



# **CITY OF COTULLA**

## **CITY CHARTER**

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## **PREAMBLE**

**We, the citizens of the City of Cotulla, Texas, in order to establish a Home Rule municipal government, provide for the future growth and progress of our City, obtain more fully the benefits of local self-government, and provide for the public welfare hereby adopt this home rule Charter, in accordance with the laws and statutes of the State of Texas; and we do hereby declare living within the legally established boundaries of said City to be a political subdivision of the State of Texas, incorporated in perpetuity under the name and style of “City of Cotulla” with such powers, rights, privileges, authorities, duties, and immunities as are herein provided.**

# ARTICLE I

## FORM OF GOVERNMENT AND BOUNDARIES

### **Section 1.01 Form of Government**

The municipal government provided by this Charter shall be known as a “Type A.” form of government. Pursuant to its provisions and subject only to the limitations imposed by the Constitution, laws, and statutes of the State of Texas and by this Charter, all powers of the City of Cotulla (*hereinafter referred to as the City*) shall be vested in an elected City Council (*hereinafter referred to as the City Council*) which shall enact local legislation, adopt budgets, determine policies, and appoint a City Manager, who in turn, will be held responsible to the City Council for the execution of the laws and the administration of the City government. All powers of the City shall be exercised in the manner prescribed by this Charter, or if the manner is not prescribed, then in such manner as may be prescribed by the United States Constitution, Texas Constitution, laws or statutes of the State of Texas, and ordinances of the City of Cotulla.

### **Section 1.02 Boundaries**

The boundaries of the City of Cotulla shall be the same as have heretofore been established and as they existed on the day of ratification of this Charter.

### **Section 1.03 Extensions or Contraction of Boundaries**

The boundaries of the City may be extended or contracted, irrespective of size and configuration, by the methods hereinafter set forth and consistent with Texas State law.

**(1) Boundary Limits:** The City Council shall have the power by ordinance to fix the boundary limits of the City of Cotulla; and to provide for the alteration and the extension of said boundary limits; and the annexation of additional territory lying adjacent to the City, with or without the consent of the territory and inhabitants annexed, subject to such procedural rules as may be prescribed by law and this Charter.

**(2) Voluntary Annexation:** The owner or owners of any land contiguous and adjacent to the City may, by petition in writing to the City Council, request the annexation of such contiguous and adjacent land. The City Council shall hold a public hearing with the arguments for and against the proposed annexation. If the City Council chooses to grant such petition, it may, by proper ordinance, under such procedural rules as may be prescribed by State law, receive, and annex such territory as a part of the City.

**(3) Maximum Amount of Annexation Each Year:** In any calendar year, the City may not annex a total area greater than ten percent of the total incorporated area of the City on January 1 of that year. If the City fails to use the total ten percent allowed in any given calendar year, it may carry over the unused allocation to following calendar years, however at no time shall the annual annexation exceed twenty percent of the total incorporated area of the City on January 1 of that year. This limitation shall not include voluntary annexation.

**(4) De-annexation:** Whenever there exists within the corporate limits of the City, adjoining the outer boundaries thereof, any territory not suitable or necessary for orderly planning and development of the City, the City Council may, by petition or with concurrence of a majority of the property owners residing in such territory, by ordinance duly passed, de-annex such property

as a part of the City, in accordance with the procedures required by state law; however, any territory so de-annexed shall be liable for its pro-rata share of any debts incurred while it was a part of the City, and the City shall continue to levy and collect taxes on the property within said territory until indebtedness has been discharged.

**(5) Extraterritorial Jurisdiction:** The extraterritorial jurisdiction (*hereinafter referred to as the ETJ*) boundaries may be extended by the Council as provided by State Law.

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## **ARTICLE II**

### **POWERS OF THE CITY**

#### **Section 2.01 Local Self Government**

The City shall have all the powers granted to cities by the Constitution and Laws of the State of Texas together with all the implied powers necessary to carry into execution such granted powers, as fully and completely as though they were specifically enumerated in this Charter; and those express and implied powers necessary for the government, interests, health, welfare, and good order of the City and its inhabitants.

(1) All such powers, whether express or implied, shall be exercised and enforced in the manner prescribed in this Charter; or when not prescribed herein, in such manner as shall be provided by ordinance of the Council.

(2) The City may exercise any of its powers, or perform any of its functions, and may participate in the financing thereof, jointly or in cooperation, by contract or otherwise, with the State Government of Texas or agency thereof, or with the Federal Government or any agency thereof, or with the government of any county, city, or political subdivision to accomplish any lawful municipal purpose.

#### **Section 2.02 Eminent Domain**

The City shall have the full authority and right to exercise eminent domain when necessary or desirable to carry out any of the powers conferred upon it by this Charter or by the constitution and laws of the State of Texas.

(1) The City may only exercise the power of eminent domain in the manner authorized or permitted by the constitution and laws of this state.

(2) The authority of eminent domain shall include the ability of the City to take the fee in land so condemned and such authority shall include the right to condemn public property for a clearly defined public purpose.

#### **Section 2.03 Intergovernmental Relations**

The City may exercise any of its powers or perform any of its functions and may participate in the financing thereof, jointly or in cooperation, by contract or otherwise, with any one or more states or any state civil division or agency, or the United States or any of its agencies, and any other county or any other political subdivisions in the State of Texas.



## **ARTICLE III** **CITY COUNCIL**

### **Section 3.01 Composition, Selection, and Term**

The City Council shall be composed of a Mayor and five Council Members, and the Council Members shall be elected at large. For purposes of Council seat identification, the five positions shall be designated as Place 1 through Place 5. Place 1, 2 and the Mayor shall be elected in even number years and Place 3, 4 and 5 shall be elected in odd numbered years, thus providing for staggered terms. Unless sooner removed under provisions of this Charter, all Council Members shall serve for a term of two years and until their successor has been elected and duly qualified.

### **Section 3.02 Qualifications of City Council**

Candidates for the City Council must be a qualified voter at the time of filing, having no felony convictions, or any offense involving moral turpitude. For the purposes of this section any final conviction, plea of guilty, or of no contest including those involving the suspension and deferral of punishment, pre-trial diversion, deferred adjudication, parole, probation or involving community supervision shall be considered a final conviction herein. Candidates must be at least twenty-one (21) years of age at the time of the election for which they are filing. They must be a current resident of the City and must have been a resident of the City, or of recently annexed territory, for at least twelve months prior to the filing date, and shall not be indebted to the City of Cotulla. All candidates for City Council, and any entity owned, controlled by or operated by them shall be current on all obligations to the City including the payment of ad valorem taxes, hotel occupancy taxes, municipal court fines, utility bills and or any other debt of any type owed to the City. Candidates who are current (*at the time of filing for office*) on a City approved payment plan for a debt owed to the City, shall not be considered “indebted” for the purposes of this section. Candidates shall continuously maintain their primary residence within the City for the term of their office. No member of the City Council of the City of Cotulla shall hold, apply for, or seek any paid position under the City government during their term of office. Residency for the purposes of qualification for office under this section shall be determined by the statutes and laws of the State of Texas. *Mandatory and sole jurisdiction for questions of residency for elected and appointed city officials, candidate(s) for office, and issues associated therewith, shall lie exclusively with the City Council whose decision shall be final.*

### **Section 3.03 Compensation**

Members of the City Council shall be paid \$200 per regular and special called meeting that they attend in its entirety and shall be eligible for reimbursement of actual expenses incurred for required training, approved conferences and official travel.

### **Section 3.04 Mayor**

The Mayor shall be elected at large in even numbered years, and unless sooner removed under provisions of this Charter, and shall serve for a term of two years and until a successor has been elected and duly qualified.

- (1) The Mayor shall preside at meetings of the City Council and shall cast his vote only in the event of a tie on matters before the Council. The Mayor shall be recognized as head of the City government and shall exercise all other duties prescribed for a Type A. form of government unless otherwise specified within this Charter.

