

# **CITY OF SEGUIN**

## **CITY CHARTER**

Last Amended on September 14, 2002

### **PREAMBLE**

We, the Citizens of Seguin, Texas, in order to establish a Home Rule Municipal Government, provide for the future progress of our city and obtain more fully the benefits of local self-government, do hereby adopt this Home Rule Charter.

### **ARTICLE I. FORM OF GOVERNMENT AND BOUNDARIES**

#### **Section 1.01. Form of government.**

The municipal government provided by this Charter shall be known as the "council-manager government." Pursuant to its provisions and subject only to the limitations imposed by the state constitution, the statutes of this state, and this Charter, all powers of the city shall be vested in an elective council, hereinafter referred to as the "city council," which shall enact local legislation, adopt budgets, determine policies and appoint the city manager, who in turn shall be held responsible to the city council for the execution of the laws and the administration of the government of the city. All powers of the city shall be exercised in the manner prescribed by this Charter, subject to the state constitution and statutes of the state, or if the manner be not prescribed, then in such manner as may be prescribed by ordinance.

(Ord. No. 86-6, § 1(A), 3-4-86/4-5-86)

#### **Section 1.02. The boundaries.**

The boundaries of the City of Seguin, Texas, shall be the same as have heretofore been established and as they existed on the day of ratification of this Charter, which boundaries are more fully set out and described by metes and bounds in a document titled, Code of Ordinances, City of Seguin, Texas, Section 1-4, on exhibit at the Municipal Building at 205 North River Street, Seguin, Texas.

#### **Section 1.03. Extension of boundaries.**

(a) The boundaries of the City of Seguin may be enlarged and extended by the annexation of additional territory in any manner authorized by the Texas Local Government Code or other applicable state law.

- (b) **Annexed territory to become part of the city. Upon completion of any one of the procedures hereinabove provided, the territory so annexed shall become a part of the city, and said land and its residents and future residents shall be entitled to all the rights and privileges of other citizens of the city and shall be bound by the acts, ordinances, resolutions and regulations of the city.**

**State law reference(s)--Annexations in home rule cities, V.T.C.A., Local Government Code § 43.021.**

**Section 1.04. Rule for contraction of boundaries.**

**The corporate limits of the City of Seguin may be contracted by any method for disannexation authorized by the Texas Local Government Code or other applicable state law. ARTICLE II. POWERS OF THE CITY\***

**\*State law reference(s)--Home rule powers, V.T.C.A., Local Government Code § 51.071 et seq.**

**Section 2.01. Specific powers.**

**The City of Seguin may use a corporate seal; may sue and be sued; may contract and be contracted with; may implead and be impleaded in all courts in all matters whatsoever; may cooperate with the government of the State of Texas or any agency thereof, the federal government or any agency thereof, or any political subdivision of the State of Texas; and shall have all powers granted to cities by Constitution and laws of the State of Texas, together with the implied powers necessary to carry into execution all the powers granted.**

- (a) **The city may own or acquire property within or without its boundaries for any municipal purpose in fee simple or in any lesser interest or estate, by purchase, gift, devise, lease or condemnation, and may sell, lease, hold, manage, control and police any property now owned by it or which it may hereafter acquire, and shall have the right to lease or let its property whether inside or outside of the city limits.**
- (b) **The city may construct, own, lease, operate and regulate public utilities.**
- (c) **The city may assess, levy and collect taxes for general and special purposes on all lawful subjects of taxation.**
- (d) **The city may borrow money on the faith and credit of the city by the issuance**

and sale of bonds, warrants or notes of the city; may borrow money on the revenue of municipally owned utilities or other municipal enterprises by the issuance of bonds and notes secured by such revenues.

- (e) The city may appropriate the funds of the city for all lawful purposes; may regulate and control the use, for whatever purpose, of the streets and other public places.
- (f) The city may make and enforce all police, health, sanitary and other regulations; may pass such ordinances as may be expedient for the protection and maintenance of good government, peace and welfare of the city for the performance of the functions thereof, and for the order and security of its residents; and may provide suitable penalties for the violations of any ordinance enacted by the City of Seguin; and, except as prohibited by the Constitution and the laws of this state or restricted by this Charter, the city may exercise all municipal powers, functions, rights, privileges and immunities of every name and nature whatsoever.

**Section 2.02. General powers.**

The enumeration of the particular powers set forth herein shall not be held or deemed to be exclusive, but in addition to the powers enumerated herein or implied hereby or appropriate to the exercise of such powers, the city shall have and may exercise all power of local self-government and all other powers which, under the Constitution and laws of the State of Texas, it would be competent for this Charter specifically to enumerate, and authority shall include the right to condemn property for such purposes. The city shall have and possess the power of condemnation for any municipal or public purposes even though not specifically enumerated in this Charter.

State law reference(s)--Power of local self-government, V.T.C.A., Local Government Code § 51.072.

**ARTICLE III. ELECTED OFFICIALS**

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\*State law reference(s)--Home rule, V.T.C.A., Local Government Code § 26.021.

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**Sec. 3.01. Number, selection and term of councilmembers.**

The legislative and governing body of the city shall be known as the council of the City of Seguin and shall consist of a Mayor and eight (8) council members. Effective with the election of all council members on May 7, 1994, the city shall be divided in eight (8) districts . The boundaries of the districts shall be established and modified by ordinance, where appropriate, following each succeeding federal decennial census, or at other times where substantial variances in the number and makeup of the population of districts or

wards have occurred, taking into consideration annexations, disannexation, shifts in population, compactness, ethnic composition and other criteria established by law. On any annexation, the city council shall designate the annexed area to be a part of the districts to which it is contiguous.

- (a) An election shall be held in each even numbered year at the regular spring election date mandated by law. At each election, there shall be elected one councilmember from each of four (4) alternating districts or wards. The mayor and city secretary shall be elected at every second election. Councilmembers shall be elected by voters in their respective districts or wards. The mayor shall be elected by the city at large.
- (b) The mayor shall be the presiding officer of the city council and shall be recognized as head of the city government for all ceremonial purposes. He shall perform such other duties and exercise such authority as may be prescribed and conferred by law or by the city council.
- (c) The mayor and each councilmember shall hold office for a period of four (4) years and until the mayor's, secretary's or councilmember's successor is elected and qualified. All elections shall be held in the manner provided in Article VI of this Charter.

(Ord. No. 88-5, § 1(A), 3-1-88/5-7-88; Ord. No. 92-22, § 1(1), 5-19-92/5-2-92; Amend. 5-4-96)

Editor's note--Section 3.01 above has been amended per the court order of H.F. Garcia, U.S. District Judge--February 10, 1994, pursuant to Civil Action # SA 93-CA 0333 -- League of United Latin American Citizens (LULAC) Council # 682, et al, vs City of Seguin.

State law reference(s)--Election dates, V.T.C.A., Election Code § 41.001.

**Section 3.02. Qualifications.**

The mayor shall be a resident citizen of the City of Seguin, at least twenty-one (21) years of age, and a qualified voter of the State of Texas, and shall have been a resident of the City of Seguin for a period of not less than twelve (12) months immediately preceding his or her election.

Each councilmember shall be a resident citizen of the City of Seguin, at least twenty-one (21) years of age, shall have been a resident of the City of Seguin and the district from which he or she is elected for a period of at least six (6) months immediately preceding the election, and shall be a qualified voter of the State of Texas. If the mayor or any councilmember fails to maintain the foregoing qualifications or shall be absent from three (3) consecutive regularly scheduled meetings without valid excuse, or shall move from the district in which he or she was elected, the city council must at its second regular

meeting thereafter declare a vacancy to exist and fill said vacancy as set forth in Section 3.06 of this Charter.

Neither the mayor nor any city councilmember may hold the office to which elected for more than eight (8) years. Neither the mayor nor any city councilmember may run for election or reelection if the term of office for which they are running when added to the time which they will have served in office upon election will exceed eight (8) years. (Ord. No. 86-6, § 1(B), 3-4-86/4-5-86; Ord. No. 92-22, § 1(2), 5-19-92/5-2-92; Amend. 5-4-96)

**Section 3.03. Council to be judge of election qualifications.**

The city council shall be the judge of the election and qualification of its own members.

