

City Charter



City of Heath, Texas

Adopted September 14, 2002; Amended November 4, 2008

CITY OF HEATH HOME RULE CHARTER

Adopted September 14, 2002; Amended November 4, 2008

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CHAPTER ONE

INCORPORATION AND BOUNDARIES

SECTION 1.01 INCORPORATION

All inhabitants of the City of Heath, Rockwall County, Texas, as the boundaries and limits of said City have heretofore been established and now exist or may hereafter be established, shall constitute a municipal body politic incorporated under and known by the name “City of Heath” with such powers, rights duties, privileges, and immunities as are herein provided.

SECTION 1.02 BOUNDARIES AND LIMITS

The boundaries and limits of the City of Heath shall be those as established and described in ordinances duly passed by the City Council of the City of Heath in accordance with State law. The City Secretary shall at all times keep a correct and complete description and official City map on file, including annexations and disannexations.

SECTION 1.03 ANNEXATIONS AND DISANNEXATIONS

The City may alter its boundaries by annexing any territory adjoining its present or future boundaries in any size or shape desired in any manner provided by State law, with or without consent of the owners of such territory or the inhabitants thereof. The City may from time to time alter its boundaries by disannexing any territory adjoining its present or future boundaries by passages of an ordinance describing the territory being disannexed. Any additional territory annexed to the City shall be a part of the City for all purposes, and the property situated therein shall bear its pro rata part of the taxes levied by the City as provided by the State law. The inhabitants of the annexed territory shall be entitled to all rights and privileges of all citizens and shall be bound by the acts, ordinances, and resolutions of the City.

CHAPTER TWO

FORM OF GOVERNMENT AND POWERS

SECTION 2.01 FORM OF GOVERNMENT

Municipal Government for the City of Heath shall be a “Council-Manager” Government. Except as otherwise provided by this Charter and the Constitution and laws of the State of Texas, all powers conferred on the City shall be exercised by a City Council to be composed of a Mayor and six (6) Council Members in places 1, 2, 3, 4, 5 and 6 elected by qualified voters for a term of two (2) years.

The Mayor and City Council Members shall be elected at large. The Mayor and Council places three (3) and five (5) shall be elected in even numbered years and Council places one (1), two (2), four (4) and six (6) shall be elected in odd numbered years.”

SECTION 2.02 POWERS OF THE CITY

The City of Heath shall be a Home Rule City under the Constitution and laws of the State of Texas and shall have all powers, functions, rights, privileges and immunities of every kind and nature granted to a Home Rule City under Article XI, Section 5, of the Constitution of the State of Texas, known as the Home Rule Amendment, and all other laws passed by the Legislature of the State of Texas relating thereto, or which may hereafter be passed by said Legislature in relation to such matters including, but not limited to the following powers:

- (1) To assess, levy, and collect taxes for general and special purposes on all lawful subjects of taxation.
- (2) To fix and regulate the rates of gas, water, electricity, and other utilities, and to regulate and fix the fares, tolls, and charges of local telephones and exchanges, public carriers and motor vehicles where they are transporting passengers, freight or baggage, and generally to fix and regulate the rates, tolls, or charges and the kind of service of all public utilities of every kind, unless otherwise required by law.
- (3) To sue and be sued, to contract and be contracted with, to buy, sell, lease, mortgage, hold, manage and control such property, as its interests require.
- (4) To make and enforce all police, health, sanitary and other regulations, and pass such ordinances as may be expedient for maintaining and promoting the peace, good government and welfare of the City, for the performance of the functions thereof, for the order and security of its inhabitants, and to protect the peace, lives, health, and property of such inhabitants and to provide suitable penalties for the violation of any ordinance enacted by the City.
- (5) To borrow money on the faith and credit of the City by the issue or sale of bonds, warrants, certificates of obligation, notes or other securities authorized by the laws of the State of Texas.
- (6) To acquire, by purchase, gift or devise, or by the exercise of the right of condemnation, and own, in fee simple or otherwise, either public or private property located inside or outside of the corporate limits of the City. Such property may be utilized for the extension, improvement and enlargement of its waterworks system, including riparian rights, water

supply reservoirs, stand pipes, watersheds, dams, the laying, building, maintenance and construction of water mains, rights-of-way in connection therewith, and the laying, erection, establishment or maintenance of any necessary appurtenance or facilities which will furnish to the inhabitants of the City an abundant supply of wholesome water; for sewerage plants and systems; rights-of-way for water and sewer lines; for parks, playgrounds, fire stations, police stations, incinerators or other garbage disposal plants; for streets, boulevards, and trails or other public ways; for municipal buildings, garages and parking facilities, for any purpose hereinabove named; for the straightening or improving of the channel of any stream, branch or drain or for any other municipal purpose.

- (7) To acquire, by eminent domain and own in fee simple, the real estate, fixtures, and systems of a public utility providing retail water or wastewater service, or both, inside or outside of the City's corporate limits as the corporate limits exist upon adoption of the charter or may change. In the ordinance declaring the necessity of acquiring the utility system, the City Council shall make adequate provision for appropriating the funds for the acquisition and make reasonable assurance for the compensation of the utility's going concern value, franchises, easements, contracts, and good will of customers. Unless otherwise provided by ordinance or statute, the eminent domain procedure as set forth in Chapter 21 of the Texas Property Code as applied to acquisition of land shall apply to the acquisition of the utility and the method of determining value and damages to the utility shall be as stated in the Texas Water Code, Section 13.255, as amended.
- (8) To institute and prosecute suits without giving security therefore, and appeal from judgments of the courts without giving supersedeas or costs bonds, other bonds or security whatever.
- (9) To have the exclusive right to erect, own, maintain and operate a waterworks and sanitary system for the use of said City and its inhabitants and to regulate the same, including the right to prescribe rates for water and sanitary sewer services, and to make such rules and regulations as the City Council may deem expedient. Such rules and regulations may include the power to extend water and sanitary sewer lines and assess a portion or all of the cost therefore and affix a lien against the property and the owner thereof, and do anything whatsoever necessary to operate and maintain said waterworks and to compel the owner of all property and the agents of such owner to pay all charges for water and sanitary sewer services furnished.
- (10) To acquire property within or without its boundaries or within boundaries of other municipalities for any public purpose, in fee simple or lesser interest or estate, by purchase, gift, devise, lease or condemnation when necessary or desirable to carry out any of the powers conferred upon it by this Charter or by the Constitution and the laws of the State of Texas.
- (11) To lay out, open, close, establish, alter, widen, lower, extend, grade, supervise, maintain, and improve streets, alleys, trails and parks, and to regulate the use thereof and to require removal of all obstructions or encroachments of every nature and character upon said public streets, sidewalks or other public property.
- (12) To create offices, determine the method for selection of officers, and prescribe the qualifications, duties, and tenure of office for officers.
- (13) To appropriate the money of the City for all lawful purposes to create, provide for, construct, regulate and maintain public works, public improvements of any nature, economic development and to furnish municipal services as may be provided by resolution or ordinance of the City Council, or as required by law.

