

CITY OF MIDLAND CHARTER INFORMATION SHEET

Set forth below are requirements pursuant to a Court Order issued December 12, 1984, and amendments to State Law which affect provisions of the City Charter as indicated. This sheet is provided for information purposes only, and in no way amends or supplements the City Charter.

ARTICLE III. CORPORATE POWER.

Sec. 14. Railroads.

Municipal railroad speed ordinances have been preempted by Title 49 United States Code §20106 - 7/5/94.

ARTICLE IV. OFFICERS AND ELECTIONS.

Sec. 1. Governing Body.

The governing and lawmaking body of the City of Midland shall consist of six council members and a mayor, and said body shall be known as the "city council of the City of Midland." (Agreed Judgment - 12/12/84)

Sec. 2. Elective Officers.

The members of the city council of the City of Midland, which includes the six council members and a mayor, shall be the only elective officers of the city, and they shall be elected and hold office and be compensated as herein provided. Four council members shall be elected from single-member districts, being Districts 1, 2, 3 and 4. The mayor and the other two council members shall be elected at-large. (Agreed Judgment - 12/12/84)

Sec. 4. Candidates, to Run for Places, Places Designated.

Candidates for the office of councilmen shall file their applications for place number 1, place number 2, place number 3, or place number 4, as the case may be, and shall be voted on and elected accordingly. Candidates for mayor and the two at-large candidates shall designate in their applications that they are running for such office. (Agreed Judgment - 12/12/84)

If the mayor or any council member shall announce their candidacy, or shall in fact become a candidate, in any general, special or primary election, for any office of profit or trust under the laws of the State of Texas or the United States other than the office then held, such announcement or candidacy shall not constitute an automatic resignation of the office then held and such resignation shall occur only when the individual is sworn in to serve in the new office. This provision shall specifically include, without limitation, any council member who wishes to run for mayor. Neither their announcement nor their candidacy for the office of mayor shall constitute a resignation as a member of the city council. If a council member is elected as

mayor, then they shall resign their council office when they are sworn in as mayor. (Order Modifying Final Judgment - 9/10/96)

Sec. 5. Candidates, How Elected.

The City of Midland shall elect the mayor and all of the members of the city council, whether at-large or by single-member district, by plurality vote of the qualified voters in the city. In the election for at-large council members, the two candidates receiving the most votes shall be declared the winners. There shall be no run-off election for the mayor or member(s) of the city council. (Order Modifying Final Judgment - 9/10/96)

Sec. 6. Judge of Election.

Each local canvassing authority shall convene to conduct the local canvass not earlier than the eighth day or later than the eleventh day after election day at the time set by the canvassing authority's presiding officer. (Texas Election Code §67.003)

Sec. 7. Date of Election.

A political subdivision that before the effective date of this Act was required to hold its general election of officers on the first Saturday in May, shall hold the general election on the first Tuesday after the first Monday in November. (Texas Election Code §41.001(a), Resolution No. 2005-392 - 12/13/2006)

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Revised - 5/4/96

THE CHARTER

ARTICLE I. CORPORATE NAME.

All the inhabitants of the City of Midland, in Midland 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 Midland", with such powers, rights and duties as are herein provided.

ARTICLE II. MUNICIPAL BOUNDARIES.

Sec. I. Boundaries.

The boundaries of the City of Midland shall be the same as have been heretofore established and now exist which boundaries are more fully set out in an order for election recorded in the commissioners' court minutes, Volume 11, on Pages 573 and 574, of Midland County, Texas.

Sec. 2. Extension of Boundaries.

The city council shall have power by ordinance to fix the boundary limits of the City of Midland; and to provide for the alteration and the extension of said boundary limits and the annexation of additional territory lying adjacent to the city, with or without the consent of the territory and inhabitants annexed. Upon the introduction of any such ordinance in the city council, it shall be published in the form in which it may be finally passed, in a daily newspaper published in the City of Midland, at least one time, and said ordinance shall not thereafter be finally acted upon until at least thirty days have elapsed after the first publication thereof; and, upon the final passage of any such ordinance, the boundary limits of the city shall thereafter be fixed in such ordinance; and when any additional territory has been so annexed, same shall be a part of the City of Midland, and the property situated therein shall bear its pro rata part of the taxes levied by the city, and the inhabitants thereof shall be entitled to all the rights and privileges of all the citizens, and shall be bound by the acts, ordinances, resolutions and regulations of the city.

Sec. 3. Platting of Property.

Should any property situated within the city limits, as herein established or as may hereafter be established, or within five miles of such corporate limits of the City of Midland, as herein established or as may hereafter be established, be hereafter platted into blocks and lots, the owner or owners of said property shall comply with all of the provisions of Article 974a of the 1925 Revised Civil Statutes of Texas, as amended, being Acts of 1927, 40th Legislature, Page 342, Chapter 231; the provisions of which act and article are herewith especially and specifically adopted by the vote of the qualified voters of said City of Midland in compliance with Section 10 of said act.

ARTICLE III. CORPORATE POWER.

Sec. 1. General.

(a) The City of Midland, made a body politic and corporate by the adoption of this Charter, shall have perpetual succession; may use a common seal; may sue and be sued; may contract and be contracted with; implead and be impleaded in all courts and places and in all matters whatever; may take, hold and purchase such lands, within or without the city limits, as may be needed for corporate purposes of said city, and may sell or lease any real estate or personal property owned by it (other than such property which is to be used by any common carrier, public transportation service or public utility which is governed by the provisions of Section 18 of this Article entitled "Franchises"); perform and render all public service, and when deemed expedient may condemn property for corporate use, and may hold, manage and control the same; and shall be subject to all the duties and obligations now pertaining to or incumbent upon said city as a corporation, not in conflict with the provisions of this Charter; and shall enjoy all rights, immunities, powers, privileges and franchises now possessed by said city and herein conferred and granted; and, except as prohibited by the Constitution of the State of Texas or restricted by this Charter, the City of Midland shall have and may exercise all municipal powers, functions, rights, privileges and immunities of every name and nature whatsoever. In addition to the powers herein otherwise granted, the city shall have all powers enumerated in Article 1175, Revised Statutes of Texas, 1925, as heretofore amended, as though such statute was set forth herein.

Provided that any lease entered into by the city under this section shall not exceed a term of 50 years and shall contain a provision for the right of adjustment of the rental no less often than every five years; except that the foregoing limitations of this sentence shall not apply to leases made to the United States of America, the State of Texas, or any political subdivisions, agency or instrumentality thereof. Provided further that the provisions of this section shall govern and take precedence over any other present articles, sections, and provisions of this Charter with which they may be deemed inconsistent or in conflict. (Res. 72-72 - 4/11/72)

(b) 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 of Midland shall have, and may exercise, all powers which under the Constitution and statutes 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 by this Charter or, if not prescribed therein, then in the manner provided by ordinance or resolution of the council.

Sec. 2. Powers of Ordinances.

The City of Midland shall have the power to enact and enforce all ordinances necessary to protect health, life and property, and to prevent and summarily abate and remove all nuisances, and preserve and enforce good government and order and security of the city and its inhabitants; and to enact and enforce ordinances on any and all subjects; provided that no ordinance shall be enacted inconsistent with the provisions of this Charter, or Constitution of the State of Texas; it being the intention to obtain by the adoption of this Charter, full power of local self government, and the City of Midland shall have and exercise all the powers of local self government granted to cities having more than five thousand inhabitants by what is known as the Home Rule Amendment to the Constitution of the State of Texas, and to the Home Rule Enabling Act passed by the Legislature of Texas, and now known as Chapter 13 of Title 22 of the Revised Civil Statutes of this state.

Sec. 3. Style of Ordinances.

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

Sec. 4. 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, airports, streets and alleys; and all property, whether real or personal, of whatever kind, character or description now owned or controlled by the City of Midland shall vest in, inure to, remain and be the property of said City of Midland 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 of Midland for public uses or in trust for the public, shall vest in and remain an inure to the City of Midland under this Charter, and all suits and pending actions to which the City of Midland 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.