**Section 3.04. Compensation.**

The city council shall fix the compensation to be received by its members for attendance at its meetings.

**Section 3.05. Mayor pro tem.**

The city council, in June of each year, shall elect one of its members mayor pro tem, and he or she shall perform all the duties of the mayor in the absence or disability of the mayor.

**Section 3.06. Vacancy or vacancies.**

In the event of a vacancy or vacancies from any cause in the office of mayor, city secretary or councilmember, such vacancy or vacancies shall be filled by the holding of a special election in accordance with applicable state and federal law.

State law reference(s)--Special elections, V.T.C.A., Election Code § 41.001.

**Section 3.07. Powers of the city council.**

- (a) All powers of the city shall be vested in the council except as otherwise provided by law or by this Charter. Councilpersons shall exercise these powers for the performance of all duties and obligations imposed on the city by law.
- (b) Except where authorized by law, no mayor or councilperson will hold any other city office or employment during his term as mayor or councilperson. No former mayor or councilperson shall hold any compensated appointive city office or city employment until one year after the expiration of his or her term of office.
- (c) Neither the council nor any of its members will dictate the appointment or removal

of any city administrative officers or employees whom the manager or any of his subordinates are empowered to appoint. The council may express its views and fully and freely discuss with the manager anything pertaining to the appointment or removal of such officers and employees.

- (d) The mayor and all councilpersons shall deal with city officers and employees who are subject to the direction of the city manager solely through the city manager. Neither the mayor nor any councilperson will give orders to any such officer or employee, either publicly or privately, except as otherwise provided in this Charter.

(Ord. No. 86-6, § 1(C), 3-4-86/4-5-86)

**Section 3.08. Meetings of the city council.**

The city council shall hold at least two (2) regular meetings in each month at a time to be fixed by the council for such regular meetings, and may hold as many additional meetings during the month as may be necessary for the transaction of the business of the city. All meetings of the city council shall be public except where otherwise authorized by law, and shall be held at the City Hall, except that the city council may designate another place for such meetings after publishing due notice thereof in one issue of the official newspaper of the City of Seguin. The mayor or any other two (2) members of the city council may call special meetings of the council at any time.

State law reference(s)--Public meetings, Vernon's Ann. Civ. St. art. 6252-17.

**Section 3.09. Rules of procedure.**

The city council shall determine its own rules of procedure and may require the attendance of its members. Two-thirds of the qualified members of the council shall constitute a quorum to do business and the affirmative vote of a majority of those present shall be necessary to adopt any ordinance or resolution. Minutes of the proceedings of all meetings of the council shall be kept, to which any citizen may have access at reasonable times, and which shall constitute one of the archives of the city. The vote upon the passage of all ordinances and resolutions shall be taken by the "ayes" and "nays" and entered upon the minutes, and every ordinance or resolution, upon its final passage, shall be recorded in a book kept for that purpose under full caption, and shall be authenticated by the signature of the presiding officer and the person performing the duties of the city secretary.

**Section 3.10. Procedure for passage of ordinances.**

Every ordinance shall be introduced in written or printed form and shall take effect upon passage thereof or at the time indicated therein; provided, that any ordinance

imposing a penalty, fine or forfeiture for a violation of its provisions shall become effective not less than ten (10) days from the date of its passage, subject to the provisions of Section 8.03 of this Charter. The city secretary shall give notice of the passage of every ordinance imposing a penalty, fine or forfeiture for a violation of the provisions thereof by causing the caption or title, including the penalty, of such ordinance to be published in the official newspaper of the City of Seguin at least once within ten (10) days after passage of said ordinance. The city secretary shall note on every ordinance, the caption of which is hereby required to be published, and on the record thereof, the fact that same has been published, as required by the Charter, and the date of such publication, which shall be prima facie evidence of the legal publication and promulgation of such ordinance; provided, that the provisions of this section shall not apply to the correction, amendment, revision and codification of ordinances of the city for publication in book or pamphlet form. Except as otherwise provided by Article VIII of this Charter, it shall be necessary to the validity of any ordinance that it shall:

- (1) Be in the hands of each city councilmember and shall be distributed to the local news media at the time of a regularly scheduled session of the city council prior to the meeting at which the said ordinance is to be formally presented to the city council;
- (2) Said proposed ordinance shall be read at at least two (2) successive council sessions and may be voted on and passed at the second session after the second reading by the city council; and
- (3) In case of an "emergency," which may be declared by a two-thirds vote of the city councilmembers, it shall be necessary to the validity of an ordinance that it be read only one time at one session of the city council at which session the city council may pass said ordinance.

(Ord. No. 92-22, § 1(3), 5-19-92/5-2-92)

State law reference(s)--Adoption of ordinances, publication, V.T.C.A., Local Government Code § 52.013.

**Section 3.11. Official bonds for city employees.**

The city council shall require surety bonds of all city employees who receive and pay out any monies of the city and such other city officers and employees as the council may require, the premium on said bond to be paid by the City of Seguin.

**Section 3.12. Reserved.**

Editor's note--Section 3.12, pertaining to investigations by city council and derived from

the city's 1971 Charter, adopted by referendum on Nov. 19, 1971, and Ord. No. 1971-41, adopted Dec. 7, 1971, was deleted by amendment to the Charter ratified at referendum on May 4, 1996.

**Section 3.13. Audit and examination of city books and accounts.**

The city council shall cause an annual audit to be made of the books and accounts of each and every department of the city. At the close of each fiscal year a complete audit shall be made by a licensed public accountant, who shall be selected by the city council, and such audit shall include a recapitulation of all audits made during the course of each fiscal year, and all audit reports shall be filed with the city council, shall be available for public inspection and shall be made a part of the archives of the city. Such accountant, so selected, shall not maintain or keep any of the city's accounts or records.

**Section 3.14. City Secretary.**

The city secretary shall be elected at large, shall hold office for a period of four (4) years and is not subject to term limits. The city secretary shall give notice of all city council meetings, shall keep the minutes of the proceedings of such meetings, shall authenticate by his or her signature, and record in full in a book kept and indexed for such purpose, all ordinances and resolutions, and shall perform such other duties as the city council shall assign to the city secretary, and those elsewhere provided for in this Charter.

**ARTICLE IV. ADMINISTRATIVE SERVICES\***

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\*State law reference(s)--Creation of municipal offices, V.T.C.A., Local Government Code § 26.041.

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**Section 4.02. Reserved.**

Editor's note--Section 4.02, providing for the assessment and collection of taxes and the maintenance of tax rolls and records by a city assessor-collector, and derived from the city's 1971 Charter, adopted by referendum on Nov. 19, 1971, and Ord. No. 1971-41, adopted Dec. 7, 1971, was deleted by amendment to the Charter ratified at referendum on May 4, 1996.

**Section 4.03. Reserved.**

Editor's note--Section 1(B) of Ord. No. 88-5, adopted March 1, 1988, amended the Charter



by repealing section 4.03, which section pertained to the city treasurer and was derived from Ord. No. 1971-41, enacted Dec. 7, 1971.

**Section 4.04. City manager.**

- (a) The city council shall appoint a city manager and fix compensation. The manager shall be appointed solely on the basis of executive and administrative qualifications. The city manager need not be a resident of the city or state at the time of appointment, but must agree prior to such appointment to become a resident of the City of Seguin within four (4) months from the date of appointment. If the city manager thereafter fails to become a resident of Seguin within that four-month period, he or she shall be deemed to have forfeited the appointment and the office shall be declared vacant by announcement of the mayor at the first meeting of the council following the expiration of the four-month period. The manager shall serve at the will and pleasure of the city council. The city manager shall be employed for or relieved from his or her duties by a vote of a majority of the members of the city council.
- (b) **Acting manager.** By letter filed with the city secretary, the manager shall designate, subject to approval of council, a qualified city administrative officer to exercise the powers and perform the duties of manager during his temporary absence or disability. During such absence or disability, the council may revoke such designation at any time and appoint another officer of the city to serve until the manager shall return or his disability shall cease.
- (c) The city manager shall be the chief administrative officer of the city. The city manager shall be responsible to the council for the administration of all city affairs placed in his or her charge by or under this Charter. The city manager shall have the following powers and duties:
  - (1) To appoint and, when he or she deems it necessary for the good of the city, suspend or remove all city employees and appointive administrative officers provided for by or under this Charter, except as otherwise provided by law, this Charter, or personnel rules adopted pursuant to this Charter. The city manager may authorize any administrative officer who is subject to the city manager's direction and supervision to exercise these powers with respect to subordinates in that officer's department, office or agency.
  - (2) To direct and supervise the administration of all departments, offices, and agencies of the city, except as otherwise provided by this Charter or by law.
  - (3) To attend, in person or by designee, all council meetings and to have the right to take part in discussion but may not vote.