- (14) To alter the City's boundaries by annexing or disannexing territory in accordance with those provisions set forth in Section 1.03, "Annexations and Disannexations," of this Charter which is incorporated fully herein by reference.

SECTION 2.03 POWERS: GENERAL

The enumeration of particular powers in the Charter shall not be deemed to be exclusive and such powers shall be construed liberally in favor of the City. In addition to the powers enumerated or implied herein, it is intended that the City shall have and may exercise all powers under the Constitution and laws of the State of Texas, as fully as though they were specifically enumerated by this Charter.

All powers of the City shall be exercised in the manner prescribed by this Charter, or if the manner is not detailed herein, then in such manner as may be set forth by ordinance, the State constitution or by State law.

CHAPTER THREE

CITY COUNCIL

SECTION 3.01 MAYOR

The person elected Mayor shall be the presiding officer of all meetings of the City Council. He shall be the official head of the City government. The Mayor shall have the right to vote on all matters brought before the City Council in the same manner as the members of the City Council.

SECTION 3.02 QUALIFICATIONS

Each candidate for election to the City Council or office of Mayor shall be a qualified voter of the City, shall be not less than twenty-one (21) years of age, shall have resided in the City not less than twelve (12) months immediately preceding Election Day and shall meet the requirements of the Texas Election Code. Each Council Member and the Mayor must continually reside within the City during his term of office, and any removal of his residence from the City during his term of office shall constitute a vacation of his office, and such vacancy shall be filled as provided in Section 3.04.

SECTION 3.03 COMPENSATION

The Mayor and members of the City Council shall serve without compensation, except that the Mayor and Council Members shall be entitled to reimbursement of all necessary and reasonable expenses incurred in the performance of their official Mayoral and City Council duties, upon approval of such expenses by the City Council.

SECTION 3.04 VACANCIES IN THE CITY COUNCIL; FILLING OF VACANCIES

- A. The office of a Council Member or office of the Mayor shall become vacant upon his death, resignation, or removal from office in any manner authorized by law, removal of his residence from the City of Heath or forfeiture of his office.
- B. A Council Member or the Mayor shall forfeit his office if he lacks at any time during his term of office any qualification for the office prescribed by this Charter or by State law, or if he violates any express prohibition of this section or any other provision of this Charter, or if he fails to attend three (3) consecutive regular City Council meetings without being excused by the City Council. The City Council shall be the final judge in matters involving forfeiture of office by a Council Member or the Mayor.
- C. If for any reason a single vacancy exists on the City Council, a majority of the remaining members, including the Mayor, may fill the vacancy by appointment unless an election to fill the vacancy is required by Article XI, Section 11, of the Texas Constitution. The person appointed to fill the vacancy serves until the next regular municipal election. In lieu of appointing a person to fill a vacancy on the City Council, a special election may be ordered to elect a person to fill the vacancy. If two or more vacancies on the City Council exist at the same time, a special election shall be ordered to fill the vacancies. If a vacancy exists in any other municipal office, the Mayor or acting Mayor shall appoint a person to fill the vacancy, subject to confirmation by the City Council.

SECTION 3.05 MEETINGS: QUORUM

Regular meetings of the City Council shall be held at the City Hall at such times as may be prescribed from time to time by resolution of the City Council. Special meetings shall be called by the City Secretary. Notice of any regular or special meetings of the City Council shall state the subject to be considered at the meeting. All official meetings of the City Council and of all committees thereof shall be open to the public as provided by State law. A quorum shall consist of four (4) City Council Members or three (3) City Council Members, and the Mayor. The City Council shall determine its own rules of procedure, may punish its members for misconduct and may compel the attendance of absent members.

SECTION 3.06 MAYOR PRO TEM

The City Council shall elect one of its members as Mayor Pro Tem for a one (1) year term. The Mayor Pro Tem shall perform the duties of Mayor in the case of the absence or inability of the Mayor to perform the duties of his office, and shall, during that time, be vested with all the powers, belonging to the Mayor. In the absence of the Mayor and the Mayor Pro Tem, the Council Member of greatest seniority shall preside over the meeting.

CHAPTER FOUR

CITY MANAGER

SECTION 4.01 AUTHORITY, APPOINTMENT, REMOVAL AND COMPENSATION OF THE CITY MANAGER

The City Manager shall be the chief administrative and executive officer of the City. The City Manager is appointed by and serves at the will of the City Council, by a majority vote of the entire Council. The City Manager shall be appointed solely on the basis of his administrative ability, experience, and training. The City Manager shall administer the business of the City and the City Council shall ensure that such administration is efficient. The City Council may by ordinance delegate to the City Manager any additional powers or duties it considers proper for the efficient administration of City affairs. The City Manager shall execute a bond conditioned that he will faithfully perform the duties of City Manager. The amount of such bond shall be as prescribed by ordinance adopted by the City Council. The City Council shall be authorized to enter into a Contract of Employment with the City Manager and to prescribe such compensation therein as it may fix. Action, by majority vote of the entire City Council, in suspending or removing the City Manager shall be final, it being the intention of this Charter to vest all authority and responsibility for such suspension or removal in the City Council.

SECTION 4.02 DIRECTION AND SUPERVISION OF EMPLOYEES, NON-INTERFERENCE BY COUNCIL, APPOINTMENTS AND REMOVALS OF DEPARTMENT HEADS

Neither the Mayor nor any City Council member shall in any manner dictate the appointment or removal of any City administrative officer or employee whom the City Manager or any or his subordinates are empowered to appoint; but the Mayor and City Council members may express their views and fully and freely discuss with the City Manager anything pertaining to appointment and removal of such officers and employees.

