

2009

# Home Rule Charter

HOME  
RULE  
CHARTER  
FOR  
SOUTH  
PADRE



City of South Padre Island City Charter  
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CITY OF SOUTH PADRE ISLAND  
CITY CHARTER

PREAMBLE

We the people of the City of South Padre Island under the constitution and laws of the State of Texas, in order to secure the benefits of local self-government and to provide for an honest and accountable Council-Manager government do hereby adopt this Charter and confer upon the City the following powers, subject to the following restrictions, and prescribed by the following procedures and governmental structure. By this action, we secure the benefits of home rule and affirm the values of representative democracy, professional management, strong political leadership, citizen participation, and regional cooperation.

Article I  
POWERS OF THE CITY

Section 1.01. Powers of the City.

The City shall have all powers possible for a City to have under the constitution and laws of this State as fully and completely as though they were specifically enumerated in this Charter.

Section 1.02. Construction.

(a) The powers of the City under this Charter shall be construed liberally in favor of the City, and the specific mention of particular powers in the Charter shall not be construed as limiting in any way the general power granted in this article.

(b) The word "Town" shall have the same meaning as "City" and are synonymous words. The Town of South Padre Island after the adoption of this Charter shall be known as the City of South Padre Island. The phrase "City Council" shall have the same meaning as "Board of Aldermen" and are synonymous terms.

Section 1.03. Intergovernmental Relations.

The City may participate by contract or otherwise with any governmental entity of this State or any other State or States or the United States or any foreign governmental entity in the performance of any activity which one or more of such entities has the authority to undertake.

## Article II CITY COUNCIL

### Section 2.01. General Powers and Duties.

All powers of the City shall be vested in the City 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 2.02. Eligibility, Terms, and Composition.

- (a) Eligibility. Only registered voters of the City shall be eligible to hold the office of Council Member or Mayor.
- (b) Terms. The term of office of elected officials shall be three (3) years elected in accordance with Article VI.
- (c) Composition. There shall be a City Council composed of a Mayor and five (5) members.

### Section 2.03. Mayor.

- (a) Powers and Duties. The Mayor shall be a voting member of the City Council and may make motions and seconds and shall attend and preside at meetings of the Council; represent the City in intergovernmental relationships; appoint the members and officers of Council committees; assign, subject to the consent of Council, agenda items to committees; and perform other duties specified by the Council. The Mayor shall be recognized as head of the City government for all ceremonial purposes, emergency matters, security matters and by the governor for purposes of military law but shall have no administrative duties.
- (b) Mayor Elected At Large. The voters of the City shall elect a Mayor at large for a term of three (3) years. The Council shall elect from among its members a Mayor pro tempore who shall act as Mayor during the absence or disability of the Mayor and, if a vacancy occurs, shall perform the duties of Mayor until the office is filled by an election.

### Section 2.04. Compensation; Expenses.

The City Council may determine the annual salary of the Mayor and Council Members by ordinance, but no ordinance increasing such salary shall become effective until the date of commencement of the terms of Council Members elected at the next regular election(s). The Mayor and Council Members shall receive their actual and necessary expenses incurred in the performance of their duties of office.

## Section 2.05. Prohibitions.

(a) **Holding Other Office.** Except where authorized by law, no Council Member shall hold any other elected public office during the term for which the member was elected to the Council. No Council Member shall hold any other City office or City employment during the term for which the member was elected to the Council. No former Council Member shall hold any compensated appointive office or employment with the City until one (1) year after the expiration of the term for which the member was elected to the Council, unless granted a waiver by the Board of Ethics. Nothing in this section shall be construed to prohibit the Council from selecting any current or former Council Member to represent the City on the governing board of any regional or other intergovernmental agency.

(b) **Appointments and Removals.** Neither the City Council nor any of its members shall in any manner control or demand the appointment or removal of any City administrative officer or employee whom the City Manager or any subordinate of the City Manager is empowered to appoint, but the Council may express its views and fully and freely discuss with the City 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 2.09, the Council or its members shall deal with City officers and employees who are subject to the direction and supervision of the City Manager solely through the City Manager, and neither the Council nor its members shall give orders or direction to any such officer or employee, either publicly or privately.

## Section 2.06. Vacancies; Forfeiture of Office; Filling of Vacancies.

(a) **Vacancies.** The office of a Council Member shall become vacant upon the member's death, resignation, or removal from office or forfeiture of office in any manner authorized by law.

(b) **Forfeiture of Office.** A Council Member shall forfeit that office if the Council Member:

- (1) Fails to meet residency requirements,
- (2) Violates any express prohibition of this Charter,
- (3) Is convicted of a crime involving moral turpitude,
- (4) Fails to attend three (3) regular meetings in any calendar year of the Council without being excused by the Council or
- (5) Fails to attend any meeting, excused or unexcused, for six (6) months.

(c) **Filling of Vacancies.** Pursuant to Article 11, Section 11 of the Texas Constitution,

any vacancy or vacancies occurring in the City Council shall not be filled by appointment but must be filled by majority vote of the qualified voters at a special election called for such purpose within one hundred and twenty (120) days after such vacancy or vacancies occur or an authorized uniform election date if it occurs within said one hundred and twenty (120) days.

#### Section 2.07. Judge of Qualifications.

The City Council shall be the judge of the election and qualifications of its members, and of the grounds for forfeiture of their office. In order to exercise these powers, the Council shall have power to subpoena witnesses, administer oaths and require the production of evidence. A member charged with conduct constituting grounds for forfeiture of office shall be entitled to a public hearing on demand, and notice of such hearing shall be published in the official City newspaper and City's web site at least one (1) week in advance of the hearing.