Sec. 5. Acquisition of Property.

The City of Midland 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.

Sec. 6. Public Property Exempt from Execution.

No public property or any other character of property owned or held by the City of Midland shall be subject to an execution of any kind or nature.

Sec. 7. City Funds not Subject to Garnishment.

No funds of the City of Midland shall be subject to garnishment, and the City of Midland shall never be required to answer in any garnishment proceedings. (1955)

Sec. 8. Liability for Negligence.

Before the City of Midland shall be liable for damages for accidental death, personal injuries of any kind or for injuries to or destruction of or damage to property of any kind, the claimants or survivors in a death claim or the persons injured or the owner of the property so injured, damaged or destroyed, or someone in his behalf, shall give the mayor and city council notice in writing of such injury, damage or destruction, duly verified within sixty days after the same has been sustained, stating in such written notice when, where and how the injury, damage or destruction occurred, the apparent extent thereof, the amount of damages sustained, the amount for which the claimant will settle, the street and residence number of claimant at the time and date the claim was presented and the actual residence of such claimant for the six months immediately preceding the occurrence of such injuries, damage or destruction, and the names and addresses of the witnesses upon whom he relies to establish his claim; and a failure so to notify the mayor and city council within the time and manner provided therein shall exonerate, excuse and except the city from any liability whatsoever. (Election - 9/10/60)

Sec. 9. City Not Required to Give Bond.

It shall not be necessary in any suit or proceeding in which the City of Midland 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 of Midland shall be liable as if the security or bond had been duly executed.

Sec. 10. Right of Eminent Domain.

The City of Midland shall have the right of eminent domain for public purposes whenever the governing authority shall deem it necessary; and to take any private property, within or without the city limits, for any of the following purposes, to-wit: city halls, police stations, jails, calaboooses, fire stations and fire alarm systems, police alarm systems, radio stations and systems, libraries, welfare buildings, hospitals, sanitariums, auditoriums, market houses, abattoirs, warehouses, streets, alleys, parks, airports, highways, boulevards, subways, playgrounds,

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dumping grounds, sewer systems, sewage disposal plants, drains, filtering beds and emptying grounds for sewer systems, reservoirs, water supply sources, wells, water, electric light and power systems, cemeteries and crematories; and to acquire lands, within or without the city, for any other municipal purposes that may be deemed advisable. The power herein granted for the purpose of acquiring private property shall include the power of improvement and enlargement of waterworks, including water supply, riparian rights, standpipes, watersheds, dams, the construction of supply reservoirs, wells, parks, squares, and pleasure grounds, and for the purpose of strengthening or improving the channel of any stream, branch, draw or drain, or the straightening or widening or extension of any street, alley, avenue, boulevard or other public highway. In all cases where the city seeks to exercise the power of eminent domain, it shall be controlled 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 cases. The power of eminent domain hereby conferred shall include the right of the governing authority of the city, when so expressed, to take the fee in the land so condemned, and such power and authority shall include the right to condemn public property for such purposes.

Sec. 11. Street Powers.

The City of Midland shall have the power to lay out, establish, open, alter, widen, lower, extend, grade, abandon, discontinue, abolish, close, care for, sell, pave, supervise, maintain and improve streets, alleys, sidewalks, squares, parks, public places and bridges and regulate the use thereof and require the removal from streets, sidewalks, alleys and other public property or places all obstructions, telegraph, telephone or other poles, carrying electric wires or signs, and all fruit stands, show cases and encroachments of every nature or character upon any of said streets and sidewalks, and to vacate and close private ways.

Sec. 12. Street Improvements.

Articles 1086 to 1105, both inclusive, and Article 1105b of the 1925 Revised Civil Statutes of Texas, as amended, are hereby adopted, and the City of Midland 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 by necessary appurtenances thereto, including sewers and drains. In the event there be any conflict between the method of improving streets, etc., as provided for by Article 1105b and the other articles of the statutes hereinafter referred to and in the adoption of the Charter herein adopted, the conflicting methods of procedure shall be deemed optional methods, and the city council of the City of Midland may legally pursue either of said methods in making such improvements.

Sec. 13. Regulation of Vehicles.

The city council shall have the power by ordinance or otherwise to license, operate and control the operation of all character of vehicles using public streets, including motorcycles, bicycles, automobiles, trucks, trailers, buses or like vehicles; and to prescribe the speed of the

same, the qualification 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 or the operation of same.

Sec. 14. Railroads.

The city council shall have the power by ordinance or otherwise to direct and control, within the city limits, the speed of engines, locomotives and motor cars operating on railroad tracks, the construction of railroad tracks, turnouts and switches, and the regulation of the grade thereof and the use of streets.

Sec. 15. Public Utilities.

The city shall have 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, abattoirs, 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, both 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 power 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 amendments 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.

Sec. 16. Regulation of Public Utilities.

(a) The city council shall have the power by ordinance to fix and regulate prices, fares, tolls and charges of water, gas, electric light, telephone, telegraph and public carriers, whether transporting passengers, freight or baggage, and generally to supervise and regulate the rates, tolls or charges of all public utilities and common carriers of every kind. The city council shall have power by ordinance to prescribe the character, quality and efficiency of service to be rendered, given and performed and furnished and the kind and design of material used in improvements by all public utilities engaged in the business of furnishing any commodity or service or in the operation of any public utility of any kind in the City of Midland, together with the power to regulate and require the extension of the lines or services of any such public utility within such city, or prohibit same.

(b) Any company, corporation or person who may be engaged in furnishing to the inhabitants of the City of Midland any light or gas service shall, on or before the first day of March of each year, file with the mayor of the City of Midland a sworn written report, including all the information set forth in Article 1121 of the 1925 Revised Civil Statutes of Texas, as amended; it being the intention of this section to require said company, corporation or person to file such

reports pertaining to their operations insofar as same pertain to their operations within the city limits of the City of Midland.

Sec. 17. The Power to Buy and Sell Gas, etc.

The city shall have power to purchase electricity, gas, oil, or any other article or service essential to a proper conduct of 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 and adjacent territory; provided that no contract of purchase binding the city for a longer period than two years shall be valid unless authorized by an election at which a majority of those voting shall favor the making of such contract. (1955)

Sec. 18. Franchises.

(a) The right of 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 a majority of all members 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 any private corporation, association or individual, shall be granted by the city council for a longer period than twenty years unless submitted to the vote of the legally qualified voters of the city; provided, however, that when application is made for any grant or franchise, lease, right or privilege by any person or corporation, if applicant so requests, the council shall submit the same at an election called for said purpose, the expense of which shall be borne by the applicant, and, if a majority of the votes cast at said election shall be in favor of making the grant as applied for, said grant shall be made for a term of years as specified in the ordinance calling said election; provided, however, that no grant shall be made or authorized for a period longer than thirty years. (Election - 4/1/75, Res. 75-91 - 4/8/75)

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

(c) No franchise shall ever be granted until it has been approved by a majority vote of the city council after having been read in full at three 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 therefor, to be paid to the city, and in addition to any other compensation grantee shall pay annually such fixed charge as may be prescribed in the franchise. Such franchise and any contract in pursuance thereof shall provide that, upon termination of the grant the franchise, as well as any other property of the grantee within said city, shall, upon payment of a fair valuation therefor (the mode to determine which shall be specified in the grant), become the property of the city; provided, that the grantee shall never be entitled to any payment of valuation because of any value derived from the franchise or the fact that it is or may be a going concern duly installed and operated.

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

(e) The city council may cause to be inspected or examined at all reasonable hours any books of account or papers of any such grantee, which accounts shall be kept and reports made in accordance with forms and methods prescribed by the city council, which so far as practical, shall be uniform for all such grantees. All such grantees shall furnish such invoices, reports, costs, books and papers as may be required by the city council in determining any rates or charges of such grantee for its services to the patron of such grantee.

Sec. 19. Airports.

The city council shall have power to establish, maintain and operate an airport or airports, within or without the city limits, and landing fields, radio beams, beacons and other apparatus, buildings, equipment and appurtenances necessary or convenient therefor, and to make suitable charges for their use.