Except for the purpose of inquiries and for investigations, the Mayor or City Council members shall deal with City officers and employees who are subject to the direction and supervision of the City Manager solely through the City Manager, and neither the Mayor nor City Council members shall give orders to such officers or employees either publicly or privately.

If the City Manager is temporarily unable to perform appointed duties, the City Council or City Manager may designate an alternate.

SECTION 4.03 SPECIFIC POWERS AND DUTIES OF THE CITY MANAGER

The City Manager shall be responsible to the City Council for the proper administration of the affairs of the City and shall have the power and duty to:

- (1) Exercise control over all departments and subdivisions thereof created by this Charter or by ordinance.
- (2) Prepare and recommend items for inclusion in the official agenda of all City Council meetings and meetings of the Boards and Commissions as established by this Charter or ordinance.

- (3) Prepare and submit to the City Council the annual budget and capital program, and administer the budget as adopted by the City Council.
- (4) Be responsible for the proper administration of all City affairs entrusted to his authority.
- (5) See that all terms and conditions imposed in favor of the City or its inhabitants in any public utility franchise are faithfully kept and performed.
- (6) See that all laws and ordinances are enforced.
- (7) Keep the City Council at all time fully advised as to the financial condition and needs of the City, and prepare and submit to the City Council an annual report on the finances and administrative activities of the City, including the report of the annual audit required by State law.
- (8) Appoint, suspend, and or remove employees not otherwise provided for in this Charter.
- (9) Attend all City Council meetings and take part in the discussion of any City business.
- (10) Recommend to the City Council for adoption such measures as he deems necessary or expedient; to execute deeds, deeds of trust, easements, releases, contracts, and all other legal instruments on behalf of the City when authorized by ordinance or resolution of the City Council, and approved as to form by the City Attorney.
- (11) Perform such other duties as are specified in this Charter or as required by the City Council by ordinance or resolution, not inconsistent with this Charter.

CHAPTER FIVE

CITY SECRETARY

SECTION 5.01 APPOINTMENT, REMOVAL AND COMPENSATION

The City Manager shall appoint the City Secretary, subject to confirmation by the City Council. The City Secretary shall receive such compensation as shall be fixed by the City Council. If the City Secretary is temporarily unable to perform appointed duties, the City Secretary or City Manager may designate an alternate.

SECTION 5.02 DUTIES OF THE CITY SECRETARY

The City Secretary shall:

- (1) Attend all meetings of the City Council and keep accurate records of all actions taken by the council.
- (2) Maintain the official records and files of the City.
- (3) Administer oaths required by law.
- (4) Attest contracts, assessment certificates, ordinances, resolutions, and other legal instruments when executed by the authorized officers of the City.
- (5) Serve as the election official for all City elections.
- (6) Hold and maintain the City seal and affix it to all appropriate documents as required.
- (7) Perform such other duties as may be required by the City Manager, this Charter, or the laws of the State of Texas.

CHAPTER SIX

MUNICIPAL COURT

SECTION 6.01 CREATION

The City Council shall, by ordinance, create and provide for a Municipal Court to be known as the Municipal Court of the City of Heath, Texas, and may appoint one or more Municipal Judges to serve in such Court. The Court shall have all the powers and duties as are now or as may hereafter be prescribed by the laws of the State of Texas in connection with the trial of misdemeanor offenses within its jurisdiction.

SECTION 6.02 MUNICIPAL COURT JUDGE

The Judge of the Municipal Court, and all alternates, shall be competent, duly qualified, and licensed attorneys in the State of Texas. The Judge of the Municipal Court shall be appointed to a term of two (2) years and may be appointed to additional and consecutive terms at the will and pleasure of the City Council. The Judge shall receive such compensation as may be determined by the City Council. This compensation shall be fixed and commensurate with the duties performed by the Judge.

SECTION 6.03 CLERK OF THE COURT

There shall be a Clerk of the Municipal Court appointed by the City Manager. The Clerk of the Court and any Deputies appointed by the City Manager shall have the power to administer oaths and affidavits, make certificates, affix the seal of said court as necessary and as required by law, and in general do and perform any and all acts usual and necessary to be performed by clerks and deputy clerks of municipal courts of the State of Texas.

SECTION 6.04 JURISDICTION, POWER AND FINES

The Municipal Court shall have jurisdiction:

- (1) Over the forfeiture and collection of bonds given in proceedings therein, to order the forfeiture of cash appearance bonds upon the failure of the defendant to appear, and to accept the same in lieu of a fine.
- (2) Concurrent with the appropriate State court, of all criminal cases arising under the criminal laws of the State of Texas, where the offense is committed within the City limits and the penalty does not exceed that which is established for municipal courts by State law.
- (3) Over all criminal cases arising under the ordinances of the City within the City limits and outside the City limits to the extent authorized by State law.
- (4) To punish for contempt, admit to bail, and forfeit bonds under such circumstances as provided by law.
- (5) To enforce all process of the courts in accordance with State law and City ordinances, punish witnesses for failing to obey subpoenas, and compel their attendance by process of attachment.

SECTION 6.05 COSTS, FINES AND PENALTIES

All costs, fines, and penalties imposed by the municipal court shall be paid into the City treasury for the use and benefit of the City, as may be consistent with present and future State laws.

CHAPTER SEVEN

CITY ATTORNEY

SECTION 7.01 APPOINTMENT

The City Council shall appoint a competent licensed attorney of recognized ability and he shall be known as the City Attorney.

SECTION 7.02 COMPENSATION

The City Attorney shall receive for his services such compensation as may be fixed by the City Council at the time of his appointment, and from time to time by appropriate resolution.

SECTION 7.03 DUTIES OF CITY ATTORNEY

The City Attorney shall be the legal adviser of, and attorney for, all of the offices and departments of the City, and shall represent the City in all litigation and legal proceedings. The City Council may retain special counsel at any time it deems appropriate and necessary. He shall review and approve as to form all documents, contracts, resolutions, ordinances, and legal instruments in which the City may have an interest. The City Attorney shall perform other duties prescribed by the Charter, by ordinance or by resolution of the City Council.

