



City Charter

Adopted May 19, 1956

(This copy inclusive of all amendments as of May 7, 2005.)

CHARTER of the CITY OF WEST ORANGE, TEXAS
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CHARTER

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***Editor's note**—The city's home rule charter was adopted at an election held on May 19, 1956, and is included herein for the convenience of the users of this Code. The original arrangement, article headings and section catch lines have been retained. Words appearing in brackets herein have been added by the editor for clarification. A uniform system of capitalization has been used. Obvious misspellings have been corrected without notation. Amended sections are designated by history notes in parentheses.

State constitution reference—Charter to be consistent with constitution and general laws, Art. XI, § 5.
State law reference—Home rule municipality, V.T.C.A., Local Government Code § 9.001 et seq.

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ARTICLE I. CORPORATE NAME

Section 1. Corporate Name.

All inhabitants of the City of West Orange, in Orange County, Texas as the boundaries and limits of said city are herein established, shall be a body politic, incorporated under and to be known by the name and style of the "City of West Orange," with such powers, rights and duties as are herein provided.

ARTICLE II. MUNICIPAL BOUNDARIES

Section 1. Boundaries.

The boundaries and limits of the City of West Orange shall be as follows, to-wit:

BEGINNING at the Intersection of the West Bank of Adams Bayou with the South R.O.W. Line of State Highway No. 87 (also known as MacArthur Drive and also known as State Highway No. 90);

THENCE in a Southerly direction along the West Bank of Adams Bayou (this meaning at all times the West Bank of the Natural Channel of Adams Bayou) to its intersection with the Northerly R.O.W. Line of State F.M. 1006 (DuPont Drive);

THENCE in a Southerly West direction along the North R.O.W. Line of F.M. 1006 to the Alma Street Extension Road (also known as F.M. 2177) where it intersects the North R.O.W Line of F.M. 1006, this point also being the most Easterly corner of the Skeeler Tract;

THENCE in a Westerly R.O.W. Line of Alma Street Extension (F.M. 2177) to the most Northern Corner of said Skeeler Tract;

THENCE in a Southwesterly direction along the Northern boundary line of said Skeeler Tract to the most Eastern Corner of the Stark Tract which was conveyed to H. J. L. Stark on September 29, 1953 and recorded in Deed Records, Orange County, Texas in volume 159, page 331;

THENCE following the Northern boundary line of said Stark Tract (as described and referred to above) in a North and Westerly direction to the East R.O.W. Line of the O.& N.W. R. R. Industrial Spur Railroad to the South R.O.W. Line of Western Ave.;

THENCE in a Westerly direction along the South R.O.W. Line of Western Ave. to its intersection with the Southerly R.O.W. Line of State Highway No. 87;

THENCE in a Northerly direction along the Southeasterly R.O.W. Line of said Highway No. 87 to a point for corner at the intersection of the Easterly projection of the line parallel to and 10 feet perpendicularly South from the North R.O.W. Line of the Orangefield, Texas F.M. 409 Road;

THENCE Westerly with the said Easterly projection of, and line parallel to, and 10 feet perpendicularly South from the North R.O.W. Line of the Orangefield, Texas F.M. 409 Road,

with its meander, to its intersection with the Easterly R.O.W. Line of the Industrial Water Canal for corner;

THENCE Northerly with the Easterly R.O.W. Line of the said Industrial Water Canal 2600 feet to a point for corner;

THENCE Easterly with the line parallel to and 2600 feet Northerly, measured with the Easterly R.O.W. Line of the Industrial Water Canal, to its intersection with the Southerly R.O.W Line of the T.& N.O. R.R. and for interim corner;

THENCE Southeasterly with the said Southerly R.O.W. Line of T.&N.O. R.R. to its intersection with the Southerly R.O.W Line of the O.&N.W. R.R. and point for interim corner;

THENCE Southeasterly and Easterly with the said Southerly R.O.W. Line of the O.&N.W. R.R. to its intersection with the Southeasterly R.O.W. Line of State Highway No. 87;

THENCE Northerly with the Southeasterly R.O.W. [Line] of State Highway No. 87 to the Northerly R.O.W. Line of the O.&N.W. R.R. and point for corner;

THENCE along the Northerly R.O.W. Line of said O.&N.W. R.R., Easterly for a distance of 3220 feet to a point, said distance of 3220 feet being measured from intersection of the O.&N.W R.R. with the East R.O.W. Line of Foreman Road;

THENCE North with line parallel to Foreman Road to intersect with the Northerly R.O.W. Line of the T.&N.O. R.R. and point for corner;

THENCE Westerly along the Northerly R.O.W. Line of the T.&N.O. R.R. to the intersection with the Southeasterly R.O.W. Line of State Highway No. 87;

THENCE in a Northeasterly direction along the Southeasterly R.O.W Line of State Highway No. 87 to its intersection with MacArthur Drive and still State Highway No. 87 and MacArthur Drive at all times in an Easterly direction along the Southerly R.O.W. Line of said Highway and MacArthur Drive to the place of BEGINNING.

Section 2. Extension of Boundaries.

The boundaries of the City of West Orange may be enlarged and extended by the annexation of additional territory, irrespective of size and configuration, in any of the methods hereinafter designated:

- (a) Extending limits in accordance with V.T.C.A., Local Government Code, § 43.001 et seq.:

Where such additional territory adjoins the corporate limits of the city and contains three or more inhabitants qualified to vote for members of the state legislature, such adjacent territory may be annexed to the city in the manner and in conformity with the

procedure set forth in article 974 of the Revised Statutes of the State of Texas of 1925, as now or hereinafter amended.

(b) Extension of limits by election:

The city council shall have the power to order an election or elections for the purpose of annexing territory lying adjacent to the City of West Orange. Such order shall include the survey notes of the area sought to be annexed. The city council shall give notice of the date and place of balloting at such election by publication of the order in any newspaper circulated in the City of West Orange at least thirty days prior to the date on which such election is ordered. The residents of the City of West Orange and the territory sought to be annexed, who are qualified to vote for members of the state legislature, shall be qualified to vote at such election. The city council shall, at its next meeting, canvass the return of such election and if a majority of the votes cast at such election by the residents of West Orange, and if a majority of the votes cast at such election by the residents of said territory being considered for annexation, favor such annexation, the council shall declare the said territory annexed to the City of West Orange, and the boundary limits of the City of West Orange shall hereinafter be extended and fixed so as to include such territory.

(c) Annexation of unoccupied lands on petition of owners:

The owner or owners of any land which is without residents, contiguous and adjacent to the city may, by petition in writing to the city council, request the annexation of such contiguous and adjacent land, describing it by metes and bounds. The city council shall thereafter, and not less than five and not more than thirty days after the filing of such petition, hear such petition and the arguments for and against the same, and grant or refuse such petition as the city council may see fit. If the city council grants such petition, it may by proper ordinance receive and annex such territory as a part of the city.

(d) Annexation by amendment to charter:

The boundary limits of the city may be fixed and additional territory added or annexed thereto by amendment to the charter of the city.

(e) Extending limits by action of the city council:

The city council shall have power by ordinance to fix the boundary limits of the City of West Orange and to provide for the extension of said boundary limits and the annexation of additional territory lying adjacent to said city, with or without the consent of the residents or the owners of the territory annexed. Upon the introduction of such an ordinance in the city council it may be passed on the first reading, and thereafter shall be published in any newspaper circulated in the City of West Orange one time, and shall not thereafter be finally acted upon until at least thirty days have elapsed after the publication thereof. Any citizen of the City of West Orange, or resident or owner of the territory to be annexed, shall have the right to contest said annexation by filing with the city council a written petition setting out his reasons for said contest, and after such citizen, resident or owner shall have been given an opportunity to be heard, said ordinance, in original or amended form, as said city council in its judgment may

determine, shall be finally acted upon, and any territory so annexed shall be a part of the City of West Orange.

(f) Annexation by any other method provided by law:

Additional territory may also be annexed to the city in any manner and by any procedure that may now be provided by law or that may be hereafter provided by law. Same shall be in addition to the methods hereinabove provided.

(g) Annexed territory to become part of the city:

Upon completion of any 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.

(Ord. No. 214, § 1(Amd. 8), 3-14-88; Ord. No. 266, § 1(Amd. 1), 5-4-96)

ARTICLE III. FORM OF GOVERNMENT

Section 1. [Name; Authority, Powers Generally.]

The municipal government provided by this charter shall be known as the “mayor and aldermanic government.” Pursuant to its provisions and subject to the limitations imposed by the state constitution and by this charter, all powers of the city shall be vested in the elected mayor and an elective council of aldermen, hereinafter referred to as “the city council,” which shall enact local legislation, adopt budgets, determine policies, and employ the city officials and shall execute the laws and administer the government of the city. All powers of the city shall be exercised in the manner prescribed by this charter, or if the manner be not prescribed, then in such manner as may be prescribed by ordinance.