(2) The Mayor shall also:

(a) Serve as the City's Budget Officer who with the assistance of the City Manager shall submit the annual municipal budget to the City Council in the manner prescribed by law;

(b) Sign all ordinances, proclamations, resolutions, and other official City documents, as may be approved by the Council;

(c) Appoint, with the advice and consent of the Council, the members of citizen advisory boards and commissions, whose conditions of membership shall have been previously set by ordinance;

(d) Serve as official head of the City for purposes of military law, national or regional disaster, or when so declared by the President of the United States or by the Governor of the State of Texas;

(e) In time of local emergency, oversee and coordinate with the police and other health and safety providers to maintain order, enforce all laws, and provide for the general welfare of the City;

(f) Perform other duties as authorized by the Council by ordinance or resolution and the general law.

(3) The Mayor shall be paid \$300 per regular and special called meeting that they attend in its entirety and is eligible for reimbursement of actual expenses incurred in the manner prescribed for City Council members.

(4) Candidates for Mayor shall meet all requirements for a City Council member set forth in Sec. 3.02 hereof.

### **Section 3.05 Mayor Pro Tem; Election, Duties, and Term**

The Mayor Pro Tem shall be a Council Member elected by the full City Council at the first regular meeting after each election of any Council Members or Mayor. The Term of the Mayor Pro Tem is thus one-year. The Mayor Pro Tem shall act as Mayor during the disability or absence of the Mayor, and in this capacity shall have all the rights and responsibilities conferred upon the Mayor. The Mayor Pro Tem shall be entitled to vote as a Council Member.

### **Section 3.06 Election of Mayor and Council Members**

Mayor and Council Members shall be elected by plurality vote; therefore, the candidates with the highest number of votes shall determine the winner.

### **Section 3.07 Vacancies, Forfeiture, and Filling Vacancies**

The processes for vacancies, forfeitures, and filling vacancies for Mayor and Council Members are:

(1) The office of a Council Member or the Mayor shall become vacant upon their death, resignation, forfeiture of, or removal from office in any manner authorized by law.

(2) If any member of the City Council, or the Mayor, ceases to possess the required qualifications for their office, or who is convicted of a felony or of a misdemeanor involving moral turpitude, they shall automatically be deemed to have forfeited such office. Such forfeiture shall be declared by resolution and enforced by the Council.

(3) If there is a declared vacancy in the office of Mayor, the Mayor Pro Tem shall assume that office until the next scheduled City Election.

(4) After a declared Council vacancy, the remaining Council Members will appoint a qualified person to fill that vacancy for the remainder of that term. Any person appointed to a vacancy which occurs in the first year of a two-year term, shall stand for election at the next scheduled City election to serve out the remaining term of office to which appointed. The City Council shall determine the manner and means of appointment.

(5) If a vacated position is that of Mayor Pro Tem, the City Council shall elect a new Mayor Pro Tem at the next regular meeting following the declared vacancy.

(6) Notwithstanding the requirement that a quorum of the City Council consists of a majority of the members, if, at any time, the membership of the City Council is reduced to less than a majority, the remaining members may, by majority action, appoint additional members to raise the membership to three. These appointees shall serve until the positions can be filled at the next general City election. All vacancies filled by election shall be for the remainder of the unexpired term(s) of the office so filled.

### **Section 3.08 Powers of the City Council**

All powers and authority which are expressed or implied to be conferred or possessed by the City shall be vested in and exercised by the City Council.

(1) Except where in conflict with and otherwise provided for within this Charter, and subject to the Constitution and laws of the United States and the State of Texas, the City Council may establish ordinances, determine matters of policy, and otherwise exercise all municipal powers, functions, rights, privileges, and immunities that may be expedient for maintaining and promoting the good government, health, safety and welfare of the City.

(2) No individual member of the City Council shall have any power to act, investigate, make appointments, or inquire into the conduct of any office, department or agency of the City without the specific authorization of the City Council in an official meeting.

(3) Without limitation of the foregoing and among the other powers that may be exercised by the City Council, the following are hereby enumerated for greater certainty:

(a) Appoint and remove the City Manager, City Secretary, City Treasurer, and City Attorney

(b) Appoint the Municipal Judge(s);

(c) Review, revise, and adopt the budget of the City;

(d) Establish, consolidate, or abolish administrative departments;

- (e) Advise and consent in the appointment of citizen advisory boards and commissions as defined and established by ordinance;
- (f) Collectively, and through the City Manager, inquire into the conduct of any office, department or agency of the City and make investigations as to municipal affairs;
- (g) Adopt and require the maintenance of both the official map of the City and the official zoning map;
- (h) Adopt and as necessary modify zoning, subdivision plats, development master plans, including the approval of variances, in cooperation with the Planning and Zoning Commission;
- (i) Fix and regulate rates and charges of all City utilities and public services;
- (j) Authorize the issuance of bonds by ordinance.

### **Section 3.09 Prohibitions**

Unless otherwise authorized within this Charter, or by law, no Mayor or Council Member shall hold any other City Office or City employment during their term as Mayor or Council Member.

In addition:

- (1) No former Mayor or Council Member shall hold any compensated appointive office or City employment until one (1) year after the expiration of the last term to which they were elected or appointed.
- (2) Neither the Mayor, the Council, nor any of its members shall, in any manner, direct the appointment, hiring, or removal from office of any employee whom the City Manager or any of the City Manager's subordinates are empowered to appoint, hire, or remove, other than the advice and consent function of the Council for specified City positions. The City Council, at a meeting called for that purpose, may express its views, and fully and freely discuss with the City Manager anything pertaining to appointment and removal of any employee.
- (3) Except for the purpose of inquiries and investigations as provided by this Charter, the City Council shall deal with City administrative officers and employees, who are subject to the direction and supervision of the City Manager, solely through the City Manager.
- (4) Neither the Mayor, nor the City Council, or any of its members, shall give orders to any such officer or employee, either publicly or privately, except as otherwise provided in this Charter.

### **Section 3.10 Meetings of the City Council**

Regular scheduled City Council meetings shall be held in accordance with State Law at City Hall or at such place as the City Council may designate.

- (1) The City Council shall hold at least one (1) regular meeting per month and as many additional meetings as it deems necessary to transact the business of the City.
- (2) The City Council shall fix, by ordinance, the date, time, and place of regular meetings.

(3) Except as provided by State Law, all City Council meetings shall be open to the public and shall be held and notice given in accordance with the *Texas Open Meetings Act*.

(4) Special meetings of the Council may be on the call of the Mayor or by a majority of Council Members and upon provision of public notice in accordance with the *Texas Open Meetings Act*.

### **Section 3.11 Quorum**

A majority of Council Members shall constitute a quorum for the purpose of transacting business. No action of the City Council, except as specifically provided in this Charter shall be valid or binding unless adopted by the affirmative vote of a majority of the City Council present. On all matters imposing a tax or the removal of a municipal officer, two-thirds (2/3) of the sitting members of the City Council shall be required to establish a quorum.

### **Section 3.12 Attendance**

If any member of the City Council, or the Mayor, is absent from three consecutive regular meetings, or accumulates six absences from any combination of meetings (*regular or called*) within any six-month period (*which need not be consecutive*), without excuse approved by a majority of the remaining Council Members, that office shall be declared vacant at the next regular meeting of the City Council by resolution.

### **Section 3.13 Conflict of Interest**

Any member of the City Council having a conflict of interest, pursuant to any State Laws or City ordinances regulating conflicts of interest of municipal officers, with an agenda item then before the Council, shall openly declare same before discussion proceeds, and is thereby prohibited from being present for the discussion of the item or voting on the question. *City Council members shall consider the appearance of impropriety in determining the issue of conflict of interest whether or not an actual conflict requires abstention or recusal under City ordinance or the laws of the State of Texas.*

### **Section 3.14 Abstentions**

Any member of the City Council may choose to abstain from voting on any question before the Council if a conflict of interest exists. When this occurs, the member's vote shall be recorded as an abstention vote in the official minutes of the meeting. Such abstention shall be accounted for in the manner prescribed by law.

### **Section 3.15 Council Rules of Procedure**

The City Council may determine its own rules and order of business, consistent with *Robert's Rules of Order* and any applicable State Law.

