the State of Texas.

SECTION 14.09 RECALL BALLOT

Ballots used in recall elections shall read as follows: "SHALL (name of person or persons) BE REMOVED FROM THE CITY COUNCIL BY RECALL?" Below such question there shall be printed the following as to each person named:

_____ "FOR" **THE REMOVAL OF (name of person)**

_____ "AGAINST" **THE REMOVAL OF (name of person)**

SECTION 14.10 RESULTS OF A RECALL ELECTION

If a majority of the votes cast at a recall election is against removal of a Council Member or Mayor named on the ballot, that person shall continue in office. If a majority of the votes cast at such election are for the removal of the City Council Member or Mayor named on the ballot, the City Council shall immediately declare the office vacant, and such vacancy shall be filled in accordance with the provisions of this Charter. A City Council Member or Mayor thus removed shall not be a candidate to succeed himself/herself in an election called to fill the vacancy created, nor shall he/she be qualified to be a candidate for Council for one complete election cycle of two years from the next regular election date following his/her removal.

SECTION 14.11 LIMITATIONS ON RECALL

No recall petition shall be filed against the Mayor or any other Council Member within six (6) months after he/she first takes office, nor within six (6) months after an election for his/her recall, nor within six (6) months of the end of his/her term.

CHAPTER FIFTEEN

GENERAL AND TRANSITIONAL PROVISIONS

SECTION 15.01 CONTINUATION OF PRESENT OFFICES

All persons holding elective offices that are retained under this Charter will continue to fill those offices for the terms to which they were elected and shall be elected prospectively in accordance with Section 2.01, "Form of Government."

All department heads or persons holding administrative positions at the time this Charter takes effect shall continue in such positions and in the performance of their duties in the capacities to which they have been appointed until provisions shall have been made in accordance with the terms of this Charter for the modification of such duties or the discontinuance of such position, if any. The powers conferred and the duties imposed upon any office, department, or agency of the City by the laws of the State of Texas shall, if such office, department, or agency be abolished by this Charter or under its authority, be thereafter exercised and discharged by the office, department, or agency designated by the City Council, unless otherwise provided herein.

SECTION 15.02 PENDING MATTERS AND PRESERVATION OF RIGHTS

All rights, claims, actions, orders, ordinances, contracts, and legal or administrative proceedings existing before the adoption of this Charter shall continue except as modified by this Charter and shall be maintained, carried on, or dealt with by the City department, office, or agency appropriate under this Charter.

SECTION 15.03 CONFLICT OF INTEREST

No Member of the City Council, the Mayor, or any other officer, whether elected, appointed, paid or unpaid, who exercises responsibilities beyond those that are advisory in nature, shall participate in a vote or decision on a matter involving a business entity or real property in which such officer has a substantial interest, as defined by Chapter 171, Texas Local Government Code.

SECTION 15.04 NEPOTISM

No member of the City Council, Mayor, or City Manager shall appoint, vote for, or confirm the appointment to any paid office, position, clerkship, employment or duty, any person, related within the second degree of affinity or within the third degree of consanguinity to any member of the City Council, Mayor, or City Manager, when the salary, fees, or compensation of such appointee is to be paid for, directly or indirectly, out of or from public funds or fees of office of any kind or character whatsoever. The position of a person who was previously employed or

engaged by the City prior to the appointment or election of the City Council Member, Mayor, or City Manager to whom that person is related shall not be affected by this Section, provided that the person was previously and continuously employed or engaged for at least thirty (30) days, in the case of appointment, and six (6) months, in the case of election, before the date the Council Member, Mayor or City Manager took office. In such a continuation of employment situation, the Council Member, Mayor or City Manager shall not participate in the deliberation or voting upon the appointment, reappointment, employment, confirmation, re-employment, change in status, compensation, or dismissal of the person to whom he or she is related unless the action that is taken is in regard to a bona fide class or category of employees that includes the person.

SECTION 15.05 CODE OF ETHICS

The City Council shall adopt a Code of Ethics, applicable to elected and appointed officials and all officers and employees of the City, by which the conduct of such officials, officers and employees shall be held to an unimpeachable level of ethical behavior in the conduct of the affairs of the City. Such Code shall be consistent with all applicable state laws and the rulings and regulations of the State Ethics Commission. Each official, officer and employee shall be required, as a condition of holding office or employment, to sign a statement by which he agrees to abide by the Code at all times while performing his duties on behalf of the City. The City Manager shall cause the Code to be reviewed no less than once every two years and shall make recommendations to the City Council for any modification thereto that may be in the best interest of the City.

SECTION 15.06 OFFICIAL NEWSPAPER

The City Council shall designate by resolution a newspaper of general circulation in the City as the City's official newspaper. All ordinances, captions of ordinances, notices, and other matters required to be published by this Charter, by ordinance, or by law, shall be published in the official newspaper. The Council shall have authority to designate other newspapers for publication of notices and general information in addition to notices required by this Charter, ordinance, or law.

SECTION 15.07 JUDICIAL NOTICE

This Charter shall be recorded in the City Secretary's office in a book kept for that purpose. As soon as practicable after its adoption, an authenticated copy of the Charter shall be certified to the Secretary of State of the State of Texas, at which time the Charter becomes a public act. Such Charter provisions may be read in evidence without pleading or proof of their provision, and judicial notice shall be taken thereof in all courts and places.

SECTION 15.08 PROPERTY NOT SUBJECT TO GARNISHMENT AND EXECUTION

No property owned or held by the City shall be subject to any garnishment or execution of any kind or nature except as specifically provided by law.

