

Charter of McAllen

ARTICLE No. 1

Section No. 1. CORPORATE NAME: - All of the inhabitants of the city of McAllen, Hidalgo County, Texas, as the boundaries and limits of said city are herein established, or may hereafter be established, shall be a body politic incorporated under Article XI, Section 5 of the Constitution of the State of Texas and under Chapter 13 of Title 28 of the Revised Civil Statutes of the State of Texas, and the name and style of said city shall be “McAllen.”

Section No. 2 BOUNDARIES: -The territorial boundaries and limits of the city of McAllen shall be such as are fixed from time to time by ordinance of McAllen in accordance with provisions of this charter, or by charter amendments, and the boundaries and limits of McAllen are established until altered, aforesaid, as follows: -

COMMENCING for the initial point of this Survey, at the intersection of the West line of a Forty (40) foot road lying on West side of Hidalgo Canal Company’s Subdivision and the center line of the St. Louis, Brownsville and Mexico Railroad, within Porcion No. 64. Said West line of Road, being also the West line of 18th Street of the city of McAllen, as per current maps of said City.

THENCE with West line of 18th Street, Eight (8) degrees 45 minutes West 2921.4 feet to the intersection of the South line of a 40 foot road, designated on the City Map of McAllen as 10th Avenue, for a point on the South City Limits of McAllen and the beginning point of this survey:

THENCE with the South line of 10th Avenue, South 81 degrees 15 minutes East at 2948 feet, cross East line of 10th Street McAllen, at 3248 feet, to an old Post marked “S.E. MCA.”

THENCE North 8 degrees 45 minutes East 2664.5 feet to South line of 50 feet County Highway, for an inside corner of this Survey;

THENCE South 78 degrees 27 minutes East 1125.3 feet;

THENCE North 8 degrees 45 minutes East with the West side of a 40 foot Road along East line of Lots Nos. Fourteen (14) and Eleven (11), N. E. one quarter (NE1/4) Section Eight (8) of Hidalgo Canal Company's Subdivision of Porciones 64, 65, and 66, to the North line of said Lot Eleven (11), for a Northeast (NE) corner of this Survey;

THENCE North 81 degrees 45 minutes West 1124 feet, to old East line of the Corporation of McAllen;

THENCE with the old incorporation line, North 8 degrees 45 minutes East 1360 feet, to the North line of 40 foot road on North side of Lot (4), of the Northeast one-quarter (NE1/4) Section Eight (8) Hidalgo Canal Company's Subdivision of the Northeast corner of this Survey, marked "N. E. MCA."

THENCE North 81 degrees 15 minutes West with North line of said 40 foot road and North line of 26th avenue of the City of McAllen, crossing porcion lines of Porciones 65-64, 64-63, 5685 feet, to the intersection of the East line of Alberta Avenue of Young's Addition to McAllen, produced Northward, for the Northwest (NW) corner of this Survey;

THENCE with the East line of Alberta Avenue and same line produced, South Eight (8) degrees 25 minutes West 5392 feet to the South line of 10th Avenue of McAllen, produced for the S. W. corner of the Survey;

THENCE with the South line of 10th Avenue of the City of McAllen, and same produced South 81 degrees 15 minutes east, 2405 feet to the place of beginning.

Section No. 3. EXTENDING CITY LIMITS UPON PETITION: Whenever a majority of the qualified voters who are citizens of the State of Texas and inhabitants of any territory adjoining McAllen, as said territory may be designated by the Board of Commissioners, or in case there are no qualified voters in said territory, then when persons owning a majority of land in area in said territory desires the annexation of such territory to McAllen, they may present a written petition to that effect to the Board of Commissioners and shall attach to said petition the affidavit of one or more of their number to the effect that said petition is signed by a majority of such qualified voters or in case there are no qualified voters, said affidavit shall be to the effect that there are no qualified voters in said territory and that the persons signing the said petition own a majority of the land in area in said territory; and thereupon the Board of Commissioners at regular session held not sooner than twenty (20) days after the presentation of said petition may by ordinance annex such territory to McAllen and thenceforth the said territory shall be a part of McAllen, and the inhabitants thereof shall be entitled to all of the rights and privileges of other citizens and shall be bound by the acts, ordinances, resolutions and regulations of said city.

Section No. 4. EXTENDING LIMITS BY ACTION OF BOARD OF COMMISSIONERS; -The Board of Commissioners shall have power by ordinance to fix the boundary limits of McAllen and to provide for the extension of said boundary limits and the annexation of additional territory lying adjacent to said city with or without the consent of the territory and inhabitants annexed; upon the introduction of such an ordinance in the Board of Commissioners and after it has been amended as desired by the Board for final passage, it shall be published in some newspaper in McAllen one time and shall not thereafter be finally passed until at least thirty (30) days has elapsed after said publication, and any citizen of McAllen, or of the territory to be annexed, shall have the right to contest said annexation by filing with the Board of Commissioners a written petition setting out their reasons for

said contest, and said ordinance shall not be finally passed until such citizen, or citizens, have had the right to be heard on his, or their petition, and when said ordinance is finally passed, the territory so annexed shall be part of McAllen, and the inhabitants thereof shall be entitled to all the rights and privileges of other citizens and shall be bound by the acts, ordinance, resolutions and regulations of said city.

