

# **Home Rule Charter for the City of Kaufman, Texas**

## **Preamble**

Recognizing that effective government is a government of law, we the people of Kaufman, Texas establish this Charter as the basic law of our City. This Charter will provide a home rule government which will recognize and protect individual freedom, encourage interest and participation by citizens, and serve on behalf of the general welfare.

## **Article I Form of Government and Boundaries**

### Section 1.01 – Incorporation

The inhabitants of the City of Kaufman, within the Corporate limits as now established or as hereafter established in the manner provided by law, shall continue to be a municipal body politic and corporate in perpetuity under the name of the “City of Kaufman.”

### Section 1.02 – Form of Government

The municipal government provided by this Charter shall be of the Council-City Manager form. The Council, consisting of the Mayor and Council members elected by and responsible to the people, shall appoint a City Manager, who shall be directly responsible to the Council for the execution of the laws and the administration of the government of the City.

### Section 1.03 – Boundaries of the City

The boundaries of the City of Kaufman shall be the same as have heretofore been established as reflected on the official map at the time of adoption of this Charter and as amended from time to time by annexation and disannexation. *(Amended by O-08-03 on 6/9/2003)*

## Section 1.04 – Annexation or Disannexation

- (1) The boundaries of the City of Kaufman may be enlarged and extended by the annexation of additional territory or decreased by disannexation in any manner and by any procedure now or hereafter provided by law. *(Amended by O-08-03 on 6/9/2003)*
- (2) Upon completion of the annexation procedure, the annexed territory shall become a part of the City, and said land and its residents shall be entitled to all the rights and privileges provided by the City for its citizens and shall be bound by the acts, ordinances, resolutions and regulations of the City.
- (3) The above powers shall be exercised in the manner prescribed by Charter, or, when the same be not so prescribed and procedure provided, in such manner and by such procedure as shall be or may be provided by ordinance of the governing body of said city and the laws of the State of Texas, in such cases provided. *(Amended by O-08-03 on 6/9/2003)*

## **Article II Powers of the City**

### Section 2.01 – General Powers of the City

The City shall be an incorporated Home Rule City, with full power and rights of self government as provided by the Constitution and laws of the State of Texas. These powers and rights shall include, but not be restricted to, the powers expressly conferred and permitted by Article 1175 of the Revised Civil Statutes of the State of Texas of 1925, as presently written or hereafter amended. Without limitation of the foregoing, the City shall have the powers described below:

- (a.) To enact, establish and enforce codes, licenses and ordinances for the maintenance of good government and the interest and well-being of its inhabitants.

- (b.) To cooperate with the government of the State of Texas, or any agency or political subdivision thereof, the government of the United States or its agencies, for any lawful purpose for the advancement of the interests, safety, convenience and welfare of its inhabitants.
- (c.) To exercise the right of eminent domain, the right of extraterritorial jurisdiction and to have exclusive dominion over all public property in any manner permitted by the Constitution and laws of the State of Texas.
- (d.) To contract and be contracted with; to sue; to buy, sell, lease, mortgage, hold, manage and control such property as its interests require.
- (e.) To establish, maintain, improve, alter, abandon, or vacate public streets, rights of way, sidewalks, alleys, squares, parks and other public ways, and to police the use thereof.

#### Section 2.02 – Public Improvements

The City shall have the power to construct and maintain, within or without its corporate limits, streets, flood control facilities and sanitary water and storm drainage facilities in, over, under or upon all public property or easements granted for that purpose and to levy assessments for the costs of such improvements. The City shall have the power to collect Attorney's fees for the collection of paving assessment in foreclosure cases as allowed under State law. It shall have the power to cause liens to be established for the purpose of securing the payment of such levies and shall have the power to compel the use of such improvements by the inhabitants of the City.

#### Section 2.03 – Miscellaneous Powers

The City shall have the power to establish and maintain ordinances and regulations governing the use of lands within the City and to enforce by all lawful means these ordinances and regulations, within or without its corporate limits. The City shall have the power to authorize, regulate and inspect all construction and existing structures within or without its limits, consistent with State statutes, and to establish and enforce ordinances and regulations concerning their use, construction and reconstruction. The City

shall have the power to license and regulate persons, corporations and associations engaged in any business, occupation, profession or trade when authorized by State law. The City shall have all powers granted by any section of this Charter.

### **Article III The City Council**

#### Section 3.01 – Number, Selection and Term

The Council shall be composed of a Mayor and six Council members, elected at large, each of whom unless sooner removed under the provisions of this Charter, shall serve for a term of two years as prescribed by the Texas Election Code, and until his successor has been elected and duly qualified. The office of the Mayor shall be elected in an odd number year. Three members of the City Council shall be elected in an even numbered year and three members of the City Council shall be elected in an odd numbered year. All members of the City Council, including the Mayor, holding office at the time of passage of this Charter shall continue to hold their respective place and office until their respective term of office for which they were elected expires.

#### Section 3.02 – Council Qualification

Each member of the City Council shall be a resident citizen of the City of Kaufman, shall be a qualified voter of the State of Texas shall have been such resident citizen of the City of Kaufman for a period of not less than twelve months immediately preceding election day; however, that any person with the above qualifications, except as to residence, who shall have been a resident for a period of not less than one year immediately preceding his election, of any of the territory not formerly within the corporate limits of said City, but which is annexed under the provisions of Section 1.04 of this Charter, shall be eligible for said Office. *(Amended by O-08-03 on 6/9/2003)*

If any Council member fails to maintain the foregoing qualifications, or shall be absent from three consecutive regularly scheduled meetings without valid excuse, the City Council must at its next regular meeting declare a vacancy to exist and shall fill said vacancy as set forth in Section 3.05 of this Charter.

### Section 3.03 – Compensation

The City Council shall fix the compensation to be received by its members for attendance at its meetings, but no increase in such compensation shall take effect until commencement of the terms of Mayor and/or Council members elected at the next regular election.

### Section 3.04 – Mayor and Mayor Pro-Tem

The Mayor shall be the official head of City government. He shall be the chairman and preside at all meetings of the Council. The Mayor may vote on every proposition before the Council but shall have no power of veto. He shall perform duties consistent with this Charter as may be imposed upon him by the Council.

The Mayor Pro-Tem may be elected by the City Council from its membership. The Mayor Pro-Tem shall act as Mayor in case of the absence or inability of the Mayor to perform the duties of office and in this capacity shall be vested with all of the powers conferred upon the Mayor.

### Section 3.05 – Forfeitures and Vacancies

The office of a Council member or the Mayor shall become vacant upon his death, resignation, forfeiture of, or removal from office or by any manner authorized by law.

If any member of the City Council is absent from three consecutive regular meetings, without explanation acceptable to a majority of the remaining Council members, his office shall be declared vacant at the next regular meeting of the Council.

Any member of the Council who ceases to possess the required qualifications for office or who is convicted of a felony or of a misdemeanor involving moral turpitude or is convicted of violating Section 988b V.A.C.S. concerning conflict of interest shall forfeit his office. Every forfeiture shall be declared and enforced by a majority of the Council.