ARTICLE IV. OFFICERS AND THEIR ELECTION

Section 1. City Officials.

The municipal government of the city shall consist of a city council composed of a mayor and five (5) aldermen. Said mayor and aldermen shall be elected from the city at large. The above named officers shall be elected by the qualified electors of the city. Other officers of the city may be an assessor and collector, a treasurer, a secretary, a city attorney, a judge of the municipal court, a chief of police, a public works director, a fire marshal, and such other officers and agents as the city council may from time to time direct, who shall be appointed by the mayor with the approval of the city council. The city council may confer the powers and duties of one or more of these offices upon other officers of the city.

(Ord. No. 266) § 1(Amd. 2), 5-4-96; (Amd. 1) 5-07-05

Section 2. Date of Election.

The regular municipal elections of the City of West Orange shall be held on the first Saturday in May of each calendar year or on such date as directed by the state election laws, and the

polls shall be open at each election from 7:00 a.m. to 7:00 p.m. or as directed by the state election laws, and the elections shall be conducted and the results canvassed and announced by the election authorities prescribed by the general election laws of the State of Texas, and said state laws shall control in all municipal elections except as otherwise herein provided.

(Ord. No. 214, § 1(Amd. 2), 3-14-88)

Section 3. [Reserved.]

Editor's note—Section 3 was repealed by Ord. No. 214, § 1(Amd. 3), 3-14-88.

Section 4. Official Ballot.

Candidates for the city council and for mayor shall be placed on the official ballot upon the sworn application of the candidate, in accordance with the Election Code of the State of Texas, stating the office for which he is a candidate, and stating that the candidate has resided in the city for at least one year prior to the election and is a qualified elector and paying any filing fee that may be imposed by ordinance, and thereupon the names of such candidates shall be printed upon the official ballot.

(Amd. 1) 5-10-00

Editor's note—Requirements for applications for a place on ballots are provided in V.T.C.A., Election Code § 141.031 et seq.

Section 5. Terms of Office: Mayor and Alderman.

The present mayor and city alderman of the city or their successors in office at the time of adoption of this charter shall continue to act until their successors are elected and take office under the provisions of this charter. The first election for mayor and alderman shall be held on the first Saturday in April, 1957, at which time a mayor and five (5) aldermen shall be voted on and elected accordingly by the vote of the qualified electors of the city at large. In all elections for mayor and alderman, except as hereinafter provided, the candidate receiving the largest number of votes of the entire city shall be elected to the respective office for which he is a candidate, however it is expressly provided that the alderman elected at the election held on the first Saturday in April, 1957, shall hold terms of office as follows: The two (2) aldermen receiving the largest number of votes of the entire city shall be elected and upon qualifying shall hold office for a term of two (2) years, which shall terminate on the 31st day of March, 1959, or until their successors are duly elected and qualified; the three (3) candidates for alderman receiving the next largest number of votes of the entire city shall be elected and upon qualifying shall hold office for a term of one (1) year which shall terminate on the 31st day of March, 1958, or until their successors are duly elected and qualified. Thereafter there shall be elected from the city at large, on the first Saturday of May of each even numbered calendar year three (3) aldermen, whose term of office shall be for a period of two (2) years, or until their successors are elected and qualified. The three (3) candidates receiving the largest number of votes shall be declared elected; on the first Saturday in May of each odd numbered calendar year there shall be elected from the city at large a mayor and two (2) aldermen, whose term of office shall be for a period of two (2) years, or until their successors are elected and qualified, and in this election the candidate for mayor receiving the largest number of votes

shall be declared elected mayor, and the two (2) candidates for alderman receiving the largest number of votes shall be declared elected aldermen.

(Ord. No. 266, § 1(Amd. 3), 5-4-96)

Section 6. Judges of Election.

The city council shall be the judge of the election and qualification of its own members and of the mayor, subject to review of the courts in the case of contest. The city council shall, as soon as possible after the election either at a call meeting called for that purpose or at its next regular meeting date of said council, after each regular or special election, canvass the returns and declare the results of such election.

If, in any election, the vote which shall result in a tie for the office sought by the candidates, and as a result of such tie vote such office cannot be filled under the provisions of this charter, it shall be the duty of the mayor to order a second election for the office or offices if the candidates have received a tie vote; said election shall be held in accordance with the Election Code of the State of Texas. In said second election, only those can run who were tied for the office sought in the first election. In the event one of the candidates who received a tie vote, for the particular office sought, shall withdraw or die, a second election shall not be held for that office, and the other candidate for such office shall be declared elected.

(Amd. 2) 5-10-00

Section 7. Installation of Officers.

Newly elected officers will take office in accordance with the Election Code of the State of Texas. If any officer fails to qualify within thirty (30) days of his election, that office will be deemed vacant and a new election held to fill that office.

(Amd. 3) 5-10-00

Section 8. Qualification of Officers.

No person shall be eligible to the office of mayor or the office of alderman unless he is a qualified elector and has resided in the city one year, next preceding the election. If the mayor or any alderman moves from the city during the term of office for which he is elected, his office shall be deemed vacant.

Anyone running for the office of mayor or alderman will not be qualified to run for said office if he/she is delinquent in payment to the city, whether it be property tax or any other indebtedness.

(Amd. 2) 5-07-05

Anyone convicted of a violation of the penal laws of the State of Texas Class B or greater shall be ineligible to run for the office of mayor or alderman.

(Amd. 3) 5-07-05

Section 9. Limitations of Councilmen.

No member of the city council shall hold any other employment or office under the city government while he is a member of said council, unless herein otherwise provided. No member of the city council, or any other officer of the city, shall be directly or indirectly interested in any work, business or contract, the expense, price or consideration of which is

paid from the city treasury, nor be the surety of any person having a contract, work or business with said city, for the performance of which security may be required, nor be the surety of the official bond of any city officer.

Section 10. Vacancy.

In case of a vacancy in the office of mayor or alderman, the [city] council shall order an election to fill the vacancy if the vacancy will exceed one year of the unexpired term. If the vacancy will be less than one year of the unexpired term, the [city] council shall fill the vacancy by appointment. If the vacancy will be less than 90 days of the unexpired term, the [city] council may, at its discretion, fill the vacancy by appointment or leave the vacancy unfilled until the next election.

(Ord. No. 266, § 1(Amd. 4), 5-4-96)

Section 11. Mayor Pro Tempore.

At the first meeting of each new council, or as soon thereafter as practicable, one of the aldermen shall be elected mayor pro tempore, who shall hold his office for one year. In case of the failure, inability or refusal of the mayor to act, the mayor pro tempore shall perform the duties of the mayor. When serving as mayor as the presiding officer at city council meetings, the mayor pro tempore shall have the same rights and privileges as provided by article VI, section 1, of this charter. In the case of absence from the city or failure, inability or refusal of both the mayor and mayor pro tempore to perform the duties of mayor, the city council may, at a council meeting, by a vote of three affirmative votes, elect an acting mayor pro tempore, who shall serve as mayor with all of the powers and privileges of mayor until either the mayor or mayor pro tempore shall resume his duties of office. When such acting mayor pro tempore is serving as the presiding officer at council meetings he shall have all the powers set forth in article VI, section 1, of this charter.

Section 12. Compensation of Mayor and Councilmen.

The mayor and aldermen shall receive \$1.00 per year as compensation and may be reimbursed for their expenses incurred in their official duties.

Section 13. Terms of Office of Appointed Officers.

The present appointed officers of the city, or their successors in office, including the present corporation judge, at the time of the adoption of this charter, shall continue to act until the 31st day of March, 1957, or until their successors are appointed to take office under the provisions of this charter. The mayor elected in April, 1957, shall appoint officers to fill all positions

created by this charter or hereafter created by ordinances, such appointments to be subject to the approval of the city council.

(Amd. 4) 5-10-00

ARTICLE V. DUTIES AND POWERS OF OFFICERS

Section 1. Oath.

All officers of the city, whether elective or appointive, shall qualify by taking the oath prescribed by the constitution of this state and by executing such bond as may be required under the provisions of this charter and the ordinances and resolutions of the city.

Section 2. Duties of Mayor.

The mayor shall be the chief executive officer of said city, and shall be active at all times in causing the laws and ordinances of said city to be duly executed and put in force. He shall inspect the conduct of all subordinate officers in the government thereof, and shall cause all negligence, carelessness and other violations of duty to be prosecuted and punished. He shall have power, if in his judgment the good of the city may require it, to summon meetings of the city council and he shall communicate to that body such information and recommend such measures as may tend to the improvement of the finances, the police, health security, cleanliness, comfort, ornament and good government of said city.

Section 3. Powers of Mayor.