#### Section 2.08. City Secretary.

The City Council on the recommendation of the City Manager shall appoint an officer of the City who shall have the title of City Secretary. The City Secretary shall give notice of Council meetings to its members and the public, keep the journal of its proceedings and perform such other duties as are assigned by this Charter or by the Council or by State law.

#### Section 2.09. Investigations.

The City Council shall make investigations into the affairs of the City and the conduct of any City department, office, agency, officer or employee and for this purpose may subpoena witnesses, administer oaths, take testimony, and require the production of evidence. Failure or refusal to obey a lawful order issued in the exercise of these powers by the Council shall be a misdemeanor punishable by a fine of not more than Five Hundred Dollars (\$500.00).

#### Section 2.10. Independent Audit.

The City Council shall provide for an independent annual audit of all City accounts and may provide for more frequent audits, as it deems necessary. Such audits shall be carried out in accordance with Section 5.12 of this Charter.

#### Section 2.11. Procedure.

(a) Meetings. The Council shall meet regularly at least once every month at such times



and places as the Council may prescribe by resolution. Special meetings as provided by the Texas Open Meetings Act may be held on the call of the Mayor or of three or more Council Members and, whenever practicable, upon no less than seventy-two (72) hours notice except for emergency meetings. Except as allowed by State law, all meetings shall be public; however, the Council may recess for the purpose of discussing in a closed or executive session such matters allowed by the Texas Open Meetings Act for closed or executive sessions.

(b) Rules and Minutes. The City Council shall determine its own rules and order of business and shall provide for keeping minutes of its proceedings. The minutes shall be a public record.

(c) Voting. Voting, except on procedural motions, shall be by roll call and the ayes and nays shall be recorded in the minutes. The Mayor and three (3) Members or four (4) Members of the Council shall constitute a quorum unless otherwise provided by State law. No action of the Council shall be valid or binding unless adopted by vote of the majority of those present and voting of the Council.

(d) Committees, Boards and Commissions. Unless otherwise provided by State Law, the City Council shall appoint all Members to the boards, committees and commissions of the City. Each Member of the City Council shall submit the number of names from the submitted applications equal to the number of places being filled to the City Secretary, and the City Secretary will tally the names. The individual names that were recommended by the highest number of Members of the Council shall be appointed to serve on the respective committee(s), board(s) or commission(s). If there is a tie for an appointment, the applicant names that are tied shall be returned to the City Council Members and they shall again submit the number of names from the tied applicants equal to the number of places remaining to be filled to the City Secretary, and the City Secretary will tally the names and the individual name(s) that were recommended by the highest number of Members of the Council shall be appointed to serve and if there is still a tie, the Mayor shall break the tie.

#### Section 2.12. Action Requiring an Ordinance.

In addition to other acts required by law or by specific provision of this Charter to be done by ordinance, those acts of the City Council shall be by ordinance which:

- (1) Adopt or amend the Code of Ordinances, an administrative code or establish, alter, or abolish any City department, office, or agency;
- (2) Provide for a fine or other penalty or establish a rule or regulation for violation of which a fine or other penalty is imposed;
- (3) Levy taxes;



- (4) Grant, renew, or extend a franchise;
- (5) Regulate the rate charged for its services by a public utility;
- (6) Authorize the borrowing of money;
- (7) Convey or lease or authorize the conveyance or lease of any lands of the City;
- (8) Regulate land use and development;
- (9) Amend or repeal any ordinance previously adopted; or
- (10) Adopt, with or without amendment, ordinances proposed under the initiative power.

Acts other than those referred to in the preceding sentence may be done either by ordinance or by resolution.

#### Section 2.13. Ordinances in General.

(a) Form. Every proposed ordinance shall be introduced in writing and in the form required for final adoption. Any ordinance shall clearly express the purpose in its title. The enacting clause shall be "Be it ordained by the City Council of the City of South Padre Island, Texas . . .".

(b) Procedure. Any Council Member at any regular or special meeting of the Council may introduce an ordinance. As soon as practicable after adoption, the City Secretary shall have the ordinance and a notice of its adoption published as may be required by State law.

(c) Effective Date. Except as otherwise provided in this Charter, every adopted ordinance shall become effective as specified therein.

(d) "Publish" Defined. As used in this section, the term "publish" means to print in the contemporary means of information sharing, which includes but is not limited to, in the official City newspaper if it provides a penalty, and, if available, on the City website: (the ordinance, caption or a brief summary).

#### Section 2.14. Emergency Ordinances.

To meet a public emergency affecting life, health, property or the public peace, the City Council may adopt one (1) or more emergency ordinances. After its adoption, the ordinance shall be published and printed as prescribed for other adopted ordinances. It shall become effective upon adoption or at such later time as it may specify or as may be required by law.

#### Section 2.15. Codes of Technical Regulations.

The City Council may adopt any standard code of technical regulations by reference

thereto in an adopting ordinance.

#### Section 2.16. Authentication and Recording; Codification; Printing of Ordinances and Resolutions.

(a) Authentication and Recording. The City Secretary shall authenticate by signing and shall record in full in a properly indexed book kept for all ordinances and resolutions adopted by the City Council.

(b) Codification. The City of South Padre Island has adopted and maintains a Code of Ordinances designated as the "Code of Ordinances, Town of South Padre Island, Texas". The adoption of this Charter does not repeal or alter the Code of Ordinances heretofore adopted and the same may be amended by ordinance.