CHAPTER EIGHT

CITY DEPARTMENTS/FISCAL ADMINISTRATION

SECTION 8.01 ADMINISTRATIVE DEPARTMENTS

There shall be such administrative departments as are established by this Charter and such other administrative departments as may be deemed necessary by the Council and as are established by ordinance, all of which shall be under the control and direction of the City Manager.

SECTION 8.02 TAX ADMINISTRATION

- A. There shall be a Department of Taxation to assess and collect taxes, the Director of which shall be the City Tax Assessor and Collector who shall be appointed by the City Council. The Tax Assessor and Collector shall provide a bond with such sureties and in such amount as the City Council may require. The premiums on such bond shall be paid by the City. The City Council may provide for such services by contract.
- B. The City Council shall have the power, and is hereby authorized, to levy, assess, and collect annual taxes not to exceed the maximum limit set by the Constitution and laws of the State of Texas, as they now exist or as they may be amended, on each one hundred dollars (\$100.00) assessed valuation of all property having a location within the corporate limits of the City and not exempt from taxation by the Constitution and laws of the State of Texas.
- C. All taxes due the City shall be payable at the office of the City Assessor and Collector and may be paid at any time after the tax rolls for the year have been completed and approved, which completion and approval shall be not later than October 1st. Taxes shall be paid before February 1st of each year succeeding the year for which the taxes are levied. All such taxes not paid prior to such date shall be deemed delinquent and shall be subject to such penalty and interest as may be provided by law. Failure to levy and assess taxes through omission in preparation of the approved tax rolls shall not relieve the person, firm or corporation so omitted from the obligation to pay such current or past due taxes shown to be payable by recheck of the rolls and receipts for the years in question, unless otherwise provided by law.
- D. All property having its location in the City on January 1st of each year shall stand charged with a lien in favor of the City from said date for the taxes due thereon. The lien provided hereby shall be superior to all other liens except other tax liens, regardless of when such other liens were created. All persons purchasing any of said property on or after January 1st in any year shall take the property subject to the lien herein provided. In addition to the lien herein provided on January 1st of any year, the owner of property subject to taxation by the City shall be personally liable for the taxes due thereon for such year. The City shall have the power to sue for and recover personal judgment for taxes without foreclosure, or to foreclose its lien or liens, or to recover both personal judgment and foreclosure. In such suit where it appears that the description of any property in the City assessment rolls is insufficient to identify such property, the City shall have the right to plead a good description of the property to be assessed, to prove the same, and to have its judgment foreclosing the tax lien and/or for personal judgment against the owner for such taxes as such ownership and property appears on the certified tax roll.

SECTION 8.03 FISCAL YEAR

The fiscal year of the City shall begin on October 1st and end on the following September 30th of each year, but the fiscal year may be changed by the Council by ordinance.

SECTION 8.04 ANNUAL BUDGET

It shall be the duty of the City Manager to submit an annual budget not later than thirty (30) days prior to the end of the current fiscal year to the Council for its review, consideration and revision. The Council shall call a public hearing or hearings on the budget. The Council may adopt a budget with or without amendments. The Council may increase or decrease amounts or programs and may delete any programs or amounts except expenditures required by law or for a debt service, provided that no amendment shall increase the authorized expenditures to an amount greater than the total of the estimated income for the current fiscal year plus funds available from prior years. At the close of each fiscal year, the unencumbered balance of each appropriation shall revert to the fund from which it was appropriated and shall be subject to future appropriations, but appropriations may be made in furtherance of improvements or other objects of work of the City that will not be completed within the current year.

SECTION 8.05 FAILURE TO ADOPT ANNUAL BUDGET

If the Council fails to adopt the budget by September 30th, the amounts appropriated for the current fiscal year shall be deemed adopted for the ensuing fiscal year on a month to month basis with all items in it prorated accordingly until such time as the Council adopts a budget for the ensuing fiscal year. The levy of property tax will be set to equal the total current fiscal year tax receipts, unless the ensuing fiscal year budget is approved by September 30th of the current fiscal year.

SECTION 8.06 BONDS AND OTHER EVIDENCES OF INDEBTEDNESS

The City shall have the power to borrow money on the credit of the City and to issue general obligation bonds and other evidences of indebtedness for permanent public improvements or for any other public purpose not prohibited by the Constitution and laws of the State of Texas and to issue refunding bonds to refund outstanding bonds and other evidences of indebtedness of the City previously issued. All such bonds shall be issued in conformity with the laws of the State of Texas.

The City shall further have the power to borrow money for the purpose of constructing, acquiring, improving, extending or repairing of public utilities, recreational facilities or any other self-liquidating municipal function not prohibited by the Constitution and laws of the State of Texas, and to issue revenue bonds to evidence the obligations created thereby. Such bonds shall be a charge upon and payable from the properties, or interest therein pledged, or the income there from, or both. The holders of the revenue bonds of the City shall not have the right to demand payment thereof out of monies raised or to be raised by taxation. All such bonds shall be issued in conformity with the laws of the State of Texas. The City shall have the power to borrow money for public improvements in any other manner provided by law, including certificates of obligation as authorized by Chapter 271 of the Texas Local Government Code. All bonds and evidences of indebtedness of the City having been approved by the Attorney General and registered by the Comptroller of Public Accounts shall thereafter be incontestable in any court or other forum for any reason, and shall be valid and binding obligations of the City in accordance with their terms for all purposes.

CHAPTER NINE

BOARDS AND COMMISSIONS

SECTION 9.01 PLANNING AND ZONING COMMISSION

The City Council shall create a Planning and Zoning Commission of the City of Heath and shall appoint seven (7) members, each of whom shall be a citizen of the City of Heath. Members shall be appointed for two (2) year staggered terms. Such appointees shall serve without compensation and may not hold any elective office of the State of Texas or any other political subdivision thereof during their terms. A vacancy in an un-expired term shall be filled by the City Council for the remainder of the term. The majority of the appointed members shall constitute a quorum, and decisions may only be made with the affirmative vote of a majority of those members present and voting. The Commission shall select from any of its members a Chairperson and Vice Chairperson.

SECTION 9.02 BOARD OF ADJUSTMENT

The City Council shall appoint a Board of Adjustment comprised of five (5) regular members and four (4) alternate members for two (2) year staggered terms, all of whom shall be citizens of the City of Heath. Such appointees shall serve without compensation. The Board of Adjustment shall be governed by Chapter 211, Texas Local Government Code, and have such additional duties as may be prescribed by ordinance or applicable State law. A vacancy on the board shall be filled by the City Council for the un-expired term. The Board shall select from any of its members a Chairperson and Vice Chairperson.