(1) The City Council shall provide that the citizens of the City have a reasonable opportunity to clearly hear and be heard at all regular meetings and public hearings with regard to specific matters under consideration

(2) The City Council shall provide for minutes to be taken and recorded for all public meetings as required by law. Such minutes shall be a public record and shall be kept and maintained by the City Secretary. Voting, except on procedural motions, shall be by public vote and the ayes and nays shall be recorded in the minutes.

(3) The agenda for any upcoming meeting shall be prepared by the City Secretary and shall be posted in a secure place, accessible to the public, in advance of the meeting and in accordance with State Law. The Mayor, individual Council Members or the City Manager may place items on the agenda prior to the agenda being posted subject to submission rules promulgated by the City Council

### **Section 3.16 General Ordinances**

The City Council shall legislate the City by ordinance.

(1) The enacting clause of every such ordinance shall be *“Be it ordained by the City Council of the City of Cotulla, Texas....”*

(2) Each proposed ordinance shall be introduced in the written or printed form required for adoption. No ordinance shall contain more than one subject, which shall be clearly expressed in its title.

(3) The City Attorney shall approve all ordinances as to form submitted to the City Council for adoption, as to the legality thereof, or shall file with the City Secretary a written legal objection thereof. Evidence of the legal approval of said ordinance shall be by notation on the ordinance itself.

(4) Copies of the proposed ordinance, in the form required for adoption, shall be available at the City offices and shall be furnished to citizens upon request to the City Secretary from and after the date on which such proposed ordinance is posted as an agenda item for a City Council meeting. A copy of the proposed ordinance *“caption”* shall also be posted along with the said agenda posting.

(5) All proposed ordinances shall be read in open meeting of the City Council; however, said reading may be descriptive caption only unless objected to by any Council Member, thus requiring a complete reading of the ordinance.

(6) An affirmative vote of a majority of Council Members present shall be required for adoption unless a super majority is required by law.

(7) After adoption, an ordinance shall not be amended or repealed except by the adoption of another ordinance amending or repealing the original ordinance.

(8) A proposed ordinance that has been amended after its placement on the agenda for a City Council meeting may not be voted on at such meeting. Such amended ordinance shall be placed on the agenda of a subsequent meeting of the City Council, including posting requirements as with the original ordinance. Amendments shall not include spelling, grammatical corrections, or simple mistakes not involving content

(9) Every ordinance shall become effective upon adoption or at any later time specified in the ordinance, except that every ordinance imposing any penalty, fine, or forfeiture shall become effective only after having been published, either in its entirety, or by caption and stated penalties, in the *“Official City Newspaper”* of the City of Cotulla.

### **Section 3.17 Emergency Ordinances**

The City Council may adopt emergency ordinances only to meet public emergencies affecting life, health, and damage to property or the public safety.

- (1) Such ordinances shall not levy taxes, grant, renew, or extend a franchise, or regulate the rate charged by any public service or utility. Neither shall they authorize the borrowing of money unless so specified elsewhere in this Charter.
- (2) An emergency ordinance shall be introduced in the form and manner generally prescribed for ordinances, except that they shall be plainly designated in the title as an emergency ordinance and shall contain, after the enacting clause, a declaration stating that an emergency exists and describing the emergency in clear and specific terms.
- (3) An emergency ordinance may be introduced at any City Council meeting and can be adopted with or without amendment or rejected at the meeting at which it is introduced. An affirmative vote of a majority of Council Members shall be required for adoption.
- (4) Emergency ordinances shall become effective upon adoption and shall be published as soon thereafter as practicable. Every emergency ordinance so adopted, except one authorizing the borrowing of money as described elsewhere in this Charter, is automatically repealed as of the sixty-first day following the day on which it became effective. The ordinance may be re-enacted if the emergency still exists.

### **Section 3.18 Authentication, Recording, and Distribution of Ordinances**

All ordinances are to be authenticated, recorded, and promptly distributed to the City.

- (1) Every ordinance enacted by the City Council shall be signed by the Mayor, or Mayor Pro Tem if presiding over the Council meeting in the absence of the Mayor when said ordinance was adopted.
- (2) All ordinances adopted by the City Council shall be authenticated by seal and signature of the person performing the duties of the City Secretary and numbered consecutively as adopted. They shall be properly indexed and kept in a manner open for public inspection.
- (3) The City Council shall cause all ordinances to be printed promptly following their adoption. A copy of each ordinance shall be placed in appropriate City offices for public reference. Copies of all ordinances shall be made available to the public at a reasonable fee as determined by State Law.

### **Section 3.19 Official City Newspaper**

The City Council, shall designate by resolution an "*Official City Newspaper*" as provided by State Law for a period of one (1) year provided however that such resolution may provide both an "Official" and "back-up" paper for such publications and that such designations may remain in effect until renewed. Nothing contained herein shall prohibit the City from using a daily newspaper in San Antonio or Laredo, Texas for such notices when publication in the local paper is impractical or inconvenient.

### **Section 3.20 Bond Requirement for City Employees**

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

### **Section 3.21 Code of Ethics**

The City Council shall have a Code of Ethics governing the City Council and all City employees which shall include, but not be limited to, the following: wrongful influence, wrongful interference, employees' political activities, penalties, conflict of interest, acceptance of gifts, conduct of members, and confidential information. Such Code of Ethics shall prohibit any former elected official from serving in any paid position with the City for a period of one (1) calendar year after leaving office.

### **Section 3.22 Non-Discrimination and Civil Rights**

In the exercise of its powers or in the performance of its duties the City and all of its agencies shall ensure that no person or group engaged in the conduct of official business or seeking to do business with the City is discriminated against because of race, creed, political orientation, color, national origin, marital status, sex, age, disability, or for any other cause prohibited by law.

### **Section 3.23 Health Regulations**

**(1) Regulations:** The City shall have the power to provide for the health, safety, and welfare of its inhabitants by establishing all necessary rules and regulations protecting the health, safety, and welfare of the City.

**(a)** The City Council shall have the power by ordinance or otherwise to regulate, license, and inspect public or private persons, firms, institutions, corporations, common carriers, or associations operating, managing, or conducting any activities, but not limited to, any of the following:

**(i)** Place of public accommodation, hotel, or any other public sleeping or eating place;

**(ii)** Place or vehicle where food or drink of any kind is manufactured, prepared, stored, packed, served, sold, or otherwise handled within the City or limits of said City; all food and beverage vendors and samplers must have a health permit which must be obtained a minimum of ten days prior to an event;

**(iii)** Any and all health conditions; and

**(iv)** Sanitary wastewater disposal system.

**(b)** The City shall have the power to



(i) Define all nuisances and summarily prohibit and abate the same within the City and outside the City limits for a distance in accordance with State law; and

(ii) Have the power to police in all parks or grounds, streets, and rights-of-way owned by the City or under lease to the City and lying both outside and inside said City; and

(iii) Prohibit the pollution of air or waterways, walkways of any kind, water deposits, and reservoirs, whether above or below the ground, which may constitute the source of storage of water supply, and to provide for policing the same, as well as to provide for the protection of any watersheds and the policing of the same.

**(2) Penalties or Fines:** The City shall have the power to provide for the fixing of penalties for failure of any person, firm, corporation, or association to comply with any such rules and regulations so prescribed by the City Council under the provisions of this section; it being the intention to vest in the City Council not only the powers expressly enumerated in this section, but all other powers reasonably necessary for the protection of the health of the City and its citizens.

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**ARTICLE IV**  
**CITY ADMINISTRATION**

**Section 4.01 City Manager**

The City Council shall appoint, upon the affirmative vote of the majority of the full membership of the Council, a City Manager.

(1) **Appointment:** The City Manager shall be responsible to the Council for administration of the affairs of the City with only those exceptions that are named in this Charter. The City Manager shall be appointed solely upon the City Manager's executive, administrative, and educational qualifications and shall have previous City Manager, Administrative experience, Assistant City Manager experience, other appropriate managerial experience or a degree in the field related to City government. The City Manager shall serve at the pleasure of the City Council and may or may not be considered an employee.