### Article III CITY MANAGER

#### Introduction.

The City has heretofore by election adopted the City Manager form of governing and in the Council-Manager plan, the City Manager is continuously responsible to the City Council, the elected representatives of the people.

#### Section 3.01. Appointment; Qualifications; Compensation.

The City Council by a majority vote of its total membership shall appoint a City Manager for a term of years or an indefinite term and fix the Manager's compensation. The City Manager shall be appointed solely on the basis of education and experience in the accepted competencies and practices of local government management. The City Manager need not be a resident of the City or State at the time of appointment, but shall reside in the City within a reasonable period (as determined by the City Council) after employment and thereafter while in office.

#### Section 3.02. Removal.

The Council may by affirmative vote of a majority of the full City Council adopt a resolution removing the City Manager from office. The action of the Council in removing the City Manager shall be final. It is the intention of this Charter to vest all authority and fix all responsibility for such removal in the City Council.

#### Section 3.03. Acting City Manager.

By letter filed with the City Secretary, the City Manager shall designate a City officer or

employee to exercise the powers and perform the duties of City Manager during the manager's temporary absence or disability; the City Council may revoke such designation at any time and appoint another officer of the City to serve until the City Manager returns.

### Section 3.04. Powers and Duties of the City Manager.

The City Manager shall be the chief executive officer of the City, responsible to the Council for the management of all City affairs placed in the Manager's charge by or under this Charter or City Council. The City Manager shall:

(1) Appoint and suspend or remove all City employees and appointive administrative officers provided for by or under this Charter, except as otherwise provided by law, this Charter or personnel rules adopted pursuant to this Charter. The City Manager may authorize any administrative officer subject to the Manager's direction and supervision to exercise these powers with respect to subordinates in that officer's department, office or agency;

(2) Direct and supervise the administration of all departments, offices and agencies of the City, except as otherwise provided by this Charter or by law;

(3) Attend all City Council meetings. The City Manager shall have the right to take part in discussion but shall not vote;

(4) Provide that all laws, provisions of this Charter and acts of the City Council, subject to enforcement by the City Manager or by officers subject to the Manager's direction and supervision, are faithfully executed;

(5) Prepare and submit the annual budget and capital program to the City Council, and implement the final budget approved by Council to achieve the goals of the City;

(6) Submit to the City Council and make available to the public a complete report on the finances and administrative activities of the City as of the end of each fiscal year;

(7) Make such other reports as the City Council may require concerning operations;

(8) Keep the City Council fully advised as to the financial condition and future needs of the City;

(9) Make recommendations to the City Council concerning the affairs of the City and facilitate the work of the City Council in developing policy;

(10) Provide staff support services for the Mayor and Council Members;

(11) Assist the Council to develop long-term goals for the City and strategies to implement these goals;

(12) Encourage and provide staff support for regional and intergovernmental cooperation;

(13) Promote partnerships among Council, staff, and citizens in developing public policy and building a sense of community; and

(14) Perform such other duties as are specified in this Charter or may be required by the City Council.

Article IV  
DEPARTMENTS, OFFICES, AND AGENCIES

Section 4.01. General Provisions.

(a) Creation of Departments. The City Council may establish, combine or abolish City departments, offices, or agencies in addition to those provided by this Charter and may prescribe the functions of all departments, offices, and agencies. However, no function assigned by this Charter to a particular department, office, or agency may be discontinued or, unless this Charter specifically so provides, assigned to any other.

(b) Direction by City Manager. All departments, offices, and agencies under the direction and supervision of the City Manager shall be administered by an officer appointed by and subject to the direction and supervision of the City Manager. The City Manager may not serve as the head of one or more such departments, offices, or agencies but the City Manager may appoint one person as the head of two (2) or more of them.

Section 4.02. Personnel System.

(a) Merit Principle. All appointments and promotions of City officers and employees shall be made solely on the basis of merit and fitness demonstrated by a valid and reliable examination or other evidence of competence.

(b) Merit System. Consistent with all applicable federal and State laws the City Council shall provide by resolution for the establishment, regulation, and maintenance of a merit system governing personnel policies necessary to effective administration of the employees of the City's departments, offices and agencies, including but not limited to classification and pay plans, performance management, examinations, force reduction, removals, working conditions, provisional and exempt appointments, in-service training and grievances.

Section 4.03. City Attorney.

(a) Appointment. The majority of the entire City Council shall appoint and remove an attorney, licensed by the State of Texas, to be the City Attorney. The City Attorney may be a regular employee, contract employee or an outside professional attorney. There may be deputy or assistant City Attorneys as may be determined by the Council who shall serve under the directions of the City Attorney and may serve as prosecutor(s) in the Municipal Court.

(b) Role. The City Attorney shall serve as chief legal adviser to the Council, the City

Manager and all City departments, offices, boards, commissions and committees, shall represent the City in all legal proceedings and shall perform any other duties directed by Council, prescribed by State law, by this Charter or by ordinance.

(c) Conflicts. The City Attorney will comply with all provisions in the *Texas Disciplinary Rules of Professional Conduct* including the Conflict of Interest rules.

(d) Additional Counsel. The City Council may engage other outside counsel when independent or specialized legal assistance is deemed necessary.

#### Section 4.04. Land Use, Development, and Environmental Planning.

Consistent with all applicable federal and State laws with respect to land use, development, and environmental planning, the City Council shall designate a department or departments to carry out the planning function and such decision-making responsibilities as may be specified by ordinance. The City is authorized to annex or disannex property in accordance with State law for Home Rule cities including but not limited to involuntary annexations.