- (4) To see that all laws, provisions of this Charter and acts of the council, subject to enforcement by the city manager or by officers subject to his or her direction and supervision, are faithfully executed.**
  - (5) To prepare and submit the annual budget and capital program to the council.**
  - (6) To insure that the city master plan is maintained and all changes approved by the city council.**
  - (7) To submit to the council and make available to the public a complete report on the finances and administrative activities of the city as of the end of each fiscal year.**
  - (8) To make such other reports as the council may require concerning the operations of the city departments, offices and agencies subject to the city manager's direction and supervision.**
  - (9) To keep the council fully advised as to the financial condition and future needs of the city and make such recommendations to the council concerning the affairs of the city as he deems desirable.**
  - (10) To keep a written inventory of all real property and all permanent equipment belonging to the city, said inventory to be subject to annual audit. A system shall be established to control the use and replacement of expendable items.**
  - (11) To notify the council in writing in advance of any formal suspension or termination of any city director .**
  - (12) To perform such other duties as are specified in this Charter or may be required in this Charter or may be required by the council.**
- (d) It shall be unlawful for the city council or any of its members to dictate to the city manager the appointment of any person to office or employment. The city council or its persons will not interfere in any manner with the city manager in the performance of the duties of that office or prevent the city manager from exercising his or her own judgment in the appointment of officers and employees whose employment, appointment and supervision are reserved by this Charter for the city manager. Except for the purpose of factual inquiry, the city council and its persons shall deal with the city staff solely through the city manager, and neither the council nor any member not having administrative or executive functions under this**

**Charter shall give orders to any of the subordinates of the city manager, either publicly or privately.**

**(Ord. No. 86-6, § 1(D), 3-4-86/4-5-86)**

**Section 4.05. City departments.**

**The city council may by ordinance create such departments as it deems advisable for the efficient and economical operation of the City of Seguin. All administrative offices and departments, however created, shall be under the control and direction of the city manager. No department shall be created, abolished or combined with another until the city council has requested and considered the recommendations of the city manager with respect to such proposed action.**

**(Ord. No. 86-6, § 1(E), 3-4-86/4-5-86)**

**Sections 4.06--4.10. Reserved.**

**Editor's note--Former sections 4.06--4.10, containing provisions relative to various departments of the city, and derived from Ord. No. 1971-41, enacted Dec. 7, 1971, were repealed by section 1(F) of Ord. No. 86-6, adopted March 4, 1986.**

**ARTICLE V. LEGAL AND JUDICIAL SERVICES\***

**\*State law reference(s)--Municipal courts, V.T.C.A., Local Government Code § 29.003 et seq.; procedures in municipal courts, Vernon's Ann. C.C.P. arts. 4.15, 45.01 et seq.**

**Section 5.01. Municipal court.**

**There shall be established and maintained a court designated as the Municipal court of the City of Seguin for the trial of misdemeanor offenses, with all such powers as may be prescribed by the laws of the State of Texas relative to Municipal or recorder courts.**

**State law reference(s)--Title "corporation court" changed to "municipal court," V.T.C.A., Government Code § 29.002.**

**Section 5.02. Judge of the municipal court.**

**The judge of said court shall be a licensed resident attorney appointed by the city council and shall receive such salary as may be fixed by the city council. In case of disability or absence of the judge of the municipal court, the city council shall appoint a licensed resident attorney to serve during the absence of the regularly appointed judge or**

to complete the unexpired term. His term of office shall be two (2) years. The judge of the municipal court may be removed for cause, after a hearing, by the affirmative vote of five (5) of the councilmembers qualified and serving.

**Section 5.03. Reserved.**

Editor's note--Section 1(4) of Ord. No. 92-22, adopted May 19, 1992, repealed section 5.03 of the Charter, which pertained to the clerk of the municipal court and was derived from the original Charter.

**Section 5.04. City attorney.**

The city manager, subject to the approval of the city council, shall appoint a licensed attorney to be the city attorney. The city attorney shall receive such compensation as may be fixed by the city council for the regular and special duties. The city attorney or such other attorney selected by the city attorney with approval by the city manager shall represent the city in all litigation. The city attorney shall be the legal advisor of and the attorney and counsel for the city and all offices and departments thereof.

(Ord. No. 92-22, § 1(5), 5-19-92/5-2-92)

**ARTICLE VI. NOMINATIONS AND ELECTIONS**

**Section 6.01. Elections.**

The regular city election shall be held in even numbered years on the first Saturday in May, at which time officers will be elected to fill those offices which become vacant that year. The city council shall fix the hours and place for holding such election. The city council may, by ordinance or resolution, order a special election, fix the date and place for holding same, and provide all means for holding such special election. Notice of the election shall be published in the official newspaper of the City of Seguin, such publication to be not less than thirty (30) days before the election.

(Ord. No. 88-5, § 1(C), 3-1-88/5-7-88; Amend. of 5-4-96)

State law reference(s)--Municipal election dates, V.T.C.A., Election Code § 41.001.

**Section 6.02. Regulation of election.**

All elections shall be held in accordance with the laws of the State of Texas regulating the holding of municipal elections and in accordance with the ordinances adopted by the city council for the conduct of elections. The city council shall appoint the election judges and other election officials. Voting districts shall be established by ordinance.

**Section 6.03. Filing for office.**

Any person having the qualifications set forth for councilmembers under Section 3.02 of this Charter shall have the right to file an application to have his or her name placed on the official ballot as a candidate for any elective office, and such application in writing signed by such candidate, filed with the city secretary not less than thirty (30) days prior to the date of election, shall entitle such applicant to a place on the official ballot.

State law reference(s)--Requirements for application, V.T.C.A., Election Code § 141.031; application required by candidate, V.T.C.A., Election Code § 143.004; filing period, V.T.C.A., Election Code § 143.007.

**Section 6.04. The official ballot.**

The names of all candidates for office, except such as may have withdrawn, died or become ineligible, shall be printed on the official ballots without party designations in the order determined in a drawing of lots (for each position) conducted by the city secretary. All official ballots shall be printed at least twenty (20) days prior to the date of any general or special election, and shall provide a space for write-in candidates. Early voting shall be governed by the general election laws of the State of Texas.

State law reference(s)--Names of candidates, V.T.C.A., Election Code § 52.094; absentee ballots, V.T.C.A., Election Code § 82.001 et seq.

**Section 6.05. Election by majority vote .**

At any regular or special municipal election the candidate who shall have received more than fifty percent (50%) of the votes for any office cast in such election shall be declared elected. In the event that no one candidate receives more than fifty percent (50%) of the votes cast for any regular or special election, the council shall, on or before the first day following the completion of the official canvassing of ballots cast at such election, issue a call for a special run-off election between the two candidates receiving the most votes, such special election to be held between thirty (30) and forty-five (45) days after said election at which the initial vote was cast.

**Section 6.06. Laws governing city elections.**

All city elections shall be governed by the laws of the State of Texas governing general and municipal elections.

**Section 6.07. Conducting and canvassing elections.**

The election judges and other necessary election officials for conducting all such elections shall be appointed by the city council. The election judges shall conduct the elections, determine, record and report the results as provided by the general election laws of Texas. Within five (5) days or as soon as practical after an election, the city council shall meet, open the returns, canvass and officially declare the result of the election as to candidates and questions, and issue certificates of election to candidates elected as hereinbefore provided.