The mayor shall have power to administer the oaths of office. He shall have authority in case of a riot or any unlawful assemblage, or with a view to preserve peace and good order in said city, to order and enforce the closing of any theatre, ball room, or other place or resort or public room or building, and may order the arrest of any persons violating in his presence, the laws of this state, or any ordinance of the city. He shall perform such other duties and possess and exercise such other power and authority as may be prescribed and conferred by the city council.

Section 4. City Secretary.

The city secretary shall attend every meeting of the city council, and keep accurate minutes of the proceedings thereof in a book to be provided for that purpose, and engross and enroll all laws, resolutions, and ordinances of the city council, keep the corporate seal, take charge of and preserve and keep in order all books, records, papers, documents and files of said council, countersign all commissions issued to city officers, and licenses issued by the mayor, and keep a record or register thereof, and make out all notices required under any regulation or ordinances of the city. He shall be the general accountant of the city, and shall keep in books regular accounts of the receipts and disbursements for the city, and separately, under proper heads, each cause of receipt and disbursement, and also accounts with each person, including officers who have money transactions with the city, crediting accounts allowed by proper authority and specifying any particular transaction to which such entries apply. He shall keep a register of bonds and bills issued by the city, and all evidence of debt due and payable to it,

noting the particulars thereof, and all facts connected therewith, as they occur. He shall carefully keep all contracts made by the city council; and he shall perform all such other duties as may be required of him by law, ordinance, resolution or order of the city council.

Section 5. Treasurer.

The treasurer shall give bond in favor of the city in such amount, and in such form as the city council may require, with sufficient security to be approved by the city council, conditioned for the faithful discharge of his duties. He shall receive and surely keep all moneys belonging to the city, and make all payments from the same upon authorization of the mayor, or city council. He shall render a full and correct statement of his receipts and payments to the city council, at their first regular meeting in every quarter and whensoever, at other times, he may be required by them so to do. On the first day of each fiscal year or as soon thereafter, he shall publish a financial statement showing the amount of receipts, expenditures, and balances for the preceding twelve months.

(Ord. No. 266, § 1(Amd. 5), 5-4-96)

Section 6. City Chief of Police.

The city chief of police shall be in charge of the police department and shall have all of the powers and duties as is provided for city marshals in V.T.C.A., Local Government Code, § 341.021 and such other duties and responsibilities as the city council from time to time may assign to him. The chief of police shall be paid a salary as shall be determined and approved by the city council.

(Ord. No. 266, § 1(Amd. 6), 5-4-96)

Section 7. City Attorney.

The city attorney shall be the legal adviser and counsel to the mayor, city council, department heads, and city boards and commissions. He shall prepare or approve all city ordinances and resolutions and shall attend all meetings of the city council and shall be the city prosecutor. He shall be employed either on a part time or full time basis and shall have such other duties and responsibilities as may from time to time be assigned to him by the city council.

With the consent and approval of the city council the city attorney shall have the authority to appoint such assistants as may be necessary to properly carry out the duties of his office.

The mayor, with the consent and approval of the city council, shall have the authority to employ special counsel to represent the city in collecting taxes, or to represent the city in legal proceedings filed by or against the city and in any extraordinary legal matters. Where the city attorney is employed on only a part time basis, he may by special contract be employed by the city to represent it in collecting taxes or to represent the city in legal proceedings filed by or against the city and in any extraordinary legal matters.

Section 8. Public Works Director.

The public works director shall be responsible for overseeing all work to be done by the city; he shall be adviser to the mayor and city council on all work; he shall be general adviser to the board of adjustment and the planning and zoning commission, and shall have such other responsibilities and duties as the city council from time to time assign to him.

(Ord. No. 266, § 1(Amd. 7), 5-4-96)

Section 9. Fire Marshal.

The fire marshal shall be responsible for the overall planning of fire prevention in the city. In addition to serving as fire marshal, the marshal shall have such other and further duties assigned to him as the city council may deem proper and may provide for compensation to be paid him when assigned other duties.

(Ord. No. 214, § 1(Amd. 5), 3-14-88)

Section 10. Assessor and Collector.

The assessor and collector shall have the responsibility of assessing and collecting all ad valorem taxes and keeping complete and accurate records of the same, and shall have such other duties as are given to him by this charter and which may be hereafter assigned to him by the city council.

Section 11. Judge of the Municipal Court.

The judge of the municipal court shall preside over the municipal court as provided for herein. He shall be a qualified elector and be a resident of the city.

(Ord. No. 266, § 1(Amd. 8), 5-4-96)

Section 12. Control of Officers.

The city council shall have power from time to time to require other further duties of all officers whose duties are herein prescribed, and to define and prescribe the powers and duties of all officers appointed or elected to any office under this charter whose duties are not herein especially mentioned, and fix their compensation. The city council shall provide for filling vacancies in all offices not herein provided for.

(Amd. 5) 5-10-00

Section 13. Bond for Appointive Officers.

The city council shall have the right to require bond from any appointive officers or employees of the city in such amounts as the city council from time to time may fix by ordinance or resolution and conditioned by the faithful discharge of the duties of his office and accounting for all moneys, credits and things of value coming into the hands of such officers or employees; and all such bonds shall be signed as surety by some surety company authorized to do business under the laws of the state, and the premiums accruing thereon shall be paid by the city.

Section 14. Resignation of Officers.

Resignation of any officer authorized by this charter to be elected or appointed shall be made by filing a written resignation with the city secretary.

Section 15. Removal of Officers.

The city council shall have the power to remove any officer for incompetency, corruption, misconducts, or malfeasance in office, after due notice and an opportunity to be heard in his defense. The city council shall also have the power at any time to remove any appointed officer by resolution declaratory of its want of confidence in such officer; by a majority of those voting.

(Amd. 6) 5-10-00

Section 16. Salaries of Appointed Officers.

The city council shall set the salary or compensation of all officers appointed by the mayor each fiscal year.

(Amd. 7) 5-10-00

ARTICLE VI. THE CITY COUNCIL

Section 1. Presiding Officer.

The mayor shall preside at all meetings of the city council and shall enter into discussions and vote on any question in a like manner as any alderman.

Section 2. Meetings.

Petitions and remonstrances may be presented to the council in writing only. The city council shall hold stated meetings at such times and places as they shall by resolution direct. The mayor, of his own motion, or on the application of three aldermen, must call special meetings by notice to each member of said council, the secretary and city attorney, served personally, or left at their usual place of abode.

Section 3. Rules of the City Council.

The city council should formally put forth their ethics/guidelines in writing and encourage council members to follow them as set forth therein.

(Amd. 8) 5-10-00; (Amd.5) 5-07-05

Section 4. General Authority.

The city council shall have power to pass, publish, amend or repeal all ordinances, rules, and police regulations, not contrary to the constitution of this state, for the good government, peace and order of the city and the trade and commerce thereof, that may be necessary or proper to carry into effect the powers vested by this charter in the city, the city government or in any

department or office thereof; to enforce the observance of all such rules, ordinances and police regulations, and to punish violations thereof.

Section 5. Powers.

Any powers given to the city that are not specifically placed in the mayor or some other official, either by statutes or this charter, shall be exercised in behalf of the city by the city council. All powers so exercised shall be by ordinance or resolution duly passed.

Section 6. Quorum.

The mayor and three aldermen shall constitute a quorum for the transaction of all business of the council. In the absence of the mayor, the mayor pro tempore and three aldermen shall constitute a quorum. In the absence of the mayor and mayor pro tempore, the acting mayor pro tempore and three aldermen shall constitute a quorum.

Section 7. Minimum Votes Required.

No ordinance, resolution or other action of the city council shall be effective unless it receives at least three votes affirmative or unless a larger number of votes are required by state statute to pass a specific ordinance, or unless a larger number of votes is required by other parts of this charter.

Section 8. Legislative Procedure.

All meetings of the city council shall be public, except when otherwise directed by the council, and minutes of all proceedings shall be kept, to which any citizen may have access at all 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 and shall be authenticated by the signature of the presiding officer and the person performing the duties of city secretary. Every ordinance hereafter adopted shall be systematically numbered and it shall only be necessary to record the number and caption of title of ordinances in the minutes of the council meeting.

Section 9. Style of Ordinances.

The style of all ordinances of the city shall be: "Be it ordained by the city council of the City of West Orange, Texas," but the same shall be omitted when the ordinances of the city are codified and published in book or pamphlet form by the city, or under the authority of its governing body.

Section 10. Ordinances Now In Effect.

All ordinances of the city now in existence and not inconsistent with the provisions of this charter shall remain in full force and effect until altered, amended or repealed by the city council.

Section 11. Publication of Ordinances.