** See Chapter 43 Texas Local Government Code for validity of and procedures for involuntary annexations.*

Section No. 5. PLATTING OF PROPERTY: - The city plan for McAllen, as herein recommended, is the plans and specifications drawn by A. E. Wood, City Planning Engineer, and submitted to McAllen, and which are now on file in the City Offices, and the Board of Commissioners and property owners, when platting property for subdivision purposes, shall follow said plans in a general way as nearly as it is practicable to do, any property owner or owners desiring to plat any property in lots and blocks, shall plat the same to conform as nearly as practicable to the city plans as herein adopted, and shall file with the City Engineer a correct map of the same, and before actually opening up and laying out the streets and alleys on said property shall obtain a permit from the Board of Commissioners or from the city plan board, as the case may be, before opening the same, and when said property has been platted and opened the streets and alleys on the same shall become the property of McAllen for use as public highways, and shall be cared for as such; provided however, that in no case shall the city of McAllen be required to pay for the property included in said streets and alleys, except wherein the same has been condemned by the city: and provided further that the city of McAllen through its Board of Commissioners, shall have the right and power at any time by ordinance to change, relocate, open, or close streets and alleys.

ARTICLE No. 2

CORPORATE POWERS

Section No. 1. CORPORATE POWERS: -McAllen, a city of more than five thousand (5,000) inhabitants, is created a body politic and corporate by this act, and shall have perpetual succession, may use a common seal, may sue and be sued, may contract and be contracted with, and may exercise all rights and privileges granted to cities of more than five thousand (5,000) inhabitants by Article XI, Section 5 of the Constitution of the State of Texas, and granted to cities of more than five thousand (5,000) inhabitants by Chapter 13 of Title 28 of the Revised Statutes of the State of Texas, together with all amendments thereto, and shall have and exercise all powers granted to it by the Constitution of the State of Texas, as the same now exist, or as the same may hereafter be amended, and all powers granted to cities of its class by the Legislature of the State of Texas, either now or hereafter, and shall exercise all powers of local self-government which are not prohibited by the Constitution of the State of Texas, or by laws of the State of Texas or by this Charter; and said powers shall be exercised whether they are herein especially enumerated or not, and there being no attempt in this Charter to especially enumerate said powers, any enumeration of powers herein made shall not be construed in any way to limit the powers of the said city, but the city of McAllen shall, at all times, derive its powers from the Constitution and laws of the State of Texas.

ARTICLE No. 3

GOVERNMENT

Section No. 1. BOARD OF COMMISSIONERS: - The governing board of McAllen shall (amended) consist of a Board of Commissioners composed of a Mayor and six (6) commissioners, who shall be elected, as hereinafter provided.

Section No. 2. OFFICERS ELECTED. – The elective officers of McAllen shall (amended) consist of a mayor and six (6) commissioners.

Section No. 2a. Repealed

Section No. 3 OFFICERS – ELECTION OF AFTER APRIL, 2000: The City shall be divided into six (6) single-member election districts for the purpose of electing one city commissioner from each single member election district. Candidates for city commission shall have resided in the district from which he or she seeks election for at least six (6) months prior to the date of the election. The Mayor will continue to be elected from the City at-large. The six (6) single-member election districts shall be drawn according to state and federal laws. In the first election held pursuant to this provision all six (6) single-member election districts shall stand for election. After the election and canvass of the returns and declaration of results the six (6) commissioners elected shall meet and determine by lot which three (3) commissioners shall serve two (2) year terms and which three (3) commissioners shall serve a full four (4) year term. Thereafter each commissioner elected from his or her respective single member election district shall serve four (4) year terms. (Charter Amendment approved - Election of May 6, 2000)

Section No. 3a. RUN-OFF: - In the event no candidate for Mayor receives a majority of the votes cast and/or in the event no Commissioner for a particular place receives a majority of the votes cast or in the event of a tie vote for Mayor or a tie vote for Commissioner of any place, there shall be a run-off election between the two candidates receiving the highest number of votes or tied for Mayor and/or Commissioner. Such run-off election shall be held on the first Tuesday after thirty (30) days from the date of the first election. The candidate receiving the majority of votes for the respective office at such run-off election shall be elected.

Section No. 4. ELECTION- CANVASS OF RETURNS: - On the first Tuesday following said election or run-off election, or both, as the case may be, or as soon thereafter as practicable, the Board of Commissioners and Mayor then in office shall

canvass the returns and declare the election of the candidates and shall declare the candidate receiving the majority number of votes for Mayor elected Mayor, and the candidate receiving the majority number of votes for Commissioner for each place, respectively, elected Commissioner of such place.

Section No. 5. BALLOTS: - Any person desiring to have his name placed upon the official ballot for any election may do so by presenting a written request for that purpose signed by himself or by twenty qualified voters, to the Board of Commissioners and filing the same with the City Clerk or with the Mayor at least five (5) days prior to the date of said election.

** See Section 143.007 Texas Election Code (presently not greater than 75 nor less than 45 days before the election).*

Section 6. OFFICERS APPOINTED: -All officers of McAllen, except the Mayor and Commissioners, shall be appointed by the Board of Commissioners, and said Board shall have the right to create as many city offices as they may desire; to prescribe the qualifications, tenure of office and bonds of said officers; to provide for the compensation of said officers; and shall also have the authority to suspend or dismiss any of said appointed officers or boards at any time with or without cause.

Section No. 7. QUALIFICATIONS: - The Mayor and each of six (6) Commissioners shall be at least twenty-five (25) years of age; shall be a citizen of the United States of America and a qualified voter of the State of Texas, and shall have resided for at least two (2) years preceding the election within the corporate limits of McAllen; and shall be a bona fide owner of real estate within the corporate limits of McAllen.

** Section 141.003 Texas Election Code voids the City Charter 25 year age requirement and two year residency requirement. Section 141.001 Texas Election Code presently requires 12 months residency in State and 21 years of age. Section 3 of Charter requires 6 months residence in Single Member District*

before election date. For Mayor, Section 141.001 Texas Election Code requires six month residency in the city before the regular filing deadline (presently 45 days before the election) for a place on the ballot.