#### Section 4.05. 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 hereafter may be prescribed by the laws of the State of Texas relative to municipal courts.

(b) The judge or judges of said court shall be appointed by the City Council, shall hold office as provided by State law, shall receive such salary as may be fixed by the City Council and the court staff will be under the administrative direction of the City Manager and said judge shall not be an elected official. The City Secretary or an assistant City Secretary may be ex officio clerk of said court.

(c) The Clerk of said court and deputy 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 by the Clerk of courts in issuing process of said courts and conducting the business thereof.

(d) The City Council by resolution may provide for the appointment of one (1) or more judges to serve if the regular judge, the presiding judge, or an associate judge is temporarily unable to act.

Article V  
FINANCIAL MANAGEMENT

Section 5.01. Fiscal Year.

The fiscal year of the City shall begin on the first day of October and end on the last day of September.

Section 5.02. Submission of Budget.

On or before sixty (60) days prior to the beginning of each fiscal year, the City Manager shall submit to the City Council a budget for the ensuing fiscal year.

Section 5.03. Budget.

The budget shall provide a complete financial plan of all City funds and activities for the ensuing fiscal year and, except as required by law or this Charter, shall be in such form as the City Manager deems desirable or the City Council may require for effective management and an understanding of the relationship between the budget and the City's strategic goals. 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; and shall be so arranged as to show comparative figures for actual and estimated income and expenditures of the current fiscal year and actual income and expenditures of the preceding fiscal year. The plan shall provide a complete program of action for the fiscal year. It shall contain the following:

- (a) Objectives. Established by the City Council.
- (b) Goals. City Manager's program to meet the objectives of the Council.
- (c) Budget. Financial plan to meet the administrative needs of the City for the fiscal year consistent with the Objectives and Goals set by the City Council and City Manager.
- (d) Staff Plan. A summary of the personnel requirements required to provide the services of the City. Additions or deletions of personnel must be specifically identified and justified.
- (e) Measurement. Methods to measure outcomes and performance of the fiscal year budget.

#### Section 5.04. Reserve Fund.

The City shall strive to maintain a reserve fund balance of six (6) months of the City operating expenses and all City operating budgets for emergencies and if it should fall below six (6) months then the budget will provide for a method to replenish the fund without sacrificing necessary services.

#### Section 5.05. City Council Action on Budget.

- (a) Notice and Hearing. The City Council shall publish the general summary of the budget.
- (b) Amendment Before Adoption. After the public hearing(s), the City Council may adopt the budget with or without amendment.
- (c) Adoption. The City Council shall adopt the budget on or before the last day of the last month of the fiscal year currently ending. If it fails to adopt the budget by this date, the budget of the prior fiscal year shall go into effect.
- (d) "Publish" defined. As used in this article, the term "publish" means to print in the contemporary means of information sharing, which includes but is not limited to, the official newspaper of the City, and, if available, on the City website.

#### Section 5.06. Appropriation and Revenue Ordinances.

To implement the adopted budget, the City Council shall adopt, prior to the beginning of the fiscal year:

- (a) An appropriation ordinance making appropriations by department, fund, service, strategy or other organizational unit and authorizing an allocation for each program or activity;
- (b) A tax levy ordinance authorizing the property tax levy or levies and setting the tax rate or rates; and
- (c) Any other ordinances required to authorize new revenues or to amend the rates or other features of existing taxes or other revenue sources.

#### Section 5.07. Amendments after Adoption.

- (a) Supplemental Appropriations. If during or before the fiscal year the City Manager certifies that there are available for appropriation revenues in excess of those estimated in



the budget, the City Council by resolution may make supplemental appropriations for the year up to the amount of such excess.

(b) Emergency Appropriations. To meet a public emergency affecting life, health, property or the public peace, a majority of the City Council may make emergency appropriations. Such appropriations may be made by emergency ordinance. To the extent that there are no available unappropriated revenue or funds to meet such appropriations the City Council may by such emergency ordinance authorize the issuance of any instrument incurring indebtedness as provided by the laws of Texas.

(c) Reduction of Appropriations. If at any time during the fiscal year it appears to the City Manager that the revenues or fund balances available will be insufficient to finance the expenditures for which appropriations have been authorized, the City Manager shall report to the City Council without delay, indicating the estimated amount of the deficit, any remedial action taken by the City Manager and recommendations as to any other steps to be taken. The City Council shall then take such further action as it deems necessary to prevent or reduce any deficit and for that purpose it may by ordinance reduce or eliminate one or more appropriations.

(d) Transfer of Appropriations. At any time during or before the fiscal year, the City Council may by resolution transfer part or all of the unencumbered appropriation balance from one department, fund or service to the appropriation for other departments, funds or service. The City Manager may transfer funds among programs in a department, fund or service and shall report such transfers to the City Council in writing.

(e) Limitation; Effective Date. No appropriation for debt service may be reduced or transferred, except to the extent that the debt is refinanced and less debt service is required, and no appropriation may be reduced below any amount required by law to be appropriated or by more than the amount of the unencumbered balance thereof. The supplemental and emergency appropriations and reduction or transfer of appropriations authorized by this section may be made effective immediately upon adoption.

#### Section 5.08. Administration and Fiduciary Oversight of the Budget.

The City Council shall provide procedures for administration and fiduciary oversight of the budget. The City Council is entrusted with the fiduciary responsibility for the City and as such must provide review and oversight of the budget and shall review at midterm (by end of April each year) the performance of the budget and provide appropriate reports.