Every ordinance imposing any penalty, fine, imprisonment or forfeiture for violation of its provisions shall, before and after passage thereof, be published in one issue of the official newspaper of the city or in a newspaper of general circulation within the city. It shall not be necessary or required that the entire ordinance be published. It shall be sufficient if the caption to the ordinance be published. The affidavit of such publication made by the printer or publisher of such newspaper before any officer authorized to administer oaths and filed with the city secretary, or any other competent proof of such publication, shall in all courts be conclusive evidence of the legal publication and promulgation of such ordinance. No other character of ordinance need be published. All amendments and corrections made in digesting any revision for publication in book form must follow the same publishing procedures, providing they be a penal or forfeiture ordinance or amendment thereto. The failure to publish any such ordinance as here required shall not invalidate it as a civil ordinance regulating civil rights and liabilities.

(Amd. 9)5-10-00

Section 12. Ordinances, Pleading of, and Admissibility in Evidence.

It shall be sufficient in all judicial proceedings to plead any ordinance of the city by caption without embodying the entire ordinance in the pleadings, and all pleaded ordinances or codes of ordinances shall be admitted in evidence in any suit and shall have the same force and effect as the original ordinance. Certified copies of the ordinances may also be used in evidence in lieu of original ordinances.

Section 13. Ordinances and Resolutions.

All ordinances and resolutions adopted by the council shall, before they take effect, be placed in the office of the city secretary and the mayor shall sign those he approves. Such as he shall not sign shall be returned to the city council with his objections thereto. Upon the return of any ordinance or resolution by the mayor, the vote by which the same was passed shall be reconsidered. If after such consideration, a majority of all the members of the whole council agree to pass the same, and enter their votes on the journal of their proceedings, it shall be in force. If the mayor shall neglect to approve or object to any such proceedings for a longer period than three days after the same shall be placed in the secretary's office as aforesaid, the same shall go into effect.

ARTICLE VII. GENERAL POWERS**Section 1. Enumerated Powers Not Exclusive.**

The enumeration of particular powers by this charter shall not be held or deemed to be exclusive, but, in addition to the powers enumerated therein or implied thereby, or appropriate to the exercise of such powers, it is intended that the city shall have, and may exercise, all powers of local self-government, and all powers enumerated in chapter 13, title 28, article

1175 of the Revised Civil Statutes of the State of Texas of 1925, and any amendments thereof, or any other powers which, under the constitution and laws of the State of Texas, it would be competent for this charter specifically to enumerate. All powers of the city, whether expressed or implied, shall be exercised in the manner prescribed herein, or when not prescribed herein, then in the manner provided by the general laws of Texas relating to cities and towns.

Section 2. Fire Prevention.

The city council shall have power by ordinance or otherwise to provide means for protection against conflagrations and for guarding against fires. It may prescribe fire limits, stipulate and provide for minimum requirements for construction of buildings within such fire limits, regulate or prohibit the erection, building, replacing or repairing of buildings within such limits; may prescribe that the buildings within such fire limits be made or constructed of fire-resistant material; and may further prescribe limits within which only fire-resistant roofing may be used; it may also by ordinance regulate, prescribe, govern or forbid the storage of lumber, building material of any kind or inflammable or explosive goods, wares and merchandise of any and every kind within certain limits and prescribe limits within which such materials may be stored, housed or carried.

Section 3. Health Regulations.

The city council shall have the power to provide and establish all necessary rules and regulations protecting the health of the city to the extent allowed by the laws of Texas.

(Ord. No. 266, § 1(Amd. 9), 5-4-96)

Section 4. Other Enumerated Powers.

The city may assess, levy and collect any and all character of taxes for general and special purposes on all subjects or objects, including occupation taxes, license taxes and excise taxes, which the city may lawfully assess, levy and collect under the Constitution and laws of the State of Texas; may borrow money on the faith and credit of the city by the issuance of bonds or notes of the city, and may issue warrants in payment of lawful obligations of the city; may create, provide for, construct, regulate and maintain all things of the nature of public works and improvements whether for pleasure or otherwise; may define, prohibit, abate, suppress and prevent all things detrimental to the health, morals, comforts, safety, convenience and welfare of the inhabitants of the city, and all nuisances and cause thereof; may regulate and restrict the construction, height, and the material used in all buildings and maintenance and occupancy thereof; may license any lawful business, occupation or calling that is susceptible to the control of the police power; may license, regulate, control or prohibit the erection of signs or billboards within the corporate limits of said city; may provide for public library and maintenance thereof; may provide that the gas companies, street car or bus companies, telephone companies, telegraph companies, and electric light companies, or any other companies or utility service, make and furnish extension of their service to such territory within the corporate limits as may be prescribed from time to time by ordinances; may provide for the issuance of permits for erecting all buildings, for the inspection of the construction of buildings, in respect to proper wiring for electric lights and other electric appliances, piping for gas flues, chimneys, fire escapes, plumbing and sewer connections, and to enforce proper regulations in

regard thereto; may provide for the enforcement of all ordinances enacted by the city, by a fine not to exceed that allowed by state law.

(Ord. No. 266, § 1(Amd. 10), 5-4-96)

Editor's note—The maximum fine for the violation of ordinances is provided in V.T.C.A., Local Government Code § 54.001.

ARTICLE VIII. DEPARTMENTS

Section 1. General.

The city council may create or establish, abolish or consolidate, as many departments or offices as it may deem necessary for the best interest of the city. It may divide the administration of such departments or offices as it may deem advisable.

Section 2. Rules and Regulations for Departments.

The city council may establish by ordinance such rules and regulations covering the conduct and performance, employment and discharge of personnel in the departments and may from time to time amend such rules and regulations.

Section 3. Police Department.

The city shall have a police department which will be under the general supervision of the city chief of police. The city council shall by ordinance provide for the number of police officers and their qualifications; shall fix their salaries and their terms of office; shall make provisions for their removal from office; shall provide for the giving of bonds for faithful performance of their duties in office; and shall make such other regulations as might be deemed necessary for the control and operation of the police department. Such officers shall have like powers, rights and authorities as are vested in city marshal under the provisions of V.T.C.A., Local Government Code, § 341.021

(Ord. No. 266, § 1(Amd. 11), 5-4-96)

Section 4. Fire Department.

The city council by ordinance may provide for a fire department consisting of paid firemen or volunteer firemen, or a combination of paid firemen and volunteer firemen. If paid firemen are to be employed, the city council shall by ordinance provide for the number of paid firemen, their pay, their term of office, provisions for removal of firemen and such other provisions as might be necessary for supervision and control of firemen. The city council shall by ordinance establish such other rules and regulations for a fire department as might be necessary for the proper control and operation of same.

(Ord. No. 214, § 1(Amd. 7), 3-14-88); (Amd. 6) 5-07-05

Section 5. Recreation Department.

The city shall have the right to establish a recreation department and appropriate necessary funds for the operation of the same.

The city shall have the authority to enter into contracts or agreements with other municipalities or political subdivisions in carrying out a joint recreational program for the city and adjoining political subdivisions.

ARTICLE IX. PUBLIC UTILITIES**Section 1. City Ownership and Operation Thereof.**

(a) In general. The city shall have the power to build, construct, purchase, own, lease, maintain and operate, within or without the city limits, light and power systems, water systems, sewer systems or sanitary disposal equipment and appliances, natural gas systems, parks and swimming pools, fertilizer plants, and any other public service or utility; power to mortgage and encumber such system or systems in the manner provided in articles 1111 to 1118, inclusive, of the 1925 Revised Civil Statutes of Texas, as amended, and any other laws of the State of Texas applicable thereto; and all the powers which the city might exercise in connection with such public utilities and public services under article 1175 of the 1925 Revised Civil Statutes of Texas, and any amendment thereto, now or hereafter in effect, as well as under any other general laws of the State of Texas pertinent or applicable thereto, including the power to demand and receive compensation for service furnished for private purposes, or otherwise, and with full and complete power and right of eminent domain, proper and necessary efficiently to carry out said objects.

(b) City water system. The city shall have the right to own, erect, improve, enlarge, maintain and operate water works system for the use of said city, its inhabitants and the public; shall regulate the same and have power to prescribe rates for water furnished, with power to levy higher rates for water sold for use outside the city limits, and to acquire by purchase, donation, condemnation or otherwise, suitable grounds within or without the limits of the city on which to erect any such works and the necessary right of way in any outstanding franchise which may now or hereafter be owned by any individual, corporation, or other municipality and to do and perform whatsoever may be necessary to operate and maintain such water works or persons in control thereof to pay all charges for water furnished upon such property. The city shall have all the powers and privileges pertaining to water and water systems as is granted to home rule cities under the provisions of article 1175 of the Revised Civil Statutes of Texas. The city shall have the right to use so much of the water and water facilities of said city as may be deemed necessary in connection with the operation of the fire department, city buildings, public works, streets, swimming pools, and other public functions of the city.