SECTION 15.09 PUBLIC MEETINGS AND RECORDS

All meetings of the City Council and all boards, commissions and committees appointed by the City Council shall be governed by the provisions of Chapter 551, Texas Government Code and any amendments thereto with regard to the posting of agenda and the holding of public meetings. All public records of every officer, department, or agency of the City shall be open to inspection by any citizen at all reasonable business hours, provided that records excepted from public disclosure by Chapter 552, Texas Government Code and any amendments thereto shall be closed to the public and not considered public record for the purpose of this section.

SECTION 15.10 INDEMNIFICATION OF OFFICERS

The City Council shall, by appropriate ordinance, provide for the indemnification and defense of the officers and employees of the City, including the Members of the City Council, or any board, commission, or committee, including volunteers acting within the scope of duties assigned by the City, against any loss, cost, or expense, including court costs and attorney's fees, to the extent allowed by law, arising out of the claim, suit, judgment or settlement thereof, resulting from any alleged negligent act or omission of such officer, employee, member, or volunteer during the discharge of his/her duties and within the scope of his/her office, employment, membership, or assigned voluntary position with the City, or in any other case where the City is directed or authorized by law to do so. Such indemnification will not be provided for any act arising out of the intentional or knowing violation of any penal statute or ordinance or arising out of any conduct determined by final judgment to be an act of fraud or to have been taken with the intent to deceive or defraud, or for any personal or private business of such officer, employee, member, or volunteer, or for the gross negligence or official misconduct, or willful or intentionally wrongful act, or omission of such officer, employee, member, or volunteer.

SECTION 15.11 CLAIMS FOR DAMAGE OR INJURY

The City of Horseshoe Bay shall never be liable for any personal injury or death, or for claims for damages or injury to real or personal property, alleged to have been caused by the negligent act or omission of any officer, agent, or employee of the City unless the person who has been injured, the person whose property has been injured or damaged, or someone on his/her behalf, shall file a claim in writing with the City Secretary within six (6) months after said injury, death, or damage has occurred, stating specifically when, where, and how the injury, death, or damage occurred, the full extent thereof, the amount of damages claimed or asserted, and the basis claimed for liability on the part of the City.

SECTION 15.12 SUCCESSION AND CONTINUITY OF AUTHORITY IN EVENT OF EMERGENCY

The City Council shall provide, by ordinance or emergency response plan, for succession of office authority and power in the event of an emergency resulting in the loss or absence of the Mayor, Mayor Pro Tem, City Manager, and other officers exercising critical authority.

SECTION 15.13 AMENDMENT OF THIS CHARTER

Amendments of this Charter may be submitted by the City Council to the qualified voters of the City for their approval at an election, no more often than once every two-year election cycle, held in accordance with Chapter 9, Texas Local Government Code. A majority of qualified voters voting in favor of each amendment will be required for the adoption of that amendment.

SECTION 15.14 BOND OR SECURITY NOT REQUIRED

It shall not be necessary in any action, suit, or proceeding in which the City is a party, for any bond, undertaking, or security to be executed on behalf of said City. All such actions, suits, appeals, or proceedings shall be conducted in the same manner as if such bond, undertaking, or security had been given, and said City shall be liable as if such obligation had been duly given and executed.

SECTION 15.15 SEVERABILITY CLAUSE

If any chapter, section, paragraph, sentence, clause, or phrase of this Charter shall be held unconstitutional or invalid for any reason by a court of competent jurisdiction, such holding shall not affect the remainder of this Charter nor the context in which such provision so held invalid may appear, except to the extent that an entire chapter, section, paragraph, or sentence may be inseparably connected in meaning and effect with the provision to which such holding shall apply directly.

SECTION 15.16 MEANING OF WORDS

The provision of this Charter shall be liberally construed for the purpose of affecting the objects and ends thereof. Unless some other meaning is manifest, the word "City" shall be construed to mean the "City of Horseshoe Bay," and the word "and" may be read "or" or the word "or" may be read "and" if the sense requires. The word "law" shall mean state or federal law as applicable. Words in the present tense include future tense and, except when a more constrictive meaning is manifest, singular may mean plural. The word "Council" shall be construed to mean the City Council of the City of Horseshoe Bay. The gender of the wording as contained in the Charter shall always be interpreted to mean either sex.

SECTION 15.17 EFFECTIVE DATE

This Charter shall take effect immediately following adoption by the voters and entry of the official order by the City Council declaring the same adopted as soon as practicable. After adoption, the Mayor shall certify to the Secretary of State an authenticated copy of the Charter under the City's seal showing approval by the voters. The City Secretary shall record the Charter in a book kept for that purpose and keep and maintain the same as an official record of the City.

CHAPTER SIXTEEN

ADOPTION OF CHARTER

SECTION 16.01 SUBMISSION AND ELECTION

This Charter shall be submitted to the qualified voters of the City of Horseshoe Bay for adoption or rejection on the 9th day of May, 2009, at which election, if a majority of the qualified voters voting in such election shall vote in favor of the adoption of this Charter, it shall then immediately become the governing law of the City of Horseshoe Bay, Texas, until amended or repealed.

It being impracticable to submit this Charter so that each subject may be voted on separately, it is hereby prescribed that the form of ballot to be used in such election shall be as follows to wit:

_____ “FOR”	ADOPTION OF A CHARTER
_____ “AGAINST”	ADOPTION OF A CHARTER