In the event of a vacancy in the office of the Mayor, the Mayor Pro-Tem shall become the Mayor, thereby vacating his Council position. Within thirty days, vacancies in the Council, other than the Mayor, shall be filled by

a majority vote of the remaining elected members, for the unexpired term only, and provided the successor shall possess all qualifications for the position.

### Section 3.06 – Powers of the City Council

All powers of the City of Kaufman and the determination of all matters of policy shall be vested in the City Council. Except where in conflict with and otherwise expressly provided by this Charter, the City Council shall have all powers authorized to be exercised by the City Council by the V.A.C.S. and acts amendatory thereof and supplementary thereto, now or thereafter enacted. Without limitation of the foregoing and among the other powers that may be exercised by the Council, the following are hereby enumerated for greater certainty:

- (a) Appoint and remove the City Manager.
- (b) Appoint and remove the Municipal Judge of the Municipal Court.  
*(Amended by O-08-03 on 6/9/2003)*
- (c) Appoint and remove the City Attorney.
- (d) Appoint and remove the City Secretary.
- (e) Establish administrative departments.
- (f) Adopt the city budget.
- (g) Collectively inquire into the conduct of any office, department or agency of the City and make investigations as to municipal affairs.
- (h) Provide for a planning commission, a zoning commission and other boards and commissions as deemed necessary, and appoint the members of all such commissions and boards. The planning and zoning commissions may be combined. Such boards and commissions shall have all powers and duties now or hereafter conferred and created by this Charter, by City ordinance or by law.

- (i) Adopt Plats.
- (j) Adopt and modify the official map of the City.
- (k) Adopt, modify and carry out plans in cooperation with the Planning Commission for the replanning, reconstruction or redevelopment of any area or district which may have been destroyed in whole or part by disaster.
- (l) Regulate, license and fix the charges or fares made by any person owning, operating or controlling any vehicle of any character used for the carrying of passengers for hire on the public streets and alleys of the city.
- (m) Provide for the establishment and designation of fire limits and prescribe the kind and character of buildings or structures or improvements to be erected therein; provide for the erection of fireproof buildings within certain limits; and provide for the condemnation of dangerous structures or buildings or dilapidated building or buildings calculated to increase the fire hazard, and the manner of their removal or destruction.
- (n) Fix and regulate rates and charges of all city owned utilities and public services.

### Section 3.07 – Prohibitions

Except where authorized by law or by this Charter, no Mayor or Council member shall hold any other City office or City employment during his term as Mayor or Council member. No former Mayor or Council member shall hold any compensated appointive office or City employment within one year after the expiration of his term as Mayor or Council member.

Neither the City Council nor any of its members shall direct the appointment of any person to office by the City Manager or by any of his subordinates. Except for the purpose of inquiry, the City Council and its members shall deal solely with the administration services through the City Manager and neither the City Council nor any member thereof shall give orders to any subordinate of the City Manager, either publicly or privately.

### Section 3.08 – Meetings of the Council

The City Council shall hold at least one regular meeting each month and as many additional meetings as it deems necessary to transact the business of the City. The City Council shall fix by ordinance the date and time of the regular meetings. Special meetings of the City Council shall be held at the call of the Mayor or a majority of the Council members upon provision of public notice in accordance with State law.

All meetings shall be open to the public and shall be held and notice given in accordance with Article 6252-17 V.A.C.S. as amended or suspended, and no meeting shall be closed to the public unless permitted to be closed under said Article or under other law.

### Section 3.09 – Quorum

Four members of the City Council shall constitute a quorum for the purpose of transaction of business. No action of the City Council, except as specifically provided in this Charter, shall be valid or binding unless adopted by the affirmative vote of a majority of Council members present.

### Section 3.10 – Rules of Procedure

The City Council shall determine its own rules of order and business. The City Council shall provide that the Citizens of the City shall have a reasonable opportunity to clearly hear and be heard at public hearings with regard to specific matters under consideration. The City Council shall provide for minutes to be taken and recorded for all meetings, except for closed meetings, as required by law. Such minutes shall be a public record and shall be kept and maintained by the City Secretary.

### Section 3.11 – Passage of Ordinances in General

The City Council shall legislate by ordinance only, and the enacting clause of every ordinance shall be “Be it ordained by the City Council of the City of Kaufman, Texas . . . .”. Each proposed ordinance shall be introduced in the written or printed form required for adoption. The subject matter of every ordinance shall be briefly described in the caption. General appropriation ordinances may contain various subjects and accounts for which monies are to be appropriated. After adoption, an ordinance shall not



be amended or repealed except by the adoption of another ordinance amending or repealing the original ordinance. Except where an ordinance is repealed in its entirety, amendatory or subsections to be amended or repealed shall set out in full the ordinance sections or subsections to be amended or repealed and shall indicate matter to be omitted by enclosing it in brackets and shall indicate new matter by enclosing it in quotation marks.

Any member of the City Council may offer any ordinance in writing that has been placed on the agenda at a regular City Council meeting. Copies of the proposed ordinances, in the form required for adoption, shall be furnished to members of the City Council before the first reading. Copies of the proposed ordinance, in the form required for adoption, shall be available at the City offices and shall be furnished to citizens upon request to the City Secretary before the first reading and, if amended, shall be available and furnished in amended form for as long as the proposed ordinance is before the City Council.

A proposed ordinance, except as related to an emergency, budget, tax, public utility rate setting, or State or Federal requirement, shall be read at two City Council meetings with at least one week between readings.

A proposed ordinance may be amended at either reading, but any ordinance amended in substance shall automatically be placed again as a first reading at a subsequent meeting. At any reading of a proposed ordinance, interested persons shall have reasonable opportunity to be heard.

Every ordinance shall become effective upon adoption or at any later time specified in the ordinance, except that every ordinance imposing any penalty, fine or forfeiture shall become effective only after having been published once in its entirety or summary form, after adoption, in a newspaper designated as the official newspaper of the City.

The reading aloud of a title and caption of the ordinance shall suffice as a reading, provided printed copies of the ordinance in the form required for adoption are in front of all members of the City Council and a reasonable number of additional copies are available to citizens present at the meeting. If a majority of the members present request that the ordinance be read in its entirety, it must be read.

### Section 3.12 – Emergency Ordinances

The City Council may adopt emergency ordinances only to meet public emergencies affecting life, health, property or the public peace. In particular, such ordinances shall not levy taxes, grant or renew or extend a franchise, or regulate the rate charged by any public utility for its services. Neither shall they authorize the borrowing of money except as provided in Article VII of this Charter. The approval of five Council members is necessary for adoption.

Emergency ordinances shall become effective upon adoption and shall be published as soon thereafter as practicable. Every emergency ordinance so adopted, except one authorizing the borrowing of money as described herein, shall automatically stand repealed as of the sixty-first day following the day on which it became effective. The ordinance may be reenacted if the Council considers advisable.

### Section 3.13 – Codification

The City Secretary shall authenticate by his signature and record in full in a properly indexed book kept for the purpose all ordinances and resolutions adopted by the Council.

The City Council shall revise and update annually a codification of all city ordinances and resolutions having the force and effect of law. The general codification shall be bound or looseleaf form, together with this Charter and any amendments thereto, pertinent provisions of the Constitution and other laws of the State of Texas, and such codes of technical regulations and other rules and regulations as the Council may specify. This compilation shall be known and cited officially as the Kaufman City Codes. Copies of the codes shall be furnished to City officers, placed in libraries and public offices for free public reference and made available for purchase by the public at a reasonable price fixed by the Council.