(Amd. 10) 5-10-00

(c) City sewer system. The city shall have the rights to own, erect, maintain and operate sewer systems or sewage systems for the use of said city and its inhabitants; to regulate the same and to have power to prescribe rates for the services so furnished and to acquire by purchase, donation, condemnation or otherwise suitable grounds, within or without the limits of

the city, on which to erect any such sewer system or systems, sewage disposal plant or plants, and filtering beds and emptying grounds for sewage systems, and to compel owners of property and the agents of such owners in control thereof to pay all charges for sewer service furnished upon such property, and shall have power to compel owners of property and the agents or persons in control thereof to connect with such sewer systems, and to pass all ordinances necessary for the enforcement of this power, and shall have the power by ordinance to prohibit the use of sewers for oil waste, chemicals or salt water disposal. The city shall have all the rights, powers and privileges pertaining to sewers as is given to home rule cities under Article 1175, Revised Civil Statutes of Texas; the city may permit other municipalities to place connecting sewer lines through the city and to maintain them.

(d) Power to contract for public utilities. The city is authorized to enter into contracts of leases with individuals, corporations, partnerships, or other municipal corporations, for furnishing in whole or in part any public utility or portions of public utility systems that might be needed by the city or the citizens of the city. The consideration for such contracts or leases may in the discretion of the city council be paid by the city or prorated to the individual users of the utility covered by such contractor lease; or to permit individuals, corporations, partnerships or other municipal corporations to furnish in whole or in part any public utility direct to the citizens of the city on such terms as the city may direct.

(e) Right to purchase commodities or services essential to city or its citizens. The city shall have the power to purchase electricity, gas, oil, or any other article, commodity or service essential to a proper conduct of all the affairs of the city and of its inhabitants on such terms as the city council may deem proper, for sale and distribution to the inhabitants of the city or adjacent territory.

Section 2. Regulation of Public Utilities.

(a) The city council shall have the power by ordinance, after notice to the utility and hearing before the council, to fix and regulate the charges, fares or rates of compensation to be charged by any person, firm or corporation enjoying a franchise in the city, or engaged in furnishing a public utility service in the city, and shall in determining, fixing and regulating such charges, fares or rates of compensation, base the same upon the fair value of the property of such person, firm or corporation devoted to furnishing service to such city or the inhabitants thereof. The city council may prescribe the character, quality and efficiency of service to be rendered, and shall have the power to regulate and require the extension of adequate lines or service of such public utility within such city by such person, firm or corporation, taking into consideration the cost of the utility and from time to time may alter or change such rules, regulations, and compensation, provided that, in adopting such regulations and in fixing or changing such compensation or determining the reasonableness thereof, no stock or bonds authorized or issued by any corporation enjoying such franchise shall be considered unless on proof that the same have been actually issued by the corporation for money paid and used for the development of the corporate property, labor done or property actually received, in accordance with the laws and constitution of the state applicable thereto. In order to ascertain all facts necessary for a proper understanding of what is or should be reasonable rate or regulation, the city council shall have full power to inspect the books of any such utility serving

the inhabitants of the city and compel production of records and the attendance of witnesses for such purpose.

(b) Any company, corporation or person engaged in furnishing to the inhabitants of the city any light, power, gas, telephone, transit or other public utility services, may be required at any time by ordinance or resolution of the city council to file with the city council sworn written reports pertaining to their operations and business within the city, and such report shall contain such data, facts and information as may be required by such ordinance or resolution, which shall also fix the time within which the report shall be filed.

(c) In addition to the foregoing powers the city shall have all the powers and privileges provided for by article 1175 of the Revised Civil Statutes of Texas in regulating public utilities.

ARTICLE X. CONTRACTS

Section 1. General.

All contracts that the city has at the time of the adoption of this charter shall remain in full force and effect. This provision shall include, but not be limited to, all bonded indebtedness, contracts for professional services, contracts for improvements, lease contracts, or any other agreement binding upon the City of West Orange, Texas immediately prior to the adoption of this charter.

Section 2. Personal Services.

No contract shall ever be made which binds the city for personal services, except for professional services, to be rendered for any stated period of time, but all appointive employees shall be subject to peremptory discharge, and when discharged shall only be entitled to compensation up to and including the date of their discharge, any provision to the contrary in this charter notwithstanding.

Section 3. Goods, Materials, Services or Supplies.

The city or any agent of the city acting for it shall not make any contract for goods, materials, services or supplies for the current use of any department of the municipality for more than one year, except as in this charter provided, unless said contract and the cost thereof have been included in the annual budget of the city and unless an appropriation has been made therefore, and no contracts or purchase shall exceed the amount appropriated. All contracts specified by V.C.T.A. Local Government Code, except for professional services, shall be made upon specifications, and should not be binding until signed by a designated representative of the city. In event of a cost overrun in any contract, or expenditures of an emergency nature, no such expenditure shall be made unless approved by a majority of the city council, in accordance with V.T.C.A., Local Government Code §§102.001 through 103.004 et seq.

(Ord. No. 214, § 1(Amd. 6), 3-14-88)

(Amd. 11) 5-10-00

Section 4. Competitive Bidding.

After approval of specifications by the city council, advertisement shall be published in the official newspaper of the city at least once in each week for two consecutive weeks, inviting competitive bids for labor and material embraced in the proposed contract. All bids received shall be sealed and delivered to the city secretary. At the time and place announced in said notice, the bids shall be opened and no award shall be made except to one of such bidders. The city council shall determine the most advantageous bid for the city, and shall award the contract to such bidder, but the city council shall always have the right to reject any and all bids, and in the event all bids are rejected, may call for new bids which shall be advertised in like manner as the original bids. Pending advertisement of such proposed contracts, the specifications shall be on file in the office of the city secretary subject to the inspection of all persons desiring to bid. No contract shall ever be authorized except by approval of the city council; provided, however, that the city shall follow state laws in regard to the competitive bidding process.

(Ord. No. 266, § 1(Amd. 12), 5-4-96; (Amd. 7), 05-07-05

ARTICLE XI. OWNERSHIP OF REAL OR PERSONAL PROPERTY

Section 1. Acquisition of Property.

The city shall have the power and authority to acquire by purchase, gift, devise, deed, condemnation, or otherwise, any character of property, within or without its municipal boundaries, including any charitable or trust funds.

Section 2. Real Estate, Etc., Owned by the City.

All real estate owned in fee simple title, or held by lease, sufferance, easement or otherwise; all public buildings, fire stations, parks, streets and alleys, and all property, whether real or personal, of whatever kind, character or description, now owned or controlled by the city, shall vest in, inure to, remain and be the property of said city under this charter; and all causes of action, choses in action, rights or privileges of every kind and character, and all property of whatsoever character or description which may have been held, and is now held, controlled or used by said city for public uses, or in trust for the public, shall vest in and remain and inure to the city under this charter, and all contracts, suits and pending actions to which the city heretofore was or now is a party, plaintiff or defendant, shall in no wise be affected or terminated by the adoption of this charter, but shall continue unabated.

Section 3. Parks, Playgrounds, Etc.

The city shall have exclusive control of all city parks and playgrounds, whether within or without the city limits, and to control, regulate and remove all obstructions and prevent all encroachments thereupon; to provide for raising, grading, filling, terracing, landscape, gardening, erecting buildings, swimming pools and wading pools, and other structures, providing amusement therein, for establishing parks, playgrounds, and other public grounds, speedways or boulevards owned by it, and lying both outside and inside the municipal boundaries.

Art. XII. § 1

CHARTER of the CITY OF WEST ORANGE, TEXAS
ARTICLE XII. STREETS AND ALLEYS

Section 1. Street Powers.

The city shall have exclusive control of all alleys, streets, gutters and sidewalks situated within the city, and the power to lay out, establish, open, alter, extend, widen, straighten, abandon and close, lower, grade, narrow, care for, supervise, maintain and improve any public street,

alley, avenue, or boulevard, and for any such purposes to acquire the necessary lands and to appropriate the same under the power of eminent domain. The city shall also have the power to name or rename, vacate and abandon and sell and convey in fee that portion of any street, alley, avenue, boulevard or other public thoroughfare or public grounds, and to convey in fee the same in exchange for other lands, over which any street, alley, avenue or boulevard may be laid out, established and opened; and the city's right to sell and dispose of in fee any part of a street, alley, avenue or boulevard so vacated and abandoned, or the city's right to convey same in exchange for other lands to be used in laying out, opening, widening and straightening any street, shall never be questioned in any of the courts of this state. The procedure for closing streets and alleys shall be in conformity with due process of law and shall be particularly prescribed and provided for by ordinance passed in the usual manner by the city council.

(Amd. 13) 5-10-00

Section 2. Street Improvements.

(a) Articles 1086 to 1105, both inclusive, and article 1105b of the Revised Civil Statutes of Texas of 1925, as amended, are hereby adopted, and the city shall have the power to improve any street or highway within its limits by filling, grading, raising, paving or repaving the same in a permanent manner, or by the construction or reconstruction of sidewalks, curbs and gutters or necessary appurtenances thereto, including sewers and drains. In the event there shall be any conflict between the method of improving streets and other public places as provided for by article 1105b or by the provisions of articles 1086 to 1105, inclusive, of the Revised Civil Statutes of Texas of 1925, as amended, and in the provisions of this charter, the city council may elect to follow either the provisions of this charter or the provisions of said statutes.