State law reference(s)--Conducting elections, V.T.C.A., Election Code § 61.001 et seq.

**Section 6.08. Oath of office.**

"I, \_\_\_\_\_ do solemnly swear (or affirm), that I will faithfully execute the duties of the office of \_\_\_\_\_ of the City of Seguin, 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 Ordinances of the City of Seguin, 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 promised any public office or employment, as a reward \*(for the giving or withholding a vote at the election at which I was elected) \*\*(to secure my appointment or the confirmation thereof).

Signed \_\_\_\_\_

Sworn and subscribed to before me, this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_\_.

\_\_\_\_\_ "

\*for elected officials

\*\*for appointed officials

State law reference(s)--Oath, Tx. Const., art. 16, § 1.

**ARTICLE VII. RECALL OF OFFICERS**

**Section 7.01. Scope of recall.**

Any elected city official, whether elected to office by the qualified voters of the city or appointed by the city council to fill a vacancy, shall be subject to recall and removal from office by the qualified voters of the city on grounds of incompetency, misconduct or malfeasance in office.

**Section 7.02. Petitions for recall.**

Before the questions of recall of such officer shall be submitted to the qualified

voters of the city, a petition demanding such question to be so submitted shall first be filed with the person performing the duties of city secretary; which said petition shall be signed by qualified voters of the city equal in number of at least thirty (30) percent of the number of votes cast at the last regular municipal election of the city, but in no event will said petition be accepted if signed by less than one hundred fifty (150) such petitioners. Each signer of such recall petition shall personally sign their name thereto in ink or indelible pencil, shall print their name after their signature, place their voter registration number thereon, and shall write after their name their place of residence, giving the name of the street and number, of place of residence, and shall also write thereon the day, the month, and year their signature was affixed to said petition. A qualified voter in the context of eligibility to sign such a petition means a registered voter. If a petition contains more than one thousand [(1,000)] signatures, the city secretary may use any reasonable statistical sampling method in determining whether the petition contains the required number of valid signatures, except that the sampling may not be less than twenty-five (25) percent of the total number of signatures appearing on the petition or one thousand (1,000) whichever is greater.

(Ord. No. 92-22, § 1(6), 5-19-92/5-2-92)

**Section 7.03. Form of recall petition.**

The recall petition mentioned above must be addressed to the city council of the City of Seguin, must distinctly and specifically point out the ground or grounds upon which such petition for removal is predicated, and, if there be more than one ground, such as for incompetency, misconduct or malfeasance in office, shall specifically state each ground with such certainty as to give the officer sought to be removed notice of the matters and things with which he is charged. The signature shall be verified by oath in the following form:

THE STATE OF TEXAS                    )

COUNTY OF GUADALUPE                )

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 whose name it purports to be.

\_\_\_\_\_

Sworn and subscribed to before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
Notary Public in and for  
Guadalupe County, Texas.

**Section 7.04. Various papers constituting petition.**

The petition may consist of one or more copies, or subscription lists, circulated separately, and the signatures thereto may be upon the paper or papers containing the form of petition, or upon any other papers attached thereto. Verifications provided for in the next preceding section of this article may be made by one or more petitioners, and the several parts of copies of the petition may be filed separately and by different persons; but no signatures to such petition shall remain effective or be counted which were placed thereon more than forty-five (45) days prior to the filing of such petition or petitions with the person performing the duties of city secretary. All papers comprising a recall petition shall be filed with the person performing the duties of city secretary on the same day, and the said secretary shall immediately notify, in writing, the officer so sought to be removed, by mailing such notice to his Seguin address.

**Section 7.05. Presentation of petition to city council.**

Within five (5) days after the date of the filing of the papers constituting the recall petition, the person performing the duties of city secretary shall present such petition to the city council of the City of Seguin, Texas.

**Section 7.06. Public hearing to be held.**

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

**Section 7.07. Election to be called.**

If the officer whose removal is sought does not resign, then it shall become the duty of the city council to order an election and fix a date for holding such recall election, the date of which election shall be not less than twenty-five (25) nor more than thirty-five (35) days from the date such petition was presented to the city council, or from the date of the public hearing if one was held.

**Section 7.08. Ballots in recall election.**

Ballots used at recall elections shall conform to the following requirements:



- (a) With respect to each person whose removal is sought, the question shall be submitted.

"Shall (name of person) be removed from the office of (name of office) by recall?"

- (b) Immediately below each such question there shall be printed the following words, one above the other, in the order indicated:

"YES"

"NO"

**Section 7.09. Result of recall election.**

If a majority of the votes cast at a recall election shall be "NO," that is, against the recall of the person named on the ballot, he shall continue in office for the remainder of his unexpired term, subject to recall as before. If a majority of the votes cast at such an election be "YES," that is, for the recall of the person named on the ballot, he shall, regardless of any technical defects in the recall petition, be deemed removed from office and the vacancy [shall] be filled as vacancies in the city council are filled, as provided in Section 3.06 of this Charter.

**Section 7.10. Recall, restrictions thereon.**

No recall petition shall be filed against any officer of the City of Seguin within three (3) months after his election, nor within three (3) months after an election for such officer's recall.

**Section 7.11. Failure of city council to call an election.**

In case all of the requirements of this Charter shall have been met and the city council shall fail or refuse to receive the recall petition, or order such recall election, or discharge any other duties imposed upon said city council by the provisions of this Charter with reference to such recall, then the county judge of Guadalupe County, Texas, shall discharge any of such duties herein provided to be discharged by the person performing the duties of city secretary or by the city council.

**Section 7.12. Recall of officials.**

In each case where the recall of a councilmember is sought, the sections of this article insofar as applicable shall apply to the district from which the councilmember was elected rather than the city as a whole. That is, the petition must be signed by qualified voters and in the percentage stated, but in no event less than one hundred (100) such

petitioners, from the ward from which the councilmember was elected, and any such recall election shall be held only in the ward from which the councilmember whose recall is sought was elected.

## **ARTICLE VIII. LEGISLATION BY THE PEOPLE, INITIATIVE AND REFERENDUM**

### **Section 8.01. General power.**

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

### **Section 8.02. Initiative.**

The qualified voters of the City of Seguin may initiate legislation, ordinances, and referendum by submitting a petition addressed to the city council requesting the submission of a proposed ordinance or resolution to a vote of the voters of the city in accordance with the provisions of the Texas Election Code and other requirements of state law. Said petition must be signed by qualified voters of the city equal in number to twenty percent (20%) of the number of votes cast at the last regular municipal election of the city, or three hundred and fifty (350), whichever is greater. Each copy of said petition shall be signed in the same manner as recall petitions signed, as provided in Section 7.03 of this Charter. Such petition shall be filed with the city secretary who shall within a reasonable time present such petition to the city council. Upon presentation to the city council of the petition and draft of the proposed ordinance or resolution, it shall become the duty of the city council to pass and adopt such ordinance or resolution without alteration as to meaning or effect, or to call a special election at which time the qualified voters of the City of Seguin shall vote on the question of adopting or requesting the proposed legislation. If any other municipal election is to be held within sixty (60) days after filing the petition, the question may be voted on at such election.

(Ord. No. 92-22, § 1(7), 5-19-92/5-2-92)

### **Section 8.03. Referendum.**

Qualified voters of the City of Seguin may require that any ordinance or resolution, with the exception of ordinances or resolutions levying taxes, appropriating money, or authorizing the issuance of either tax or revenue bonds, whether original or refunding, 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 (30) days after final passage of said ordinance or resolution, or within thirty (30) days after its publication. Said petition shall be addressed, prepared, signed and verified as required for petitions initiating legislation as provided in Section 8.02 of this Charter and shall be submitted to the person performing

the duties of city secretary. Immediately upon the filing of such petition, the person performing the duties of city secretary shall present said petition to the city council. Thereupon the city council shall immediately reconsider such ordinance or resolution and, if it does not entirely repeal the same, shall submit it to popular vote as provided in Section 8.04 of this Charter. Pending the holding of such election, such ordinance or resolution shall be suspended from taking effect and shall not later take effect unless a majority of the qualified voters vote in favor of retaining such ordinance or resolution.