SECTION 9.03 PARK BOARD

The City Council may appoint a Park Board that shall be composed of not more than seven (7) members, each of whom shall be a citizen of the City of Heath. Members shall be appointed for two (2) year staggered terms. Such appointees shall serve without compensation. A vacancy in an un-expired term shall be filled by the City Council for the remainder of the term. The majority of the appointed members shall constitute a quorum and decisions may only be made by the affirmative vote of the majority of those members present and voting. The Park Board shall select from any of its members a Chairperson and Vice Chairperson.

The Park Board shall be charged with responsibility for oversight of all parks and the trail system within the City of Heath. The Park Board may sponsor such other activities for the betterment of civic life within the City as it shall deem appropriate, and shall have such other duties and responsibilities as may be assigned to it by the City Council. The Park Board may make recommendations to the City Council for improvements to and expansions of existing parks and locations for future parks.

SECTION 9.04 OTHER BOARDS AND COMMISSIONS

The City Council shall have the power and is hereby authorized to create, abolish, establish, and appoint such other boards, commissions and committees, as it deems necessary to carry out the functions of the City, and to prescribe the purpose, composition, functions, and tenure of each board, commission, or committee.

CHAPTER TEN

ORDINANCES

SECTION 10.01 PROCEDURE FOR PASSING ORDINANCES AND RESOLUTIONS

The City Council shall evidence its official actions by written ordinances, resolutions, or oral motions. The style of all ordinances shall be: "Be it ordained by the City Council of the City of Heath, Texas" and the style of all resolutions shall be "Be it resolved by the City Council of the City of Heath, Texas." Each proposed ordinance shall not be amended or repealed except by adoption of another ordinance. All ordinances and resolutions passed by the City Council shall become effective immediately from and after passage except where publication of a caption is required or where the ordinance, State law, or other provisions of this Charter provide otherwise, in which case the effective date shall be as prescribed in the ordinance.

SECTION 10.02 PUBLICATION OF ORDINANCES

The descriptive caption or title of each ordinance containing a penalty shall be published at least once in the official newspaper of the City, unless otherwise provided by State law or this Charter.

SECTION 10.03 CODE OF ORDINANCES

The City Council shall have the power to cause the ordinances of the City to be printed, in code form, and shall have the same arranged and digested as often as the Council may deem advisable, provided that failure to print the ordinances as herein provided shall not affect the validity of the same.

CHAPTER ELEVEN

ELECTIONS

SECTION 11.01 CITY ELECTIONS

Regular City elections shall be held on the first Saturday of May of each year or as otherwise required by the Texas Election Code, at which time members of the City Council, including the Mayor, shall be elected to fill those positions which become vacant that year. The City Council shall fix the hours, place and procedures for holding regular and special elections. Elections shall be held in compliance with applicable State law.

SECTION 11.02 SPECIAL ELECTIONS

The City Council by ordinance or resolution, may call such special elections as are authorized by State law or this Charter, fix the time and place of holding the same, and provide all means for holding such special elections. Every special election shall be called and held as nearly as practicable, according to the provisions governing regular elections.

SECTION 11.03 REGULATION OF ELECTIONS

All City elections shall be governed by the Constitution of the State of Texas, general laws of the State, this Charter, and by ordinance of the City regulating the holding of municipal elections. The City Council shall appoint the election judges and other election officials and shall provide for the compensation of all election officials in City elections and for all other expenses in holding said elections.

SECTION 11.04 CANDIDATES; FILING FOR OFFICE

Any qualified person as prescribed by Section 3.02 of this Charter may make application to have his name placed on the official ballot for the position of Council Member or Mayor. The application shall be made in accordance with all applicable laws and shall state that the candidate agrees to serve if qualified and elected. Each candidate shall execute such oath and other official form or affidavit as required by the Texas Election Code. The City Secretary shall review the application and notify the candidate whether or not the application satisfies the requirements of this Charter and the Texas Election Code. If an application is insufficient, the City Secretary shall return it immediately to the candidate with a statement of such insufficiency. The candidate may file a new application within the regular time for filing applications. The City Secretary shall keep on file all applications found sufficient at least until the expiration of the term of office for which such candidates filed.

SECTION 11.05 OFFICIAL BALLOT

The order of the names of the candidates on the ballot shall be determined by the City Secretary in accordance with the procedures set out in the Texas Election Code. The name of each candidate seeking an elective office, except those who have withdrawn, died, or become ineligible prior to the time permitted for withdrawal, shall be printed on the official ballot in the name designated by the candidate in accordance with the Texas Election Code. Early voting shall be conducted pursuant to the Texas Election Code.

SECTION 11.06 CANVASSING AND ELECTION RESULTS

Returns of every municipal election shall be delivered forthwith by the election judges to the City Secretary, with a copy of the returns being sent to the Mayor. The City Council shall canvass the returns, investigate the qualifications of the candidates and declare the official results of the election not less than two (2) days nor more than six (6) days after the date of the election, or as may be otherwise provided by the Texas Election Code.

CHAPTER TWELVE

INITIATIVE, REFERENDUM AND RECALL

SECTION 12.01 POWER OF INITIATIVE

The people of the City reserve the power to direct legislation by initiative and, in the exercise of such power, may propose any ordinance not in conflict with this Charter or State law, except an ordinance appropriating money or authorizing the levy of taxes, an ordinance amending an ordinance appropriating money or levying taxes, or an ordinance repealing an ordinance appropriating money or levying taxes. Any initiated ordinance may be submitted by a petition signed by registered voters of the City equal in number to at least twenty (20) percent of the number of registered voters residing in the City at the time of the last regular City election.

SECTION 12.02 POWER OF REFERENDUM

The people of the City reserve the power to approve or reject at the polls any legislation enacted by the City Council, which is subject to the initiative process under this Charter. Within thirty (30) days after the final adoption or publication, whichever date is later, of any ordinance which is subject to referendum, a petition, signed by registered voters of the City equal in number to at least twenty (20) percent of the number of registered voters residing in the City at the time of the last regular City election, may be filed with the City Secretary requesting that any such ordinance be either repealed or submitted to a vote of the people. When such a petition has been certified as sufficient by the City Secretary, the ordinance so specified in the petition shall not go into effect, or further action shall be suspended if it shall have gone into effect, until and unless it is approved by the voters as herein provided.