The Council may cause each ordinance and resolution having the force and effect of law and each amendment to the charter to be printed promptly following its adoption, and the printed ordinances, resolutions and charter amendments may be distributed or sold to the public at reasonable prices to be fixed by the Council. Following publication of the first Kaufman City Codes and at all times thereafter, the ordinances, resolutions and charter

amendments shall be printed in substantially the same style as the code currently in effect and shall be in form for integration therein. The Council shall make such further arrangements as it deems desirable with respect to reproduction and distribution of any current changes in or additions to the provisions of the Constitution and other law of the State of Texas, or the codes of technical regulations and other rules and regulations included in the Code. The approval or signature of the Mayor shall not be necessary to make an ordinance or resolution valid.

### Section 3.14 – Investigation by City Council

The City Council shall have the power to inquire into the official conduct of any department, agency, office, officer or employee of the city. For that purpose, the Council shall have the power to administer oaths, subpoena witnesses and compel the production of books, papers or other evidence material to the inquiry. The City Council shall provide by ordinance penalties for contempt or failing or refusing to obey any such subpoena or to produce any such books, papers, or other evidence, and shall have the power to punish any such contempt in the manner provided by the ordinance.

The Council shall provide for an independent annual audit of all city accounts and may provide for such more frequent audits as it deems necessary. Such audits shall be made by certified public accountant or firm of such accountants who have no personal interest, direct or indirect, in the fiscal affairs of the city government. The Council may, without requiring competitive bids, designate such accountant or firm annually or for a period not exceeding three years, provided that the designation for any particular fiscal year shall be no later than 30 days after the beginning of such fiscal year. A copy of such audit shall be kept in the office of the City Secretary subject to inspection by any citizen or officer during regular office hours.

### Section 3.15 – Bonds

The Council shall require bonds of all municipal officers and employees who receive or pay out any monies of the city. The amount of such bonds shall be determined by the Council and the cost thereof shall be borne by the city.

## **Article IV City Administration**

### Section 4.01 – City Manager

The City Council shall appoint a City Manager who shall serve as chief administrative officer of the city. He shall be responsible to the City Council with only those exceptions that are named in this Charter. The City Manager shall be appointed solely upon his executive and administrative qualifications.

The City Council shall fix the compensation of the City Manager, and his compensation may be amended from time to time in accordance with his experience, qualifications and performance.

The City Manager shall be appointed for an indefinite term, and may be removed by resolution at the discretion of the Council by a majority vote of its members. Upon passage of that resolution stating the intention to remove the City Manager and the reasons therefor, a copy of which shall be immediately furnished to him, the Council may suspend him from duty. The action of the City Council in removing the City Manager shall be final. In case of absence, disability or suspension of the City Manager, the Council may designate a qualified administrative officer of the city to perform the duties of the office except where the absence is of a temporary nature.

The City Manager shall have the power to:

- (a.) Appoint, suspend and remove all city employees and appointive administrative officers provided for in this Charter, except as otherwise provided by law, this Charter, or personnel rules adopted pursuant to this Charter.
- (b.) Direct and supervise the administration of all departments, offices and agencies of the City, except as otherwise provided by law or this Charter.
- (c.) See that all State laws and city ordinances are effectively enforced.

- (d.) Attend all City Council meetings, with the right to take part in the discussion, but he shall not vote.
- (e.) Prepare and accept items for inclusion in the official agenda of all City Council meeting and meetings of boards and commissions.
- (f.) Prepare and recommend to the City Council the annual budget and capital program, and administer the budget as adopted by the City Council.
- (g.) Keep the City Council fully advised at least quarterly as to the financial condition and future needs of the city, and make such recommendations concerning the affairs of the City as he or the City Council deems desirable or necessary.
- (h.) Make reports as he or the City Council may require concerning the operations of the City departments, offices, or agencies subject to his direction or supervision.
- (i.) Perform such other duties as are specified in this Charter or may be required by the City Council, and consistent with this Charter or State or Federal law.

#### Section 4.02 – City Secretary

The City Council shall appoint a City Secretary who shall serve at the discretion of the Council at a compensation set by the Council.

The City Secretary shall:

- (a.) Attend all meetings of the City Council and keep accurate records of all actions taken by the Council.
- (b.) Maintain the official records and files of the City.
- (c.) Administer oaths.

- (d.) Attest contracts, assessment certificates and other legal instruments when executed by the authorized officers of the city.
- (e.) Serve as the election official for all city elections.
- (f.) Perform such other duties as may be required by this Charter, the City Council, or State law.

#### Section 4.03 – Municipal Court

There shall be a court known as the Municipal Court of the City of Kaufman, with such jurisdiction, powers and duties as are given and prescribed by the laws of the State of Texas.

The Municipal Court shall be presided over by a magistrate who shall be known as The Judge of the Municipal Court. The Judge shall be appointed by the Council to serve at the discretion of the Council.

In the event the Judge of the Municipal Court is unable to act for any reason, the Council shall appoint a replacement. The Judge, or anyone acting in his place, shall receive such compensation as may be set by the Council.

The Council shall have the power to create and establish additional municipal courts and to appoint more than one judge of each municipal court. Whether one or more, each of whom shall be magistrates and shall have the qualifications and serve at the discretion of the Council.

All costs, fines and penalties imposed by the court shall be paid unto the City treasurer to be used as State law allows.

#### Section 4.04 – City Attorney

The City Council shall appoint a competent and duly qualified and licensed Attorney, practicing Law in the State of Texas. He shall receive such compensation as may be fixed by the City Council and shall hold his office at the pleasure of the City Council. The Attorney for the City, or such other attorneys selected by him, with the approval of the City Council, shall represent the city in all litigation. He shall be the legal Advisor of, and Attorney and counsel for, the City and all officers and departments thereof;

provided, that the City Council may retain Special Counsel at any time they deem same necessary. At the discretion of said Council, the City Attorney shall appear at its meetings. He shall prepare or review all ordinances and advise the City Council of the same; he shall represent the City in the Municipal Court.

#### Section 4.05 – Administrative Departments, Offices and Agencies

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

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

#### Section 4.06 – Personnel System

The City Manager shall prepare personnel rules and the Council may by ordinance adopt them with or without amendment. These rules shall provide for:

- (a.) The classification of all city positions, based on the duties, authority and responsibility of each position with adequate provision for reclassification of any position whenever warranted by changed circumstances.
- (b.) A pay plan for all city positions.
- (c.) Methods for determining the merit and fitness of candidates for appointment or promotion.
- (d.) The policies and procedures regulating reduction in force and removal of employees.

- (e.) The hours of work, attendance regulations and provisions for sick and vacation leave.
- (f.) The policies and procedures governing persons holding provisional appointments.
- (g.) The policies and procedures governing relationships with employee organizations.
- (h.) Policies regarding in-service training programs.
- (i.) Grievance procedures.
- (j.) Other practices and procedures necessary to the administration of the city personnel system.
- (k.) A plan for an annual oral and written evaluation criteria based on a job description for all City employees by their immediate supervisor, including evaluation of the City Manager by the City Council.