(2) **Exemptions:** A Mayor or member of the City Council, during the term to which elected and for one (1) year thereafter, shall not be appointed City Manager.

(3) **Term, Compensation, Duties:** The Council shall fix the term and conditions of employment, compensation and duties of the City Manager by written contract which shall be terminable at the convenience of the Council. The City Manager's compensation may be amended, from time to time, in accordance with the City Manager's experience, qualification, and performance.

(4) **Suspension or Removal:** The City Manager shall be appointed by, and may be removed at the discretion of, the Council by the affirmative vote of two-thirds of the full membership of the Council. Upon decisions to remove the City Manager, notice, in writing, of such decision shall be immediately furnished to the City Manager and the City Council may then suspend the City Manager from duty.

(a) If within five working days after being notified of termination and removal, the City Manager files a written request to the Council for reconsideration of the termination, the Council shall, as soon as practical, meet with the City Manager in accordance with the Texas Open Meetings Act to review its decision to terminate.

(b) Following such review, after affording the City Manager the opportunity to respond to such initial decision to terminate, a new vote requiring two-thirds majority of the Council shall be taken with regard to the termination of the City Manager.

(c) The City Manager shall from the date of suspension continue to receive their salary pending the final decision of the City Council provided however, that if the Manager is suspended or terminated because of a final conviction for a misdemeanor involving moral turpitude or personal gain; charged with or indicted for any felony, then, in that event, the City shall have no obligation to pay the salary designated herein.

(d) The procedure for a review meeting with the City Manager shall not alter the fact that the City Manager serves at the pleasure of the City Council, and the City Manager shall not have, nor should this procedure be construed to grant the City Manager, any right to continued

employment for any purpose whatsoever and such individual if an actual employee shall at all times be considered an “at will.”

(e) If the contract for employment fixes an amount or terms of severance payment(s) in the case of termination; then such severance payment(s) shall be considered fully liquidated as to any and all monetary claims arising therein.

**(5) Acting City Manager:** *The Mayor of the City shall service as “acting” City Manager (without compensation) during any term in which there is no City Manager.*

**(6) Duties and Responsibilities:** The City Manager shall:

(a) Appoint, suspend, hire, and remove all City employees and administrative officers provided for in this Charter, except as otherwise provided by this Charter.

(b) Direct and supervise the administration of all departments, offices, and agencies of the City, except as otherwise provided by this Charter.

(c) See that all State laws and City ordinances are effectively enforced.

(d) Attend or designate a City employee to attend all City Council, Commission, and Board meetings with the right to take part in discussion, but shall not vote.

(e) Prepare and accept, or designate an appropriate department head or City employee to prepare and accept, items for inclusion in the official agenda of all City Council meetings and meetings of all boards and commissions.

(f) With the Mayor, prepare and recommend to the City Council the annual budget and capital program and administer the budget as adopted by the Council.

(g) Keep the City Council fully advised, at least quarterly, as to the financial conditions and future needs of the City and make such recommendations concerning the affairs of the City, as the City Manager or the Council deems desirable or necessary.

(h) Make reports as the City Council may require concerning the operation of the City departments, offices, or agencies subject to the City Manager’s direction or supervision.

(i) Keep a written inventory of all real property and all permanent equipment owned by the City, said inventory to be audited annually. A system shall be established to control the use and accountability of all permanent, non-expendable equipment and the use and replacement of expendable equipment, as well.

(j) Execute all contracts as authorized by resolution or ordinances adopted by the City Council except as otherwise provided in this Charter.

(k) Ensure that the City Master Plan is maintained and all changes approved by the City Council, and

- (l) Perform such other duties as are specified in this Charter or may be required by the City Council which are consistent with this Charter as well as State and Federal laws.

#### **Section 4.02 City Secretary**

The City Secretary shall be appointed by a majority vote of the City Council. The City Secretary shall report to the City Council. The City Secretary and such deputies as approved by the City Council shall serve as the clerk of the municipal court. The City Secretary may be removed from office by a two-thirds vote of the full membership of the City Council.

##### **(1) The City Secretary or Designee shall:**

- (a) Give notice of all official public meetings of the City Council, Commissions, and Boards in a manner consistent with this Charter and State laws;
- (b) Attend all public meetings and hearings of the City Council the Board of Adjustment and the Planning and Zoning Commission and other meetings as required by the City Manager;
- (c) Keep the minutes of the proceeds of all public official meetings and hearings of the City Council in a manner prescribed by the Council consistent with applicable laws;
- (d) Act as custodian of all official records of the City;
- (e) Hold and maintain the seal of the City and affix this seal to all appropriate documents;
- (f) Authenticate, by signature and seal, and record all ordinances, resolutions, and proclamations of the City;
- (g) Act as agent for the purposes of serving civil process;
- (h) Assist the City Manager with the maintenance and public information request of all records as directed by the City Council;
- (i) Perform such other duties, as may be required by the City Council, which are consistent with this Charter as well as State and Federal laws, and
- (j) Schedule and administer all City elections in accordance with the Texas Election Code and any other applicable law;
- (k) Serve as the City's Public Information Officer along with such deputies as may be appointed by the City Manager.

- ##### **(2) Exemptions:** A City Secretary, during the term to which appointed and for one (1) year thereafter, shall not be appointed City Manager.

### **Section 4.03 Municipal Court and Municipal Judge**

The City Council shall establish and cause to be maintained a Municipal Court of Record.

- (1) The Court shall have all powers and duties as are now, or may be, prescribed by the Laws of the State of Texas.
- (2) The City Council shall appoint to a two-year term, by the affirmative vote of a majority of the membership of the Council, such Municipal Judge or Judges of the Municipal Court, as may be necessary, all of whom shall be competent, duly qualified attorneys licensed and practicing for at least two years in the State of Texas.
- (3) In the event a duly qualified attorney is not available, the Council shall then select a qualified person to be the Municipal Judge.
- (4) The Municipal Court Judge of the Municipal Court shall be appointed in accordance with State Law.
- (5) The Municipal Judge shall receive compensation as may be determined by the council.
- (6) **The Municipal Judge shall:**
  - (a) Have power to punish for contempt to the same extent and under the same circumstance as the Justice of the Peace may punish for contempt of criminal cases
  - (b) Preside over any associate Judge(s) who shall be a licensed attorney(s) in the State
- (7) The Clerk and Deputy Clerks of the Municipal Courts shall have the power to administer oaths, certify affidavits, affix the seal of the Court and perform all usual and necessary clerical acts in conducting the business of the Court, including, but not limited to the keeping of records and accounts of the Municipal Court.
- (8) All special expenses and fines imposed by the Municipal Court shall be paid into the City treasury for the use and benefit of the City, as may be consistent with present and future laws.

### **Section 4.04 City Attorney**

The City Council shall appoint, by affirmative vote of the Majority of the Council, a competent, duly qualified, licensed, and practicing attorney in the State of Texas who shall serve as the City Attorney. The City Attorney must be a member of and be in good standing with the State Bar of Texas.

- (1) If the City Attorney is appointed by contract, all inquiries and questions from City Council to the City Attorney shall first be brought to the attention of the City Manager unless the issue directly affects the City Manager.
- (2) If the City Attorney is employed as a city employee, the City Attorney may be removed with or without cause at the discretion of the Council by the affirmative vote of two-thirds of the full membership of the Council.
- (3) If the City Attorney is appointed by contract, then City Council may remove the City Attorney with or without cause by a majority vote.

**(4) The City Attorney shall:**

- (a)** Serve as the legal advisor to the City Council, the Police Department, the City Manager, and prosecutor of the municipal court;
- (b)** Attend all meetings of the City Council unless excused by the City Manager;
- (c)** Represent the City in litigation and legal proceedings as directed by the City Council and the City Manager;
- (d)** Review and provide legal opinions as requested by the City Council or City Manager on contracts prepare legal instruments, ordinances and resolutions of the City, and assist in other City business as directed;
- (e)** The City Council shall have the right to retain special counsel at any time that it may deem necessary and appropriate;
- (f)** The City Attorney and Special Counsel shall receive compensation as may be determined by the City Council;
- (g)** The City Attorney, with approval of the City Council, may select additional attorneys to act for the City as City Attorney in its representation or litigation.