Sec. 20. Parks, Playgrounds, etc.

The City of Midland 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 amusements therein, for establishing walks and paving driveways around, in and through said parks, playgrounds, and other public grounds, speedways or boulevards owned by it, and lying both outside and inside the municipal boundaries.

Sec. 21. Underground Construction.

The city council may require the placing of all wires or overhead construction of public utilities, or such part thereof as may be deemed best, from time to time, under the surface of the grounds, under such regulations as may be prescribed by the city council from time to time; and may provide for such construction or change thereof in any franchises hereafter granted.

Sec. 22. Fires.

The city council shall have power by ordinance or otherwise to provide means for protection against conflagrations and for the establishment, maintenance, support and regulation of a fire department and for the 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 wooden buildings within such limits; may prescribe

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that the buildings within such fire limits be made or constructed of fireproof material; and may prohibit the repairing of wooden buildings within such limits when the same have been damaged to within fifty per cent of the value thereof; and may declare all dilapidated buildings to be nuisances and direct the same to be repaired, removed or abated in such manner as the city council may prescribe; and may further prescribe limits within which only fireproof 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.

Sec. 23. Health.

The city council shall have the power to provide for a health department and to establish all necessary rules and regulations protecting the health of the city and for the establishment of quarantine stations, pest houses, emergency hospitals and hospitals, and to provide for the adoption of necessary quarantine laws to protect the inhabitants against contagious or infectious diseases. Such general powers shall include, but not to the exclusion of other powers, the following powers:

(a) The city council shall have the power by ordinance or otherwise to regulate, license and inspect persons, firms, corporations, common carriers or associations operating, managing or conducting any hotel or any other public sleeping or eating place, or any place or vehicle where food or drink, or containers therefor, of any kind is manufactured, prepared, stored, packed, served, sold or otherwise handled within the city limits of said city, or any manufacturer or vendor of candies or manufactured sweets; and shall have the power to prescribe health regulations with reference to any and all workers or employees hired or used in any of said places or vehicles, or about said places or vehicles, or who deliver products to and from said places and vehicles; and shall have the power to inspect, license and regulate the sanitary condition of said places and vehicles and to condemn all articles not wholesome or fit for human consumption.

(b) The city council of the City of Midland shall have the power to license barbers and beauticians and to prescribe health regulations with respect to their places of business, their persons and their workers and employees, and shall have the power to prescribe health regulations with respect to porters, hotel maids and domestic servants.

(c) To define all nuisances and prohibit the same within the city and outside the city limits for a distance of 5,000 feet; to have power to police all parks or grounds, speedways, or boulevards owned by said city and lying both outside and inside said city; to prohibit the pollution of any stream, draw, drain or tributaries thereof, water deposit and reservoir, whether above or below the ground, which may constitute the source or storage of water supply, and to provide for policing the same, as well as to provide for the protection of any watersheds and the policing of same; to inspect, license and regulate dairies, slaughter pens and slaughterhouses inside or outside the limits of the city from which meat or milk is furnished to the inhabitants of the city; to require property owners to make connection to the sewer systems with their premises, and to provide for fixing a lien against the property of property owners who fail or refuse to make sanitary sewer connections, and to charge the cost against said owner and make it a personal liability.

(d) To provide for the fixing of penalties for failure of any person, firm, corporation or association to comply with any such rules and regulations so prescribed by the city council under the provisions of this section; it being the intention to vest in the city council not only the powers expressly enumerated in this section but all other powers reasonably necessary for the protection of the health of the City of Midland and its inhabitants.

Sec. 24. Police Department.

The City of Midland shall have power by ordinance to establish and maintain a police department and to prescribe the duties of the members of said department, and regulate their conduct and fix their salaries or fees of office or both. The head of the police department of said city shall be known and designated as "chief of police", and the other members thereof shall be known as "policemen"; all of whom shall be appointed by the city council.

Sec. 25. Power to Compromise and Settle Claims and Lawsuits.

The city council of the City of Midland shall have the power and authority to compromise and settle any and all claims and lawsuits of every kind and character in favor of or against the said city, including suits by said city to recover delinquent taxes. (1955)

Sec. 26. Contracts.

(a) No contract shall ever be made which binds the city to pay for personal services to be rendered for any stated period of time; but all contracts for personal services shall be restricted to the doing of some particular act or thing, and upon its completion no further liability shall exist on the part of the city; with the exception of officers and heads of departments specifically mentioned herein.

(b) Nor shall the city or anyone acting for It 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, until included in the budget and an appropriation has been made therefor, and no contract or purchase shall exceed the amount appropriated. All contracts, except for professional services, shall be made upon specifications, and no contract shall be binding until it has been signed by the mayor, or other officer or agent designated and expressly authorized by the city council. Whenever the contracts charged to any appropriation equal the amount of the appropriation, the mayor or other authorized person shall sign no additional contract chargeable to such appropriation. Any contract for current expenditures exceeding the budget or the appropriation therefor shall be void. (Election - 9/10/60)

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(c) After approval of specifications by the mayor and city council, or other officer expressly designated by them, advertisement shall be published in the official newspaper, to be named by the city council, at least once in each week for two consecutive weeks, inviting competitive bids for labor and materials embraced in the proposed contract. All bids submitted shall be sealed and delivered to the city officer designated by the council and specified in the advertisement. At the time announced in such notice, there shall be a public opening in a place designated in said public notice of all bids received, the person opening the bids to be named by city council, and no awards shall be made except to one of the bidders. The council, or other officer expressly designated by them, shall determine the most advantageous bid for the city and shall award the contract to such bidder, but the city 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 officer designated by the council and specified in the advertisement, subject to the inspection of all persons desiring to bid. No contract shall ever be authorized except by approval of the city council, or other officer expressly designated by them; provided, however, that contracts in any one transaction or related series of transactions for less than \$10,000.00 or the maximum allowed under state statute, whichever is greater, may be awarded without advertisement and bid as herein required, if in the opinion of the city council, or other officer expressly designated by them, such advertisement and bid should be waived and provided that at least three bids, if available, are solicited.

Notwithstanding anything to the contrary herein otherwise contained, the council, or other officer expressly designated by them, may waive formal advertisement for bids when in its judgment there is only one source of supply and bids would be futile and the item can be obtained from the sole source at a price considered reasonable by the council, or other officer expressly designated by them; and, further, when no bids are received in response to formal advertisement for same, the council, or other officer expressly designated by them, may negotiate the transaction in question with any available source on any terms determined by the council to be reasonable and in the public interest.

Provided, further, that in case it is necessary to preserve or protect the public health or safety of the residents of the city, or in case of public calamity caused by fire, flood, storm or other natural disasters or acts of God, or in other emergency cases created by unforeseen damage to public property, the city council, or other officer expressly designated by them, may authorize contracts for the immediate repair, preservation or protection of public property and the lives and health of the citizens of the city without advertising for bids as otherwise required hereinabove and, to pay for same, the city council may issue such time warrants as are necessary, irrespective of the provisions of Article VIII of this Charter. (Res. 91-193 - 5/9/91)

Sec. 27. Zoning.

The city council shall have full power and authority to zone the City of Midland and to pass all necessary ordinances, rules and regulations governing the same under and by virtue of the authority given to cities and legislative bodies thereof by Sections "A" to "H" of Article 1011 of the

1925 Revised Civil Statutes of Texas, as amended, being Acts of 1927, 40th Legislature, Page 424, Chapter 283, and all amendments thereto and amendments which may hereafter be made thereto. (1955)

Sec. 28. Other Enumerated Powers.