SECTION 12.03 FORM OF PETITION FOR INITIATIVE AND REFERENDUM

All petition papers circulated for the purpose of an initiative or referendum shall be uniform in size and style. Initiative petition papers shall contain the full text of the proposed ordinance. The signatures to initiative and referendum petitions need not all be appended to one paper, but to each separate paper there shall be attached a statement of the circulator that he personally circulated the foregoing paper, that all the signatures appended thereto were made in his presence and that he believes them to be the genuine signatures of the persons whose names they purport to be. Each signer of any such petition shall sign his name in ink, shall indicate after his name his place of residence by street, street number and zip code, shall indicate his voter registration certificate number and shall record the date of signature.

SECTION 12.04 FILING, EXAMINATION AND CERTIFICATION OF PETITIONS

All papers comprising a petition for initiative or referendum shall be assembled and filed with the City Secretary as one instrument. Within thirty (30) days after the petition is filed, the City Secretary shall determine whether each paper of the petition has a proper statement of the circulator and whether the petition has been signed by a sufficient number of qualified electors and shall hold any petition paper entirely invalid which does not have attached thereto the statement signed by the circulator thereof. The City Secretary shall certify the result of this examination to the City Council at its next regular meeting. If the City Secretary shall certify that the petition is insufficient, the certificate shall specify the particulars in which it is defective and shall at once notify in writing the person filing the petition of this finding. A petition may be amended at any time within ten (10) days after a notice of insufficiency has been sent by the City Secretary,

by filing a supplementary petition. In such event, the same procedures shall then be followed by the City Secretary and City Council as in the case of the original petition for the same purpose.

SECTION 12.05 COUNCIL CONSIDERATION AND SUBMISSION TO VOTERS

When the City Council receives an authorized initiative petition, certified by the City Secretary to be sufficient, the City Council shall either (a) pass the initiated ordinance without amendment within twenty (20) days after the date of the certification to the City Council; or (b) submit the initiated ordinance without amendment to a vote of the qualified voters of the City at a regular or special election to be held on a uniform election date of the State of Texas, but not less than ninety (90) days from the date that the City Secretary certifies the submission to the City Council.

When the City Council receives an authorized referendum petition, certified by the City Secretary to be sufficient, the City Council shall reconsider the referred ordinance. If, upon such reconsideration, such ordinance is not repealed, it shall be submitted to the voters of the City at a regular or special election to be held on a uniform election date of the State of Texas, but not less than ninety (90) days from the date that the City Secretary certifies the submission to the City Council.

Special elections on initiated or referred ordinances shall not be held more frequently than once each six (6) months, and no ordinance on the same subject as an initiated ordinance which has been defeated at any election may be initiated by the voters within two (2) years from the date of such election.

SECTION 12.06 BALLOT FORM AND RESULTS OF ELECTION

Ordinances submitted to the electors in accordance with the initiative and referendum provisions of this Charter shall be submitted by ballot title, which shall contain a clear, concise statement, without argument, of the substance of such ordinance. The ballot used shall have below the ballot title the following proposition, one above the other in the order indicated: "FOR THE ORDINANCE" and "AGAINST THE ORDINANCE." Any number of ordinances may be voted on at the same election and may be submitted on the same ballot.

If a majority of electors voting on a proposed initiated ordinance shall vote in favor thereof, it shall thereupon become an ordinance of the City. A referred ordinance which is not approved by a majority of the electors voting thereon shall thereupon be deemed repealed. If conflicting ordinances are approved by the electors at the same election, the one receiving the greatest number of affirmative votes shall prevail to the extent of such conflict.

SECTION 12.07 POWER OF RECALL

The people of the City reserve the power to recall the Mayor or any other member of the City Council and may exercise such power by filing with the City Secretary a petition, signed by qualified voters of the City equal in number to at least thirty (30) percent of the number of registered voters residing in the City at the time of the last regular municipal election of the City demanding the removal of the Mayor or other member of the City Council. The petition shall be signed and verified in the manner required for an initiative petition, shall contain a general statement of the grounds upon which the removal is sought and one of the signers of each petition paper shall make an affidavit that the statements made therein are true.

SECTION 12.08 RECALL ELECTION

All papers comprising a recall petition shall be assembled and filed with the City Secretary. Within thirty (30) days after the petition is filed, the City Secretary shall determine its sufficiency and, if found to be sufficient, shall certify this fact to the City Council at its next regular meeting. If a recall petition is found to be insufficient, it may be amended within ten (10) days after notice of such insufficiency by the City Secretary, by filing a supplementary petition. In that event, the same procedures shall then be followed by the City Secretary and the City Council as in the case of an original petition. The finding of insufficiency of a recall petition shall not prejudice the filing of a new petition for the same purpose.

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

If the City Council Member whose removal is sought does not resign, the City Council shall order a recall election and fix a date for such election, the date of which shall not be less than ninety (90) days from the date the petition was submitted to the City Council or from the date of the public hearing if one was held, whichever is later, or at the earliest date thereafter permitted by the Texas Election Code.

SECTION 12.09 RECALL BALLOT

Ballots used in recall elections shall read as follows: "SHALL (name of person or persons) BE REMOVED FROM THE CITY COUNCIL BY RECALL?" Below such question there shall be printed the following as to each person named:

"FOR THE REMOVAL OF (name of person.)"

"AGAINST THE REMOVAL OF (name of person.)"

SECTION 12.10 RESULTS OF A RECALL ELECTION

If a majority of the votes cast at a recall election is against removal of a Council Member named on the ballot, that member shall continue in office. If a majority of the votes cast at such election are for the removal of the City Council Member named on the ballot, the City Council shall immediately declare the office vacant and such vacancy shall be filled in accordance with the provisions of this Charter. A City Council Member thus removed shall not be a candidate to succeed himself in an election called to fill the vacancy created.

SECTION 12.11 LIMITATIONS ON RECALL

No recall petition shall be filed against the Mayor or any other Council Member within six (6) months after he first takes office, or within six (6) months after an election for his recall, nor within six (6) months of the end of his term.