#### Section 5.09. Capital Program.

(a) Submission to City Council. The City Manager shall annually prepare and submit to

the City Council a five (5) year or more capital program no later than the time of submission of the operating budget for the ensuing fiscal year.

(b) Contents. The capital program shall include:

- (1) A clear general summary of its contents;
- (2) Identification of the long-term goals of the community as stated in the City's Comprehensive Plan;
- (3) A list of all capital improvements and other capital expenditures which are proposed to be undertaken during the fiscal years next ensuing, with appropriate supporting information as to the necessity for each;
- (4) Cost estimates and recommended time schedules for each improvement or other capital expenditure;
- (5) Method of financing upon which each capital expenditure is to be reliant;
- (6) The estimated annual cost of operating and maintaining the facilities to be constructed or acquired;
- (7) A commentary on how the plan addresses the sustainability of the community and the region of which it is a part; and
- (8) Methods to measure outcomes and performance of the capital plan related to the long-term goals of the community.

The above shall be revised and extended each year with regard to capital improvements still pending or in process of construction or acquisition.

#### Section 5.10. City Council Action on Capital Program.

(a) Notice and Hearing. The City Council shall publish the general summary of the capital program and a notice stating:

- (1) The times and places where copies of the capital program are available for inspection by the public, and
- (2) The time and place, not less than two (2) weeks after such publication, for a public hearing(s) on the capital program.

(b) Adoption. The City Council by resolution shall adopt the capital program with or without amendment after the public hearing and at the same time it adopts the ensuing fiscal year budget.

#### Section 5.11. Incurring Indebtedness.

In keeping with the Constitution and laws of the State of Texas and not contrary thereto, the City of South Padre Island shall have the power to borrow money on the credit of the City for any public purpose not now or hereafter prohibited by the Constitution and laws

of the State of Texas and shall have the right to issue all tax bonds, revenue bonds, funding and refunding bonds, time warrants, certificates of obligation and other evidence of indebtedness as now authorized or as may hereafter be authorized to be issued by any City under and in accordance with the restrictions, conditions and laws of the State of Texas.

#### Section 5.12. Independent Audit.

The City Council shall provide for an independent annual audit of all City accounts and may provide for more frequent audits as it deems necessary. An independent certified public accountant or firm of such accountants shall make such audits. Such audits will be performed in accordance with Generally Accepted Auditing Standards (GAAS) and Generally Accepted Governmental Auditing Standards (GAGAS) and the Texas Local Government Code.

The Council shall designate no fewer than three (3) of its members to serve as an Audit Committee. This Committee shall:

- (1) Lead the process of selecting an independent auditor;
- (2) Direct the work of the independent auditor as to any matters of concern with respect to internal controls; and
- (3) Receive the report of the internal auditor and present that report to the Council with any recommendations from the Committee.

The Council shall designate such accountant or firm annually, or for a period not exceeding five (5) years, but the designation for any particular fiscal year shall be made no later than ninety (90) days after the beginning of such fiscal year. The standard for independence is that the auditor must be capable of exercising objective and impartial judgment on all issues encompassed within the audit engagement. No accountant or firm may provide any other services to the City during the time it is retained to provide independent audits to the City.

#### Section 5.13. Public Records.

Copies of the budget, capital program, independent audit reports, and appropriation and revenue ordinances shall be public records.

## Article VI ELECTIONS

#### Section 6.01. City Elections.

(a) Regular Elections. The regular City Council election shall be held at the time

established by State law which is currently on the second (2<sup>nd</sup>) Saturday in May.

(b) Registered Voter Defined. All citizens legally registered under the constitution and laws of the State of Texas to vote in the City shall be registered voters of the City within the meaning of this Charter.

(c) Conduct of Elections. The provisions of the general election laws of the State of Texas shall apply to elections held under this Charter. All elections provided for by the Charter shall be conducted by the election authorities established by law. Candidates shall run for office without party designation.

#### Section 6.02. Representation & Term.

(a) The election of Council Members shall be staggered so that each year after the rotation is accomplished as outlined in 6.02(b), two (2) Council positions shall be on the ballot for election for a term of three (3) years. In order to achieve the rotation, there shall be no election in 2010. In 2011, Place 1 will be for two (2) years. In 2012, Place 2 will be elected for one (1) year. Beginning in 2013, two (2) places/positions elected per year and all will be for three (3) year terms.

(b) Prior to the adoption of this Charter the current members terms expire as indicated;

Mayor	May 2011----2014 ---3 year intervals
Place 1	May 2011----2013----3 year intervals
Place 2	May 2012----2013----3 year intervals
Place 3	May 2012----2015----3 year intervals
Place 4	May 2011----2014----3 year intervals
Place 5	May 2012----2015----3 year intervals

Any Council Member hereafter elected, except as provided in (a) above, shall be elected for a three (3) year term unless elected to fill an unexpired term.

#### Section 6.03. Methods of Electing Council Members.

All members shall be elected at large and by position or place.

#### Section 6.04. Initiative, Citizen Referendum, and Recall.

(a) General Authority for Initiative, Citizen Referendum, and Recall.

(1) Initiative. The registered voters of the City shall have the power to propose new, repeal or amend existing ordinances to the Council and, if the Council fails to adopt an ordinance so proposed without any change in substance, to adopt or reject it at a City

election, but such power shall not extend to the budget or capital program or any ordinance relating to appropriation of money, annexation, city boundaries, zoning, subdivision regulations, levy of taxes or salaries of City officers or employees or any other subject if the State law prohibits such action.