In addition to the powers hereinabove specifically enumerated, the city council of the City of Midland shall have the power to license any lawful business, occupation or calling that is susceptible to the control of the police power; to license, regulate, control, or prohibit the erection of signs or billboards within the corporate limits of said city; to provide for a public library and the maintenance thereof; to provide for the regulation and control of electricians, plumbers, and gas fitters and electrical and plumbing works, and to require efficiency in the same; to provide for the inspection of weights, measures and meters and fix a standard of such weights, measures and meters, and to require conformity to such standards, and to provide penalties for failure to use or conform to the same; and to provide for inspection fees; to 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 electrical appliances, piping for gas, flues, chimneys, plumbing, and sewer connections; and to enforce proper regulations in regard thereto; to require the construction of fire escapes for all public buildings, and to determine the sufficiency and regulate the safety of all exits and fire escapes provided for public buildings of every kind and character; and to provide for the enforcement of all ordinances enacted by the city by a fine not to exceed two hundred dollars, provided that no ordinance shall prescribe a greater or less penalty that is prescribed for a like offense by the laws of this state. (Election - 4/1/75)

ARTICLE IV. OFFICERS AND ELECTIONS.**Sec. 1. Governing Body.**

The governing and lawmaking body of the City of Midland shall consist of five councilmen and a mayor, and said body shall be known as the "city council of the City of Midland."

Sec. 2. Elective Officers.

The members of the city council of the City of Midland, which includes the five councilmen and a mayor, shall be the only elective officers of the city, and they shall be elected and hold office and be compensated as herein provided. Said councilmen and mayor shall be elected from the city at large. (1955)

Sec. 3. City Councilmen and Mayor, How to Get Name on Ballot.

Any qualified voter who is a citizen of the United States and who meets the minimum age and residency requirements established by the State statute and who is not delinquent in any indebtedness to the city, shall have the right to file an application to have his name placed on the official ballot as a candidate for any elective office, and such application in writing, signed by such candidate and delivered to the city secretary or mayor not less than thirty days prior to the date of the election, shall entitle such applicant to a place on the official ballot. The city secretary shall deliver any applications he receives to the mayor prior to the filing deadline. The names of such candidates shall be printed on the official ballot in the order determined by a drawing and the applications of such candidates shall designate the places which they seek.

Sec. 4. Candidates, To Run for Places, Places Designated.

Candidates for the office of councilmen shall file their applications for place number 1, place number 2, place number 3, place number 4, or place number 5, as the case may be, and shall be voted on and elected accordingly. Candidates for mayor shall designate in their applications that they are running for such office.

Promptly upon the adoption of this amendment, the mayor elect shall serve for a period of one (1) year. Thereafter, the mayor shall be voted upon and shall serve for a term as provided under Article 4, Section 9. (Election - 4/2/57)

Sec. 5. Candidates, How Elected.

The candidate receiving the highest number of votes cast for the place which he seeks shall be elected to the respective office for which he was a candidate.

Sec. 6. Judge of Election.

The city council shall be the judge of the election and qualifications of its own members and of the mayor, subject to review of the courts in case of contest. The city council shall, on the next regular meeting day of said council after each regular and special election, canvass the returns and declare the results of such election.

Sec. 7. Date of Election.

The regular municipal elections of the City of Midland shall be held on the first Tuesday in April of each year, and the same 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 general election laws shall control in all municipal elections except as otherwise herein provided.

Sec. 8. Officers.

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. (1955)

Sec. 9. Term of Office.

The mayor and each member of the city council shall serve for a term of three years beginning on the first Monday in June of the year in which they are elected and continuing until their successor is elected and qualified, and the mayor and each member of the city council shall not be elected to serve more than three consecutive three-year terms of office. This section shall not be applied retroactively and shall not affect the right of any individual who was elected to the office of mayor or member of the city council prior to August 1, 1996, to serve an additional three consecutive three-year terms of office. Any vacancy or vacancies occurring on such governing body shall not be filled by appointment but shall be filled by the qualified voters of the city. (Election - 5/4/96; Res. 96-124 - 5/8/96)

Sec. 10. Vacancies. (Deleted by Res. 96-124 - 5/8/96)

Sec. 11. Mayor pro tem.

The mayor pro tem shall be selected from among the members of the council and shall perform all the duties of the mayor in his absence or disability.

Sec. 12. Compensation of Mayor and Councilmen.

(a) The mayor shall receive a salary in an amount to be fixed by the city council, but which amount shall in no event be more than seventy-five dollars per month or less than twenty-five dollars per month.

(b) Each councilman shall receive the sum of ten dollars for each meeting of the council attended by him, provided that no councilman shall receive a greater compensation than twenty-five dollars per month. (1955)

Sec. 13. Duties of the Mayor.

The mayor of the City of Midland shall preside over the meetings of the city council and perform such other duties consistent with the office as may be imposed upon him by this Charter and ordinances and resolutions passed in pursuance hereof. He may participate in the discussion of all matters coming before the council and shall be entitled to vote upon all matters considered by the council, but shall have no veto power. He shall sign all contracts and conveyances made or entered into by the city and all bonds issued under the provisions of this Charter, unless some other officer or agent of the city is designated and expressly authorized to do so by the city council, and shall be the chief executive officer of the city. He shall be recognized as the official head of the city by the courts for the purpose of serving civil process, by the governor for the purpose of enforcing military law, and for all ceremonial purposes. In times of danger or emergency, the mayor may with the consent of the city council take command of the police and govern the city by proclamation and maintain order and enforce all laws. (Election - 4/1/75)

Sec. 14. Duties of the City Council.

(a) The city council shall have all powers necessary and incident to the proper discharge of the duties imposed upon it and is hereby invested with all power necessary to carry out the terms and provisions of this Charter; it being intended that the city council and mayor shall have and exercise all powers enumerated in this Charter or implied thereby and all powers that are or hereafter may be granted to municipalities by the constitution or laws of the State of Texas.

(b) The city council shall have the power and duty to supervise and control all other departments of the city government and to appoint all city employees and officers other than the city council and mayor, having the power to appoint and remove all officers or employees in the service of the city whenever in its judgement the public interests demand or would be better served thereby.

(c) The compensation of all appointive officers and employees shall be fixed by the city council, who may increase or diminish such compensation at will or abolish any appointive office entirely at any time. (1955)

(d) The powers of the city council shall include, among others enumerated in this Charter, the following: The power to provide for any and all appointive officers and employees additional to those elsewhere in this Charter specifically provided for, including those of "City Manager" and "City Attorney" which the city council may deem expedient in connection with the proper discharge of the duties imposed upon said council; and for the employment at the pleasure of the city council of any such officer or employee and for the delegation to any such officer or employee of such duties and authorities as the city council may prescribe in connection with: 1) the administration of the city's business and affairs in accordance with the specific legislative and executive directions of the council; 2) the appointment, supervision and removal of all personnel in accordance with such personnel policy as the council may approve by resolution, and other than those appointed directly by the council; 3) the preparation and submission for council approval of the annual municipal budget; and, 4) the execution and enforcement of all laws and ordinances of the city, whether or not such delegated duties and authorities are elsewhere in this Charter expressly restricted to the city council or otherwise, and provided always that any such delegation shall be and remain revocable at the will of the city council without the necessity of a formal ordinance. (Election - 9/10/60; Resolution - 9/13/60)

Sec. 15. Meetings of the City Council.

The city council shall hold at least one regular meeting in each month at a time to be fixed by it for such regular meetings, and may hold as many additional meetings during the month as may be necessary for the transaction of the business of the city and its citizens.

Sec. 16. Special Meetings.

Special meetings of the city council may be had in the manner to be provided by the city council.

Sec. 17. Rules of the City Council.

The city council shall determine its own rules of procedure and may compel the attendance of its members.

Sec. 18. Legislative Procedure.

A majority of the city council shall constitute a quorum to do business, and the affirmative vote of a majority of those attending any meeting at which there is a quorum present shall be necessary, and sufficient to adopt any ordinance or resolution. 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 the city secretary.

Sec. 19. Ordinances, Enactment of.

Each proposed ordinance or resolution shall be introduced in writing or printed form and shall not contain more than one subject which shall be clearly expressed in the title, except ordinances or resolutions making appropriations or authorizing the contracting of indebtedness or issuance of bonds or other evidence or indebtedness. No ordinance, unless it be declared an emergency measure, shall be passed finally on the date it is introduced, but must be passed, read and voted upon at two regular meetings of the city council.