**Section 8.04. Voluntary submission of legislation by the council.**

The city council, upon its own motion and by a majority vote of its members, may submit to popular vote at any election for adoption or rejection any proposed ordinance or resolution or measure, or may submit for repeal any existing ordinance, resolution or measure, in the same manner and with the same force and effect as provided in this article for submission on petition, and may at its discretion call a special election for this purpose.

**Section 8.05. Form of ballots.**

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

"FOR THE ORDINANCE," and

"AGAINST THE ORDINANCE," or

"FOR THE RESOLUTION," and

"AGAINST THE RESOLUTION."

**Section 8.06. Publication of proposed and referred ordinances.**

The person performing the duties of city secretary shall publish at least once in the official newspaper of the city the proposed or referred ordinance or resolution within fifteen (15) days of the election, and shall give such other notices and do such other things relative to such election as are required in general municipal elections or by the ordinance or resolution calling said election.

**Section 8.07. Adoption of ordinances.**

If a majority of the qualified voters voting on any proposed ordinance or resolution or measure shall vote in favor thereof, it shall thereupon, or at any time fixed therein, become effective as a law or as a mandatory order of the city council.

**Section 8.08. Inconsistent ordinances.**

If the provisions of two (2) or more proposed ordinances or resolutions approved at the same election are inconsistent, the ordinance or resolution receiving the greatest number of votes shall prevail.

**Section 8.09. Ordinances passed by popular vote, repeal or amendment.**

No ordinance or resolution which may have been passed by the city council upon a petition or adopted by popular vote under the provisions of this article shall be repealed or amended except by the city council in response to a referendum petition or by submission to popular vote as provided in Section 8.04 of this Charter.

**Section 8.10. Further regulations by city council.**

The city council may pass ordinances or resolutions providing other and further regulations for carrying out the provisions of this article consistent herewith.

**Section 8.11. Franchise ordinances.**

Nothing contained in this article shall be construed to be in conflict with any of the provisions of Article XI of this Charter, pertaining to ordinances granting franchises when valuable rights shall have accrued thereunder.

**ARTICLE IX. PLANNING AND DEVELOPMENT\***

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\*State law reference(s)--Regulation of land use, structures, businesses and related activities, V.T.C.A., Local Government Code § 211.001.

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**Section 9.01. Planning commission.**

There shall be a city planning commission which shall consist of nine (9) citizens of the City of Seguin. The members of said commission shall be appointed by the city council for a term of three (3) years. Members of the planning commission shall be subject to a term limit of two (2) full consecutive terms. The term limit stated herein is not a lifetime term limit.

(Amend. of 5-4-96)

**Section 9.02. Platting of property.**

Hereafter, every owner of any tract of land situated within the corporate limits of the City of Seguin and/or its extraterritorial jurisdiction as defined in V.T.C.A., Local Government Code ch. 42, may divide same into two (2) or more parts for the purpose of laying out any commercial and/or residential subdivision or any addition to the city, and shall comply with the provisions of V.T.C.A., Local Government Code chs. 212 and 213, as now or hereafter amended.

(Ord. No. 92-22, § 1(8), 5-19-92/5-2-92)

**Section 9.03. Development of property.**

The city council shall cooperate in every manner possible with persons interested in the development of property within or beyond the city limits. No expenditure of public funds, however, shall be authorized for the development of privately owned subdivisions within or beyond the corporate limits of the city, except for the extension of utilities or services to such areas.

**Section 9.04. Comprehensive city plan.**

The comprehensive city plan for the physical development of the City of Seguin shall contain the commission's recommendations for growth, development and beautification of the city. A copy of the comprehensive city plan, or any part thereof, shall be forwarded to the city manager who shall thereupon submit such plan, or part thereof, to the city council with his recommendations thereon. The city council may adopt this plan as a whole or in parts and may adopt any amendment thereto, after at least one public hearing on the proposed action. The city council shall act on such plan, or part thereof, within sixty (60) days following its submission by the city manager. If such plan, or part thereof, should be rejected by the city council, the planning commission may modify such plan, or part thereof, and again forward it to the city manager for submission to the city council. All amendments to the comprehensive city plan recommended by the planning commission shall be submitted in the same manner as that outlined above to the city council for approval, and all recommendations to the city council from any city department affecting the comprehensive city plan must be accompanied by a recommendation from the planning commission.

(Ord. No. 86-6, § 1(G), 3-4-86/4-5-86)

**ARTICLE X. MUNICIPAL FINANCE**

**Section 10.01. Fiscal year.**

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

**(Ord. No. 685, 2-15-83; Ord. No. 92-22, § 1(9), 5-19-92/5-2-92)**

**State law reference(s)--Authority of governing bodies of home rule cities to establish by ordinance a fiscal year other than that fixed in their Charters, V.T.C.A., Tax Code § 1.05.**

**Section 10.02. Preparation and submission of budget.**

**The city manager shall submit a proposed budget containing a complete financial plan for the fiscal year. Such a budget shall be submitted to the city council not more than one hundred twenty (120) days but not less than sixty (60) days prior to the beginning of each fiscal year. The budget shall contain the following:**

- (a) A budget message shall outline the proposed financial policies of the city for the fiscal year, shall set forth the reason for any changes in expenditures and revenue items from the previous fiscal year, and shall explain any major change in financial policies.**
- (b) A consolidated statement of anticipated receipts and proposed expenditures for all funds.**
- (c) An analysis of property valuations.**
- (d) An analysis of tax rates.**
- (e) Tax levies and tax collections by year for the last five (5) years.**
- (f) General fund resources in detail.**
- (g) Special fund resources in detail.**
- (h) Summary of proposed expenditures by fund, function, department and activity.**
- (I) Detailed estimates of expenditures shown separately for each activity to support summary as described in subsection (h) above.**
- (j) A revenue and expense statement for all types of bonds.**
- (k) A description of all bond issues outstanding, showing rates of interest, date of issue, maturity date, amount authorized, amount issued, and the amount outstanding on each.**

(l) A schedule of requirements for the principal and interest of each issue of bonds.

(m) The appropriation ordinance.

(n) The tax levying ordinance.

(Ord. No. 86-6, § 1(H), 3-4-86/4-5-86)

**Section 10.03. Anticipated revenues and expenditures compared with other years.**

In preparing the budget, the city manager shall place in parallel columns opposite the several items of revenues and expenditures, the actual amount of each item for the last complete fiscal year, the estimated amount for the current fiscal year, and the proposed amount for the ensuing fiscal year.

(Ord. No. 86-6, § 1(I), 3-4-86/4-5-86)

**Section 10.04. Budget--A public record.**

The budget and all supporting schedules shall be a public record. It shall be filed with the person performing the duties of city secretary, and it shall be submitted to the city council. The council shall provide copies for distribution to all interested persons, shall fix the time and place for a public hearing on the budget, and shall cause to be published in the official newspaper of the City of Seguin, at least ten (10) days before the date of such hearing, a notice of the hearing and setting forth the time and place therefor.

State law reference(s)--Notice requirements, Vernon's Ann. Civ. St. art. 29e; Public Records Act, Vernon's Ann. Civ. St. art. 6252-17a.

**Section 10.05. Public hearing on budget.**

At any time and place set forth in the notice required by Section 10.04, or at any time and place to which such public hearing shall from time to time be convened, the city council shall hold a public hearing on the budget submitted, and all interested persons shall be given an opportunity to be heard for or against any item or the amount of any item therein contained.

State law reference(s)--Public hearing on proposed budget, V.T.C.A., Local Government Code § 102.006; Public Meetings Act, Vernon's Ann. Civ. St. art. 6252-17.

**Section 10.06. Proceedings on budget after public hearing.**

After the conclusion of such public hearing, the city council may increase or decrease the items of the budget, except items in proposed expenditures fixed by law. If the city council increases the total proposed expenditures, it shall also provide for an increase in the total anticipated revenue to at least equal such proposed expenditures.