**Section 4.05 Municipal Departments**

- (1)** The City Council shall create the necessary Municipal Departments for the purpose of providing services to residents. The City Council, may after hearing recommendations of the City Manager, establish, abolish, redesign, or combine departments, offices or agencies, and may prescribe the functions and duties of such departments, offices, and agencies.
- (2)** Except as provided elsewhere in this Charter, all departments, offices, and agencies of the City shall be under the direction and supervision of the City Manager and shall be administered by department directors appointed by and subject to the direction and supervision of the City Manager. Department directors shall serve at the pleasure of the City Manager and may be removed at will by the City Manager. City Council shall be notified of all pending department director appointments and terminations.
- (3)** The City Manager may, with the consent of the City Council, serve as head of one or more City departments, offices, or agencies or appoint one person as head of two or more City departments, offices, or agencies.

**Section 4.06 Creation of New Positions**

The City Council shall have the right, by a majority vote of the Council thereof, to create such new City positions as may, in their opinion, be necessary for the welfare of the City and impose such duties as they may see proper. The Council may abolish at any time any office so created by them by a majority vote of the Council. Except as provided elsewhere in this Charter, all new City positions shall be under the direction and supervision of the City Manager or designated department director.

#### **Section 4.07 Administrative Departments, Offices, and Agencies**

The City Council may after hearing recommendations of the City Manager establish, abolish, redesign, or combine departments, offices, or agencies; in addition to those provided for by this Charter; and may prescribe the functions and duties of such departments, offices, and agencies.

(1) Except as provided elsewhere in this Charter, all departments, offices, and agencies of the City shall be under the direction and supervision of the City Manager and shall be administered by officers appointed by and subject to the direction and supervision of the City Manager. The City Manager may, with the consent of the City Council, serve as head of one or more City departments, offices, or agencies or appoint one person as head of two or more City departments, offices, or agencies.

(2) The City Manager may appoint a City Tax Collector whose duties and functions shall be those usual to the office and consistent with the laws of the State of Texas, as they may apply to City and County Tax Collectors. The City Manager may recommend that the City Council enter into an outside contract for such services.

#### **Section 4.08 Personnel System**

The City Manager shall prepare and present personnel rules to the City Council, who may adopt them by ordinance or resolution, with or without amendment. The adopted rules shall establish the City as an Equal Opportunity Employer and shall govern the equitable administration of the personnel system of the City. The City shall comply with all applicable State and Federal laws.

#### **Section 4.09 Prohibited Activities**

(1) No Person shall be appointed to, or removed from, or in any way favored or discriminated against, with respect to any City position or appointive City Administrative office because of race, sex, age, disability, political or religious opinions, or affiliations.

(2) No Person shall willfully make any false statement, certificate, mark, rating, or report in regard to any test, certification, or appointment under the personnel provisions of the Charter or the rules and regulations made hereunder, or in any manner commit or attempt to commit fraud 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 said person's test, appointment, proposed appointment, promotion, or proposed promotion.

(4) No Person related within the second degree by affinity, or within the third degree by consanguinity to any elected officer of the City, or to the City Manager, shall be appointed to any office, position, or clerkship or other service of the City. No Person may be considered for appointment or employment under this section if such would create the "appearance of impropriety" as determined by the City Council.

(5) No City Official or Employee shall orally, by letter or otherwise solicit or assist in soliciting any assessment, subscription, or contribution for any political party; or political purpose whatever from any person holding any compensated appointive position.

(6) With respect to any campaign for any election to an office in Cotulla, no City Official or Employee who holds any compensated appointive City position shall make, solicit, or receive any contribution to the campaign funds of any political party or any candidate for such office or take any part in the management, affairs, or political campaign of any political party, but persons may exercise their rights as a citizens to express their opinions and to cast their votes.

(7) Persons who, by themselves or with others willfully violate any of the provisions of this section shall be guilty of misconduct and immediately forfeit their office or position upon order of the City Manager or City Council. Prior to forfeiting office an individual is entitled to due process and a public hearing before the City Council. An affirmative vote of a simple majority of Council Members shall be required to compel forfeiture of the office or position.

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## **ARTICLE V**

### **NOMINATIONS AND ELECTIONS**

#### **Section 5.01 City Elections**

All City elections shall be conducted in accordance with the Texas Election Code and other applicable laws. Such elections shall be conducted by election officials appointed by the City Council or contracted with the County Elections Office as prescribed by law.

(1) **General Elections:** The general City election shall be held annually on the uniform election day during the month of May or at such other times as may be specified by State Law.

(2) **Special Elections:** The City Council may, by ordinance or resolution, order a special election for purposes consistent with this Charter and laws of the State of Texas.

(3) **Conduct of Elections:** The City Council will fix the places and provide all means for holding City elections. All City elections shall be publicized in accordance with the Texas Election code.

#### **Section 5.02 Filing for Office:**

(1) **Application:** Any person having the qualifications set forth for a particular City office, and desiring to become an official candidate, shall sign and file such application with the City Secretary in accordance with the Texas Election Code.

(2) **Qualifications and Requirements:** Candidates for elective City offices must be a qualified voter meeting the requirements of the Texas Election Code and Section 3.02 hereof. By their application, and upon their election, each candidate agrees to maintain their primary residence within the City for the term of office for which they are filing or forfeit same.

(3) **Restrictions:**

(a) No candidate may file in a single election for more than one elective office.

(b) Any City employee who shall become a candidate for City office shall immediately forfeit their employment and such application shall be accompanied by said employee's written resignation, the acceptance of which shall require no further act. By failure to offer this resignation, the employee automatically forfeits the respective city employment position upon becoming a candidate and shall be considered to have voluntarily quit from such position.

(c) In the event any person holding a position on any Board, Commission, or Committee appointed by the City Council shall become a candidate for a City elective office, such position on the Board, Commission, or Committee shall be considered vacated upon said individual becoming a candidate.

(d) In the event any incumbent office holder, of any elected city office, becomes a candidate for election to any office other than the one they are presently holding, such candidate shall automatically forfeit their position upon winning election to such other office.

### **Section 5.03 Ballots**

The name of each candidate seeking elective office, except those who have withdrawn, died, or become ineligible, shall be printed on the official ballot in the form designated by the candidate in accordance with the Texas Election Code.

(1) **Listing of Names**: The order of the names of the candidates on the ballot shall be determined by lot in a public drawing to be held under the supervision of the person performing the duties of the City Secretary in accordance with the Texas Election Code.

(2) **Absentee and Write-in Voting**: Absentee and write-in voting shall be allowed, and all such controlling procedures shall be consistent with the Texas Election Code.

(3) **Non-elective Office Issues**: Any ordinance, bond issue, Charter amendment, or any City election to be voted on by the voters of the City shall be presented for voting by ballot title. The ballot title of a measure may be different from its legal title and shall be a clear, concise statement, approved by the City Council, describing the substance of the measure without argument or prejudice.

### **Section 5.04 Election Results**

(1) **Plurality Vote Required**: The candidate for elective office receiving the highest number of votes shall be declared the winner.

(2) **Certification of Election Results**: The returns of each municipal election shall be handled in accordance with the Texas Election Code. These returns shall be delivered from the election judges to the person performing the duties of the City Secretary at City Hall, as soon as possible after the closing of the polls. Election returns, general and special, shall be presented to the City Council at their next meeting following the election, in accordance with the Texas Election Code, and at which time the City Council shall canvass and declare the results of the election. These election results shall be recorded in the minutes of the meeting.

### **Section 5.05 Taking of Office**

Each newly elected person to a city office shall be inducted into said office at the first City Council meeting following official canvassing of the election on or after the date specified in the Texas Election Code for installation and assumption of duties. At such meeting, the oath shall be publicly administered in accordance with the City Charter as directed by the City.

### **Section 5.06 Qualifying of Officers**

The Mayor, Council Members, and other officers appointed under this Charter shall qualify by taking the oath prescribed by the Texas Constitution and by executing such bond as may be required under the provisions of this Charter and the ordinances and resolutions of the City at the first meeting following the canvas.