#### Section 4.07 – Chief of Police

There shall be a Chief of Police appointed by the City Council from recommendations from the City Manager, or by any member of the City Council, at such compensation as the Council shall fix. He may be removed at any time by a majority vote of the City Council.

### **Article V Nominations and Elections**

#### Section 5.01 – City Elections

- (1) City elections shall be conducted in accordance with the Texas Election Code.
- (2) The regular City election shall be held annually during the second calendar quarter of the year on the uniform election date established by the Texas Election Code. The City Council shall



be responsible for specification of places for holding such elections. *(Amended by O-08-03 on 6/9/2003)*

- (3) The City Council may, by resolution, order a special election for purposes consistent with this Charter and laws of the State of Texas, the City Council will fix the time and places for such a special election, and provide all means for holding same.
- (4) Municipal elections shall be conducted by election officials appointed by the City Council. Sample ballots identical in format to those used in the specific election shall be posted in the voting place(s) for the purpose of voter orientation.
- (5) All municipal election shall be publicized in accordance with the Texas Election Code.

#### Section 5.02 – Filing for Office

- (1) Candidates for City offices shall file for office in accordance with the Texas Election Code.
- (2) Candidates for elective City office shall meet the following qualifications:
  - (a) Shall be at least twenty-one years of age at the time of the election for which they are filing.
  - (b) Shall be a qualified voter.
  - (c) Shall have resided within corporate limits of the City, or recently annexed territory, for at least twelve months prior to election day.
  - (d) Shall not, after notice of any delinquency, be in arrears in payment of taxes or other liabilities due the City.
  - (e) No candidate may file in a single election for more than one office or position as provided for in this Charter.

- (f) No employee of the City shall continue in such position after filing for an elective office provided for in this Charter.

#### Section 5.03 – Official Ballots

- (1) The name of each candidate seeking elective office, except those who have withdrawn, died, or become ineligible, shall be printed on the official ballot without party designation in accordance with the Texas Election Code. If two or more candidates have the same surname, or surnames so similar as to be likely to cause confusion, their residence addresses shall be printed with their names on the ballot.
- (2) The order of the names of the candidates on the ballot shall be determined by lot in a public drawing to be held under the supervision of the City Secretary in accordance with the Texas Election Code.
- (3) Procedures for voting an early ballot shall be consistent with the Texas Election Code. *(Amended by O-08-03 on 6/9/2003)*
- (4) An ordinance, bond issue, or Charter amendment to be voted on by the voters of the City shall be presented for voting by ballot title. The ballot title of a measure may be different from its legal title and shall be clear, concise statement, approved by the City Council, describing the substance of the measure without argument or prejudice.
- (5) Procedures for write-in votes shall be consistent with the Texas Election Code.

#### Section 5.04 – Official Results

- (1) The candidate for elective office receiving a plurality of the votes cast shall be declared the winner. In case of a tie amongst the candidates receiving the most votes, a runoff election will be held with only the names of those tied candidates on the ballot. The runoff election will be held within thirty days and in accordance with the laws of the State of Texas.
- (2) The returns of every municipal election shall be handled in accordance with the Texas Election Code. These returns shall be delivered from the election judges to the City Secretary and the Mayor at City Hall as soon

as possible after the closing of the polls. The official canvass is made not earlier than the third day or later than the sixth day after election day, at the time set by the Mayor, at which time the Council shall canvass and declare the results of the election, which shall be recorded in the minutes of the meeting. *(Amended by O-08-03 on 6/9/2003)*

## **Article VI**

### **Initiative, Referendum and Recall**

#### Section 6.01 – General Authority

- (1) Initiative: The qualified voters of the City shall have power to propose ordinances to the City Council and if the Council fails to adopt an ordinance so proposed without any change in substance, the voters shall adopt or reject it at a City election. Such power shall not extend to the budget or capital program or any ordinance not subject to initiative as provided by State law, relating to appropriation of money, levy of taxes or salaries of City officers or employees.
- (2) Referendum: The qualified voters of the City shall have power to require reconsideration by the Council of any adopted ordinance which is subject to the initiative process under this Charter, and, if the Council fails to repeal an ordinance so reconsidered, the voters shall approve or reject it at a City election. Such power shall not extend to the budget or capital program or any emergency ordinance or ordinance not subject to referendum as provided by State law, relating to appropriation of money or levy of taxes.
- (3) Recall: The qualified voters of the City shall have power to remove any official serving in an elective office.

#### Section 6.02 – Petitioners' Committee

- (1) Any ten qualified voters may commence proceedings contemplated by this article by filing with the City Secretary an affidavit stating that they will constitute the petitioners' committee. They will be responsible for preparing, printing, and circulating the petition. They will file it in proper form and specify the address to which all notices to the committee are to be sent. The affidavit shall set out in full the

proposed initiative ordinance or cite the ordinance sought to be reconsidered, or in the case of recall, state the identity of the officials whose recall is being sought.

- (2) In the case of recall, the City Secretary shall immediately notify in writing the officer(s) to be removed that the affidavit has been filed.

#### Section 6.03 – Petition Circulation

- (1) All petition blanks used for circulation by the members of the petitioners’ committee or their designees shall be numbered, dated and bear the signature of the City Secretary.
- (2) No petition shall be effective or valid if any of the signatures thereon are obtained before the affidavit is filed. In such case, the petition will be void regardless of the number of signatures thereon which were obtained after the affidavit was filed.

#### Section 6.04 – Form of Petition

- (1) All pages of a petition shall be uniform in size style and shall be assembled as one instrument for filing. Each signer of a petition must be a registered voter of the City of Kaufman and shall personally sign his own name thereto in ink or indelible pencil, and shall write after his name his place of residence within the boundaries of the City, giving name of street and number, or place of residence, and shall also write thereon the date, including the month, day and the year his signature was affixed. The voter registration number for each signer and each signer’s printed name shall also appear on the petition.
- (2) Petitions shall contain or have attached thereto throughout their circulation the full text of the ordinance proposed or sought to be reconsidered, or in the case of a recall petition, the identity of the official whose recall is being sought. There shall appear on each petition the names and addresses of ten voters, who, as the committee of the petitioners, shall be regarded as responsible for the circulation and filing of the petition.
- (3) Each page of a petition shall have attached to it when filed an affidavit executed by the circulator thereof stating that he personally circulated

the paper, the number of signatures thereon, that all the signatures of the persons whose names they purport to be, and that each signer had an opportunity before signing to read the full text of the ordinance proposed, or sought to be reconsidered, or the identity of the official whose recall is being sought.

- (4) Locations for twenty signatures shall be provided on each blank petition.

#### Section 6.05 – Presentation of Petitions

- (1) A petition to the City Council for initiative or referendum, containing the signatures of qualified voters not less than equal in number to ten (10%) percent of the registered voters of the City of Kaufman shall be filed with the City Secretary not later than thirty days following the filing of the affidavit by the petitioner committee. Once the petition is filed, no signature may be withdrawn.
- (2) A petition to the City Council for recall, containing the signatures of qualified voters not less than equal in number to twenty (20%) percent of the registered voters of the City of Kaufman shall be filed with the City Secretary not later than thirty days following the filing of the affidavit by the petitioner committee. Once the petition is filed, no signature may be withdrawn.