Real Property ownership requirement of Charter for candidacy is most likely unconstitutional under the equal protection clause of the 14th Amendment to the Constitution (See Fonseca v. HCWID#2, C.A.5 (TEX.) 1974 496 Fd 2d. 109).

Section No. 8. OFFICIAL OATH: - Each person elected by the voters of McAllen, or appointed by the Board of Commissioners, to fill any elective or appointive office, shall, before entering upon the duties of his office take and subscribe to the official oath provided by the Constitution of the State of Texas.

Section No. 9. OFFICIAL BOND: -The Mayor and each of the six (6) commissioners shall, before entering upon their respective duties, execute a good and sufficient bond in the sum of Five Thousand (\$5,000.00) Dollars signed by himself as principal and two (2) sureties, payable to the County Judge of Hidalgo County, Texas, or his successors in office for the use and benefit of McAllen, which bond shall be approved by the said County Judge and conditioned for the faithful discharge of the duties of the office; provided, however, that when the bond is signed by a surety company authorized to do and transact business in the State of Texas, only one (1) surety shall be required. All appointive officers shall be required to give a like bond as is required by the Mayor and Commissioners to be approved by the Mayor, except the amount of said bond shall be fixed by the Board of Commissioners. The condition of all bonds required by this section shall be for the faithful discharge of the duties of their respective offices.

Section No. 10. OFFICERS' SALARIES – The Board of Commissioners shall have the authority to fix all salaries and remuneration of all officers either elective or appointive of McAllen, except the office of the Mayor and Commissioners.

The Mayor of McAllen shall receive a salary of Twelve Hundred (\$1200.00) Dollars per year when he is serving in the capacity of Mayor and City Manager; but if a City Manager is employed by the city, then the Mayor shall receive a salary of Six Hundred (\$600.00) Dollars; provided, however, that in arriving at said salary there shall be deducted from the same all amounts received by the Mayor during said period of time as fees of office. The Commissioners of the city of McAllen shall receive for their services the sum of Five (\$5.00) Dollars per meeting for each regular or special meeting of said Board of Commissioners; provided, however, that if said Board of Commissioners shall meet more often than twice in any one month, they shall only be paid for two (2) of such meetings.

Section No. 11. OFFICERS' VACANCIES: - Resignation by the Mayor or any Commissioner elected shall be made in writing to the Board of Commissioners for their action thereon. In case of the removal of the domicile of the Mayor or any Commissioner from the territorial limits of the city of McAllen, such removal shall ipso facto to be deemed to create a vacancy in his office. And in case of any vacancy from any cause in the Mayor's office, the same shall be filled by the remaining members of the Board of Commissioners Appointing one of their members to fill said unexpired term, and in case of a vacancy in the office of the Commissioners, same may be filled by a majority vote of the remaining Commissioners, or the Board of Commissioners may order an election to fill such unexpired term.

** See Article XI Section 11 Texas Constitution which requires that vacancies be filled by special election within 120 days after vacancy occurs.*

Section No. 12. OATHS – WHO MAY ADMINISTER: - Each Commissioner and the Mayor and such other officers as the Board of Commissioners may designate are hereby authorized to administer oaths in the municipal affairs and government of McAllen.

** See Section 602.002 Texas Government Code for list of authorities who may administer oaths.*

Section No. 13. MAYOR – POWERS AND DUTIES OF: - The Mayor shall be the chief executive officer of McAllen and shall see that all laws thereof are enforced. He shall be clothed with all the authority that is now or may hereafter be vested in a Mayor by the General Laws of the State of Texas so far as the same may be applicable and not inconsistent with this Charter. He shall have and exercise full power prerogative and authority acting independent or in concert with the Board of Commissioners as are conferred by the provisions of this Charter, or as may be conferred upon him by the Board of Commissioners not inconsistent with the general purposes and provisions of this Charter, and shall have the power to administer oath and sign all contracts.

Section No. 14. PRESENT OFFICERS: - The present Mayor of McAllen shall remain in office until his successor has been duly elected and qualified. The present Commissioners of McAllen shall remain in office and constitute two (2) of the Commissioners of the city of McAllen until their successors are regularly elected and qualified. The office of two (2) commissioners is vacant and the present Mayor and two (2) commissioners shall fill said offices in accordance with Section 11 of this article.

** This Section was only applicable for Charter adoption in 1927.*

Section No. 15. BOARD OF COMMISSIONERS – MEETING: - QUORUM: - The Board of Commissioners shall from time to time by resolution provide for regular meetings and for call[ed] meetings of said Board; and shall provide for the time and place of said meetings. Four (4) Commissioners, or the Mayor and three (3) commissioners of said board, shall constitute a quorum for the transaction of any and all business that may be brought before the Board; provided that no bonds may be issued nor no taxes levied except at a regular meeting of the Board attended by at least three (3) Commissioners and

the Mayor, or by four (4) Commissioners without the Mayor. All official sessions of the Board of Commissioners, whether regular or called, shall be open to the public. (Charter Amendment approved – Election of May 12, 2007)

** There is no statutory or constitutional requirement as to what constitutes a quorum for a home rule city and therefore because the Charter is number specific a quorum is four (4) unless specifically required otherwise.*

Section No. 16. ORDINANCES – POWER TO ENACT: - The Board of Commissioners of said city shall be vested with the power and charged with the duty of making all laws or ordinances not inconsistent with the Constitution of the State of Texas, touching every subject and matter within the local government, same to include the power to impose fines and penalties for the violation of the same. They shall have the power and authority in the government, management and control of McAllen, which are not especially delegated to some other authority and they may pass any ordinances they may desire delegating any part of their authority and duties to any other person, officer or employee, not inconsistent with the Constitution or Laws of the State of Texas.