### **Section 5.07 Oath of Office**

All officers of the City shall, before entering upon the duties of their respective office, take and subscribe to the following oath or affirmation, to be filed and kept in the office of the City Secretary:

*"I, \_\_\_\_\_, do solemnly swear (or affirm), that I will faithfully execute the duties of the office of \_\_\_\_\_, of the City of Cotulla, State of Texas, and will to the best of my ability preserve, protect, and defend the*

*Constitution and Laws of the United States and of this State and the Charter and ordinances of this City; and I furthermore solemnly swear (or affirm), that I have not directly nor indirectly paid, offered, or promised to pay, contributed, nor promised to contribute any money, or valuable thing, or promise any public office or employment, as a reward for the giving or withholding a vote at the election at which I was elected, or if the office is one of appointment, to secure my appointment, so help me God."*

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## ARTICLE VI

### Section 6.01 General Power of Initiative and Referendum

The qualified voters of the City, in addition to the method of legislation herein before provided, shall have the power of direct legislation by the initiative and referendum.

(1) **Initiative:** Such power shall not extend to the budget or any capital program or ordinance not subject to initiative as provided by State Law, relating to appropriation of money, issuing of bonds, and levying of taxes or salaries of City officers or employees.

(2) **Referendum:** Such power shall not extend to the budget or any capital program or emergency ordinance or ordinance not subject to referendum as provided by State Law, relating to appropriation of money, issuing of bonds, or levying of taxes.

### Section 6.02 Initiative

Following a review by the City Attorney for enforceability and legality, qualified voters of the City may initiate legislation by submitting a petition addressed to the City Council, which requests the submission of a proposed ordinance or resolution to a vote of the qualified voters of the City.

(1) Said petition must contain the number of valid signatures totaling at least ten percent of the number of registered voters residing in the City at the time of the last regular City election, and each copy of the petition shall have attached to it a copy of the proposed legislation.

(2) All signers of such petition shall personally sign their individual name thereto in ink or indelible pencil and shall write after their name their place of residence, giving the name of the street and the number, and shall also write thereon the day, the month and the year their signature was affixed and shall be verified by oath and affirmation. The petition may consist of one or more copies as permitted for recall petitions. Such petition shall be filed with the person performing the duties of City Secretary.

(3) Such verified petition shall be presented to the City Council. It shall become the duty of the City Council, within two regularly scheduled City Council meetings after the receipt thereof, to pass and adopt such ordinance or resolution without alteration as to meaning or effect, in the opinion of the persons filing the petition, or to call a special election, at which the qualified voters of the City shall vote on the question of adopting or rejecting the proposed legislation.

(4) Any election order so issued shall comply with the Texas Election Code.

(5) Unless otherwise provided by law, any election for an initiative under this Charter shall be held on the first authorized uniform election date that occurs after the sixty-fifth day after the petition was presented to the City Council.

### Section 6.03 Referendum

Qualified voters of the City may require that any ordinance or resolution, with the exception of ordinances or resolutions appropriating money, levying taxes, fixing rates and charges for City utilities, and ordinances authorizing the issuance of bonds that have been authorized by a vote of the people, passed by the City Council be submitted to the voters of the City for approval or disapproval, by submitting a petition for this purpose within thirty days after final passage of said ordinance or

resolution, or within thirty days after its publication. Said petition must contain the number of valid signatures totaling at least ten percent of the number of registered voters residing in the City at the time of the last regular City election, and each petition shall contain a clear concise statement of the ordinance or resolution for which it seeks approval or disapproval.

- (1) Said petition and shall be addressed, signed, and verified as required for initiative petitions in this Article and shall be submitted to the person performing the duties of City Secretary.
- (2) Such verified petition shall be presented to the City Council. It shall become the duty of the City Council, within two regularly scheduled City Council meetings after the receipt thereof, to reconsider such ordinance or resolution and, if the City Council does not entirely repeal the same, shall submit it to popular vote as provided in Section 5.01 of this Charter.
- (3) Pending the holding of such election, each ordinance or resolution shall be suspended from taking effect and shall not later take effect unless a majority of the qualified voters voting thereon at such election shall vote in favor thereof.
- (4) Unless otherwise provided by law, any election for a referendum under this Charter shall be held on the first authorized uniform election date that occurs after the sixty-fifth day after the petition was presented to the City Council.

**Section 6.04 Verification**

All petitions for Initiative and Referendum to the provided by this Section shall contain the following verification.

State of Texas  
County of La Salle

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

Signature \_\_\_\_\_

Sworn and subscribed before me this \_\_\_\_\_ day of \_\_\_\_\_ 2\_\_\_\_.

\_\_\_\_\_  
NOTARY PUBLIC, STATE OF TEXAS

My commission expires: \_\_\_\_\_

## **ARTICLE VII**

### **FINANCIAL PROCEDURES**

#### **Section 7.01 Fiscal Year**

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

#### **Section 7.02 Submission of Budget and Budget Measure**

On or before August 15 of the fiscal year, the Mayor with the assistance of the City Manager shall submit to the City Council a budget for the ensuing fiscal year and an accompanying budget message. The proposed budget submitted to Council for review will be an itemized budget in accordance with State law.

#### **Section 7.03 Budget Message**

The City Manager shall provide a message explaining the budget both in fiscal terms and in terms of the work programs. It shall outline the proposed financial policies of the City for the ensuing fiscal year; describe the important features of the budget; indicate any major changes from the current year in financial policies, expenditures, and revenues together with the reasons for such changes; summarize the City's debt position and include such other material as the City Manager deems desirable.

#### **Section 7.04 Budget a Public Record**

In accordance with State Law, the budget, and all supporting schedules shall be filed with the person performing the duties of City Secretary when submitted to the City Council and shall be open to public inspection by anyone interested.

#### **Section 7.05 Public Hearing on Proposed Budget**

The City Council shall provide for notice and public hearing on the proposed budget in the manner prescribed by law.

#### **Section 7.06 Proceeding on Adoption of Budget**

After public hearing, the City Council shall analyze the budget, making any additions or deletions which they feel appropriate, and shall adopt the budget ordinance by the affirmative vote of a majority of the City Council in the manner prescribed by law.

#### **Section 7.07 Budget, Appropriation, and Amount to be Raised by Taxation**

On final adoption, the budget shall be in effect for the budget year. Final adoption of the budget by the City Council shall constitute the official appropriations as proposed by expenditures for the current year and shall constitute the basis of official levy of the property tax as the amount of tax to be assessed and collected for the corresponding tax year. Unused appropriations may be transferred to any item required for the same general purpose.

#### **Section 7.08 Amending the Budget**

Under conditions which may arise and which could not reasonably have been foreseen in the normal process of planning the budget, and as otherwise provided by law, the City Council may, by the affirmative vote of a majority of the City Council, amend or change the budget to provide for any

additional expense in which the general welfare of the citizenry is involved. These amendments shall be by ordinance and shall become an attachment to the original budget.

### **Section 7.09 Certification**

A copy of the budget, as finally adopted, shall be filed with the person performing the duties of City Secretary and such other places required by State Law or as the City Council shall designate.

### **Section 7.10 Capital Program**

(1) The City Manager shall submit a five-year capital program as an attachment to the annual budget. The program as submitted shall include:

(a) A clear general summary of its contents;

(b) A list of all capital improvements which are proposed to be undertaken during the five fiscal years succeeding the budget year, with appropriate supporting information as to the necessity for such improvements;

(c) Cost estimates, method of financing, and recommended time schedules for each improvement; and

(d) The estimated annual cost of operating and maintaining the facilities to be constructed or acquired.

(2) The above information may be revised and extended each year with regard to capital improvements still pending or in process of construction or acquisition.

### **Section 7.11 Defect Shall Not Invalidate the Tax Levy**

Errors or defects in the form or preparation of the budget or the failure to perform any procedural requirements shall not nullify the tax levy or the tax rate.