(b) All contracts, assessments and other proceedings heretofore taken under previously existing powers of the city shall continue in full force and effect, and the rights of all parties in connection with the collection of street improvement assessments of liens on property previously made are to be in no wise affected or changed.

Section 3. Regulation of Vehicles.

The city council shall have all the authority given by the provisions of the Texas Transportation Code and the power by ordinance to control the operations of all character of vehicles using public streets, including motorcycles, motor-scooters, all-terrain vehicles, bicycles, automobiles, taxicabs, trucks, trailers, tractors, buses, house moving dollies or like vehicles; and to prescribe the speed of the same, the qualifications of the operators of the same, the

routing of the same, and the lighting of same by night; and to provide for the giving of bond or other security for the operation of same.

(Ord. No. 266, § 1(Amd. 13), 5-4-96); (Amd. 14) 5-10-00

Section 4. Established Speed Zones and Parking Areas.

The city council shall have the authority to limit the speed of vehicles in school zones, near churches, hospitals, and dangerous corners, and such other places as it may deem advisable, and to limit or prohibit the parking of vehicles near schools, churches, businesses or other congested areas, or where the limiting or restricting of the parking of vehicles is required in providing the safe movement of traffic for the protection of life or property.

ARTICLE XIII. MISCELLANEOUS

Section 1. Public Property Exempt From Execution.

No public property, or any other character of property owned or held by said city, shall be subject to any execution of any kind or nature.

Section 2. City Funds Not Subject to Garnishment.

No funds of the city shall be subject to garnishment and the city shall never be required to answer in any garnishment proceedings.

Section 3. Liability for Damages.

Before the city shall be liable for damages for the death or personal injury of any person or for damages or destruction of property of any kind, the mayor or city council shall be given notice in writing of such death, injuries, damages or destruction within 30 days after the same has been sustained, stating when, where, and how the death, injury, damage or destruction occurred and the apparent extent thereof, and an estimate of the damages sustained. Such notice shall be filed with the city secretary, and such filing will constitute notice to the city. The city council is hereby authorized and directed to make and fix by ordinance such additional rules and regulations governing the city's liability for damages as the city council may deem advisable.

Section 4. Right of Eminent Domain.

The city shall have the right of eminent domain and the power to condemn and appropriate private property for public purposes, whether said property be within or without the city limits, in such cases as is now provided by article 1175 of the Revised Civil Statutes of Texas, and all other general laws of Texas governing cities and towns. This shall apply also to fee simple titles. The city may exercise the power of eminent domain by any one of the following methods of procedures:

- (a) As nearly as practicable, by the laws governing the condemnation of property by railroad corporations in this state, the city taking the position of the railroad corporation in any such case;
- (b) In any other manner authorized or permitted by the constitution and/or laws of Texas.
(Ord. No. 266, § 1(Amd. 14), 5-4-96)

Section 5. May Accept Governmental Aid, Etc.

The city may accept monetary aid or other character of aid or benefit from the federal government, the state government, the county government, and from any agency thereof, and/or any individual, and/or a private agency; and shall have the full right, power and authority to do the things and perform the acts necessary to permit the city to receive such aid.

Section 6. City Not Required to Give Bond.

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

Section 7. Franchises and Special Privileges.

(a) The right to control easement use and ownership and title to the streets, highways, public thoroughfares and property of the city, its avenues, parks, bridges and all other public places and property, are hereby declared to be inalienable except by ordinance duly passed by four affirmative votes of the city council, and no grant of any franchise or lease, or right to use the same, either on, through, along, across, under or over the same, by the city council for a longer period than thirty (30) years unless submitted to the vote of the legally qualified voters of the city in the manner provided for in articles 1181 and 1182 of the Revised Statutes of Texas, the expense of such election to be borne by the applicant.

(b) The city council may, of its own motion, submit all of such applications to an election at which the people shall vote upon the proposition therein submitted, the expense of such election in all cases to be borne by the applicant.

(c) No franchise shall ever be granted until it has been approved by a majority of the members elected to the city council, after having been read in full at two (2) regular meetings of the city council, nor shall any such franchise, grant or privilege ever be made unless it provides for adequate compensation or consideration therefore to be paid to the city.

(d) Every such franchise or grant shall make adequate provision, by way of forfeiture of the grant or otherwise, to secure efficiency of public service at reasonable rates and to maintain the property devoted to the public service in good repair throughout the term of grant of said franchise.

(e) No franchise grant shall ever be exclusive.

(f) The city council may prescribe the forms and methods of the keeping of accounts of any grantees under franchise, provided that the forms and methods of keeping such accounts have not already been prescribed by a state or federal law or agency.

Section 8. Retirement or Pensions for Employees.

The city shall have the right to grant to its employees benefits of the Texas municipal retirement system, or any other pension or retirement system available to cities.

ARTICLE XIV. FINANCES

Section 1. Fiscal Year.

The fiscal year of the city is hereby designated as beginning the 1st day of October of each year, and closing with the 30th day of September next ensuing thereafter.

(Ord. No. 214, § 1(Amd. 1), 3-14-88)

Section 2. Budget.

The mayor, or in his absence, the mayor pro tempore, is the chief budget officer who shall on or before the 1st day of August of each year, or as soon thereafter as practicable, prepare a budget to cover all proposed expenditures of the city for the succeeding year. Such budget shall be prepared in conformity with the provisions of the V.T.C.A., Local Government Code §§102.001 through 103.003, and state law as amended, and shall be approved by a majority vote of the city council before adoption.

(Ord. No. 214, § 1(Amd. 4), 3-14-88)

Section 3. Depository.

The city council is authorized to select a depository for city funds in accordance with V.T.C.A., Local Government Code, § 105.001 et seq.

(Ord. No. 266, § 1(Amd. 15), 5-4-96)

Section 4. Bonds, Warrants, Etc.

(a) The city council shall have the power and authority by ordinance duly passed, and it is hereby expressly authorized to issue bonds for the purpose of refunding bonds of the city previously issued.

(b) In keeping with the Constitution of Texas, and not contrary thereto, the city shall have the power to issue all tax bonds, revenue bonds, funding and refunding bonds, warrants, notes, and other evidence of indebtedness as now authorized or as may be hereafter authorized to be issued by cities and towns under the provisions of article 2368a and articles 1111 to 1118, as amended, and title 22 of the Revised Civil Statutes of Texas, or by the general laws of the State of Texas.

Art. XIV. § 4(c)

CHARTER of the CITY OF WEST ORANGE, TEXAS

(c) In all elections to determine the expenditures of money or the assumption of debt of any nature, qualified voters shall be deemed to be those who are qualified under the general laws of the State of Texas.

(d) Ordinances authorizing any bonds, warrants, revenue warrants, notes or other evidences of indebtedness to be issued shall provide for the creation of a sinking fund sufficient to pay the principal and interest of such bonds when and as the same become due and payable. Such sinking fund, in excess of the amount necessary to pay the principal and interest of the bonds when and as the same become due and payable, may each year be invested, as provided for by articles 836 and 837 of the Revised Civil Statutes of Texas.

(e) Any officer or agent of the city who shall unlawfully or knowingly divert or use said funds or cause or permit same to be delivered or used for any other purpose except that for which the fund is created or herein expressly authorized to be invested shall be deemed guilty of a felony and subject to prosecution as provided under the general laws of the State of Texas.

(f) What is known as "bond and warrant law." The same being Vernon's Ann. Civ. St. art. 2368a, and being the acts of 1931 Legislatures, page 269, chapter 163, and all amendments thereafter made or that may be hereafter made, which are applicable to cities and towns, are hereby adopted by the city.

Section 5. Audit and Examination of City Books and Accounts.

The city council may cause an annual audit to be made of the books of accounts of each and every department of the city. Such audit shall be made by certified public accountants or public accountant who shall be selected by the city council. Such auditors' report to the city council shall be accessible to the public or for publication.

ARTICLE XV. TAXES AND TAXATION

Section 1. Taxable Properties.

All real, personal and mixed property held, owned or situated in the city, which is not exempt by the constitution or general laws of the State of Texas, shall be liable for all taxes due by the owner thereof, including taxes on real estate, franchise, gross receipts of public utilities, personal and mixed property.

Editor's note—Taxable property is described in V.T.C.A., Tax Code § 11.01 et seq.

Section 2. Tax Levies.