(2) Citizen Referendum. The 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, but such power shall not extend to the budget or capital program or any emergency ordinance or ordinance relating to appropriation of money, annexation, city boundaries, zoning, subdivision regulations or levy of taxes or any other subject if the State law prohibits such action.

(3) Recall. The registered voters of the City shall have power to recall elected officials of the City, but no recall petition shall be filed against any official within three (3) months after the official takes office, nor, in case of a member subjected to a recall election and not removed, until at least six (6) months after the election.

(b) Commencement of Proceeding; Petitioners' Committee; Affidavit. Any eleven (11) registered voters may commence initiative, citizen referendum, or recall proceedings by filing with the City Secretary 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 to which all notices to the committee are to be sent, and setting out in full the proposed initiative ordinance, citing the ordinance sought to be reconsidered, or stating the name and title of the elected official sought to be recalled accompanied by a statement, not to exceed two hundred (200) words, of the reasons for the recall. Grounds for recall should relate to and affect the administration of the official's office, and be of a substantial nature directly affecting the rights and interests of the public. Promptly after receipt of a recall petition, the City Secretary shall serve, personally or by certified mail, a copy of the affidavit on the elected official sought to be recalled. Within ten (10) days of service of the affidavit, the elected official sought to be recalled may file a statement with the City Secretary, not to exceed two hundred (200) words, in response. Promptly after the affidavit of the petitioners' committee is filed, and the response, if any, of the elected official sought to be recalled is filed, the City Secretary shall issue the appropriate petition blanks to the petitioners' committee.

(c) Petitions.

(1) Number of Signatures.

(a) Initiative and citizen referendum petitions must be signed by registered voters of the City equal in number to at least twenty (20) percent of the total number of registered voters to vote at the last regular election or two hundred and fifty (250) registered voters' signatures whichever number is the greater.

(b) Recall petitions must be signed by registered voters of the City equal in

number to at least thirty (30) percent of the total number of registered voters to vote at the last regular election or two hundred and fifty (250) registered voters signatures whichever number is the greater.

(c) No signature(s) on such petition shall remain effective or be counted which were placed thereon more than sixty (60) days prior to the filing of such petition or petitions with the City Secretary.

(2) 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 the current physical address of the person signing and the date of signing.

(a) Initiative and citizen referendum petitions shall contain or have attached thereto throughout their circulation the full text of the ordinance proposed or sought to be reconsidered.

(b) Recall petitions shall contain the name and title of the elected official sought to be recalled, the statement of grounds for the recall, and the response of the official sought to be recalled, if any. If no response was filed, the petition shall so state.

(3) Affidavit of Circulator. Each paper of a petition shall have attached to it when filed an affidavit executed by the person circulating it stating that he or she 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.

(4) Time for Filing Referendum and Recall Petitions.

(a) Referendum petitions must be filed within thirty (30) days after adoption by the Council of the ordinance sought to be reconsidered.

(b) Recall petitions must be filed within sixty (60) days of the filing of the petitioners' affidavit initiating the recall procedure.

(d) Procedure after Filing.

(1) Certificate of City Secretary; Amendment. Within twenty (20) days after the petition is filed, the City Secretary shall complete a certificate as to its sufficiency, specifying, if it is insufficient, the particulars wherein it is defective and shall promptly send a copy of the certificate to the petitioners' committee by registered mail. A petition certified insufficient for lack of the 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) days after receiving the copy of his or her certificate and files a supplementary petition upon additional papers within ten (10) days after receiving the copy of such certificate. Such supplementary petition shall comply with the requirements of paragraphs (2) and (3) of Section 6.04(c), and within five (5) days after it is filed the City Secretary shall complete a certificate as to the sufficiency of the petition as amended and promptly send a copy of such certificate to the petitioners' committee by registered

mail as in the case of an original petition. If a petition or amended petition is certified sufficient, or if a petition or amended petition is certified insufficient and the petitioners' committee does not elect to amend or request Council review under paragraph (2) of this subsection within the time required, the City Secretary shall promptly present his or her certificate to the Council and the certificate shall then be a final determination as to the sufficiency of the petition.

(2) Council Review. If a petition has been certified insufficient and the petitioners' committee does not file notice of intention to amend it or if an amended petition has been certified insufficient, the committee may, within two (2) 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 meeting following the filing of such request and approve or disapprove it, and the Council's determination shall then be a final determination as to the sufficiency of the petition. A Council Member who is the subject of a recall petition shall not be eligible to act in the determination of sufficiency or insufficiency of the petition.

(e) Referendum Petitions; Suspension of Effect of Ordinance. When a referendum petition is filed with the City Secretary, the ordinance sought to be reconsidered shall be suspended from taking effect unless such suspension will create an immediate breach of public health and safety. Such suspension shall terminate when: (i) There is a final determination of insufficiency of the petition, or (ii) The petitioners' committee withdraws the petition, or (iii) The Council repeals the ordinance, or (iv) Thirty (30) days have elapsed after a vote of the City Council on the ordinance.

(f) Action on Petitions.

(1) Action by City Council.

(a) When an initiative or referendum petition has been finally determined sufficient, the City Council shall promptly consider the proposed initiative ordinance in the manner provided in Article II or reconsider the referred ordinance by voting its repeal. If the City Council fails to adopt a proposed initiative ordinance without any change in substance within sixty (60) days or fails to repeal the referred ordinance within thirty (30) days after the date the petition was finally determined sufficient, it shall submit the proposed or referred ordinance to the voters of the City.