Section No. 17. ORDINANCES – PASSAGE: - When any ordinance has been passed by a majority vote of the Board of Commissioners present and voting and signed by the Mayor, it shall be deemed a law, and shall be published in some newspaper published within McAllen at least once a week for two weeks, but shall become effective from and after the date of its passage; provided, however, that the caption of any ordinance need not be published; and provided further that ordinances granting franchise need not be published in any instance.

** See Section 52.013 Texas Local Government Code which authorizes publication of caption only.*

Section No. 18. VETO: - When the Mayor shall veto any ordinance, the same may be passed over his veto by a vote of four (4) Commissioners.

Section No. 19. IMPEACHMENTS: - Any resident citizen or property tax payer of the City of McAllen shall have a right to bring an action in the District Court of Hidalgo County, Texas, or in any court of proper jurisdiction for the removal from the office of any officer of the City of McAllen for mal-feasance or mis-feasance in office and in such actions will be governed by the general laws of the State of Texas applicable to such proceedings.

Section No. 20. MAYOR PRO-TEM: - At the first regular meeting of the Board of Commissioners after their induction into office, it shall be the duty of the Board to elect one of its members by a majority vote of the Board, who shall be known as the Mayor Pro-Tem, and who shall continue to hold the title and office until the expiration of the term of office for which he was elected by the Commissioners.

Section No. 21. MAYOR PRO-TEM DUTIES: - If for any reason, the Mayor is absent from the city, sick or unable to perform the duties of his office, then, the Mayor Pro-Tem shall act as Mayor and he shall be vested with all the powers and shall perform all of the duties of the Mayor during such absence, sickness or inability. In case of the absence of both the Mayor and the Mayor Pro-Tem, the remaining commissioners shall elect one of their members to act instead of the Mayor or the Mayor Pro-Tem.

Section No. 22. BOARD OF COMMISSIONERS – INVESTIGATION BY – CONTEMPT – FALSE SWEARING:
- The Mayor, or Board of Commissioners, may, and it shall be their duty, at any time to investigate each and every department of the city government and of the official acts and conduct of the city officers, and for the purpose of ascertaining facts in connection with such investigation shall have the power to compel the attendance and testimony of witnesses, to

administer oaths and to examine such persons as they may deem necessary and to compel the production of books and accounts. Failure of any person to appear at such hearing, when served by a notice to do so, shall be a contempt, which may be punished by fine not to exceed Two Hundred (\$200.00) Dollars, and in default of the payment thereof the person so fined may be imprisoned for a period of time not to exceed three (3) days.

Section No. 23. BINDING ARBITRATION PROHIBITED: Notwithstanding any other provisions of this charter, the city is prohibited from utilizing binding arbitration, or any other similar process which delegates the final decision making authority to an outside person or entity, in determining the appropriate compensation, wages, benefits, and/or any other conditions of employment for City of McAllen employees, including but not limited to Police Officers and/or Firefighters. The city shall have the authority to use any appropriate non-binding alternative dispute resolution proceeding, but the final decision to accept and/or reject any recommendations resulting from such proceeding shall remain with the elected city officials of the City of McAllen.

ARTICLE No. 4

POLICE DEPARTMENT

Section No. 1. CREATION OF DEPARTMENT: - There is created the police department for McAllen, composed of a chief of police and as many assistants, subordinates and employees as the Board of Commissioners may deem necessary. The members of the police department shall hold their offices until the expiration of the term of office of the Board of Commissioners appointing them, or until they have resigned or have been removed by the Board of Commissioners.

** See Chapter 143 Texas Local Government Code which was adopted for the City of McAllen by Election held in 1989.*

Section No. 2. MAYOR – SUMMONS OF CITIZENS BY PROCLAMATION – PROCEDURE – PENALTIES: - Whenever the Mayor shall deem it necessary in order to enforce the laws of McAllen, or to avert danger to, or protect the life or property, in case of riot, or any outbreak, or calamity, or public disturbance, or when he has reason to fear any serious violation of law or order, or any other danger to said city, or the inhabitants thereof, he shall have the power to summon into service as special police force, all, or as many of the citizens as in his judgment and discretion may be necessary and proper, and such summons may be by proclamation or order addressed to the citizens generally, or such summons may be by the general notification. Such special police, while in service, shall be subject to the order of the Mayor, shall perform such duties as he may require, and shall have the power while on duty as the regular police of McAllen. Any person so summoned and failing to obey, or appearing and failing to perform any duty that may be required by this section, shall be fined in any sum not exceeding One Hundred (\$100.00) Dollars, but it is expressly provided that said city shall not become or be liable for any damage or injuries to personal property arising from the failure of the Mayor or any police or other officer or any employee to enforce the provisions of this Charter.

Section No. 3. BINDING ARBITRATION REQUIRED: It shall be the policy of the City of McAllen to provide its Firefighters and Police Officers with compensation and other conditions of employment that are substantially the same as compensation and conditions of employment in other comparable cities in the State of Texas. Because of the essential and emergency nature of the public service performed by Firefighters and Police Officers it is essential for the City of McAllen to adopt a fair system of arbitration if the parties fail to agree on the compensation and other conditions of employment during collective bargaining negotiations.

With the right to strike prohibited, to maintain the high morale of the Firefighters and Police Officers and efficient operation of the departments in which they serve, arbitration must be expeditious, effective and binding.

In the event that the City of McAllen is unable to reach an agreement with the Firefighters and/or Police Officers during collective bargaining negotiations and the parties have been at impasse for at least 90 days, then the following impasse procedure shall prevail;

Either party to the dispute, after written notice to the other party containing specifications of the issue or issues in dispute, may request arbitration. In the event that one party makes a request for arbitration, then both parties shall submit all issues in dispute to arbitration. The issues to be submitted to arbitration shall be all matters which the parties have been unable to resolve through collective bargaining. The arbitration ruling shall be final and binding on both parties.