Sec. 20. Emergency Measures Defined.

An emergency measure is an ordinance or resolution for the immediate preservation of the public business, property, health or safety, or providing for the usual daily operation of a municipal department, in which the emergency is set forth in such ordinance or resolution. Ordinances or resolutions appropriating money to defray current or other expenses of the city may be passed as emergency measures, but no ordinance or resolution making a grant, renewal or extension of a franchise or other special privilege or regulating the rate or rates to be charged for service furnished the public generally by any public utility shall ever be passed as an emergency measure.

Sec. 21. Ordinances now in Effect.

All ordinances of the City of Midland 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.

Sec. 22. Ordinances, Pleading of, and Admissibility as 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.

Sec. 23. Ordinances, Publication of.

Every ordinance imposing any penalty, fine, imprisonment or forfeiture shall, after passage thereof, be published in one issue of the official paper; and proof of such publication shall be made by the printer or publisher of such paper, making affidavit before some officer authorized by law to administer oaths, and filed with the person performing the duties of the city secretary, and shall be prima facie evidence of such publication and promulgation of such ordinance so published shall take effect and be in force from and after five days after publication thereof, unless otherwise expressly provided. Ordinances not required to be published shall take effect and be in force from and after the passage thereof, unless otherwise provided.

Sec. 24. Departments may be Consolidated, etc.

The city council of the City of Midland may abolish or consolidate such offices and departments as it may deem to the best interest of the city and may divide the administration of any such departments and discontinue any offices or departments at its discretion, except as to the offices of mayor and city council.

Sec. 25. City Secretary.

The city council shall appoint a city secretary. He shall be a qualified voter residing in the city for at least one year preceding his appointment. He shall receive for his services such compensation as the city council may fix. Unless excused by the city council for good cause, he shall attend all meetings of the city council and keep accurate minutes of its proceedings; he shall preserve and keep in order all books, papers, documents, records and files of the city council and of the executive department. He shall keep a record of all commissions and licenses issued and shall countersign the same. He shall have custody of the seal of the city, and shall affix same to such documents and obligations of the city only as he may be legally authorized so to do.

Sec. 26. Corporation Court.

(a) There shall be established and maintained a court designated as a "corporation court" for the trial of misdemeanor offenses, with all such powers and duties as are now or may hereafter be permitted by the laws of the State of Texas to corporation or recorders' courts.

(b) The judge of said court shall be a qualified voter of the city, shall be appointed by the city council, shall hold his office at the pleasure of the city council, and shall receive such salary or fees of office, or both, as may be fixed by ordinances of the city council.

(c) The city secretary or his deputy shall be ex officio clerk of said court and shall receive such salary or fees of office or both as may be fixed by ordinance.

(d) The clerk of said court and his deputies shall have the power to administer oaths and affidavits, make certificates, affix the seal of said court thereto, and generally do and perform any and all acts usual and necessary by clerks of courts in issuing processes of said courts and conducting the business thereof. (1955)

(e) In case of disability or absence of the judge of the corporation court, the city council shall appoint a person to act as judge of the corporation court and said person shall receive such salary or fee of office, or both, as may be fixed by ordinance of the city council. In case of the disability or absence of both of the above, the city council shall appoint some other person to act as judge of said court during such disability or absence and said person shall receive such salary or fee of office, or both, as may be fixed by ordinance of the city council. (Election - 4/2/57)

Sec. 27. Nepotism.

No person related, within the second degree by affinity or within the third degree by consanguinity, to the mayor or any member of the city council shall be appointed to any office, position or clerkship or other service of the city.

Sec. 28. Official Bond for Appointive Officers.

The city council of the City of Midland shall have the right to require official bond from all appointive officers or employees of the city in such amounts as said city council from time to time fix by ordinance or resolution and conditioned for 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 this state, and the premiums accruing thereon shall be paid by the City of Midland.

Sec. 29. Audit and Examination of the City Books and Accounts.

The city council shall cause a continuous audit to be made of the books of accounts of each and every department of the city. Such audit shall be made by a competent public accountant who shall be selected by the city council, and a contract entered into from year to year; and such contract shall provide that the books of the city shall be audited at least annually, and such auditor's report to the city council shall be accessible to the public or for publication. (1955)

Sec. 30. Budget.

The city council shall on the first day of January 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 V.T.C.A., Local Government Code Sections 102.001 to 102.011, inclusive, together with any amendments thereto hereafter enacted. No public money shall ever be spent or appropriated, except in case of public calamity, unless funds are currently in the possession of the city to cover said expenditures or appropriation. No expenditure shall ever be made by the city except upon checks or electronic fund transfers drawn upon the account for which a previous appropriation shall have been made, signed by the city treasurer, or in his absence, by the assistant city treasurer, who shall have been so designated by the city council, and countersigned by the city secretary or mayor. (Res. 91-193 - 5/9/91)

ARTICLE V. TAXES AND TAXATION**Sec. 1. Taxation.**

All real, personal and mixed property held, owned or situated in the City of Midland, 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, personal and mixed property, except that the homestead of any person within the City of Midland shall never be liable for any taxes other than the tax upon itself.

Sec. 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 of Midland 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 two dollars on the one hundred dollars appraised 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 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 as 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 or individual corporators and all persons owning property. It shall have the right to fix the time and terms of payment of taxes, prescribe penalties for the nonpayment thereof upon the expiration of the time fixed by the said council, may provide for split payments of city taxes, 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 by ordinance provide for the remission, discount, compromise or waiver of penalty to all persons legally owing any taxes when such remission, discount, compromise or waiver of penalty is for any particular and specified year or years and applies equally to all persons, firms or corporations owing taxes to the city for such year or years; provided, however, that this provision shall not prevent the compromise of any tax suit. (1955)

Sec. 3. Liens.

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 the 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 real estate shall especially be a lien and a charge upon the property upon which the taxes are due, which lien may be foreclosed in any court having jurisdiction.

Said lien shall exist from January 1 in each year until the taxes are paid. Such lien shall be prior to all other claims, and no gift, sale, assignment or transfer of any kind, or judicial writ of any kind, can ever defeat such lien, but the tax assessor-collector may pursue such property, and whenever found may seize and sell enough thereof to satisfy such taxes.

In the event that personal property of the taxpayer is delivered into the actual or constructive possession of a receiver, trustee, or other person because of insolvency, bankruptcy, receivership or otherwise, between January 1 and the date that the taxes are actually levied, then and in that event the amount of the taxes due shall be the same as was levied for the prior year for the same property and shall be secured by a lien in that amount.

All persons or corporations owning or holding personal property or real estate in the city on the first day of January of each year shall be liable for all municipal taxes levied thereon for such year.

The personal property of all persons owing any taxes to the city is hereby made liable for all of said taxes, whether the same be due upon personal or real property, or upon both. (Election - 4/1/75)

Sec. 4. Rendition.

(a) It shall be the duty of every person owning or holding property within the City of Midland 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.

Sec. 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 of Midland and which has not been rendered by the owner thereof each year upon a date to be specified by the city council by ordinance, by the assessor or other officer designated for that purpose, which list of property so unrendered and assessed shall be placed upon the tax rolls of the City of Midland 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 said city.

Sec. 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 therefor by the city council.

(b) All taxes shall be payable at the office of the assessor and collector or such other officer as the city council may prescribe, and no demand for payment thereof shall be requisite or necessary to enforcement of the collection thereof, nor the collection of any taxes due before the passage of this article.

(c) All property which the owner thereof may have failed or refused to inventory, assess or render for taxation for years prior to the passage of this act, shall be by the officer designated by the city council inventoried, 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 and properly describe any property incorrectly rendered or assessed or improperly described, 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 of Midland 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.

Sec. 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 of Midland to individuals or corporations and all license taxes, occupation taxes, permit fees, fines, forfeitures, penalties and other amounts of taxes accruing to the City of Midland shall be collectable and payable only in current money of the United States.

Sec. 8. Delinquent Taxes.

(a) All ad valorem taxes due or to become due to the City of Midland 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, and 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)², take the property charged with the 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 said purchaser.