#### Section 6.06 – Suspension of Effect of Ordinance for Referendum Petitions

When a referendum petition is filed with the City Secretary, the ordinance sought to be reconsidered shall be suspended from taking effect unless such suspension will create an immediate breach of public health and safety. Such suspension shall terminate when:

- (a) There is a final determination of insufficiency of the petition, or
- (b) The City Council repeals the ordinance, or
- (c) Upon the certification of election results by the election officials.

## Section 6.07 – Certification of Petitions and Presentation to the City Council

- (1) Not earlier than six and not later than ten days after the petition is presented, the City Secretary shall complete a certificate of sufficiency or insufficiency. Sufficiency shall be determined by compliance with this Article.
- (2) If the petition is certified sufficient, the City Secretary shall present the certificate to the City Council at the next regular City Council meeting. The City Council shall verify determination of the sufficiency of the petition.
- (3) If a petition has been certified insufficient, the City Secretary shall send the committee a Certificate of Insufficiency by registered mail which shall include the particulars in which the petition is defective. The committee may, within five working days after receiving the copy of such certificate, file a request that it be reviewed by the City Council. The City Council shall review the certificate at its next regular meeting following such a request and approve or disapprove it. Such determination shall then be final. If no City Council review is requested within five working days, the City Secretary's certification is final.

## Section 6.08 – Action on Initiative and Referendum Petitions

- (1) When an initiative or referendum petition has been finally determined sufficient, the City Council shall promptly consider the proposed initiative ordinance in the manner prescribed for enacting ordinances or reconsider the referred ordinance by voting its change in substance within 60 days, or fails to repeal a referred ordinance within sixty (60) days after the date the petition was finally determined sufficient, it shall submit the proposed or referred ordinance to the voters of the City not less than thirty days nor more than sixty days thereafter if an election date authorized by the Election Code does not fall within such period, or if no such authorized election date within such periods affords enough time to hold the election in the manner required by law, the election shall be called for the first authorized election date after such period. Any election order so issued shall comply fully with the Texas Election Code.

- (2) The called election may coincide with a regular City election should such City election fall within the specified period. No ordinance substantially the same as an initiated ordinance which has been defeated or one substantially the same as a referred ordinance which has been repealed by the voters within two years from the date of such election. Copies of the proposed or referred ordinance shall be made available at the polls and shall be published at least once in the official newspaper of the City not more than fifteen days immediately prior to the date of the election.

#### Section 6.09 – Calling of Recall Election

If the officer whose removal is sought does not resign, then the City Council shall order an election and set the date for holding such recall election. The date selected for the recall election shall be not less than 30 nor more than 60 days after the date the petition was presented to the City Council.

If, after the recall election date is established, the officer vacates his position, the election shall be cancelled. Any election order so issued shall comply fully with the Texas Election Code.

#### Section 6.10 – Withdrawal of Petitions

An initiative, referendum or recall petition may be withdrawn at any time on or before the fifth day after the filing of the petition with the City Secretary by filing with the City Secretary a written request for withdrawal signed by at least seven members of the petitioners committee. Upon the filing of such request the petition shall have no further force or effect and all proceedings thereon shall be terminated.

#### Section 6.11 – Form of Ballots

Any ordinance which is sought to be adopted by initiative or repealed by referendum shall be submitted by ballot title, which shall be prepared in all cases by the City Attorney. The ballot title may be different from the legal title of any such ordinance and it shall be a clear, concise statement, without argument or prejudice, descriptive of the substance of such ordinance. The form of any such ballot shall comply with the Texas Election Code.

## Section 6.12 – Results of Election

- (1) If a majority of qualified electors voting, on a proposed initiative ordinance vote in its favor, it shall be considered adopted upon certification of the election results and shall be treated in all respects in the same manner as ordinances of the same kind adopted by the City Council. If conflicting ordinances are approved at the same election, the one receiving the greater number of affirmative votes shall prevail.
- (2) An ordinance adopted by initiative may be repealed or amended at any time after the expiration of two years by a majority vote or after one year by unanimous vote of all Council members.
- (3) If a majority of the qualified electors voting on a referred ordinance vote against the ordinance, it shall be considered repealed upon certification of the election results. If a majority of the qualified electors voting on a referred ordinance vote for the ordinance, the ordinance shall be considered in effect.
- (4) An ordinance repealed by referendum may be reenacted at any time after the expiration of two years by a majority vote or after one year by unanimous vote of all Council members.
- (5) If a majority of the votes cast on the question of recall at a recall election shall be against the removal of the elected official named on the ballot, he shall continue in office for the remainder of his unexpired term, subject to recall as before within the limitations of Section 6.15 below. If a majority of the votes cast on the question of recall at a recall election shall be for the removal of the elected official named on the ballot, he shall, regardless of any technical defects in the recall petition, be deemed removed from office and the vacancy shall be filled in accordance with the provisions of this Charter for the filling of vacancies.

## Section 6.13 – Limitations and Restrictions

- (1) No recall petition shall be filed against any officer of the City within six months after his election nor within six months of such petition being filed and found insufficient, nor within one year after an election for



such officer's recall. No such limitations shall apply to appointed Council members.

- (2) In no instance shall an officer removed from office by recall election serve in an elective office of the City within a period of five years following the date of the election at which he was removed from office.
- (3) Unless withdrawn, no petition shall again be filed on a proposed or referred ordinance of substantially the same content within a period of two years of the failure of the petition at a City election.

#### Section 6.14 – Failure of City Council to Call an Election

In case all of the requirements of this Charter have been met and the City Council shall fail or refuse to receive an initiative, referendum or recall petition, or order such initiative, referendum or recall election, or discharge other duties imposed upon said City Council by the provisions of this Charter with reference to initiative, referendum or recall, then the District Judge may discharge any such duties herein provided to be discharged by the City Secretary or by the City Council. In addition, any qualified voter in the City may seek judicial relief to have any of the provisions of this Charter pertaining to initiative, referendum or recall carried out by the proper official.

#### Section 6.15 – Frequency of Election

Special elections on initiated or referred ordinances and on recall shall not be held more frequently than once each six months.

### **Article VII Financial Procedures**

#### Section 7.01 – Fiscal Year

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

## Section 7.02 – Submission of Budget and Budget Message

On or before the first day of the eleventh month of the fiscal year, the City Manager shall submit to the Council a budget for the ensuing fiscal year and an accompanying message.

## Section 7.03 – Budget Message

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

## Section 7.04 – Budget a Public Record

The budget and all supporting schedules shall be filed with the City Secretary when submitted to the City Council and shall be opened to public inspection by anyone interested.

## Section 7.05 – Public Hearing on Budget

At the Council meeting when the budget is submitted, the Council shall name the date and place of a public hearing and shall have published in the official newspaper of the City the time and place which will be not less than ten days nor more than thirty days after the date of notice. At this hearing, interested citizens may express their opinions concerning items of expenditures, giving their reasons for wishing to increase or decrease any items of expense.