(a) The city council shall have the power and it is hereby authorized and made its duty to levy annually for general purposes and for the purpose of paying interest and providing the sinking fund on the bonded indebtedness of the city now in existence or which may hereafter be created an ad valorem tax on all real, personal or mixed property within the territorial limits of said city and upon all franchises granted by the city to any individuals or corporations of not exceeding a total of one dollar and fifty cents (\$1.50) on the one hundred dollars (\$100.00) assessed valuation of said property. If for any cause the city council shall fail, neglect or refuse to pass a tax ordinance for any one year, levying taxes for that year, then, and in that event,

Art. XV. § 2(a)

CHARTER of the CITY OF WEST ORANGE, TEXAS

the tax levying ordinance last passed shall and will be considered in force and effect as the tax levying ordinance for the year for which the city council failed, neglected or refused to pass such ordinance, and the failure so to pass such ordinance for any year shall in no wise invalidate the tax collections for that year.

(b) The city council may determine and provide when taxes shall be due and payable by corporations and all persons owning property. It shall have the right to fix the time and terms of payments of taxes, prescribe penalties for the nonpayment thereof upon the expiration of the time fixed by the said city council, and may provide discounts for advance payments of taxes.

(c) The city council or any other officer of the city shall never extend the time for the payment of taxes, or remit, discount or compromise any tax legally due the city, nor waive the penalty that may be due thereon to any person, but the city council may provide for the discount, compromise or waiver of penalty to persons legally owing any taxes where such discount, compromise or waiver of penalty is for any particular and specified year or years and is deemed necessary to correct obvious errors in assessment or to join other taxing bodies in adjusting taxes to the value of the property; provided, however, that this provision shall not prevent the compromise of any tax suit.

Section 3. Liens.

(a) The tax levied by the city is hereby declared to be a lien, charge or encumbrance upon the property upon which the tax is due, which lien, charge or encumbrance the city is entitled to enforce and foreclose in any court having jurisdiction over same, and the lien, charge and encumbrance on the property in favor of the city for the amount of the taxes due on such 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 the unknown heirs of any person who owns the property upon which the tax is due and also as against nonresidents. All taxes upon the property upon which the taxes are due, which lien may be foreclosed in any court having jurisdiction.

(b) The tax lien shall take effect on property as of the beginning of the tax year, and such lien shall be prior to all other claims or liens, and no gift, sale, assignment, or transfer of any kind, or judicial writ shall defeat such lien. The assessor-collector of taxes shall by virtue of his tax rolls have power and authority to seize and levy upon all personal property and sell the same to satisfy all taxes, together with all penalty, interest, and costs, due by a delinquent taxpayer to the city on personal property.

Section 4. Rendition.

(a) It shall be the duty of every person or corporation owning or holding property within the city to render under oath to the assessor of taxes or such other person as may be provided for by ordinance at his office in said city annually within the time prescribed by ordinance of said city a full and complete inventory of all property so owned or held by him, whether real, personal or mixed, and to take and subscribe to an oath to the correctness of such inventory, which oath may be administered by the assessor or such other officer as aforesaid, acting in person or by deputy.

(b) The definitions of property and terms as defined by the general laws of the state under the head of taxation shall apply to the taxation of property in this city.

Section 5. Unrendered Property.

The city council shall provide by ordinance for the listing and valuation of all property, real, personal and mixed, situated, owned or held within the city limits, and which has not been rendered by the owner thereof each year, upon a date to be specified by the city council, by ordinance, the assessor or other officer designated for that purpose, which list of property so unrendered and assessed shall be placed upon the tax roll of the city and submitted along with the rendered roll to the board of equalization and be subject to the same tax levy as the rendered property within the city.

Section 6. Collection of Taxes.

(a) The city council shall have full power, by ordinance, to provide for the prompt collection of all taxes levied, assessed and due or becoming due to said city, and prescribe where property shall be assessed or rendered for taxes, and when the taxes thereon shall become due and payable, and to that end may and shall pass all ordinances and make all such provisions as may be necessary for levying, imposing, assessing and collecting said taxes, regulating the methods of making out tax lists and inventories, and fixing the duties and defining the powers of the assessor and collector of taxes or such other officer as may be designated therefore by the city council.

(b) All taxes shall be payable at the office of the assessor and collector or such other offices as the city council may prescribe and no demand for payment thereof, nor for the collection of any taxes due, before the adoption of the charter.

(c) All property which the owner thereof may have failed or refused to inventory, assess or render for taxation for years prior to the adoption of this charter, shall be by the officer designated by the city council inventoried, and assessed and rendered for taxes for the year or years for which the same was not so rendered, inventoried and assessed by the owner thereof, and such officer designated by the city council shall have the right and it shall be his duty at any time to revise, correct and reassess incorrectly rendered or assessed or improperly described [property], without the necessity of giving notice to the owner thereof; provided, however, that the valuation as fixed by the board of equalization shall not be changed, and such inventory and assessment when revised and worked over shall be as valid and effective as if on such assessment sheets and tax rolls and as if regularly and duly rendered and assessed by the owner for the year for which rendered, assessed and inventoried, as above provided for, by the officer of the city designated by the city council, and said tax rolls and assessment sheets shall be prima facie evidence that said property was regularly and duly rendered, inventoried, assessed and properly described in all respects as if done duly and regularly by the owner in the first instance.

Section 7. Payment of Taxes.

All ad valorem taxes due or to become due upon real, personal or mixed property or upon franchises granted by the city to individuals or corporations, and all license taxes, occupation taxes, permit fees, fines, forfeitures, penalties and other amounts of taxes accruing to the city shall be payable only in current money of the United States.

Section 8. Delinquent Taxes.

All ad valorem taxes due or to become due to the city that are not paid within the time specified by the city council in the ordinance providing the date of payment of said taxes shall be declared delinquent and shall be subject to the penalties prescribed by ordinance from time to time and may be collected by suits from delinquents, and foreclosure of the lien thereon may be had in any court having jurisdiction of the same or personal property may be levied upon and sold for taxes by the assessor and collector as provided in section 3 of this article. Any person who shall purchase or shall have purchased property encumbered by a lien for taxes or upon which taxes are due shall be deemed as to such taxes a delinquent taxpayer, and such purchaser shall take the property charged with lien, and he cannot interpose any defense which the person or corporation owning the property at the time of the assessment of said taxes so delinquent might not have interposed had he or it continued to be the owner, except that no personal judgment shall be rendered for same against such purchaser.

Section 9. Reserved.

Editor's note—Ord. No. 266, § 1, Amendment No. 16, adopted May 4, 1996, repealed subsections (a) through (c) of Section 9. Former subsections (a) through (c) provided for a board of equalization and derived from the city's original home rule charter adopted May 19, 1956.

Section 10. Occupation Tax.

The city council shall have the power to levy and collect taxes upon trades, professions or other businesses carried on to the full extent permitted by the constitution and the general laws of the State of Texas, and to prescribe penalties for nonpayment thereof.

Section 11. Contract for Collection of Delinquent [Taxes].

The city council shall have the power to contract with any competent attorney at law for the collection of delinquent taxes owing to the city. Where the city has a part time city attorney, he may be employed to collect delinquent taxes owing to the city.

Section 12. Reserved.

Editor's note—Ord. No. 266, § 1, Amendment No. 17, adopted May 4, 1996, repealed Section 12 in its entirety. Former Section 12 pertained to delinquent taxes and applicable state statutes and derived from the original home rule charter adopted May 19, 1956.

Section 13. Reserved.

Editor's note—Ord. No. 266, § 1, Amendment No. 18, adopted May 4, 1996, repealed Section 13 in its entirety. Former Section 13 pertained to taxes and assessments made prior to the adoption of the charter remaining in effect, and derived from the original home rule charter adopted May 19, 1996.

ARTICLE XVI. MUNICIPAL COURT

Section 1. Creation and Jurisdiction.

There is hereby created and established a municipal court, which court shall have jurisdiction within the corporate limits in all criminal cases arising under ordinances of the city, and shall have concurrent jurisdiction with any justice of the peace in any precinct in which the city is situated in all criminal cases arising under the criminal laws of this state as prescribed by law.

(a) In the absence or disability of the judge, the court may be presided over by the mayor pro tempore, or by some alderman, as may be provided by ordinance of the city council. The salary of said judge shall be fixed by ordinance. The mayor pro tempore or alderman serving as judge shall receive no compensation.

(b) The city secretary or his deputy shall be ex-officio clerk of said court, and shall receive such salary as may be fixed by ordinance.

(Ord. No. 266, § 1(Amd. 19), 5-4-96)

Editor's note—V.T.C.A., Government Code § 29.002, creates a municipal court in each municipality. The jurisdiction of the court is provided in V.T.C.A., Government Code § 29.003.

ARTICLE XVII. BUILDING REGULATIONS

Section 1. General.

The city may regulate the erection, building, placing, moving or repairing of buildings or other structures, within such limits of the city as it may designate and prescribe, in order to guard against the calamities of fire, flood, or windstorm, and may within said limits prohibit the moving or putting up of any building or other structure from without said limits, and may also prohibit the removal of any building or other structure from one place to another within said limits, and may direct that all buildings or other structures within the limits so designated as aforesaid shall be made or constructed of fire-resistant materials, and may declare any dilapidated building or structure to be a nuisance and direct the same be repaired, removed or abated in such manner as they shall direct; to declare all buildings and other structures in the fire limits which they deem dangerous to contiguous buildings, or in causing or promoting fires to be nuisances, and require and cause the same to be removed in such manner as they shall prescribe.