(b) All suits for delinquent taxes to the City of Midland shall be brought in the district court of Midland County, Texas, in accordance with the general laws of the State of Texas relative to the collection of delinquent state and county ad valorem taxes. (1955)

Sec. 9. Compilation of Delinquent Tax Rolls.

Immediately after the end of the fiscal year of the City of Midland as prescribed by the city council, it shall be the duty of the assessor and collector of taxes, or such other person or officer as may be designated by the city council, to prepare a roll to be designated as the delinquent roll, containing the description of all property described in the assessment rolls of the fiscal year just preceding, together with the taxes due thereupon and which said taxes have not been paid, and said roll, when prepared, shall be certified to by the officer preparing same to be correct and shall be prima facie evidence of the statement made therein and that all of the prerequisites and requirements of the law as to levying taxes and assessing and rendering property therefor and as to all other matters have been complied with, and the city is entitled to one dollar on each tract of land on said delinquent roll set forth, which shall be taxed against the delinquent taxpayer of the property and against said property, and the collector of taxes shall not issue any receipts to any delinquent taxpayer unless said one dollar has been paid. Said delinquent roll shall be finished and said statement furnished by the assessor and collector or other officer not later than thirty days after the end of each fiscal year. (Election - 9/10/60; Resolution - 9/13/60)

². The word in parenthesis has been added for the purpose of clarification.

Sec. 10. Board of Equalization.

(a) There shall be a board of equalization in said city which shall be composed of three qualified taxpaying and property-owning citizens of the City of Midland, appointed by the mayor and confirmed by the city council, whose powers and duties shall be the same as is given to the county commissioners court by the general laws of the State of Texas in regard to the equalization of property values for state and county taxation purposes.

(b) Said board, constituted as herein provided, shall continue for a period of one year and shall be a standing committee to which all matters relative to valuation and renditions shall be referred; the members of said board shall receive such compensation as may be provided for by ordinance of the city council.

(c) Said board shall meet at the city hall, or such other place as may be designated in its order of appointment by the city council within ten days after being notified by the assessor of taxes that the assessment rolls of the City of Midland are completed and ready for its inspection, and it shall complete its work as expeditiously as possible and in no event delay the completion thereof more than sixty days from its first meeting, and it shall file its final report with the mayor and city council not later than fifteen days after the completion of its work.

(d) In case of dissatisfaction with the final decision of said board of equalization by any taxpayer, an appeal from such decision may be made by such taxpayer to the city council, provided such appeal is made within five days after the tax rolls have been certified by the board of equalization to the city council, by written petition specifically stating the part or parts of the valuation complained of. The city council shall dispose of all of such appeals within thirty days after the tax rolls of the city have been certified by the board of equalization. Any taxpayer being dissatisfied with the decision of the city council, upon appeal, shall have the right to contest any such decision in any court of competent jurisdiction, but as a condition precedent to the exercise of such right of review or appeal to the courts, any such taxpayer shall be required to give notice to the city council of his intention to file suit by filing with the city secretary an exact copy of his petition within thirty days after the final decision of the city council and any such taxpayer shall be required, as a further condition precedent, to pay said taxes assessed by the city and certified to by the board of equalization for the then current taxable year, and any subsequent years preceding final determination under protest, and, in the event of a final determination that the city council was in error in refusing the taxpayer relief, in such event the City of Midland shall be obligated to return to the taxpayer that part of the taxes which are held to be erroneously assessed and collected.

Sec. 11. Occupation Tax.

The city council shall have the power to levy and collect taxes upon all trades, professions, callings or other businesses carried on to the full extent permitted by the general laws of the State of Texas, to prescribe penalties for nonpayment thereof, and to regulate the operation of any business, trade or calling or profession.

Sec. 12. Contract for Collection of Delinquent Taxes.

The city council shall have the power to contract with any attorney-at-law for the collection of delinquent taxes owing the city. (1955)

ARTICLE VI. RECALL.

(a) The mayor or any other member of the city council may be removed from office in the following manner:

Any qualified voter of the city may make and file with the city secretary an affidavit containing the name of any member of the city council whose removal is sought and a statement of the grounds for removal. The secretary shall thereupon deliver to the voter making such affidavit copies of petition blanks for demanding such a removal, printed forms of which he shall keep on hand. Such blanks shall be issued by the secretary with his signature thereto attached, and they shall be dated and addressed to the city council, indicate the person to whom issued, and state the name of the member whose removal is sought. A copy of the petition shall be entered in a record book for that purpose to be kept in the office of the secretary. A recall petition to be effective must be returned and filed with the secretary within thirty days after the filing of the affidavit, must bear the signatures of qualified voters of the city equal in number to at least twenty per cent of those who were qualified voters on the date of the last regular municipal election, and at least one-half of the qualified voters constituting such twenty per cent signing the petition shall make affidavit, to be filed with the petition, to the effect that they voted for the person whose recall is sought at the election at which he was last chosen.

(b) Signatures to a recall petition need not all be appended to one paper, but to each such petition paper there shall be attached an affidavit of the circulator thereof, stating that each signature thereto was made in his presence and is the genuine signature of the person whose name it purports to be. Each signer of a recall petition shall sign his name in ink or indelible pencil and shall place after his name the date when his signature was made and his place of residence by street and number, or other description to identify the place. Recall petition papers provided by the city secretary shall be in form substantially as follows:

We, the undersigned qualified voters of the City of Midland, hereby demand that the question of removing _____ from the city council be submitted to a vote of the qualified voters.

Name	Address	Date
<hr/>		
<hr/>		

State of Texas
Midland County

_____, being duly sworn, deposes and says that he is the circulator of the foregoing petition paper and that the signatures appended thereto were made in his presence and are the genuine signatures of the persons whose names they purport to be.

Signed _____

Article VI

Article VI

Subscribed and sworn to before me this _____ day of _____, 19 ____.

Notary Public _____

The affidavits of signers of a recall petition who voted for the person whose recall is sought at the election at which he was last chosen shall be in the following form:

State of Texas
County of Midland

_____, being duly sworn, deposes and says (or depose and say) that he (or they) signed the petition for the recall of _____ and that he (or they) voted for the said _____ at the election when he was chosen for this present position.

Signed

Subscribed and sworn to before me this _____ day of _____, 19 ____.

Notary Public

(c) All papers and affidavits comprising a recall petition shall be assembled and filed with the secretary as one instrument, with a statement attached thereto giving the names and addresses of three qualified voters, who, as a committee of petitioners, shall be officially regarded as filing the petition. Within ten days of the date of filing a recall petition, the secretary shall determine the sufficiency thereof and attach thereto a certificate showing the result of his examination. If he shall certify that the petition is insufficient, he shall set forth in the certificate the particulars in which it is defective and shall at once notify the committee of the petitioners of his finding.

(d) A recall petition may be amended at any time within twenty days after the making of the certificate of insufficiency by the city secretary, by filing a supplementary petition upon additional paper issued, signed and filed as provided herein for an original petition. The secretary shall, within five days after such an amendment is filed, make examination of the amended petition and, if his certificate shall show the petition still to be insufficient, he shall file the petition in his office and notify the committee of the petitioners of his finding. The finding of the insufficiency of a recall petition shall not prejudice the filing of a new petition for the same purpose.

(e) If a recall petition, or amended petition, shall be certified by the secretary to be sufficient, he shall at once submit it to the city council with his certificate to that effect and shall notify the member whose removal is sought of such action. If the member whose removal is sought does not resign within five days after such notice, the city council shall thereupon order and fix for holding a recall election. Any such election shall be held not less than forty nor more than

Article VI

Article VI

sixty days after the petition has been submitted to the city council, and it may be held at the same time as any other general or special election within such period; but, if no such election is held

within such period, the city council shall call a special recall election to be held within the time aforesaid.

(f) The question of recalling any number of members of said city council may be submitted at the same election, but as to each member whose removal is sought a separate petition shall be filed and there shall be an entirely separate ballot. Candidates to succeed any member of the city council whose removal is sought shall be placed in nomination by petition signed, filed and verified as provided for nominating petitions for a regular municipal election; except that each petition paper shall specify that the candidate named therein is a candidate to succeed the particular member whose removal is sought.