(b) The City Council shall promptly order a recall election to occur on the next uniform election date that meets all the requirements of the Texas Election Code.

(2) Submission to Voters of Proposed or Referred Ordinances. The vote of the City on a proposed or referred ordinance shall be held not less than thirty (30) days and not later than one year from the date of the final Council vote thereon. If the City Council does not take requested action on the petition (repeal or enact) within thirty (30) days then they shall order an election on the petition on the next uniform election date that can meet all the requirements of the Texas Election Code.



(3) Withdrawal of Petitions. An initiative, referendum, or recall petition may be withdrawn at any time prior to the day scheduled for calling the election by filing with the City Secretary a request for withdrawal signed by at least two-thirds of the petitioners' committee. Upon the filing of such request the petition shall have no further force or effect and all proceedings thereon shall be terminated.

(g) Results of Election.

(1) Initiative. If a majority of the registered voters 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 all respects 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 greatest number of affirmative votes shall prevail to the extent of such conflict.

(2) Referendum. If a majority of the registered voters voting on a referred ordinance vote against it, it shall be considered repealed upon certification of the election results.

(3) Recall. Ballots used at recall elections shall read: "Shall [name] be recalled (removed) from the office of \_\_\_\_\_?" If a majority of the registered voters voting on a proposed recall vote in its favor, the official is removed. An election to fill the unexpired term shall be called as provided by Texas law.

Article VII  
GENERAL PROVISIONS

Section 7.01. Conflicts of Interest; Board of Ethics.

(a) Conflicts of Interest. The Mayor, Council Members, appointed officers, and other managerial officers and employees of the City are subject to the conflict of interest and disclosure provisions as provided in the Texas Local Government Code Chapter 171, as amended. Any violations of this Section shall result in the forfeiture of office, position, or employment as well as any other penalties provided by this Charter and the laws of Texas. Any violation of this Charter or the laws of Texas, with the knowledge, expressed or implied, of the person or corporation contracting with the City shall render the contract voidable by the City Council. Contracts prohibited by this Section are contracts that result in the payment of public funds.

(b) Board of Ethics. The City Council shall, by ordinance, establish an independent Board of Ethics to establish a Code of Ethics and to administer and enforce the conflict of interest and financial disclosure State laws. No member of the Board may hold elective or appointed office under the City or any other government or hold any political party office. Insofar as possible under State law, the City Council shall authorize the Board to issue binding opinions, conduct investigations on its own initiative and on referral or

complaint from officials or citizens, subpoena witnesses and documents, refer cases for prosecution, impose administrative fines, and to hire independent counsel with City Council Approval. The City Council shall appropriate sufficient funds to the Board of Ethics to enable it to perform the duties assigned to it and to provide annual training and education of City officials and employees, including candidates for public office, regarding the ethics code.

#### Section 7.02. Prohibitions.

##### (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, gender, age, sexual orientation, disability, religion, country of origin, or political affiliation.

(2) No person shall willfully make any false statement, certificate, mark, rating or report in regard to any test, certification or appointment under the provisions of this Charter or the rules and regulations made there under, or in any manner commit or attempt to commit any act preventing the impartial execution of such provisions, rules and regulations.

(3) 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 or her test, appointment, proposed appointment, promotion or proposed promotion.

(4) No person shall knowingly or willfully solicit or assist in soliciting any assessment, subscription or contribution for any political party or political purpose to be used in conjunction with any City election from any City officer or City employee.

(5) No City officer or City employee shall knowingly or willfully make, solicit or receive any contribution to the campaign funds of any political party or committee to be used in a City election or to campaign funds to be used in support of or opposition to any candidate for election to City office or City ballot issue. Further, no City employee shall knowingly or willfully participate in any aspect of any political campaign on behalf of or opposition to any candidate for City office. This section shall not be construed to limit any person's right to exercise rights as a citizen to express opinions or to cast a vote nor shall it be construed to prohibit any person from active participation in political campaigns at any other level of government.

(b) Penalties. Any person found in violation of this section shall be ineligible for a period of five (5) years following such finding to hold any City office or position and, if an officer or employee of the City, shall immediately forfeit his or her office or position. The City Council shall establish by ordinance such further penalties as it may deem appropriate.

### Section 7.03. Campaign Finance.

(a) Disclosure. All activity pertaining to financing used in support of, or against, campaigns for locally elected office shall be in compliance with Title 15—Regulating Political Funds and Campaigns of the Texas Election Code as amended and all other portions of said Code.

(b) Publication. All financial reports pertaining to elections filed with the City Secretary shall be posted on the City’s website as soon as possible.

(c) Contribution and Spending Limitations. In order to combat the potential for, and appearance of, corruption, and to preserve the ability of all qualified citizens to run for public office, the City shall, in so far as is permitted by State and federal law, have the authority to enact ordinances designed to limit contributions and expenditures by, or on behalf of, candidates for locally elected office. Ordinances pursuant to this section may include, but are not limited to: limitations on candidate and candidate committees that affect the amount, time, place, and source of financial and in-kind contributions.

## Article VIII CHARTER AMENDMENT

### Section 8.01. Proposal of Amendment.

Amendments to this Charter may be framed and proposed:

(a) In the manner provided by law, or

(b) By ordinance of the Council containing the full text of the proposed amendment and effective upon adoption, or

(c) By report of a Charter Commission or Charter Committee created by ordinance, or

(d) By the voters of the City.