Arbitration shall be conducted by the parties pursuant to the procedures, duties, requirements and rights set forth in local government code, sections 174.153 through 174.164, except that local government code section 174.163 shall be specifically excluded and not apply herein.

In making its decision, the Arbitration panel may consider only the following:

- 1) The requirements of section 174.021, Local Government Code.**
- 2) The total compensation, including wages and benefits, and conditions of employment provided by the City of McAllen to the Firefighters and/or Police Officers.**
- 3) The total compensation and terms and conditions of employment of Firefighters and Police Officers in other comparable cities in the State of Texas.**

- 4) The rate of increase or decrease in the cost of living for the McAllen area determined by the Consumer Price Index for the period beginning with the effective date of the current collective bargaining agreement and ending with the most recent published report at the time of commencement or the arbitration.
- 5) Revenues available to the City of McAllen and the impact on the Taxpayers of the City of McAllen. (Charter Amendment approved – Election of November 3, 2009)

NOTE: This section is ineffective as it conflicts with Article 3, Section No. 23 which provides, “Notwithstanding any other provisions of this charter, the City is prohibited from utilizing binding arbitration...”

ARTICLE No. 5

FIRE DEPARTMENT

Section No. 1. CREATION OF DEPARTMENT: - There is created a fire department for McAllen composed of a fire chief and as many lieutenants and assistants as the Board of Commissioners may deem advisable.

Section No. 2. OFFICERS – APPOINTMENTS: - The fire chief and his lieutenants and assistants shall be appointed by the Board of Commissioners with the advice of the members of the fire department.

** See Chapter 143 Texas Local Government Code which was adopted for the City of McAllen by Election held in 1989.*

Section No. 3. DUTIES: - The fire department and the fire chief are charged with the duties of enforcing all of the fire ordinances of McAllen, and in case of fire shall be in full charge of the fire and for the purpose of extinguishing fires, preventing their spread or inspecting fire hazards, and shall have the right to enter upon private property, and in case of a dangerous outbreak of fire, and for purpose of preventing its

spread, shall have the right to enter upon and destroy, if necessary, any private property. The fire chief and his lieutenants and assistants shall have the right to arrest any person, or persons, interfering with their duties in the extinguishment of fires or the prevention of their spread, and the enumeration of powers herein shall not be construed in any manner as a limit in their powers, but they shall have the right to do and perform all things not prohibited by law, this Charter, or an ordinance of the city of McAllen, provided, however, when the city shall establish a paid fire department, then the Board of Commissioners may require a bond, in such amount and containing such conditions as may be prescribed by the Board, of any, or all, of the members of said fire department, which bond shall be approved by the Mayor.

Section No. 4. FIRE HAZARDS – CONDEMNATION: - In condemning and destroying property as a fire hazard, the Board of Commissioners and McAllen shall bring the condemnation proceedings in the County Court of Hidalgo County, Texas, and shall be governed by the same rules and the same procedure as is, or may hereinafter be provided for the condemnation of property by railroad companies for rights-of-way purposes.

ARTICLE No. 6

COURTS

Section No. 1. The Board of Commissioners of McAllen shall have authority when they deem necessary to create and maintain a Recorder’s Court, to prescribe the jurisdiction and terms of said court; to provide for the appointment of a judge and prosecuting attorney and as many subordinates, clerks or assistants as said Board may deem necessary; to provide for the appointment of said officers; their tenure of office, their qualifications, their bonds, their salaries and compensations, their duties, their suspensions and dismissals. The judge, clerk and prosecuting attorney of said court shall have the authority to administer oaths, take complaints and in general have all the

authority and jurisdiction not denied by the constitution or laws of the State of Texas, whether said duties are herein especially enumerated or not.

** The tenure of the judge is fixed by statute as two years from date of appointment. The prosecuting attorney does not have the statutory authority to administer oaths unless otherwise qualified (Section 602.002 Texas Government Code).*

ARTICLE No. 7

TAXATION

Section No. 1. FINANCING: - The Board of Commissioners shall have full power and authority to finance the city. It shall be its duty through its officers to levy, assess and collect all taxes necessary for the proper operation of the city government and in the levying, assessing and collecting of the taxes they shall be limited only by the Constitution of the State of Texas. The Board of Commissioners shall levy, assess and collect taxes on all taxable property within the above limits for the year 1927 and for the subsequent years a tax sufficient to meet all of the general and running expense of the government of McAllen and to create a sinking fund sufficient to pay off and retire all indebtedness of McAllen. At the first meeting of the Board of Commissioners in July of each year or as soon thereafter as practicable, the Board shall calculate the amount of taxes necessary for that year and shall pass an ordinance levying a tax on all taxable property within McAllen, sufficient to pay the current expenses of McAllen and create an interest and sinking fund sufficient to retire the indebtedness of the city.

Section No. 2. DELINQUENT TAXES: - When taxes for any one year have been returned delinquent, the Board of Commissioners may, in its discretion, certify the same to the City Attorney, whose duty it will be, in case of real property, to bring suit in the court of proper jurisdiction for the collection of the taxes and the enforcement of the liens. In the bringing of

said tax suits, the City Attorney shall be governed by the same rules and regulations that are now, or may hereafter, be applicable to the bringing of suits for the collection of state and county taxes.