Section 2. Building Lines.

The city shall have the power, for the purpose of promoting the public health, safety, order, convenience, prosperity and general welfare, acting through its governing body, under the public power, to provide by suitable ordinance building lines on any streets or any block of any street or streets, and to require their observance by suitable penalties.

ARTICLE XVIII. PLANNING AND ZONING

Section 1. In General.

The city council shall have full authority to zone the city and pass all necessary ordinances, rules and regulations governing the same in accordance with V.T.C.A., Local Government Code, § 211.001 et seq.

(Ord. no. 266, § 1(Amd. 20), 5-4-96)

Section 2. Zoning Ordinance.

Any zoning ordinance of the City of West Orange, Texas, which is in effect at the time of the adoption of this charter, shall remain in effect. The city council will have the authority to repeal, amend, modify, or rewrite the zoning ordinance in compliance with the provisions of V.T.C.A., Local Government Code, § 211.001 et seq.

(Ord. No. 266, § 1(Amd. 20), 5-4-96)

Section 3. Planning and Zoning Commission.

The planning and zoning commission ordinance which is in effect at the time of the adoption of this charter shall remain in effect. The city council shall have the authority to repeal, amend, modify, or rewrite the ordinance in compliance with the provisions of V.T.C.A., Local Government Code, § 211.007.

(Ord. No. 266, § 1(Amd. 20), 5-4-96)

Section 4. Board of Adjustment.

The city council may establish by ordinance a board of adjustment which shall have all the powers and privileges set forth in V.T.C.A., Local Government Code, § 211.008 et seq. The members of the board of adjustment shall be appointed by the mayor, subject to the approval of the city council.

(Ord. No. 266, § 1(Amd. 20), 5-4-96)

ARTICLE XIX. RECALL OF OFFICERS

Section 1. Scope of Recall.

The mayor or any member of the city council shall be subject to recall and removal from office by the qualified electors of the city as in this charter provided.

Art. XIX. § 2

Section 2. Petitions for Recall.

Before the question of recall of such officer shall be submitted to the qualified electors 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 to at least 20% of the number of votes cast at the regular municipal election of the city, but in no event less than 300 such petitioners. Each signer of such recall petition shall personally sign his name thereto in ink or indelible pencil, and shall write after his name his place of residence, giving name of street and number of place or residence, and shall also write thereon the day of the month and year his signature was affixed.

Section 3. Form of Recall Petition.

The recall petition mentioned above must be addressed to the city council of the City of West Orange, and 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 signatures shall be verified by oath in the following form:

STATE OF TEXAS)
COUNTY OF ORANGE)

“I, _____, being first duly sworn, on oath depose and say that I am one of the signers of the above petition; that the statements made therein are true, and that each signature appearing thereto was made in my presence on the day and date is [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 _____, _____.

Notary Public in the State of Texas.”
(Ord. No. 266, § 1(Amd. 21), 5-4-96)

Section 4. 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 other papers attached thereto. Verification provided for in the next preceding section of this article may be made by one or more petitioners, and the several parts, or 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 thirty days prior to the filing of such petition or petitions with the person performing the duties of city secretary. All papers and documents comprising a single petition, that is, all papers comprising a recall petition, shall be filed with the person performing the duties of city secretary [who] shall immediately notify, in writing, the officer so sought to be removed.

Art. XIX. § 5

Section 5. Certificate to Petition.

At the next regular meeting of the council 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 West Orange.

Section 6. Election to be Called.

If the officer, whose removal is sought, does not resign within five days after such recall petition shall have been duly presented to the city council of the City of West Orange as provided in the next preceding section of this article, then it shall become the duty of said council to order an election and fix a date for holding such recall election; and the date of which election shall not be less than thirty, nor more than fifty days from the time such petition was presented to the council.

Section 7. Recall Election Form of Ballot.

The form of ballot to be used at such recall election shall be as follows:

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

Immediately following the above question there should be provided on the ballot, in separate lines, in the order here set out, the words:

“FOR the recall of (name of person).”

“AGAINST the recall of (name of person).”

Should a majority of the votes cast at such recall election be for the recall of such officer named on the ballot, he shall be deemed removed from office. Should a majority of votes cast at such recall election, however, be against the recall of the officer named on the ballot, such officer shall continue in office for the remainder of his term.

Section 8. Recall, Restrictions Thereon.

No recall petition shall be filed against any elective officer of the City of West Orange within six months after his election, nor within six months after an election for such officer's recall.

Section 9. 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 Orange County, Texas, shall discharge any of such duties herein provided to be discharged by the city council.

Art. XIX. § 10

Section 10. One or More Officers May Be Recalled at Same Election.

The mayor and/or one or more aldermen may be recalled at the same election; and, if in such recall election there shall as a result of such election, remain the mayor or one or more aldermen who are not recalled, then the mayor, alderman or aldermen not recalled shall discharge all of the duties incumbent upon the governing body of said city until the vacancy or vacancies created at such recall elections are filled by an election for that purpose; but if in any proposed recall election it is proposed and submitted to recall all the members constituting said city council, then there shall be submitted in the recall petition the names of candidates to fill the vacancies proposed to be created by such election and their names shall be placed upon the ballot; but the name of such officers proposed to be recalled shall not appear on the ballots as candidates.

Section 11. Vacancies in Council Due to Recall, How Filled.

If at any recall election it is not proposed and submitted to recall all of the members constituting said city council, but only [one] or more and fewer than all, and such election shall result in favor of the recall of one or more of said officer(s) proposed to be recalled, then it shall be the duty of the remaining member or members not recalled and constituting the governing body of the city, within five days after such an election is held, to meet, canvass the returns, declare the result of the election, and on the same date order an election to fill such vacancy or vacancies; which election shall be held within not less than 30 days or more than 60 days after the same shall have been ordered. No vacancy caused by recall shall be filled by the city council of the City of West Orange, but only by election.

ARTICLE XX. [EFFECT OF POWERS GRANTED]

Section 1. Saving Clause, Etc.

All powers granted heretofore to cities are hereby preserved. In case of any irreconcilable conflict between the provisions of this charter and any superior law, the powers of the city and its officers shall be as defined in such superior laws. In case of any insufficiency or omission [which] may be supplied by reference to the general laws, such provisions of the general laws are hereby adopted, and the city shall have and exercise all of the powers that it could have acquired by expressly adopting and incorporating into this charter all of the provisions of such superior and general laws, it being the intent of this charter that no lawful power of the city shall fall because of any omission, insufficiency or invalidity of any portion or portions of this charter. The insufficiency or invalidity of any portion or portions of this charter shall not in any wise affect the remainder of the charter, but the same shall be construed as if adopted without such portion and/or portions so found invalid or impotent.

ARTICLE XXI. [ELECTION]

Section 1. Vote on Proposed Charter.

(a) This charter shall be submitted to the qualified voters of the city for adoption or rejection on May 19, 1956, at which election, if a majority of the qualified voters voting in such election shall

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CHARTER of the CITY OF WEST ORANGE, TEXAS

vote in favor of the adoption of this charter, it shall then immediately become the charter and governing law of the city until amended or repealed.

(b) It being impracticable to submit this charter by sections, it is hereby prescribed that the form of ballot to be used in such election shall be as follows, to-wit:

FOR THE ADOPTION OF THE CHARTER

AGAINST THE ADOPTION OF THE CHARTER

(c) The present city council of the city shall call an election in accordance with the provisions of the general laws of the state governing such elections, and the same shall be conducted and the returns made and results declared as provided by the laws of the State of Texas governing municipal elections, and in case a majority of the votes cast at such election shall be in favor of the adoption of such charter, then an official order shall be entered upon the records of said city by the city council, declaring the same adopted, and the city secretary shall record at length upon the records of the city, in a separate book to be kept in his office for such purpose, such charter as adopted, and such secretary shall furnish to the mayor a copy of the charter, which copy of the charter shall be forwarded by the mayor as soon as practical to the secretary of state under the seal of the city, together with a certificate showing the approval of the qualified votes of such charter.

We do hereby certify that this publication constitutes a true copy of the proposed Charter of the City of West Orange, Texas.

O. M. Dickey, Chairman

J. W. Dubose

Ophie Sonnier

W. H. Williams

T. V. Kirkland

R. B. Hubbard

Grady Gallien

W. B. Calhoon

CHARTER of the CITY OF WEST ORANGE, TEXAS

E. D. Russell, Jr.

C. A. Dickey

James Oates

H. L. Ratton

Wilbur E. Berry

Stanley T. Clements

S. K. Hubert, Jr.