CHAPTER THIRTEEN

FRANCHISES

SECTION 13.01 POWER TO GRANT FRANCHISE

The City Council shall have the power, subject to the provisions hereof, by ordinance to confer upon any person, firm, corporation or other legal entity the franchise or right to use the public property of the City for the purpose of furnishing to the public any general public service or benefit, including, but not limited to, heat, light, power, telephone service, transportation, or other telecommunication providers for compensation or hire. The City shall have the power by ordinance to grant, renew, and extend all franchises of all public utilities of every character operating within the City. No such franchise shall be granted until after a public hearing shall have been called and held and until such ordinance shall have been passed and accepted by the franchisee.

SECTION 13.02 TRANSFER OF FRANCHISE

No public utility or other franchise shall be transferable except with the approval of the City Council expressed by ordinance.

SECTION 13.03 OWNERSHIP, USE AND CONTROL OF STREETS

No franchise or easement involving the right to use the streets, alleys, highways, parks, and public ways shall be valid unless granted in compliance with the terms of this chapter. No granting of a franchise by ordinance pursuant to this chapter shall convey any ownership or interest in any property of the City other than the right to use the public property for purposes of such franchisee's operations as expressed in the ordinance granting such franchise.

SECTION 13.04 RIGHT OF REGULATION

In granting, amending, renewing and extending public service and utility franchises, the City shall retain the right to:

- (1) Repeal such franchise by ordinance for failure to comply with the terms thereof, such power to be exercised only after due notice and hearing;
- (2) Require an adequate extension of plant and service as is necessary to provide adequate service to the public and require maintenance of the plant and fixtures at the highest reasonable standard of efficiency, based upon applicable state and federal regulations;
- (3) Establish reasonable standards of service and quality of products and prevent unjust discrimination in service or rates;
- (4) Impose regulations to ensure safe, efficient and continuous service to the public. The franchise holder in opening and refilling all earth openings shall re-lay the pavement and do all other work necessary to complete restoration of streets, sidewalks or grounds to a condition equally as good as or better than when disturbed; and
- (5) Upon notice to franchisee and a reasonable opportunity to be heard, to regulate, locate, or prohibit the erection of any and all poles, wires, or other utility equipment, conveyance, or structure, on the streets, alleys and public places of said City, and to cause the same to be changed, removed, altered, increased, diminished, placed underground, or be supported by poles of such material, kind, quality and class as may be determined by the City Council

whether the same be telegraph, telephone, electric, cable television, or otherwise, and to enforce the provisions hereof by appropriate action in any court of competent jurisdiction.

SECTION 13.05 COMPENSATION FOR FRANCHISE

All persons, corporations, or association of persons, to whom a franchise or privilege may hereafter be granted shall pay to the City for such privilege such compensation as may be fixed by the City Council in the grant of such franchise or privilege. Such compensation as fixed by contract or provided by State law(s) shall become due and payable at such time as the City Council shall fix in the granting of such franchise or privilege. The failure of any franchisee to pay said compensation when due may result in forfeiture of the franchise or privilege.

SECTION 13.06 COUNCIL TO FIX AND REGULATE CHARGES, FARES OR RATES

If applicable State law so provides, the City Council shall determine, fix, and regulate the charges, fares or rates of any person, firm, or corporation enjoying a franchise or privilege granted under the provisions of this chapter, and shall prescribe the kind of service to be furnished to the public by such person, firm, or corporation, and the manner in which it shall be rendered and may from time to time alter or change such rules, regulations, and compensation after reasonable notice and public hearing. The rates, charges and fares so fixed shall at all times be reasonable and permit the franchisee a reasonable opportunity to earn a reasonable return on the franchisee's invested capital used and useful in providing service to the public in excess of its reasonable and necessary operating expenses. In this connection, the City Council may require any utility or franchise holder to furnish such financial reports and information as the City Council may request including reports of actual operating costs and the financial conditions of its operations within the City. The City Council may employ, at the expense of such franchisee, necessary outside experts to examine and audit the accounts and records of the franchisee to determine the reasonableness of such charges, fares, and rates.

CHAPTER FOURTEEN

GENERAL AND TRANSITIONAL PROVISIONS

SECTION 14.01 EFFECT ON EXISTING LAWS

All City ordinances, resolutions, rules, and regulations in force at the time of the adoption of this Charter and not in conflict with it shall remain in force until altered, amended or repealed by the City Council. All rights of the City under existing franchises and contracts are preserved in full force and effect. All taxes, assessments, liens, encumbrances, obligations and demands of or against the City, fixed or established before such date, shall be valid if properly fixed or established either under the law in force at the time of such proceedings or under the law after the adoption of this Charter.

Any ordinances, rules or regulations inconsistent with this Charter are repealed as of the date of adoption of the Charter.

SECTION 14.02 CONTINUATION OF PRESENT OFFICES

All persons holding elective offices that are retained under this Charter will continue to fill those offices for the terms to which they were elected and shall be elected prospectively in accordance with Section 2.01, "Form of Government".

All persons holding administrative offices at the time this Charter takes effect shall continue in office and in the performance of their duties in the capacities to which they have been appointed until provisions shall have been made in accordance with the terms of this Charter for the performance of such duties or the discontinuance of such office, if any. The powers conferred and the duties imposed upon any office, department or agency of the City by the laws of the State shall, if such office, department or agency be abolished by this Charter or under its authority, be thereafter exercised and discharged by the office, department or agency designated by the City Council, unless otherwise provided herein.

SECTION 14.03 CONFLICT OF INTEREST

No member of the City Council, the Mayor, or any other officer, whether elected, appointed, paid or unpaid, who exercises responsibilities beyond those that are advisory in nature, shall participate in a vote or decision on a matter involving a business entity or real property in which such officer has a substantial interest if it is reasonably foreseeable that an action on the matter would have an economic effect on the business entity or on the value of the property.

No member of the City Council, the Mayor, or any other officer, whether elected, appointed, paid or unpaid, who exercises responsibilities beyond those that are advisory in nature, shall have a financial interest, direct or indirect, in any contract with the City, or shall be financially interested, directly or indirectly, in the sale to the City of any land, materials, supplies or service. Any willful violation of this section shall constitute malfeasance in office, and any officer or employee violating this section shall forfeit his office or position. Any violation of this section, with the knowledge expressed or implied of a person or corporation contracting with the City, shall render the contract involved voidable by the City Council.