Section No. 3. BOARD OF EQUALIZATION: - The Board of Commissioners shall annually at their first meeting in April, or as soon thereafter as practicable, appoint three (3) Commissioners, each a qualified voter, a resident and property owner of McAllen, who shall be styled the Board of Equalization. At the same meeting said council shall, by ordinance, fix the time for the meeting of such Board. Before said Board enters its duties, it shall be sworn to faithfully and impartially discharge all duties incumbent upon it by law as such Board. The Board of Equalization shall have such powers and be governed by the same rules and regulations prescribed by Section 5 of Title 28 of the Revised Statutes of the State of Texas for cities of more than five thousand (5,000) inhabitants.

** See Texas Property Tax Code which includes assessment of value, etc. by county wide Appraisal District.*

Section No. 4. REDEMPTION: - All real estate sold under and by virtue of decree and judgment of court, or if otherwise provided by law for taxes due McAllen may be redeemed by the owner thereof within two (2) years from the date of said deed upon the payment to the purchaser, if purchased by an individual, or upon payment to McAllen, if purchased by the city, or his, or its assigns, of an amount equal to double the amount of taxes for which said property was sold plus an amount equal to all costs of the suit and all surplus over and above the taxes and costs with six percent (6%) interest on said surplus and costs. The purchaser at such foreclosure sale, and his assigns, shall not be entitled to the possession of the property sold for taxes until the expiration of two (2) years from the date of deed.

** See Texas Property Tax Code for redemption schedules and conditions.*

Section No. 5. PERSONAL PROPERTY: - In case taxes on any personal property within McAllen shall become delinquent, then it shall be the duty of the Tax Collector to seize said personal property and after publishing notice of said sale once each week for three (3) consecutive weeks in some newspaper in McAllen, said notice giving the time and place of said sale and a brief description of the property to be sold, together with the amount of taxes against the same; shall offer the same for sale at public auction to the highest bidder for cash; said sale to be made either in front of the City Hall of McAllen, or at the place where said property is seized.

** See Texas Property Tax Code for procedures for personal property seizures and sales.*

Section No. 6. BONDS: - In the issuance of bonds, warrants, or other certificates of indebtedness, the Board of Commissioners shall be governed by the General Laws of the State of Texas applicable to the same.

Section No. 7. DEPOSITORY: - The Board of Commissioners, as soon after assuming their duties as practicable, shall advertise for bids of a depository for McAllen, and after each of the Banks located within McAllen has had an opportunity to bid for said depository, the Board of Commissioners shall select of one of the Banks within McAllen as a depository, and shall require said Bank to give a good and sufficient bond, conditioned for the faithful keeping and accounting for all monies of the city received by it, said bonds to be in the penal sum of one and one-half times the estimated amount of money that will be on deposit in said depository at any one time during said period, to be approved by the Mayor, and if personal security is given to be signed by at least two (2) good and sufficient sureties, but if the same is given by a surety company authorized to do business in the State of Texas, then one (1) surety is all shall be required.

ARTICLE No. 8

BOARD OF CITY DEVELOPMENT

Section No. 1. CREATION: - As soon after the adoption of this Charter as practicable, there shall be appointed by the Board of Commissioners of McAllen what shall be known and designated: The Board of City Development, consisting of eleven (11) members, six (6) to serve a term of two (2) years and until their successors have been appointed and qualified, and five to serve a term of four (4) years and until their successors have been appointed and qualified. As soon after the appointment of said Board as practicable, the members thus appointed shall draw lots for the long and short terms and thereafter there shall be appointed at intervals of every two (2) years six (6) and five (5) members, respectively.

Section No. 2. FINANCING: - The Board of Commissioners of McAllen shall for the year 1927 and annually thereafter appropriate from the General Fund an amount of money equal to a two mill tax of all taxable property within the city of McAllen for the support and maintenance of said Board of City Development, and said monies when collected, shall be turned over to said Board and paid out by resolution of said Board.

Section No. 3. DUTIES: - The Board of City Development herein created when the same has been appointed, shall function as a Chamber of Commerce.

ARTICLE No. 9

HEALTH DEPARTMENT

Section No. 1. CREATION: - There is created the health department for McAllen, which consists of a health officer together with such subordinates or assistants as the Board of Commissioners may deem advisable, together with such sanitary officers as the Board of Commissioners may deem advisable.

Section No. 2. APPOINTMENTS: - The health officer and the sanitary officer and their assistants, subordinates and employees shall be appointed by the Board of Commissioners and shall hold their offices until the term of office for which the Board of Commissioners appointing them has expired, unless sooner removed by the Board of Commissioners, and shall receive such compensation as may be fixed by the Board of Commissioners and shall perform such duties as may be prescribed by the Board of Commissioners.

Section No. 3. HOSPITAL: - The Municipal Hospital of McAllen shall be under the management and control of a hospital board consisting of three (3) or more citizens of McAllen, who shall be appointed by the Board of Commissioners, and who shall hold their office until the term of office for which the Board of Commissioners appointing them expires, unless sooner removed by the Board of Commissioners.

Section No. 4. DUTIES: - It shall be duty of the hospital board to manage and control the hospital and to make quarterly reports to the city of McAllen, which report shall be filed with the City Clerk as a public record.

Section No. 5. COMPENSATION: - The hospital board shall receive for their services the sum of Five (\$5.00) Dollars for each and every meeting they attend, not to exceed one (1) meeting in each month.

ARTICLE No. 10

LEGAL DEPARTMENT

Section No. 1. APPOINTMENT: - There shall be appointed by the Board of Commissioners a City Attorney with as many assistants as the Board of Commissioners may designate and he shall hold his office until the term of office for which the

Board of Commissioners appointing him has expired, unless sooner removed by the Board of Commissioners.

Section No. 2. COMPENSATION: - The Board of Commissioners shall from time to time fix the salary of the City Attorney, and shall have a right to deduct all fees of office received by him from said salary, and shall also have the right to fix the compensation of any assistants of the City Attorney.