State law reference(s)--Adoption of budget, V.T.C.A., Local Government Code § 102.007.  
**Section 10.07. Adoption of budget.**

The budget shall be adopted by the favorable vote of a majority of all the members of the city council.

**Section 10.08. Date of final adoption.**

The budget shall be finally adopted not later than thirty (30) days prior to the beginning of the fiscal year, and should the city council fail to so adopt a budget, the then-existing budget together with its tax-levying ordinance and its appropriation ordinance shall be deemed adopted for the ensuing fiscal year.

**Section 10.09. Effective date of budget; certification; copies made available.**

Upon final adoption, the budget shall be in effect for the fiscal year. A copy of the budget, as finally adopted, shall be filed with the person performing the duties of city secretary, the county clerk of Guadalupe County and the state comptroller of public accounts at Austin. The final budget shall be printed, mimeographed or otherwise reproduced and copies shall be made available for the use of all offices, departments and agencies and for the use of interested persons and civic organizations.

State law reference(s)--Filing of budget, V.T.C.A., Local Government Code §§ 102.008, 102.009(d).

**Section 10.10. Budget establishes appropriations.**

From the effective date of the budget, the several amounts stated therein as proposed expenditures shall be and become appropriated to the several objects and purposes therein stated.

**Section 10.11. Budget establishes amount to be raised by taxation.**

From the effective date of the budget, the amount stated therein as the amount to be raised by taxation shall constitute a determination of the amount of levy for the purposes of the city in the corresponding tax year; provided, however, that in no event shall such levy exceed the legal limit provided by the Constitution and statutes of the State of Texas.



**Section 10.12. Contingent appropriation.**

Provisions shall be made in the annual budget and in the appropriation ordinance for a contingent appropriation in an amount not more than three per centum (3%) of the total budget, to be used in case of unforeseen items of expenditure. Such contingent appropriation shall be under the control of the city council. Expenditures from this appropriation shall be made only in case of established emergencies and a detailed account of such expenditures shall be recorded and reported

**Section 10.13. Estimated expenditures shall not exceed estimated resources.**

The total estimated expenditures of the general fund, available utility fund, and debt service fund shall not exceed the total estimated resources (prospective income plus cash on hand). The classification of revenue and expenditure accounts shall conform as nearly as local conditions will permit to the uniform classification as promulgated by the American Institute of Certified Public Accountants or some other nationally accepted classification.

**Section 10.14. Other necessary appropriations.**

The city budget may be amended and appropriations altered in accordance therewith in cases of public necessity, the actual fact of which shall have been declared by the city council.

**Section 10.15. Purchases.**

All purchases made and contracts executed by the city shall be made in accordance with the requirements of the Constitution and Statutes of the State of Texas.

State law reference(s)--Purchasing and contracting, V.T.C.A., Local Government Code § 252.001 et seq.

**Section 10.16. Reserved.**

Editor's note--Section 10.16, establishing a department of taxation and derived from the city's 1971 Charter, adopted by referendum on Nov. 19, 1971, and Ord. No. 1971-41, adopted Dec. 7, 1971, was deleted by amendment to the Charter ratified at referendum on May 4, 1996.

**Section 10.17. Power to tax.**

The city council shall have the power to levy, assess and collect an annual tax upon real and personal property within the city as now or hereafter provided by the Constitution

and general laws of the State of Texas. The city council shall also have the power to levy such additional taxes as now or hereafter may be authorized by the State of Texas.

State law reference(s)--Power to levy taxes, Tex. Const. arts. VIII, XI, V.T.C.A., Tax Code §§ 1.02, 302.001, 302.002.

**Section 10.18. Reserved.**

Editor's note--Section 10.18, pertaining to property subject to tax and the method of assessment, and derived from the city's 1971 Charter, adopted by referendum on Nov. 19, 1971, and Ord. No. 1971-41, adopted Dec. 7, 1971, was deleted by amendment to the Charter ratified at referendum on May 4, 1996.

**Secs. 10.19--10.22. Reserved.**

Editor's note--Sections 10.19--10.22 of the Charter were repealed by section 1(10)--(13) of Ord. No. 92-22, adopted May 19, 1992. These sections pertained to the board of equalization and were a part of the original (1971) Charter.

**Section 10.23. Taxes--When due and payable.**

All taxes due the City of Seguin shall be payable at the office of the tax assessor-collector for the city and may be paid at any time after the tax rolls for the year have been completed and approved which shall be not later than October 1st. Taxes shall be paid on or before the following February 1, and all such taxes not paid on or prior to such date shall be deemed delinquent and shall be subject to such penalty and interest as the city council may provide by ordinance. The city council may provide further by ordinance that all taxes, either current or delinquent, due the City of Seguin may be paid in installments. Failure to levy and assess taxes through omission in preparation of the approved tax roll 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 receipt for the years in question. The city council shall be prohibited from waiving penalties and interest.

(Amend. of 5-4-96)

State law reference(s)--Procedure for collection of ad valorem taxes, V.T.C.A., Tax Code § 31.01 et seq.

**Section 10.24. Tax liens.**

The tax levied by the city is hereby declared to be a lien, charge or encumbrance upon the property as of January 1 of the year for which the tax is due, which lien, charge

**or encumbrance the city is entitled to enforce and foreclose in any court having jurisdiction over the same, and the lien, charge or encumbrance on the property is such as to give the state courts jurisdiction to enforce and foreclose said lien on the property on which the tax is due, not only as against any resident of this state or person whose residence is unknown, but also as against nonresidents. All taxes upon real estate shall especially be a lien and a charge upon the property upon which the taxes are due, and such lien may be foreclosed in any court having jurisdiction. Such lien shall be prior to all other claims, and no gift, sale, assignment or transfer of any kind, or judicial writ of any kind, can ever defeat such lien.**

**In addition to the liens herein provided, on the first day of January of any year the owner of real and personal property subject to taxation by the city shall be personally liable for the taxes due thereon for such year. The city shall have power to sue 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 assessment rolls is insufficient to identify such property, the city shall have the right to plead a good description of the property intended to be assessed, to prove the same, and to have its judgment foreclosing the tax lien or for personal judgment against the owner for such taxes.**

**State law reference(s)--Procedure regarding tax liens, V.T.C.A., Tax Code § 32.01 et seq.**

**Section 10.25. 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 for any other public purpose not prohibited by the Constitution and laws of the State of Texas, and to issue refunding bonds to refund outstanding bonds of the city previously issued. All bonds shall be issued in conformity with the laws of the State of Texas.**

**State law reference(s)--Bonds, Vernon's Ann. Civ. St., Title 22.**

**Section 10.26. Revenue bonds.**

**The city shall have the power to borrow money for the purpose of constructing, purchasing, improving, extending or repairing of public utilities, recreational facilities or any other self-liquidating municipal function not prohibited by the Constitution and laws of the State of Texas, and to issue revenue bonds to evidence the obligation created thereby. Such bonds shall be a charge upon and payable solely from the properties, or interest therein pledged, or the income therefrom or both. The holders of the revenue bonds shall never have the right to demand payment thereof out of monies raised or to be raised by taxation. All such bonds shall be issued in conformity with the laws of the State of Texas.**

**State law reference(s)--Bonds, Vernon's Ann. Civ. St., Title 22.**

**Section 10.27. Sale of bonds and bonds incontestable.**

No bond (other than refunding bonds issued to refund and in exchange for previously issued outstanding bonds) issued by the city shall be sold for less than par value and accrued interest. All bonds of the city, having been issued and sold and having been delivered to the purchaser thereof, shall thereafter be incontestable, and all bonds issued to refund in exchange for outstanding bonds previously issued shall, after said exchange, be incontestable.