## Section 7.06 – Proceeding on Adoption of Budget

After the public hearing, the Council shall analyze the budget, making any additions or deletions which they feel appropriate, and shall, at least ten days prior to the beginning of the next fiscal year, adopt the budget by a favorable majority vote of the full membership of the Council. Should the City

Council take no final action on or prior to such day, the current budget shall be in force on a month-to-month basis until a new budget is adopted.

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

On final adoption, the budget shall be in effect for the budget year. Final adoption of the budget by the Council shall constitute the official appropriation as proposed by expenditures, for the current year and shall constitute the basis of official levy of the property tax as the amount of tax to be assessed and collected for the corresponding tax year. Estimated expenditures will in no case exceed proposed revenue plus cash on hand. Unused appropriation may be transferred to any item required for the same general purpose.

#### Section 7.08 – Contingent Appropriation

Provision shall be made in the annual budget and in the appropriation ordinance for a contingent appropriation in an amount not more than seven percent of the total general fund expenditures, to be used in case of unforeseen items of expenditures. The contingent appropriation shall apply to current operating expenses and shall not include any reserve funds of the City. Such contingent appropriation shall be under the control of the City Manager and distributed by him only after prior approval by the City Council. The proceeds of the contingent appropriation shall be disbursed only by transfer to other departmental appropriation, the spending of which shall be charged to the department or activities for which the appropriations are made.

#### Section 7.09 – Amending the Budget

Expenditures may not legally exceed budgeted appropriations at the fund level. Any revisions that would increase or decrease the total appropriations at the department or fund level require approval by the City Council. Amendments that increase or decrease the total appropriations at the fund level shall be by ordinance. Amendments that increase or decrease the total appropriations at the department level shall be by the City Council's approval of the City Manager's written recommendation. (*Amended O-08-03 on 6/9/2003*)

## Section 7.10 – Certification; Copies Made Available

A copy of the budget, as finally adopted, shall be filed with the City Secretary and such other places required by State law or as the City Council may designate. The final budget shall be printed, mimeographed or otherwise reproduced and sufficient copies shall be made available for the use of all offices, agencies, and for the use of interested persons and civic organizations.

## Section 7.11 – Public Disclosure of Actual vs. Budget

Annually, at the end of the fiscal year, a report on operations shall be published in the official city newspaper.

## Section 7.12 – Capital Program

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

- a.) A clear general summary of its contents.
- b.) A list of all capital improvements which are proposed to be undertaken during the five fiscal years succeeding the budget year, with appropriate supporting information as to the necessity for such improvements.
- c.) Cost estimates, method of financing and recommended time schedules for each improvement.
- d.) The estimated annual cost of operating and maintaining the facilities to be constructed or acquired.

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

### Section 7.13 – Defect Shall Not Invalidate the Tax Levy

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

### Section 7.14 – Lapse of Appropriations

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

### Section 7.15 – Borrowing

1). In keeping with the Constitution of the State of Texas and not contrary thereto, the City of Kaufman shall have the power to borrow money on the credit of the city for any public purpose not now or hereafter prohibited by the Constitution and laws of the State of Texas, and shall have the right to issue all tax bonds, revenues bonds, funding and refunding bonds, time warrants, certificates of obligation and other evidence of indebtedness as now authorized or as may hereafter be authorized to be issued by any city under and in accordance with the restrictions, conditions, and laws of the State of Texas. (*Amended O-08-03 on 6/9/2003*)

#### 2.) General Tax Obligation Bonds

- a.) No general tax obligation bonds shall be issued without an election. The City Council shall prescribe the procedure for calling and holding such elections, shall define the voting precincts and shall provide for the return and canvass of the ballots cast at such elections.
- b.) If at such elections a majority of the vote shall be in favor of creating such a debt or refunding outstanding valid bonds of the

City, it shall be lawful for the City Council to issue bonds as proposed in the ordinance submitted same. However, if a majority of the vote polled shall be against the creation of such debt or refunding such bonds, the City Council shall be without authority to issue the bonds. In all cases when the City Council shall order an election for the issuance of bonds of the City, it shall at the same time submit the question whether or not a tax shall be levied upon the property of the City for the purpose of paying the interest on the bonds and to create a sinking fund for their redemption. *(Amended O-08-03 on 6/9/2003)*

3.) Revenue Bonds

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

4.) Emergency Funding

- a.) In any budget year, the City Council may, by unanimous resolution of the elected Council authorize the borrowing of money. Notes may be issued which are repayable not later than the end of the current fiscal year.

Section 7.16 – Purchasing

- 1.) The City Council may by ordinance give the City Manager general authority to contract for expenditure without further approval of the

Council, for all budgeted items not exceeding limits set by the Council.

All contracts for expenditures involving more than the set limits must be expressly approved in advance by the Council. All contracts or purchases involving more than the limits set by the Council shall be let to the lowest bidder whose submittal is among those responsive to the needs of the City after there has been opportunity for competitive bidding as provided by law or ordinance. The City Council, or City Manager in such cases as he is authorized to contract for the City, shall have the right to reject any and all bids.

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

#### Section 7.17 – Administration of Budget

- 1.) No payment shall be made or obligation incurred against any allotment or appropriation except in accordance with appropriations duly made unless the City Manager or his designee first certifies that there is sufficient unencumbered balance in such allotment or appropriation and that sufficient funds therefrom are or will be available to cover the claim or meet the obligation when it becomes due and payable.
- 2.) Any authorization of payment or incurring of obligation in violation of the provisions of this Charter shall be void and any payment so made illegal. Such action shall be cause for removal of any officer who knowingly authorized or made such payment or incurred such payment or obligation, and shall also be liable to the City for any amount so paid.
- 3.) This prohibition shall not be construed to prevent the making or authorizing of payments, or making of contracts for capital improvements to be financed wholly or partly by the issuance of bonds, time warrants, certificates of indebtedness, or certificates of obligation, or prevent the making of any contract or lease providing

for payments beyond the end of the fiscal year, providing that such action is made or approved by ordinance.

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

#### Section 7.18 – Depository

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

#### Section 7.19 – Independent Audit

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

#### Section 7.20 – Power of Tax

- 1.) The City shall have the power to levy, assess and collect taxes of every character and type for any municipal purpose not prohibited by the Constitution and laws of the State of Texas as now written or hereafter amended.
- 2.) The City shall have the power to grant tax exemptions in accordance with the laws of the State of Texas.



## Section 7.21 – Taxes; When Due and Payable

- 1.) All taxes due in the City of Kaufman, Texas shall be payable to the designated agent or agency of the City or at such location or locations as may be designated by the City Council, and may be paid at any time after the tax rolls for the year have been completed and approved. Taxes for each year shall be paid before February 1 of the next succeeding year, and all such taxes not paid prior to that date shall be deemed delinquent, and shall be subject to penalty and interest as the City Council shall provide by ordinance. The City Council may provide discounts for the payment of taxes prior to January 1 in amounts not to exceed those established by the State of Texas.
- 2.) Failure to levy and assess taxes through omission in preparing the appraisal rolls shall not relieve the person, firm or corporation so omitted from obligation to pay such current or past due taxes as shown to be payable by recheck of the rolls and receipts for the years in question, omitting penalty and interest.