Proposal of an amendment by the voters of the City shall be by petition containing the full text of the proposed amendment and shall be governed by the same procedures and requirements prescribed in Article VI for initiative petitions until such time as a final determination as to the sufficiency of the petition is made, except that there shall be no limitation as to subject matter and that the petition must be signed by registered voters of the City equal in number to five (5) percent of the number of qualified voters of the municipality or twenty thousand (20,000), whichever is the smaller as provided by Chapter 9 of the Texas Local Government code. The petitioners' committee may withdraw the petition at any time before the day immediately preceding the day

scheduled for calling the election for the City vote on the amendment.

#### Section 8.02. Election.

Upon delivery to the City election authorities of the report of a Charter Commission or Charter Committee or delivery by the City Secretary of an adopted ordinance or a petition finally determined sufficient, proposing an amendment pursuant to Section 8.01, the election authorities shall submit the proposed amendment to the voters of the City at an election. Such election shall be announced by a notice containing the complete text of the proposed amendment and published in one or more newspapers of general circulation in the City in the manner required by State law and on the City web site. The election shall be held on the next uniform election date that can meet all the requirements of State law and of the Texas Election Code.

#### Section 8.03. Adoption of Amendment.

If a majority of those voting upon a proposed Charter amendment vote in favor of it, the amendment shall become effective at the time fixed in the amendment or, if no time is therein fixed, thirty (30) days after its adoption by the voters.

### Article IX GENERAL PROVISIONS AND SEVERABILITY

#### Section 9.01. 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 or she shall continue in such office or position until the taking effect of some specific provision under this Charter directing that he or she vacate the office or position.

(c) Personnel System. An employee holding a City position at the time this Charter takes full effect, who was serving in that same or a comparable position at the time of its adoption, shall not be subject to competitive tests as a condition of continuance in the same position but in all other respects shall be subject to the personnel system provided for in Section 4.02.

## Section 9.02. Departments, Offices, and Agencies.

(a) Transfer of Powers. If a City department, office or agency is abolished by this Charter, the powers and duties given it by law shall be transferred to the City department, office or agency designated in this Charter or, if the Charter makes no provision, designated by the City Council.

(b) Property and Records. All property, records and equipment of any department, office or agency existing when this Charter is adopted shall be transferred to the department, office or agency assuming its powers and duties, but, in the event that the powers or duties are to be discontinued or divided between units or in the event that any conflict arises regarding a transfer, such property, records or equipment shall be transferred to one or more departments, offices or agencies designated by the City Council in accordance with this Charter.

## Section 9.03. Pending Matters.

All rights, claims, actions, orders, contracts, and legal administrative proceedings shall continue except as modified pursuant to the provisions of this Charter and in each case shall be maintained, carried on or dealt with by the City department, office or agency appropriate under this Charter.

## Section 9.04. State and Municipal Laws.

All City ordinances, resolutions, orders and regulations which are in force when this Charter becomes fully effective are repealed to the extent that they are inconsistent or interfere with the effective operation of this Charter or of ordinances or resolutions adopted pursuant thereto. To the extent that the Constitution and laws of the State of Texas permit, all laws relating to or affecting this City or its agencies, officers or employees which are in force when this Charter becomes fully effective are superseded to the extent that they are inconsistent or interfere with the effective operation of this Charter or of ordinances or resolutions adopted pursuant thereto.

## Section 9.05. Schedule.

(a) Time of Taking Full Effect. The Charter shall be in full effect for all purposes thirty (30) days after the order canvassing the election at which it was adopted.

(b) Supporting Ordinances. City Council shall diligently undertake the enactment of all ordinances that may be required to fully implement this Charter after its adoption.

(c) Initial Salary of Mayor and Council Members. The Mayor shall receive an annual

salary in the amount of \$1.00 and each other Council Member in the amount of \$1.00, until such amount is changed by the City Council in accordance with the provisions of this Charter.

#### Section 9.06. Legal effect of Comprehensive City Plan.

The South Padre Island Comprehensive Plan adopted by the governing body will be used as a guide by the City Council to establish codes and ordinances determined to be essential in providing for the public health, safety, and welfare of the citizens of South Padre Island, Texas, and by the Planning Commission to facilitate development and master plans that the City deems necessary and appropriate for systematic growth and development. The Comprehensive Plan shall not be nor be considered a zoning map nor constitute zoning regulations or establish zoning boundaries and shall not be site nor parcel specific and shall be used to illustrate generalized locations. The depiction of thoroughfare alignments in the Comprehensive Plan is subject to modification by the Planning Commission and City Council to fit local conditions and is subject to refinement as development occurs.

#### Section 9.07. Severability.

If any provision of this Charter is held invalid, the other provisions of the Charter shall not be affected. If the application of the Charter or any of its provisions to any person or circumstance is held invalid, the application of the Charter and its provisions to other persons or circumstances shall not be affected.

The following individuals were appointed to serve on the Home Rule Commission by the Board of Aldermen of the Town of South Padre Island:

Jeff Aldridge  
Mike Boswell\*  
Deanna Bowman  
John Cilmi  
Alan Day\*  
Marie Ferrier\*  
Bob Fudge  
John Giesecking  
Darla Gilchrist  
Jody Hughes  
Russell Judah  
Nancy Moyer  
Lance Mullins\*  
Gary Olle  
Ann Smith  
Anne Weiss  
Sam Wells

\*The members with an asterisk resigned from the Commission due to scheduling conflict or health reasons.