SECTION 14.04 NEPOTISM

No officer of the City of Heath shall appoint, vote for, or confirm the appointment to any paid office, position, clerkship, employment or duty, of any person related within the second degree by affinity or within the third degree by consanguinity to any member of the City Council, Mayor or City Manager, when the salary, fees, or compensation of such appointee is to be paid for, directly or indirectly, out of or from

public funds or fees of office of any kind or character whatsoever. This provision shall not prevent the appointment, voting for, or confirmation of any person who shall have been continuously employed in any such office, position, clerkship, employment or duty for at least thirty (30) days, if the officer is appointed, or at least six (6) months, if the officer is elected. When a person is allowed to continue in any such position, the officer related shall not participate in the deliberation or voting upon the appointment, reappointment, employment, confirmation, re-employment, change in status, compensation, or dismissal of such person, unless such action is taken with respect to a bona fide class or category of employees.

SECTION 14.05 OFFICIAL NEWSPAPER

The City Council shall have the power to designate by resolution a newspaper of general circulation in the City as the City's official newspaper. All ordinances, captions of ordinances, notices and other matters required to be published by this Charter, by ordinance, or by State law, shall be published in the official newspaper.

SECTION 14.06 JUDICIAL NOTICE

This Charter shall be recorded in the City Secretary's office in a book kept for that purpose. As soon as practicable after its adoption, an authenticated copy of the Charter shall be certified to the Secretary of State of the State of Texas, at which time the Charter becomes a public act. Such Charter provisions may be read in evidence without pleading or proof of their provision, and judicial notice shall be taken thereof in all courts and places.

SECTION 14.07 PROPERTY NOT SUBJECT TO GARNISHMENT AND EXECUTION

No property owned or held by the City shall be subject to any garnishment or execution of any kind or nature except as specifically provided by State law.

SECTION 14.08 PUBLIC MEETINGS AND RECORDS

All meetings of the City Council and all boards, commissions and committees appointed by the City Council shall be governed by the provisions of Chapter 551, Texas Government Code and any amendments thereto with regard to the posting of agenda and the holding of public meetings. All public records of every officer, department or agency of the City shall be open to inspection by any citizen at all reasonable business hours, provided that records excepted from public disclosure by Chapter 552, Texas Government Code and any amendments thereto shall be closed to the public and not considered public record for the purpose of this section.

SECTION 14.09 INDEMNIFICATION OF OFFICERS

The City Council shall, by appropriate ordinance, provide for the indemnification and defense of the officers and employees of the City, including the members of the City Council, or any board, commission, or committee, including volunteers, against any loss, cost, or expense, including court costs and attorney's fees, to the extent allowed by law, arising out of the claim, suit, or judgment or settlement thereof, resulting from any alleged negligent act or omission of such officer, employee, member, or volunteer during the discharge of his duties and within the scope of his office, employment, membership, or assigned voluntary position with the City, or in any other case where the City is directed or authorized by law to do so. Such indemnification will not be provided for any act arising out of the intentional or knowing violation of any penal statute or ordinance or arising out of any conduct determined by final judgment to be an act of fraud or to have been taken with the intent to deceive or defraud, or for any personal or private business of such officer, employee, member, or volunteer, or for the gross negligence or official misconduct, or willful or intentionally wrongful act, or omission of such officer, employee, member, or volunteer.

SECTION 14.10 AMENDMENT OF THIS CHARTER

Amendments of this Charter may be submitted by the City Council to the qualified voters of the City for their approval at an election, no more often than once every two (2) years, held in accordance with Chapter 9, Texas Local Government Code.

SECTION 14.11 BOND OR SECURITY NOT REQUIRED

It shall not be necessary in any action, suit or proceeding in which the City is a party, for any bond, undertaking, or security to be executed on behalf of said City. All such actions, suits, appeals, or proceedings shall be conducted in the same manner as if such bond, undertaking, or security had been given, and said City shall be liable as if such obligation had been duly given and executed.

SECTION 14.12 SEVERABILITY CLAUSE

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

SECTION 14.13 MEANING OF WORDS

The provision of this Charter shall be liberally construed for the purpose of effecting the objects and ends thereof. Unless some other meaning is manifest, the word "City" shall be construed to mean the "City of Heath," and the word "and" may be read "or" or the "or" may be read "and" if the sense requires. Words in the present tense include future tense and, except when a more constrictive meaning is manifest, singular may mean plural. The word "Council" shall be construed to mean the City Council of the City of Heath. The gender of the wording as contained in the Charter shall always be interpreted to mean either sex.

SECTION 14.14 EFFECTIVE DATE

This Charter shall take effect immediately following adoption by the voters and entry of the official order by the City Council declaring the same adopted as soon as practicable. After adoption, the Mayor shall certify to the Secretary of State an authenticated copy of the Charter under the City's seal showing approval by the voters. The City Secretary shall record the Charter in a book kept for that purpose and keep and maintain the same as the official record of the City.

CHAPTER FIFTEEN

ADOPTION OF CHARTER

SECTION 15.01 SUBMISSION AND ELECTION

This Charter shall be submitted to the qualified voters of the City of Heath for adoption or rejection on the 14th day of September, 2002, 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 governing law of the City of Heath, Texas, until amended or repealed.

It being impracticable to submit this Charter so that each subject may be voted on separately, it is hereby prescribed that the form of ballot to be used in such election shall be as follows to wit:

_____ “FOR” ADOPTION OF A CHARTER

_____ “AGAINST” ADOPTION OF A CHARTER

This Home Rule Charter for the City of Heath, Texas, is respectfully submitted to the City Council of the City of Heath for the purpose of calling an election on the question of adoption of the Home Rule Charter this 1st day of August 2002. This proposed Charter represents the recommendation of the majority of the members of the Home Rule Charter Commission, whose membership and signatures are evidenced below.

Charles Pratt, Chairperson

Virginia Jackson

Craig Zurek, Vice-Chairperson

James Jennings

Tommy Bryan

Lori Lawing

Dennis Conder

Lorne Liechty

Jeff Cotner

Mary Gayle Ramsey

Greg Fox

John Ratcliffe

George Hargrave

Leon Weiss

Robert Hille