ARTICLE No. 11

Section No. 1. The Board of Commissioners of the city of McAllen shall have full power and authority to enact and enforce all ordinances necessary to protect health, life, and property and to prevent and summarily abate and remove all nuisances and to preserve and enforce the good government, order and security of the city and its inhabitants.

ARTICLE No. 12

Section No. 1. The enumeration of powers granted to McAllen shall in no matter be construed to preclude by implication or otherwise any authorities or powers incident to the enforcement of local government that are not inhibited by the Constitution of the State of Texas, and all such authorities and powers not expressly delegated by law or by this Charter to some other authority shall be exercised exclusively by the Board of Commissioners of McAllen.

ARTICLE No. 13

Section No. 1. REAL ESTATE, ECT. - All real estate owned or held by lease, sufferance, easement or otherwise, all public buildings, market houses, school houses, fire station, public schools, parks, streets, alleys, and all property of whatever kind, character and description which has been granted, donated, purchased or otherwise acquired by McAllen by any means or agency, and all cause of action, chooses in action, right or privileges of every kind and character, and all

property of whatever character and description which may have been held, controlled and used by said city of McAllen for public use or in trust for the public, shall vest in and remain in and inure to the said corporation of McAllen under this Charter; and all suits and pending actions to which McAllen heretofore was, or now is a party, plaintiff, or defendant, shall in no way be affected or terminated by the provisions of this act, but shall continue unabated.

Section No. 2. All obligations or liabilities of McAllen shall become and are herein expressly assumed by McAllen under this Charter.

Section No. 3. Before further construction or expenditure of any funds on any civic center complex in the City of McAllen, the location for the entire civic center complex shall be decided by the voters of the City of McAllen in a binding referendum election. The two choices for the location shall be: 2) the current location on 10th Street and Expressway 83 or b) a location on Ware Road and Expressway 83. This provision does not prevent the City from spending funds necessary to maintain the current convention-civic center until said election has been completed. (Charter Amendment approved – Election of September 14, 2002.)

ARTICLE No. 14

Section No. 1. All ordinances, laws, rules and regulations now in force in McAllen, and all penal laws of the State of Texas shall remain in full force and effect until such time as the Board of Commissioners shall change, alter or repeal the same.

ARTICLE No. 15

Section No. 1. This Charter may be amended at any time by complying with the general laws or special laws of the State of Texas applicable in such cases.

ARTICLE No. 16

Section No. 1. There shall be appointed by the Board of Commissioners each year an auditor, who shall make a full and complete audit of all books and accounts of McAllen and of its departments, and shall make a complete report of said audit to the Board of Commissioners to be filed by it and to be open to inspection to the public as a public record, said auditor to be paid such compensation as may be fixed by the Board of Commissioners.

ARTICLE No. 17

Section No. 1. A holding of any section or article of this Charter invalid by any court, or the abolishing of the same by any act of the Legislature, shall not affect the remainder of this Charter, but all of said Charter which had not been specifically held invalid shall remain in the full force and effect.

ARTICLE No. 18

Section No. 1. This Charter shall be submitted to the qualified voters of McAllen, submitting the same article at a time at an election to be held on the 31st day of January, A.D. 1927.

CERTIFICATION

I, Annette Y. Villarreal, City Secretary of the City of McAllen, do hereby certify that this is a true, complete and correct copy of the City of McAllen Charter and its amendments, as filed in my office.

WITNESS MY HAND AND SEAL OF OFFICE,

This 25th day of May 2007.

/s/ Annette Y. Villarreal, TRMC
City Secretary

AMENDMENTS

An Amendment to **Section No. 2 of Article No. 8** of the CHARTER OF MCALLEN duly adopted by the qualified voters October the 3rd, 1931. “The Board of Commissioners of McAllen shall for the year 1931 and annually thereafter, appropriate from the general fund an amount of money equal to a one mill tax on all taxable property within the City of McAllen for the support and maintenance of said Board of City Development, and said monies when collected shall be turned over to said Board and paid out by resolution of said Board.”

AMENDMENT

An Amendment to the CHARTER OF MCALLEN, adding **Section 2a and Section 3a, Article Three (3)**, duly adopted by the qualified voters on November 3, 1964.

AMENDMENT

Section 2a. of Article 3 was adopted by a Charter Amendment Election held November 3, 1964. **Article 3** was adopted and **Sections 3 and 4** were amended.

AMENDMENT

Section 6 of Article 9 was adopted by a Charter Amendment Election held on August 16, 1980 – “Nothing in this Article shall be construed to require the City of McAllen to operate a Municipal Hospital. Notwithstanding any other provision of the Article, the Board of Commissioners shall have full power and authority to lease all or part of the property constituting the existing Municipal Hospital of McAllen, and to delegate and assign the management and operational control thereof, to any interested governmental body of public or private nonprofit corporation under such terms and conditions as may be deemed appropriate by the Board of Commissioners. Any action by the Board of Commissioners pursuant to the provisions of this section shall be witnessed by an ordinance, duly passed.”

AMENDMENT

Section 2a. of Article 3 was repealed by the election held May 6, 2000. It read: “PLACES: - There are hereby created Places No. One, No. Two, No. Three, and No. Four, and the Commissioner candidates shall designate the place for which of each of them respectively, is a candidate, and one Commissioner shall be elected for each such place.”