### **Section 7.12 Lapse of Appropriations**

Every appropriation, except an appropriation for a capital expenditure for which an interest and sinking fund has been established, shall lapse at the close of the fiscal year to the extent that it has not been expended or encumbered. An appropriation for a capital expenditure shall continue in force until the purpose for which it was made has been accomplished or abandoned. The purpose of any such appropriation, with the exception of a bond fund, shall be deemed abandoned if three years pass without any disbursement from or encumbrance of the appropriation. Any funds not expended, disbursed, or encumbered shall be deemed excess funds.

### **Section 7.13 Borrowing**

The City shall have the right and power, except as prohibited by law or this Charter, to borrow money by whatever method it may deem to be in the public interest.

(1) **General Obligation Bonds:** The City shall have the power to borrow money on the credit of the City and to issue general obligation bonds for permanent public improvements or any other public purpose not prohibited by law and this Charter and to issue refunding bonds to refund outstanding bonds previously issued.

(2) All such bonds shall be issued in conformity with the laws of the State of Texas and shall be used only for purposes for which they were issued.

(a) **Revenue Bonds:** The City shall have the power to borrow money for the purpose of constructing, purchasing, improving, extending, or repairing public utilities, or any other self-liquidating municipal function not prohibited by the Constitution and the laws of the State of Texas. With an affirmative vote of a majority of the Council Members, it shall have the power to issue revenue bonds and to evidence the obligation created thereby. Such bonds shall be a charge upon and payable from the properties, or interest therein pledged, or the income therein gained from, or both. The holders of the revenue bonds shall never have the right to demand payment thereof out of monies raised or to be raised by taxation. All such bonds shall be issued in conformity with the laws of the State of Texas and shall be used only for the purpose for which they were issued.

(b) **Other Funding:** In any budget year the City Council may, by affirmative vote of a majority of the Council Members, and in accordance with state law, authorize the borrowing of money for a governmental and or public purpose. Such method(s) of borrowing may include but are not limited to commercial loans, certificates of obligation, grants, and government loans including those issued by the agencies of the State of Texas and the United States; and including by other means authorized by the laws of the State of Texas and the United States. Such funding shall be used only for the purpose authorized in accordance with law.

#### **Section 7.14 Purchasing**

The City Council may, by ordinance give the City Manager general authority to contract for expenditure without further approval of the City Council for all budgeted items not exceeding limits set by the City Council. All matters approved hereunder shall be presented to the City Council as an informational item.

(1) All contracts for expenditures involving more than the limits must be expressly approved in advance by the City Council and awarded by the City Council in accordance with State Law.

(2) Emergency contracts, as authorized by law and this Charter, may be negotiated by the City Council or City Manager, if given authority by the City Council, without competitive bidding and in accordance with State Law. Such emergency shall be declared by the City Manager and approved by the City Council, or the City Council.

#### **Section 7.15 Administration of Budget**

(1) No payment shall be made, or obligation incurred, against any allotment or appropriation except in accordance with appropriations duly made, unless the City Manager first certifies that there is a sufficient unencumbered balance in such allotment or appropriation and that sufficient funds there from are or will be available to cover the claim or meet the obligation when it becomes due and payable.

(2) The City Manager shall submit to the City Council each month a report covering the revenues and expenditures of the City in such form as requested by the City Council.



### **Section 7.16 Depository**

All monies received by any person, department, or agency of the City for or in connection with the affairs of the City shall be deposited promptly in the City depository or depositories. The City depositories shall be designated by the City Council in accordance with such regulations and subject to the requirements as to security for deposits and interest thereon as may be established by ordinance and State Law. Procedures for withdrawal of money or the disbursement of funds from the City depositories shall be prescribed by the City Council.

### **Section 7.17 Independent Audits**

At the close of each fiscal year in accordance with State law, and at such other times as may be deemed necessary, the City Council shall call for an independent audit to be made of all accounts of the City by a certified public accountant. The certified public accountant selected shall have no personal interest, directly or indirectly, in the financial affairs of the City or any of its officers. The report of audit, with the auditor's recommendations, will be made to the City Council. Upon completion, the audit will be placed on file in the office of the person performing the duties of City Secretary, as a public record.

### **Section 7.18 Power to Tax**

The City shall have the power to levy, assess, and collect taxes of every character and type for any municipal purpose not prohibited by the Constitution and laws of the State of Texas.

- (1 ) The City shall have the power to grant tax exemptions in accordance with the laws of the State of Texas.

### **Section 7.19 Taxes; When Due and Payable**

All taxes due in the City shall be payable at the office of the City Tax Collector, or at such location or locations as may be designated by the City Council and may be paid at any time after the tax rolls for the year have been completed and approved.

- (1) Taxes for each year shall be paid before February 1 of the next succeeding year, and all such taxes not paid prior to that date shall be deemed delinquent and shall be subject to penalty and interest as the City Council shall provide by ordinance. The City Council may provide discounts for the payment of taxes prior to January 1 in an amount not to exceed those established by the laws of the State of Texas.

- (2) Failure to levy and assess taxes through omission in preparing the appraisal rolls shall not relieve the person, firm, or corporation so omitted from obligation to pay such current or past due taxes as shown to be payable by recheck of the rolls and receipts for the years in question, omitting penalty and interest.

### **Section 7.20 Tax Liens, Liabilities, and Suits**

- (1) All taxable property located in the City on January 1 of each year shall stand charged from that date with a special lien in favor of the City for the taxes due. All persons purchasing any such property on or after January 1 in any year shall take the property subject to the liens provided above. In addition to the liens herein provided, on January 1 of any year, the owner of property subject to taxation by the City shall be personally liable for the taxes due for that year.

- (2) The City shall have the power to sue for and recover personal judgment for taxes without foreclosure, or to foreclose its lien or liens, or to recover both personal judgment and foreclosure.

In any such suit where it appears that the description of any property in the City appraisal rolls is insufficient to identify such property, the City shall have the right to plead a good description of the property to be assessed, to prove the same, and to have its judgment foreclosing the tax lien or for personal judgment against the owners for such taxes.

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**ARTICLE VIII**  
**PLANNING & ZONING COMMISSION**

**Section 8.01 Cotulla Planning & Zoning Commission Organization, Duties, & Powers**

There is hereby established a Cotulla Planning and Zoning Commission (the "Commission") which shall consist of at least five members who shall be appointed by the City Council, in staggered terms of two years to be determined by Council.

- (1) The Commission members shall be qualified voters and be residents of the City. Any vacancy occurring during the unexpired term of a member shall be filled by the City Council for the remainder of the unexpired term. Each year, the Commission shall elect from its members a Chairman, Vice Chairman, and Secretary to serve for one year, beginning in that month. A majority of members shall constitute a quorum. Members of the Commission may be removed by an affirmative vote of a majority of the City Council at any time. Members of the Commission shall serve without compensation.
- (2) The Commission shall meet as necessary upon the request of the Chairman. The Commission shall keep minutes of its proceedings which shall be of public record.
- (3) The Cotulla Planning & Zoning Commission shall have full power to exercise the authority of the Commission as provided by State law, this Charter, and City ordinance.

**Section 8.02 Procedures**

The Planning and Zoning Commission procedures shall be governed by the provisions of the Zoning Ordinance and state law.

- (1) Should any person or persons on the Commission have a conflict of interest, such person shall openly declare same before discussion proceeds, and such person is thereby prohibited from discussing the item or voting on the question.
- (2) Any member of the Commission may choose to abstain from voting on any question before the Commission. When this occurs, the member's vote shall be recorded as an abstention vote in the official minutes of the meeting.

**Section 8.03 Comprehensive Plan**

The existing Comprehensive Plan for the physical development of the City of Cotulla contains recommendations for the growth, development, and beautification of the City.

- (1) Additions to and amendments of the Comprehensive Plan shall be by ordinance in accordance with state law.
- (2) Following the adoption by the Cotulla City Council of the comprehensive plan, and any revisions thereto, it shall serve as a guide to all future City actions concerning land use and development regulations and expenditures for capital improvements.