**ARTICLE XI. FRANCHISE AND PUBLIC UTILITIES**

**Section 11.01. Powers of the city.**

The City of Seguin shall have the full power, to the extent the same is conferred by the Constitution and laws of this state, to own, operate, prohibit, regulate and control any telegraph, telephone, electric light, street railways, interurban railway, steam railway, gas company, cable television system, waterworks, waterworks system or any other character of public utility within or without the limits of said city, and to provide for the compensation and rental to be paid to the city by any public utility for the use of its streets, highways, public grounds and alleys, and said council shall have the power by ordinance to grant, extend and renew all franchises of all public utilities of every character operated within the city, and, with the consent of the franchise holder, to amend the same.

The city may prohibit the use of any street, alley, highway or grounds, within its limits to any such public utility, irrespective of whether such use may be under, over or on such street, alley, highway or grounds of the city except where the consent of the governing authorities expressed by ordinance has been obtained.

In addition to the city's power to buy, construct, lease, maintain, operate, and regulate public utilities and to manufacture, distribute and sell the output of such utility operations, the city shall have further powers as may now or hereafter be granted under the Constitution of the State of Texas.

**Section 11.02. Franchise power of council.**

- (a) The city council shall have power by ordinance to grant, amend, renew and extend all franchises of all public utilities of every character operating within the City of Seguin. All ordinances granting, amending, renewing or extending franchises for public utilities shall be read at two (2) separate regular meetings of the city council, and shall not be finally passed until thirty (30) days after the first reading; and no such ordinance shall take effect until thirty (30) days after its final passage; and pending such time, the

full text of such ordinance shall be published once each week for four (4) consecutive weeks in the official newspaper in the City of Seguin, and the expense of such publication shall be borne by the proponent of the franchise.

- (b) Where the powers of annexation included in Article I are exercised by the city, and there exists public utility property adequately serving the inhabitants thereof, the owner of such utility property shall be granted a franchise to continue its operations in such annexed territory for a period of not less than twenty (20) but not more than twenty-five (25) years from the date of the annexation of such territory. The city retains the right to negotiate with the utility for the utility's property prior to this time if the city council deems it to be in the best interests of the city.
- (c) No public utility franchise shall be granted for a term of more than twenty (20) years nor be transferable except with the approval of the city council expressed by ordinance.

**Section 11.03. Franchise value not to be allowed.**

No value shall be assigned to any franchise granted by the City of Seguin under this Charter in fixing reasonable rates and charges for utility service within the city and in determining the just compensation to be paid by the city for public utility property which the city may acquire by condemnation or otherwise.

**Section 11.04. Right of regulation.**

All grants, removal, extensions, or amendment of public utility franchises, whether it be so provided in the ordinance or not, shall be subject to the right of the city council of the City of Seguin:

- (a) To repeal the same ordinance at any time upon the failure of the grantee to comply with any provision of the ordinance, the franchise, the Charter of the City of Seguin, any applicable statute of the State of Texas or the rule of any applicable governmental body.
- (b) To require proper and adequate extension of plant and service, and the maintenance of the plant and fixtures of the highest reasonable standard of efficiency.
- (c) To establish reasonable standards of service and quality of products and prevent unjust discrimination in service or rates.
- (d) At any time to examine and audit the accounts and other records of any such utility and to require annual and other reports, including reports on

operations within the City of Seguin; and shall have the power to prescribe the accounts and accounting system to be used by a public utility.

- (e) To impose such reasonable regulations and restrictions as may be deemed desirable or conducive to the safety, welfare and accommodation of the public.
- (f) To require such compensation and rental as may be permitted by the laws of the State of Texas.
- (g) To require a utility to repair at its expense public property, streets and ways which are destroyed or damaged in the process of laying or maintaining their lines.

**Section 11.05. Grant not to be exclusive.**

No grant or franchise to construct, maintain or operate a public utility and/or renewal or extension of such grant shall be exclusive.

**Section 11.06. Consent of property owners.**

The consent of abutting and adjacent property owners shall not be required for the construction, extension, maintenance or operation of any public utility, but nothing in this Charter or any franchise granted thereunder shall ever be construed to deprive any such property owner of any right of action for damage or injury to his property as now or hereafter provided by law.

**Section 11.07. Extensions.**

All extensions of public utilities within the city limits shall become a part of the aggregate property of the public utility, shall be operated as such, and shall be subject to all the obligations and reserved rights contained in this Charter and in any original grant heretofore made. The right to use and maintain any extension shall terminate with the original grant and shall be terminable as provided in Section 11.04 of this Charter. In case of an extension of a public utility operated under a franchise hereafter granted, such right shall be terminable at the same time and under the same conditions as the original grant.

**Section 11.08. Other conditions.**

All franchises heretofore granted are recognized as contracts between the City of Seguin and the grantee, and the contractual rights as contained in any such franchise shall not be impaired by the provisions of this Charter, except that the power of the City of

**Seguin to exercise the right of eminent domain in the acquisition of utility property is in all things reserved; and except the general power of the city, heretofore existing and herein provided for to regulate the rates and services of a grantee, shall include the right to require proper and adequate extension of plant and service and in the maintenance of the plant and fixtures at the highest reasonable standard of efficiency. Every public utility franchise hereafter granted shall be held subject to all the terms and conditions contained in the various sections of this article whether or not such terms are specifically mentioned in the franchise. Nothing in this Charter shall operate to limit in any way, as specifically stated, the discretion of the city council or voters of the city in imposing terms and conditions as may be reasonable in connection with any franchise grant.**

**Section 11.09. Accounts of municipally owned utilities.**

**Accounts shall be kept for each public utility owned or operated by the city, in such manner as to show the true and complete financial results of such city ownership and operation, including all assets and all liabilities, appropriately subdivided by classes, depreciation reserve, other reserves and surplus; also revenues, operating expenses including depreciation, interest payments, rental and other disposition of annual income. The accounts shall show actual capital cost to the city of each public utility owned, also the costs of all extensions, additions and improvements, and the source of funds expended for such capital purposes. They shall show as nearly as possible the cost of any service furnished to or rendered by any such utility to any city government department. The city council shall cause an annual audit report to be made by a licensed public accountant and shall publish in the official newspaper of the City of Seguin a summary of such report showing the financial results of such city ownership and operation, giving the information specified in this section and such other data as the city council shall deem expedient.**

**Section 11.10. Sales of electricity, water and sewer services.**

**The city council shall have the power and authority to sell and distribute electricity and water and to sell and provide for sewer services and any other utilities to any person, firm or corporation outside the limits of the City of Seguin, and to permit them to connect with said system under contract with the city, under such terms and conditions as may appear to be for the best interests of the city. The city council shall have the power and authority to prescribe the kind of materials used within or beyond the limits of the City of Seguin where it furnishes the service, and to inspect the same and require them to be kept in good order and condition at all times and to make such rules and regulations as shall be necessary and proper, and prescribe penalties for noncompliance with same.**

**Section 11.11. Regulation of rates and services.**

**The council shall have full power after notice and hearing to regulate by ordinance the rate, charges and fares of every public utility franchise holder operating in the city.**

Every franchise holder who shall request an increase in rates, charges or fares shall have, at the hearing of the council called to consider such request, the burden of establishing by clear, competent and convincing evidence, the value of its investments properly allocable to service in the city and the amount and character of its expenses and revenues connected with the rendering of such service. No public utility franchise holder shall institute any legal action to contest any rate, charge or fare fixed by the council until such franchise holder has filed a motion for rehearing with the council specifically setting out each ground of its complaint against the rate, charge or fare fixed by the council, and until the council shall have acted upon such motion. Such motion shall be deemed overruled unless acted upon by the council within a reasonable time, not to exceed ninety (90) days from filing of such motion for rehearing; provided, that the council may by resolution extend such time limit for acting on said motion for rehearing from ninety (90) days to one hundred eighty (180) days.

## ARTICLE XII. GENERAL PROVISIONS

### Section 12.01. Publicity of records.

All records and accounts of every office, department or agency of the city shall be open to inspection by any citizen or by any representative of the press at all reasonable times and under such reasonable regulations as may be established by the city council; provided, that police records, vital statistics records and other records closed to the public by law shall not be considered records for the purpose of this section.

State law reference(s)--Public records, Vernon's Ann. Civ. St., art. 6252-17a.