(g) The ballots used in a recall election shall submit the two following propositions in the order indicated:

- "For the recall of (name of mayor or councilman)";
- "Against the recall of (name of mayor or councilman)."

The voter, by striking out either of these propositions, may indicate his vote for the one not so stricken out. Under the propositions shall appear the word "candidates" and the direction, "Vote for one," and beneath this the names of candidates nominated as hereinbefore provided. The person whose recall is sought shall not have his name printed on the ballot as a candidate. Except that the space left for the names and dates shall be filled by the correct names and dates, the ballots used in a recall election shall be in form substantially as follows:

Recall Election

City of Midland

_____ (month and day of month) _____ 19

For the recall of
Against the recall of

Candidates

Vote for one

Except as provided for in this section, ballots used in recall election shall comply with the provisions of this Charter regarding ballots for a regular municipal election.

Article VI

Article VI

(h) If a majority of the votes cast on the question of recalling the mayor or a city councilman be against recall, he shall continue in office for the remainder of his unexpired term, but subject to recall as before. If a majority of such votes be for the recall of the officer on the ballot, he shall, regardless of any defects in the recall petition, be deemed removed from office. When the mayor or councilman is removed from office by recall, the candidate to succeed such officer who receives the highest vote shall be declared elected to fill the unexpired term.

(l) If a mayor or councilman in regard to whom sufficient recall is submitted to the city council shall resign within five days thereon, the place thus made vacant on the city council shall be filled by the appointment of some eligible person by a majority vote of the remaining members, as hereinbefore provided for filling vacancies arising from other causes.

(j) No recall shall be filed against the mayor or councilman within three months after he takes office or, in the case of a mayor or councilman subjected to a recall election and not removed thereby, until at least six months after that election.

ARTICLE VII. INITIATIVE AND REFERENDUM.**Sec. 1. The Initiative.**

(a) The voters shall have power at their option to propose ordinances and resolutions, exclusive of ordinances granting franchises and privileges, and to adopt the same at the polls, such power being known as the initiative. A petition meeting the requirements hereinafter provided and requesting the city council to pass an ordinance or resolution therein set forth shall be termed an initiative petition and shall be acted upon as hereinafter provided. The term "measure" as used in this Charter shall include the terms "ordinance" and "resolution."

(b) Signatures to initiative petitions need not all be on one paper, but the circulator of each such paper shall make an affidavit that the signatures appended thereto were made in his presence and are genuine signatures of the persons whose names they purport to be. Such petition shall be signed in ink or indelible pencil and each signer shall place after his name the date when his signature was made and his place of residence by street and number, or other description sufficient to identify the place. All such petition papers pertaining to any one measure shall have written or printed thereon the names and addresses of at least five qualified voters who shall be officially regarded as filing the petition and who shall constitute a committee of the petitioners for the purposes hereinafter named. All petition papers relating to the same measure shall be assembled and filed in the office of the city secretary as one instrument.

(c) An initiative petition to be sufficient shall be signed by qualified voters equal in number to at least ten per cent of those who were qualified voters at the date of the last preceding regular municipal election, and in no case by less than two hundred voters. Within ten days after the filing of a petition, the secretary shall ascertain whether it be signed as provided in this section and shall attach thereto a certificate showing the result of his examination. If, by the city secretary's certificate, of which notice in writing shall be given to two or more of the committee of the petitioners, the petition is shown to be insufficient, it may be amended within ten days of the date of such certificate by filing supplementary petition papers with additional signatures. Within ten days after such an amendment the secretary shall make examination of the amended petitions, and if his certificate shall show the same still to be insufficient, he shall file the petition in his office and notify each member of the committee of that fact. The final finding of the insufficiency of a petition shall not prejudice the filing of a new petition for the same purpose.

(d) If an initiative petition be found sufficient, the secretary shall so certify and shall submit the measure to the city council at its next meeting, and the council shall at once read and refer it to an appropriate committee, which may be a committee of the whole. Provisions shall be made for public hearings upon the proposed measure before the committee to which it is referred. Thereafter the committee shall report the measure to the city council with its recommendation thereon not later than sixty days after the date upon which such measure was submitted to the city council by the city secretary. Upon receiving the measure from the committee, the city council shall at once proceed to consider it and shall take final action thereon within thirty days from the date of such committee report.

Article VII-1

Article VII-2

(e) If the city council shall fail to pass a proposed measure, or shall pass it in a form different from that set forth in the petition therefor, the committee of the petitioners may require that it may be submitted to a vote of the qualified voters either in its original form or with any change or addition presented in writing at a public hearing before the committee to which it was referred, or during its consideration by the city council. If the committee of the petitioners requires the submission of the measure to a vote of the qualified voters, they shall certify that fact to the secretary and file in his office a certified copy of the measure in the form in which it is to be submitted within ten days after final action on such measure by the city council.

(f) Upon receipt of the certificate and certified copy of the proposed measure, as provided in the foregoing section, the secretary shall certify the fact to the city council at its next regular meeting. If any municipal election is to be held not more than six months or less than thirty days after the receipt of the secretary's certificate by the city council, the proposed measure shall be submitted to a vote of the qualified voters at the first such election. When no municipal election is to be held within the time aforesaid, the city council may provide for submitting the measures to the voters at a special election to be held not less than thirty days after the date when provision is made therefor by the council. When no other provision is made as to the time of submitting a measure proposed by initiative petition to the electors, it shall be submitted at the first municipal election held after the expiration of the period of six months mentioned in this section. Any such measure approved by a majority of the qualified voters voting thereon shall be considered adopted and shall take effect at the time indicated therein.

(g) When a measure proposed by initiative petition is passed by the city council, but not in its original form, and is required by the committee of the petitioners to be submitted to a vote of the qualified voters, the measure as passed by the city council shall not take effect until after such vote, and, if the measure so submitted be approved by a majority of the qualified voters voting thereon, the measure as passed by the city council shall be deemed repealed.

Sec. 2. The Referendum.

(a) The qualified voters shall have power at their option to approve or reject at the polls any ordinance or resolution passed by the city council or submitted by such council to a vote of the qualified voters, such power being known as the referendum. Measures submitted to the city council by initiative petition and passed by the council without change, or passed in an amended form and not required by the committee of petitioners to be submitted to a vote of the qualified voters, shall be subject to the referendum in the same manner as other measures.

(b) No ordinance shall go into effect until thirty days after its passage by the city council unless it be declared an emergency measure on the ground of urgent public need for the preservation of peace, health, safety of property, the facts showing such urgency and need being specifically stated in the ordinance itself and the ordinance being passed by a vote of not less than four-fifths of the members of the city council. No ordinance granting any public utility franchise, or amending or repealing any measure adopted by the qualified voters at the polls, or adopted by the city council in compliance with an initiative petition, shall be regarded as an emergency measure.

(c) If within thirty days after the final passage of a measure by the city council a petition signed by qualified voters of the city equal in number to at least ten per cent of those who were qualified voters at the date of the last preceding regular municipal election, and in no case by less than two hundred qualified voters, be filed with the city secretary requesting that such measures or any part thereof be either repealed or submitted to a vote of the qualified voters, it shall not, unless it be an emergency measure, become operative until the steps indicated therein have been taken.

(d) The signatures to a referendum petition need not all be on one paper but the circulator of each separate paper shall make affidavit that the signatures appended thereto were made in his presence and are the genuine signatures of the persons whose names they purport to be. Such petitions shall be signed in ink or indelible pencil and each signer shall place after his name the date when his signature was made and his place of residence by street and number, or other description sufficient to identify the place. All such papers pertaining to any one measure shall have written or printed thereon the names and addresses of at least five qualified voters who shall be officially regarded as filing the petition and shall constitute a committee of the petitioners for the purpose hereinafter named. All such papers relating to the same measure shall be assembled and filed in the office of the city secretary as one instrument. A referendum petition need not contain the text of the measure designated therein and of which repeal is sought as a whole, but when the repeal of part of a measure is sought such part shall be set forth in the petition.