## **ARTICLE IX**

### **HOME RULE CHARTER**

#### **Section 9.01 Effect of Charter on Existing Laws**

All City ordinances, rules, and regulations in force at the time of adoption of this Charter and not in conflict with it shall remain in force until altered, amended, or repealed by the Council. All rights of the City under existing franchises and contracts are preserved in full force and effect. Any ordinances, rules, or regulations inconsistent with this Charter are repealed as of the date of adoption of the Charter.

#### **Section 9.02 Submission of Charter to Election**

In accordance with State law this Charter is to be submitted for general election.

- (1) The Charter Commission, in preparing this Charter, finds and declares that it is impracticable to segregate each subject so that the voter may vote "yes" or "no" on the same, for the reason that the Charter is so constructed that in order to enable it to properly function it is necessary that it should be adopted in its entirety. For this reason, the Charter Commission directs that this Charter be voted upon as a whole, and that it shall be submitted to the qualified voters of the City at an election to be held on May 6, 2023.
- (2) If this Charter is approved by a majority of the qualified voters, voting at this election, it shall become the Charter of the City of Cotulla on the date the Council enters an order in the records of the City declaring that the Charter is adopted.
- (3) Upon approval of this Charter by the voters through a city-wide election in the May 2023 election, the sitting Council will immediately begin a transitional phase.

  - (a) The elected Mayor in May 2024 is the first Mayor under Home Rule.
  - (b) At the time of the May 2023 election, the three (3) newly elected Council Members shall be designated as odd year Council Members, and further designated as Place 3, 4 & 5 in accordance with the position for which they were elected. The Council Members designated as Place 1 and Place 2 shall serve two-year terms and be required to run for re-election in May 2024.
  - (c) Thereafter, Council Members in Place 3, 4 & 5 shall be elected in regular May elections every odd year and the Council Members in Place 1 & 2 and the Mayor shall continue to be elected in regular May elections every even year.
  - (d) Nothing in this Section shall ever be construed as prohibiting the City Council from holding an election on another uniform election date provided by the Texas Election Code if required for a declared public purpose or emergency.

#### **Section 9.03 Charter Review**

The City Council may appoint a Charter review Commission in accordance with State law and establish a periodic Charter review process by ordinance.

**(1) Charter Review Commission:** A Charter Review Commission shall be composed of not fewer than seven (7) members who meet the requirements set forth below

(a) Each member of the Charter Review Commission shall be a registered voter of the City.

(b) Commission members shall serve without compensation and shall not be employed by or hold any other position in the City government, in addition to any other requirements prescribed by the Council, members shall maintain the qualification established by this section while in office.

(c) No member of a board or commission shall remain in this position after being elected or appointed to City office.

**(2) Rules of Procedure:** The Commission must establish its own rules of procedure, which must require that quorum consists of a majority of its members and that an affirmative vote of a majority of all members present is necessary to act.

**(3) Powers and Duties:** The Charter Review Commission shall:

(a) Inquire into the operations of city government and review the City Charter to determine whether it requires revision. Public hearings may be held and the Commission shall have the power to compel the attendance of City officers or employees and to require the submission of city records necessary to its inquiry and review;

(b) Propose any recommendations it deems desirable to ensure compliance with Charter provisions by City departments;

(c) Propose any Charter amendments it deems desirable to improve the effective application of the charter to current conditions;

(d) Make a written report of its findings and recommendation to the City Council.

**(4) Council Action:** The Council shall receive and consider the recommendation approved by the Commission, and if any amendments are presented, shall order the amendment or amendments submitted to the voters of the City.

#### **Section 9.04 Wording Interpretation**

The gender of the wording throughout this Charter shall always be interpreted to mean either and or any gender or classification provided by law. All singular words shall include the plural and all plural words shall include the singular. All references to state law or laws of the State of Texas, however expressed in this Charter, shall mean “as presently enacted or as may be amended or superseded.” The use of the word City in this Charter shall mean the City of Cotulla, Texas, and the use of the word Charter shall mean the Home Rule Charter. Undefined terms shall be given their usual and ordinary definition and all interpretation(s) hereof shall be consistent state law and specifically with the Code Construction Act, Tex. Gov’t Code Ann. Chapter 311. Any reference to a quorum of the City Council or a required vote thereof, shall not count any unfilled “vacancy” in determining such quorum or necessary voting majority.

**Section 9.05 Abatement of Proceedings**

Should any suit in law or equity be brought for a violation of this Charter, including an action for civil injunction, the City shall be entitled to an abatement of such proceeding until such time as the City Council shall have an opportunity to consider the matter at issue and an opportunity to cure.

- (a) The City Council shall be entitled to petition the court to order mediation prior to the granting of further civil relief herein;
- (b) The City shall never be required to post a bond or security as a condition of the exercise of the authorities granted herein.

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**ARTICLE X**  
**FRANCHISES OF PUBLIC UTILITIES**

**Section 10.01 Power to Grant Franchise**

The ownership, right of control, and use of streets, highways, alleys, parks, public places, rights-of-way, and all other real property of the City is hereby declared to be inalienable to the City.

(1) No entity or individual shall have the right to occupy any public property without the express permission of and under an express written agreement with the City concerning such occupancy. Utilities or public utilities shall only be granted the right to occupancy under the terms of a franchise agreement with the City. All grants, removals, extensions, or amendments of public utility franchises on, under, or beneath such public places shall be the right of the Council. The City may, by ordinance, sell, lease, transfer, or otherwise alter its control and use of such public properties, in accordance with the provisions of this Charter and state law.

(2) No franchise may be granted for an indefinite term.

**Section 10.02 Franchise Extensions**

All extensions of a public utility within the City shall become a part of the aggregate property of the public utility, shall be operated as such and shall be subject to all the obligations and reserved rights contained in this Charter and in State Law. The right to use and maintain any extension shall terminate with the original grant made to the utility.

**Section 10.03 Exclusivity and Transfer of Franchise**

The City shall not grant an exclusive franchise to any public utility unless such grant shall be required for a public purpose. No public utility franchise may be transferred or assigned by the holder except with the approval of the Council.

**Section 10.04 Regulation of Franchises**

All grants, renewals, extensions, or amendments of public utility franchises shall be subject to the right of the City to:

(1) Repeal the same by ordinance at any time for failure to begin construction or operation within the time prescribed or for failure otherwise to comply with the terms of the franchise, such power to be exercised only after due notice and hearing;

(2) Require an adequate and reasonable extension of plant and service and the maintenance of plant and fixtures at a standard by which to render the highest reasonable quality of service to the public;

(3) Establish reasonable standards and quality of service and prevent unjust discrimination in service and rates;

(4) Prescribe for each franchisee, the form of accounts to be kept or, alternately, require that the system of accounts conform to that required by the appropriate state and federal regulatory agencies;

- (5) Impose such reasonable regulations and restrictions as may be deemed desirable or conducive to the safety, welfare, and accommodation of the public;
- (6) Require franchisees to furnish the City, without cost to the City, full information regarding the location and precise description of all facilities of the franchisees in, over, or under the City, and to regulate and control the location, relocation, and removal of such facilities;
- (7) Examine and audit at any time during normal business hours the accounts and records of the franchisee;
- (8) Require compensation and rental fees, except as limited by State Law.

**Section 10.05 Franchise Records**

The City shall compile and maintain a public record of all franchises granted by the City, including any extensions or amendments to such franchise grants.

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**TRANSMITTAL**

**Unanimously passed and approved by the Cotulla Home Rule Commission on this 2<sup>nd</sup> day of February, 2023 and delivered to the City Council of Cotulla, Texas in open session.**

**Respectfully submitted,**

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E.T. Page  
**Charter Commission Chairperson**

\_\_\_\_\_  
Pablo Gonzalez  
**Charter Commission Vice Chairperson**

\_\_\_\_\_  
Juan Moreno, Jr. **Charter Commission**

\_\_\_\_\_  
Elsa De Los Santos **Charter Commission**  
**(Alternate)**

\_\_\_\_\_  
Noe Rodriguez, **Charter Commission**

\_\_\_\_\_  
Tye Snowden, **Charter Commission**

\_\_\_\_\_  
Ricky Maldonado, **Charter Commission**  
**(Alternate)**

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