## Section 7.22 – Tax Liens, Liabilities and Suits

- 1.) All taxable property located in the City on January 1 of each year shall stand charged from that date with a special lien in favor of the City for the taxes due. All persons purchasing any such property on or after January 1 in any year shall take the property subject to the liens provided above. In addition to the liens herein provided, on January 1 of any year, the owner of property subject to taxation by the City shall be personally liable for the taxes due for that year.
- 2.) The City shall have the power to sue for and recover personal judgment for taxes without foreclosure, or to foreclose its lien or liens, or to recover both personal judgment and foreclosure. In any such suit where it appears that the description of any property in the City appraisal rolls is insufficient to identify such property, the City shall have the right to plead a good description of the property to be assessed, to prove the same, and to have its judgment foreclosing the tax lien or for personal judgment against the owners for such taxes.

## **Article VIII**

### **Boards and Commissions**

#### Section 8.01 – Authority, Composition and Procedures

- 1.) The City Council shall create, establish or appoint, as may be required by the laws of the State of Texas or this Charter, or deemed desirable by the City Council, such boards, commissions and committees as it deems necessary to carry out the functions and obligations of the City. The City Council shall, by ordinance or resolution, prescribe the purpose, composition, function, duties, accountability and tenure of each board, commission and committee where such are not prescribed by law or this Charter.
- 2.) Individuals who are qualified voters in the City may be appointed to serve on one or more board, commission or committee. The City Council may, by ordinance or resolution, consolidate the functions of the various boards, commissions or committees provided for in this Charter. Except as otherwise provided in this Charter, members of any such board, commission or committee shall serve without compensation but may be reimbursed for actual expenses as approved by the City Council.
- 3.) All boards, commissions or committees of the City shall keep and maintain minutes of any proceedings held and shall submit a written report of such proceedings to the City Council no more than two weeks following each meeting.
- 4.) No officer of the City nor any person who holds a compensated appointive position with the City shall be appointed to any board, commission or committee created or established by this Charter other than in an advisory capacity.
- 5.) Any member of a board, commission or committee who is absent from three consecutive regular meetings without explanation acceptable to a majority of the other members shall forfeit his position on the board, commission or committee.

**Article IX**  
**Municipal Planning & Zoning**

Section 9.01 – Platting of Property

- a.) Hereafter, every owner of any tract of land situated within the corporate limits of the City of Kaufman who may divide the same in two or more parts for the purpose of laying out any subdivision or any addition of the City, shall comply with the provisions of Article 974a of the Revised Civil Statutes of the State of Texas of 1925, as now or hereafter amended, and said Article 974a as now or hereafter amended is hereby adopted and incorporated herein for all purposes.
- b.) The provisions of Section 9.01(a) above shall also apply to the owner of any tract of land situated outside the corporate limits of the City of Kaufman as authorized by law.

Section 9.02 – Development of Property

The City Council shall cooperate in a reasonable manner with persons interest in the development of property within or beyond the City limits. No expenditure of public funds, however, shall be authorized for the development of privately owned subdivisions situated within or beyond the corporate limits of the City, except for the extension of utilities or service to such areas.

Section 9.03 – Planning and Zoning Commission

The City Council shall have the authority to appoint a City Planning and Zoning Commission in accordance with the general laws of the State of Texas as provided for in Article 1011j of the Revised Civil Statutes of the State of Texas 1925.

Section 9.04 – Zoning Change Notification

The Planning and Zoning Commission shall give written notice to be mailed to property owners within three hundred feet (300 feet) of property which is the subject of a proposed Zoning Change before the 10<sup>th</sup> day before the Public Hearing on the proposed change. *(Amended by O-09-05 on 6/20/2005)*

## Section 9.05 – Thoroughfare Plan Change Notification

The Planning and Zoning Commission shall give written notice to be mailed to property owners within three hundred feet (300 feet) of property which is the subject of a proposed change to the Thoroughfare Plan before the 10<sup>th</sup> day before the Public Hearing on the proposed change. (*Amended by O-09-05 on 6/20/2005*)

## **Article X** **Utility and Public Service Franchises and Licenses**

### Section 10.01 – Authority

The City shall have the power to buy, own, sell, construct, lease, maintain, operate and regulate public services and utilities and to manufacture, distribute and sell the output of such services and utility operations. The City shall not supply any utility services outside the city limits, except by a written contract. The City shall have such regulatory and other power as may now or hereafter be granted under the Constitution and the laws of the State of Texas.

### Section 10.02 – Ordinance Granting Franchise

- 1.) Any ordinance granting, renewing, extending or amending a public service or utility franchise must be read at two separate meetings of the City Council and shall not take effect until thirty days after the final reading. Within fifteen days following the first reading of the ordinance, a summary of the ordinance shall be published once in a newspaper designated as the official newspaper of the City. The expense of such publication shall be borne by the prospective franchisee.
- 2.) No franchise shall be granted for a term of more than twenty years from the date of the grant, renewal, or extension of any franchise. (*Amended by O-08-03 on 6/9/2003*)
- 3.) No franchise may be exclusive, except for garbage collection.

### Section 10.03 – Transfer of Franchise

No public service or utility franchise is transferable, except with the approval of the City Council. However, the franchisee may pledge franchise assets as security for a valid debt or mortgage.

### Section 10.04 – Franchise Value Not to be Allowed

Franchises granted by the City are of no value in fixing rates and charges for public services or utilities within the City and in determining just compensation to be paid by the City for property which the City may acquire by condemnation or otherwise.

### Section 10.05 – Right of Regulation

In granting, amending, renewing, and extending public service and utility franchises, the City reserves unto itself all the usual and customary rights, including, but not limited to, the following rights:

- a.) To repeal the franchise by ordinance, after a reasonable time period and due notice, for failure to begin construction or operation within the time prescribed, or failure to comply with terms of the franchise.
- b.) To require all extensions of service within the City limits to become part of the aggregate property of the service and operate subject to all obligations and reserved rights contained in this Charter. Any such extension is considered part of the original grant and terminable at the same time and under the same conditions as the original grant.
- c.) To require expansion and extension of facilities and service and to require maintenance of existing facilities to provide adequate service at the highest level of efficiency.
- d.) To require reasonable standards of service and quality of product and prevent rate discrimination.
- e.) To impose reasonable regulation and restrictions to insure the safety and welfare of the public.

- f.) To examine and audit accounts and records and to require annual reports of the public service or utility.
- g.) To require the franchise to restore, at franchisee's expense all public or private property to a condition as good as or better than before disturbed by the franchisee for construction, repair or removal.
- h.) To require compensation, rent or franchise tax to be paid to the City as may be permitted by the laws of the State of Texas.

#### Section 10.06 – Regulation of Rates

- 1.) The City Council has the power to fix and regulate the rates and charges of all utilities and public services, consistent with State statutes.
- 2.) Upon receiving written request from a utility or a public service requesting a change in rates, or upon a recommendation from the City that rates for services provided by or owned by the City be changed, the City Council shall call a public hearing for consideration of the change.
- 3.) The City, public service or utility must show the necessity for the change by any evidence required by the City Council, including, but not limited to, the following:
  - a.) Cost of its investment.
  - b.) Amount and character of expenses and revenue connected with rendering the service.
  - c.) Copies of financial reports or returns filed with any State or Federal regulatory agency within the last three years.
- 4.) If not satisfied with the sufficiency of evidence, the City Council may hire rate consultants, auditors and attorneys to investigate and, if necessary, litigate requests for rate changes, the expense of which shall be reimbursed to the City by the franchisee.