### Section 12.02. Personal financial interests.

No member of the city council shall fail to comply with any restriction on holding office or any restrictions concerning personal financial interests in municipal matters according to the ethics ordinance of the city and the laws of the State of Texas.

(Ord. No. 92-22, § 1(14), 5-19-92/5-2-92)

State law reference(s)--Public disclosure, Vernon's Ann. Civ. St., art. 6252-9e; conflicts of interest, V.T.C.A., Local Government Code § 171.001 et seq.

### Section 12.03. Prohibitions.

#### (a) Activities prohibited:

- (1) In appointments to and removal from any city office of employment, persons shall not be favored or discriminated against because of race, sex, political or



religious opinions, or religious affiliations.

- (2) No person who seeks appointment or promotion with respect to any city office or employment, elected or appointed, shall directly or indirectly give, render or pay any money, service or other valuable thing to any person for or in connection with his test, appointment, proposed appointment, promotion or proposed promotion.
  - (3) No city officer or employee, elected or appointed, shall orally, by letter, or otherwise solicit or assist in soliciting any assessment, subscription, or contribution for any political purpose whatever from any subordinate city official or employee holding any compensated city position.
  - (4) No city employee shall solicit or receive any contribution to the campaign funds of any candidate for municipal office or take any part in the management, affairs, or political campaign of any municipal candidate.
- (b) Penalties. Any person who by himself or with others violates any of the provisions of paragraphs (1) through (3) of the preceding subsection (a) shall be guilty of a misdemeanor and upon conviction thereof shall be punishable by a fine of not more than one hundred dollars (\$100.00). Any person who by himself or with others violates any of the provisions of paragraph four (4) of the preceding subsection (a) shall be guilty of a misdemeanor and upon conviction thereof shall be punishable by a fine of not more than one hundred dollars (\$100.00). Any person convicted under this section shall be ineligible for a period of five (5) years thereafter to hold any city office or position and, if an officer or employee of the city, shall immediately forfeit his office or position.

#### **Section 12.04. Nepotism.**

No person related within the second degree by affinity, or within the third degree by consanguinity to the mayor or any elected officer of the city, shall be employed in any office, position or clerkship or other service of the city. This prohibition shall not apply, however, to any person who shall have been continuously employed by the city for a period of six (6) months prior to the election of any city official so related to him.

State law reference(s)--Nepotism, Vernon's Ann. Civ. St., art. 5996a et seq.

#### **Section 12.05. Provisions relating to assignment, execution and garnishment.**

The property, real and personal, belonging to the city shall not be liable to be sold or appropriated under any writ of execution or cost bill. The funds belonging to the city, in the hands of any person, firm or corporation, shall not be liable to garnishment,

attachment or sequestration; nor shall the city be liable to garnishment on account of any debt it may owe or funds or property it may have on hand or owing to any person. Neither the city nor any of its officers or agents shall be required to answer any such writ or garnishment on any account whatever. The city shall not be obligated to recognize any assignment of wages or funds by its employees, agents or contractors.

State law reference(s)--City property not subject to execution, V.T.C.A., Local Government Code § 51.075; garnishment, V.T.C.A., Local Government Code § 101.023.

**Section 12.06. City not required to give security or execute bond.**

It shall not be necessary in any action, suit or proceeding in which the City of Seguin is a party for any bond, undertaking or security to be demanded or executed by or on behalf of said city in any of the state courts, but in all such actions, suits, appeals or proceedings same shall be conducted in the same manner as if such bond, undertaking or security had been given as required by law.

**Section 12.07. Special provisions covering damage suits.**

Before the city shall be liable to damage claim or suit for personal injury, or damage to property, the person who is injured or whose property is damaged, or someone in their behalf, shall give the city manager or the person performing the duties of city secretary notice in writing within one hundred eighty (180) days after the occurrence of the alleged injury or damage, stating specifically in such notice when, where and how the injury or damage was sustained and setting forth the extent of the injury or damage as accurately as possible. No action at law for damages shall be brought against the city for personal injury or damage to property prior to the expiration of thirty (30) days after the notice herein described has been filed with the city manager or the person performing the duties of city secretary, and not later than two (2) years after the occurrence of the injury or damage to property. In case of injuries resulting in death, before the city shall be liable in damages therefor, the person or persons claiming such damages shall after the death of the injured person give notice as above required in case of personal injury; provided, however, that nothing herein contained shall be construed to mean that the City of Seguin waives any rights, privileges, defense or immunities in tort actions which are provided under the common law, the Constitution and general laws of the State of Texas. The provisions of this section shall be interpreted so as to be consistent with the Constitution and other laws of the State of Texas.

(Ord. No. 86-6, § 1(J), 3-4-86/4-5-86; Ord. No. 92-22, § 1(15), 5-19-92/5-2-92)

State law reference(s)--Tort claims, V.T.C.A., Civil Practice and Remedies Code § 101.001 seq.

**Section 12.08. Welfare and/or pension plan for city employees.**

The city council shall have the power to create and operate a welfare and/or pension plan for any or all city employees as prescribed by the Texas Municipal Retirement System authorized by V.T.C.A., Government Code § 851.001 et seq.

**Section 12.09. Separability clause.**

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

**Section 12.10. Effect of Charter on existing law.**

All ordinances, resolutions, rules, regulations and contracts now in force under the city government of Seguin and not in conflict with the provisions of this Charter shall remain in force under this Charter until altered, amended or repealed by the city council after this Charter takes effect. All rights of the city under existing franchises and contracts and all existing authority for the issuance of bonds, not in conflict with the provisions of this Charter, shall be preserved in full force and effect.

**Section 12.11. Reserved.**

Editor's note--Ord. No. 92-22, section 1(16), adopted May 19, 1992, repealed section 12.11, which pertained to interim municipal government and derived from the city's 1971 Charter.

**Section 12.12. Applicability of general laws.**

The Constitution of the State of Texas, the statutes of said state applicable to home rule municipal corporations, as now or hereafter enacted or amended, this Charter and ordinances enacted pursuant thereto shall, in the order mentioned, be applicable to the City of Seguin. The city shall also have the power to exercise any and all powers conferred by the laws of the State of Texas upon any other kind of city, town or village, not contrary to the provisions of said home rule statutes, Charter and ordinances. The exercise of any such powers by the City of Seguin shall be optional, and the city shall not be required to conform to the law governing any other cities, towns or villages unless and until by ordinance it adopts same.

**Section 12.13. Amending the Charter.**

Amendments to this Charter may be framed and submitted to the voters of the City of Seguin, Texas, in the manner provided by Chapter 9 of the Texas Local Government

Code as now or hereafter amended.

**Section 12.14. Construction of Charter.**

**This Charter shall not be construed as a mere grant of enumerated powers, but shall be construed as a general grant of power and as a limitation of power on the government of the City of Seguin in the same manner as the Constitution of Texas is construed as a limitation on the powers of the legislature. Except where expressly prohibited by the Charter, each and every power under Article 11, Section 5 of the Constitution of Texas, which it would be competent for the people of the City of Seguin to expressly grant to the city, shall be construed to be granted to the city by this Charter.**

**Section 12.15. Judicial notice.**

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

**Section 12.16. Reserved.**

**Editor's note--Ord. No. 92-22, section 1(18), adopted May 19, 1992, repealed section 12.16, pertaining to the submission of Charter to voters and derived from the 1971 Charter.**

**THE END**

**We, the undersigned members of the Home Rule Charter Commission, duly elected as such Charter commission in accordance with the Revised Civil Statutes of the State of Texas, on the 3rd day of April, 1971, have in accordance with law, framed the Charter for the City of Seguin, State of Texas, and herewith respectfully request that the Honorable City Council of the City of Seguin submit the proposed Charter as framed by the Charter commission to the qualified voters of the City of Seguin, at an election to be held on the 9th day of November, 1971, said election to be called in accordance with the elections laws of the State of Texas, and that such other action be taken by the Honorable City Council as required by law in the submission of said Charter.**

**Respectfully submitted,**

**/s/ Robert S. Ray, M.D.  
Chairman**

**/s/ Manuel Castilla, Jr.  
Vice-Chairman**