AMENDMENT

Section 3 of Article 3 was duly amended by the election held May 6, 2000. It read: “OFFICERS – ELECTION OF: - At the regular municipal election for City Officials of the City of McAllen to be held on the first Tuesday in April, 1965, the candidate for the office of Mayor receiving a majority of the votes cast shall be elected Mayor and shall hold office for four (4) years from the date of such election and until his successor is elected and qualified. Thereafter, on the first Tuesday in April each four years thereafter, the Mayor shall be elected as above provided for a term of four years and thereafter until his successor is elected and qualified. At the regular municipal election for City Officials of the City of McAllen to be held on the first Tuesday in April of 1965, the

candidate for commissioner for each of the four places, respectively, receiving a majority of the votes cast for Commissioner of such place shall be elected Commissioner and shall serve until his successor is elected and qualified. After the election of the four (4) Commissioners and the canvass of returns and declaration of results the four (4) Commissioners elected shall meet at the McAllen City Hall and determine by lot which two (2) Commissioners shall serve for four (4) year terms. Thereafter on the first Tuesday in April of each odd numbered year, two (2) Commissioners shall be elected, each of whom shall serve for a four (4) year term and until his successor is elected and qualified.

AMENDMENT

Section 7 of Article 3 was duly amended pursuant to Section 141.003 Texas Election Code. It read: **QUALIFICATIONS:** - The Mayor and each of four (4) Commissioners shall be at least twenty-five (25) years of age; shall be a citizen of the United States of America; and a qualified voter of the State of Texas; and shall have resided for at least two (2) years next preceding the election within the corporate limits of McAllen; and shall be a bona fide owner of real estate within the corporate limits of McAllen.

AMENDMENT

An Amendment to the CHARTER OF MCALLEN, adding **Section 3, Article Thirteen (13)**, duly adopted by the qualified voters on September 14, 2002. - “Before further construction or expenditure of any funds on any civic center complex in the City of McAllen, the location for the entire civic center complex shall be decided by the voters of the City of McAllen in a binding referendum election. The two choices for the location shall be: 2) the current location on 10th Street and Expressway 83 or b) a location on Ware Road and Expressway 83. This provision does not prevent the City from spending funds necessary to maintain the current convention-civic center until said election has been completed.”

AMENDMENT

Section 15 of Article 3 was duly amended by a Charter Amendment Election held on May 12, 2007 – BOARD OF COMMISSIONERS – MEETING: - QUORUM: - “The Board of Commissioners shall from time to time by resolution provide for regular meetings and for call[ed] meetings of said Board; and shall provide for the time and place of said meetings. Four (4) Commissioners, or the Mayor and three (3) commissioners of said board, shall constitute a quorum for the transaction of any and all business that may be brought before the Board; provided that no bonds may be issued nor no taxes levied except at a regular meeting of the Board attended by at least three (3) Commissioners and the Mayor, or by four (4) Commissioners without the Mayor. All official sessions of the Board of Commissioners, whether regular or called, shall be open to the public.”

AMENDMENT

An Amendment to the CHARTER OF MCALLEN, adding **Section 23, Article Three (3)**, duly adopted by the qualified voters on November 3, 2009 – BINDING ARBITRATION PROHIBITED: Notwithstanding any other provisions of this charter, the city is prohibited from utilizing binding arbitration, or any other similar process which delegates the final decision making authority to an outside person or entity, in determining the appropriate compensation, wages, benefits, and/or any other conditions of employment for City of McAllen employees, including but not limited to Police Officers and/or Firefighters. The city shall have the authority to use any appropriate non-binding alternative dispute resolution proceeding, but the final decision to accept and/or reject any recommendations resulting from such proceeding shall remain with the elected city officials of the City of McAllen.

AMENDMENT

An Amendment to the CHARTER OF MCALLEN, adding **Section 3, Article Four (4)**, duly adopted by the qualified voters on November 3, 2009 – **BINDING ARBITRATION REQUIRED**: It shall be the policy of the City of McAllen to provide its Firefighters and Police Officers with compensation and other conditions of employment that are substantially the same as compensation and conditions of employment in other comparable cities in the State of Texas. Because of the essential and emergency nature of the public service performed by Firefighters and Police Officers it is essential for the City of McAllen to adopt a fair system of arbitration if the parties fail to agree on the compensation and other conditions of employment during collective bargaining negotiations.

With the right to strike prohibited, to maintain the high morale of the Firefighters and Police Officers and efficient operation of the departments in which they serve, arbitration must be expeditious, effective and binding.

In the event that the City of McAllen is unable to reach an agreement with the Firefighters and/or Police Officers during collective bargaining negotiations and the parties have been at impasse for at least 90 days, then the following impasse procedure shall prevail;

Either party to the dispute, after written notice to the other party containing specifications of the issue or issues in dispute, may request arbitration. In the event that one party makes a request for arbitration, then both parties shall submit all issues in dispute to arbitration. The issues to be submitted to arbitration shall be all matters which the parties have been unable to resolve through collective bargaining. The arbitration ruling shall be final and binding on both parties.

Arbitration shall be conducted by the parties pursuant to the procedures, duties, requirements and rights set forth in local

government code, sections 174.153 through 174.164, except that local government code section 174.163 shall be specifically excluded and not apply herein.

In making its decision, the Arbitration panel may consider only the following:

- 1) The requirements of section 174.021, Local Government Code.
- 2) The total compensation, including wages and benefits, and conditions of employment provided by the City of McAllen to the Firefighters and/or Police Officers.
- 3) The total compensation and terms and conditions of employment of Firefighters and Police Officers in other comparable cities in the State of Texas.
- 4) The rate of increase or decrease in the cost of living for the McAllen area determined by the Consumer Price Index for the period beginning with the effective date of the current collective bargaining agreement and ending with the most recent published report at the time of commencement or the arbitration.
- 5) Revenues available to the City of McAllen and the impact on the Taxpayers of the City of McAllen. (Charter Amendment approved – Election of May 12, 2007)