## Section 10.07 – Licenses

The City shall have the power to license, levy and collect fees in order to license any lawful business, occupation or calling subject to control pursuant to the police powers of the State of Texas and for any other purpose not contrary to the Constitution and laws of the State of Texas.

## **Article XI General and Transitional Provisions**

### Section 11.01 – Public Records

All records of the City shall be open to inspection except for those that are permitted or required to be closed to the public by law. The records may be examined and copied in the City offices during normal office hours at a nominal charge established by the City Manager.

### Section 11.02 – Official Newspaper

The City Council shall declare annually an official newspaper of general circulation in the City. All ordinances, notices and other matters required to be published by this Charter, City ordinances, or Constitution and laws of the State of Texas shall be published in the official newspaper.

### Section 11.03 – Nepotism

The City Council shall comply with all applicable nepotism laws of the State of Texas.

### Section 11.04 – Oaths

All elected official and appointed officers of the City shall take and sign the oath of office based on those prescribed for State elective and appointive offices, respectively, in the Constitution of the State of Texas.

### Section 11.05 – Prohibitions and Penalties

- 1.) Equality of rights under the law shall not be denied or abridged with respect to appointment to or removal from any position because of

race, gender, age, national origin, political or religious opinions or affiliations.

- 2.) No person who seeks appointment or promotion with respect to any City position shall, directly or indirectly, give, render or pay any money, service or other valuable thing to any person for, or in connection with, his test, appointment or promotion.
- 3.) No person shall willfully make any false statement, certificate, mark, rating or report in regard to any test, certification or appointment or attempt to commit any fraud preventing the impartial execution of the personnel provisions, rules and regulations of this Charter.
- 4.) No person who holds any compensated non-elective City position shall make, solicit or receive any contribution for any candidate for public office in the City, or take part in the management, affairs or political campaign of such candidate. He may exercise his rights as a citizen to express his opinion and cast his vote.
- 5.) Any person who willfully engages in any of the above prohibited activities shall be ineligible for appointment or election to a position in the City for a period of five years from that time. If he is an officer or employee of the City at the time of the violation, he shall immediately forfeit his office or position.
- 6.) No person shall be qualified to hold a municipal office or serve the City in any other capacity for which compensation is paid who is delinquent in the payment of taxes or other liabilities due the City.

#### Section 11.06 – Assignment, Execution and Garnishment

- 1.) Property, real and personal, belonging to the City shall not be liable to be sold or appropriated under any writ or execution of cost bill. Funds belonging to the City in the hands of any person, firm or corporation, shall not be liable to garnishment, attachment or sequestration; nor shall the City be liable to garnishment on account of any debt it may owe or funds or property it may have on hand owing to any person. Neither the City nor any of its officers or agents shall be required to answer any such writ of garnishment on any account whatever.



- 2.) The City shall not be obligated to recognize any assignment of wages or funds by its employees, agents or contractors.

#### Section 11.07 – Security and Bond

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 demanded or executed by or on behalf of the City. All such actions shall be conducted in the same manner as if such bond, undertaking or security had been given as required by law.

#### Section 11.08 – Notice of Claim

The City shall not be held liable on account of any claim for the death of any person or injuries to any person or damage to any property unless the person making such complaint or claiming such damages shall, within six months after the time at which it is claimed such damages were inflicted upon such person or property.

#### Section 11.09 – Power to Settle Claims

The City Council shall have the power to compromise and settle any claims and lawsuits of every kind and character, in favor of, or against, the City, including suits by the City to recover delinquent taxes.

#### Section 11.10 – Service or Process Against the City

All legal process against the City shall be served upon both the Mayor and the City Manager.

#### Section 11.11 – Judicial Notice

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

### Section 11.12 – Severability

If any section or part of this Charter is held invalid by a court of competent jurisdiction, such holding shall not invalidate or impair the validity, force or effect of any other section or part of this Charter.

### Section 11.13 – Wording Interpretation

- 1.) The gender of the wording throughout this Charter shall always be interpreted to mean either sex. Where the context permits, the singular shall include the plural and the plural shall include the singular. All references to State law or laws of the State of Texas, however expressed in this Charter, shall mean “as presently enacted or hereafter amended.”
- 2.) The term Council shall include the Mayor and all other Council members.

### Section 11.14 – Amendment of Charter

Amendments to this Charter may be framed and submitted to the qualified voter of the City in the manner provided by the constitution and the laws of the State of Texas as presently enacted or hereafter amended.

### Section 11.15 – Charter Review Commission

- 1.) The City Council may appoint a Charter Review Commission of ten citizens of the City which shall:
  - a.) Inquire into the operation of the City government under the Charter and determine whether any provisions require revision. To this end, public hearings may be held. The Commission may compel the attendance of any officer or employee of the City and require submission of any City records it deems necessary to conduct the hearings.
  - b.) Propose any recommendations it deems desirable to insure compliance with the Charter of the City government.

- c.) Report its findings and present its recommendations to the City Council.
- 2.) The City Council shall receive and have published in the official newspaper of the City a comprehensive summary of the report presented by the Commission; shall consider any recommendations made, may order any amendments suggested to be submitted to the voters of the City in the manner provided by State law as now written or hereafter amended.
- 3.) The term of office of the Commission shall be for not more than six months, at the end of which time a report shall be presented to the City Council and all records of proceedings of the commission shall be filed with the City Secretary and become a public record.
- 4.) The City Council, in lieu of the above procedure or in addition thereto, may on its own motion submit to the voters any proposed amendment to the Charter in the manner authorized by law.

#### Section 11.16 – Schedule of Transition

- 1.) This Charter shall take effect immediately following adoption by the voters.
- 2.) Upon adoption of this Charter, the present members of the City Council filling elective offices will continue to fill those offices for the terms for which they were elected. Thereafter, the City Council shall be elected as provided in this Charter. Persons who, on the date this Charter is adopted, are filling appointive positions with the City which are retained under this Charter, may continue to fill these positions for the term for which they were appointed, unless removed by the City Council or by other means provided in this Charter.
- 3.) All City ordinances, bonds, resolutions, rules and regulations in force on the effective date of the Charter shall remain in force until altered, amended or repealed by the Council, and all rights of the City under existing franchises and contracts are preserved in full force and effect.

### Section 11.17 – Officers and Employees

Except as specifically provided, nothing in this Charter shall affect or impair the rights or privileges of persons who are City officers or employees at the time of its adoption.

### Section 11.18 – Pending Matters

All rights, claims, actions, orders, contracts and legal or administrative proceedings shall continue except as modified pursuant to the provisions of this Charter and in each case shall be maintained, carried on or dealt with by the City department, office or agency appropriate under this Charter.

### Section 11.19 – Submission of Charter to Electors

The Charter Commission in preparing this Charter finds and declares that it is impractical to segregate each subject so that the voter may vote “Yes” or “No” on each subject. The Charter is so constructed that in order to enable it to work and function, it is necessary that it should be adopted in its entirety. For these reasons the Charter Commission directs that this Charter be voted upon as a whole.