(e) Within ten days after the filing of a referendum petition the secretary shall ascertain whether it be signed as provided in section 1(c) of this article and shall attach to the petition a certificate showing the result of such examination and shall give notice thereof to the committee of the petitioners. If by the secretary's certificate the petition is shown to be insufficient, it may be amended within ten days from the date of such certificate by filing supplementary petition papers with additional signatures. The secretary shall within ten days after such amendment make like examination of the amended petition and certify the result thereof.

(f) If a referendum petition, or amended petition, be found sufficient, the secretary shall certify that fact to the city council at its next regular meeting, and, unless the measure or part thereof specified in the petition be an emergency measure, it shall not go into effect unless approved by the qualified voters as hereinafter provided. Upon receipt of the secretary's certificate of sufficiency, the city council shall proceed to reconsider the measure, and its final vote upon such reconsideration shall be upon the question, "Shall the measure (or part of the measure) as specified in the referendum petition be repealed?" If upon such reconsideration the measure, or part thereof, be not repealed, it shall be submitted to the qualified voters at the next municipal election held not less than thirty days after such final vote by the council. The city council by a four-fifths vote of its members may submit the measure to the qualified voters at a special election to be held no sooner than the time aforesaid. If when submitted to the qualified voters any such measure, or part thereof, be not approved by a majority of those voting thereon, it shall be deemed repealed.

Article VII-2

Article VII-2

(g) Measures proposed by the initiative petition, or required by referendum petition or by the city council to be submitted to the qualified voters, shall be submitted by ballot title. There shall appear upon the official ballot a ballot title, which may be distinct from the legal title of any such proposed or referred measure and which shall be a clear, concise statement, without argument or prejudice, descriptive of the substance of such measure. The ballot title shall be prepared by the committee of the petitioners if for an initiative or referred measure and by a committee of the city council when submitted by such council . The ballots used when voting upon any such measure shall have below the ballot title thereof the two propositions in order herein indicated: "For the measure" and "Against the measure." The voter, by striking out either of these propositions, may indicate his vote for the one not so stricken out. Such ballot shall be in the form substantially as follows:

(Title of measure with general statement of substance thereof)

For the measure

Against the measure

(h) Any number of measures may be voted on at the same election and may be submitted on the same ballot, but the ballot used for voting on measures shall be for that purpose only.

(i) Measures passed as emergency measures shall be subject to referendum, but they shall not be suspended from going into operation while referendum proceedings are pending. If, when submitted to a vote of the qualified voters, an emergency measure be not approved by a majority of those voting thereon, it shall be considered repealed as regards any further action thereunder, and all rights and privileges conferred by it shall thereafter be null and void; but any such measure so repealed shall be deemed sufficient authority for any payment made or expense incurred in accordance therewith prior to the vote thereon.

(j) If two or more measures adopted or approved at the same election conflict in respect to any of their provisions, they shall go into effect in respect of such of their provisions as are not in conflict, and the one receiving the highest affirmative vote shall prevail insofar as their provisions conflict. Except as otherwise provided in this Charter, measures adopted or approved by the qualified voters shall be subject to amendment or repeal by the city council as in the case of other measures.

ARTICLE VIII. BONDS, WARRANTS, ETC.**Sec. 1. Bonds.**

(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 of Midland previously issued, provided the bonds may be refunded at a lower rate of interest than the proposed bonds to be retired draw.

(b) No bonds, warrants, revenue warrants, notes, or other evidence of indebtedness shall ever be issued for any purpose except for the purpose of refunding bonds of the city of previous issues, unless such action is approved by a majority of the qualified voters of the city at an election called for such purpose; and provided further that no debt of any nature shall ever be contracted by the city, and no bond, revenue warrant, note or other evidence of indebtedness maturing more than one year from the date of its issuance shall ever be contracted or issued, unless such action is approved by a majority of the qualified voters of the city at an election called for such purpose.

(c) In all elections to determine the expenditure of money or the assumption of debt of any nature, qualified voters shall be deemed to be those who are otherwise qualified under the general laws of the State of Texas and those who have paid taxes on property in said city which has been personally rendered by them for taxation for the year in which the election is held.

(d) No bonds shall be issued drawing more than six per cent interest per annum, and they shall be invalid if sold for less than par and accrued interest, and all bonds shall express upon their face the purpose for which they are issued, and shall be payable serially in not exceeding thirty years from the date of issuance, and may be payable on or before maturity.

(e) 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, and 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 in bonds of the State of Texas, or bonds issued by the counties in the State of Texas, or in bonds of the United States, or such funds may be used for the purchase of bonds of the City of Midland which are not yet due, and shall be used and devoted to no other purpose whatsoever; and provided further that no such funds shall ever be invested in any security not supported by taxes and secured by the general tax obligation of the issuer.

(f) Any officer or agent of the City of Midland who shall unlawfully or knowingly divert or use said fund or cause or permit to be diverted or used such fund 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.

Sec. 2. Warrants.

No warrant bearing interest payable in other than the fiscal year in which such warrant is issued shall ever be authorized or by ordinance issued by the city council. This provision, however, shall not prevent the city council from issuing interest-bearing anticipation warrants, payable from the reasonably anticipated collections for the current year of such city where such warrants do not bear in excess of six per cent interest and the funds are needed and necessary in the opinion of the city council to meet the current expenses of the city for the current fiscal year.

ARTICLE IX. GENERAL PROVISIONS.**Sec. 1. Qualified Voter.**

A "qualified voter," except as herein elsewhere defined within the meaning of the terms of this Charter, is one who is qualified to vote at any general election of the State of Texas and who resides within the corporate limits of the City of Midland and has resided therein for six months prior to the election in which he offers to vote.

Sec. 2. Jurors.

In any action or proceeding in which the City of Midland may be party at interest, no person shall be an incompetent judge, justice, witness or juror by reason of his being an inhabitant, freeholder or taxpayer of the City of Midland.

Sec. 3. Public Act.

This Charter must be deemed a public act and judicial notice shall be taken thereof in all courts.

Sec. 4. Amendments.

This Charter may be amended at any time in accordance with the provisions applicable thereto contained in Chapter 13 of Title 28 of the Revised Civil Statutes of 1925 of the State of Texas or any amendments thereto or any amendments that may be made hereafter thereto.

Sec. 5. Present Officers.

(a) The office of city marshal is hereby abolished and vacated, and the elective office of city secretary is hereby abolished and vacated, and such offices and salaries thereof shall wholly cease and expire upon the adoption of this Charter.

(b) The present members of the city council and the mayor shall continue in office until the expiration of their respective terms of office and until their successors are qualified.

(c) Promptly after the adoption of this Charter, it shall be the duty of the city council to appoint a city secretary, chief of police, and such other officers and department heads and employees as it may deem necessary, and to fix their compensation. It shall also be the duty of the city council to designate for each councilman a place number, the place number to be given to each councilman to be determined in the manner decided upon by the city council.

Sec. 6. Effect of any Provision Hereof Being Declared Invalid.

If any provision of this Charter violates any statute or the Constitution of the State of Texas, or if any court holds such provision for naught for any reason, the remaining provisions shall not be affected thereby and shall continue in effect.

Sec. 7. Vote on Proposed Charter.

(a) This Charter shall be submitted to the qualified voters of the City of Midland for adoption or rejection on the 5th day of November, 1940, at which election, if a majority of the qualified voters voting in such election shall vote in favor of the adoption of this Charter, it shall then immediately become the Charter and governing law of the City of Midland 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 of Midland 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 of Midland 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 by the qualified voters of such Charter.

Respectfully submitted,

Frank Stubbeman
F.W. Stonehocker
Geo. W. Glass
James Fitzgerald, Jr .
M. D. Self
R.C. Crabb
T. Paul Barron

Joseph H. Mims
A. Wadley
J.R. Martin
Ed M. Whitaker
Jno. B. Thomas
Clarence Scharbauer
J.W. House

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