# CITY OF
# STAFFORD

## HOME RULE CHARTER

Amended May 22, 2012

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# HOME RULE CHARTER

# FOR THE

# CITY OF STAFFORD, TEXAS

## PREAMBLE

We the people of the City of Stafford, Texas, in order to establish a home rule municipal government which will preserve and protect the right of every citizen to equality under Law, regardless of race, culture, religion, gender or political affiliation, attract able and conscientious persons to public service, protect our natural resources to provide a sound quality of life, encourage outstanding educational opportunity, strive to promote economic prosperity, insure the efficient expenditure of public funds, continue the pursuit of unique and innovative endeavors, and guard the traditions and enhance the prestige of this City and its citizens, do hereby exercise our right of self-government, affirm our belief in these principles, and adopt this Charter in accordance with the statutes and Constitution of the United States and of this State.

## ARTICLE I

## INCORPORATION, FORM OF GOVERNMENT AND BOUNDARIES

### SECTION 1.01 – INCORPORATION

The inhabitants of the City of Stafford, Fort Bend and Harris Counties, Texas, residing within its corporate boundaries and limits as heretofore established, or as may be hereafter established, are hereby constituted and shall continue to be a municipal body politic and corporate in perpetuity under the name of the "City of Stafford, Texas," hereinafter referred to as the "City," with such powers, privileges, rights, duties and immunities as are herein provided.

### SECTION 1.02 – FORM OF GOVERNMENT

The municipal government provided by this Charter shall be, and shall be known as, a "Mayor-Council" form of government. Pursuant to the provisions of, and subject only to the limitations imposed by, the Constitution and laws of the State of Texas and by this Charter, all powers of the City shall be vested in and exercised by an elective City Council, hereinafter referred to as the "City Council," which shall enact and enforce ordinances, adopt budgets, determine policies, and execute such other powers and duties as may be prescribed by this Charter or Law.

### SECTION 1.03 – BOUNDARIES

The boundaries and limits of the City, are hereby established and described as those boundaries heretofore established in the original incorporation proceedings of the City, and those boundaries established and changed thereafter in all annexation ordinances and proceedings of the City.

## ARTICLE II

### SECTION 2.01 – GENERAL POWERS

a. The City shall have all powers possible for a home-rule city to have under the Texas Constitution, the laws of the State of Texas, and this Charter, as fully and completely as though they were specifically enumerated in this Charter, together with the implied powers necessary to carry into execution such granted powers, including, but not limited to, the power:

(1) To annex and disannex land, with or without the consent of the owners or inhabitants of the land;

(2) To borrow money on the faith and credit of the City by the issuance and sale of bonds, notes, or other debt instruments;

(3) To pass ordinances and enact such regulations as may be expedient for the maintenance of the good government, order, and peace of the City and the welfare, health, morals, comfort, safety, and convenience of its inhabitants and to provide penalties for the violation of any ordinance or regulation;

(4) To assess the owners of real property abutting upon a public highway or street for street improvements made thereon, in accordance with State Law;

(5) To use a corporate seal;

(6) To sue and be sued;

(7) To contract and be contracted with;

(8) To cooperate with the government of the State of Texas or any agency or political subdivision thereof, or with the federal government or agency thereof, to accomplish any lawful purpose for the advancement of the interest, welfare, health, morals, comfort, safety, and convenience of the City and its inhabitants;

(9) To acquire property within or without its corporate limits for any municipal purpose in fee simple or in any lesser interest or estate by purchase, gift, devise, lease or condemnation and, subject to the provisions of this Charter and the Constitution and laws of the State of Texas, may sell, lease, mortgage, hold, manage, improve, and control such property as may now or hereafter be owned by it;

(10) To the extent allowed by Law, require that any person, utility, or company making use of the City's streets, rights-of-way, or property to provide any service to the public first obtain the written consent of the City by license, permit, franchise, ordinance or otherwise;

(11) To the extent allowed by Law, regulate the rates, charges, fees, operations, and services of any person, utility, or entity providing water, wastewater, electricity, natural gas, telephone, telecommunications, cable television, taxicab, bus, auto wrecker, passenger and commuter rail, solid waste, transportation, or similar service to the public within the City;

(12) To the extent allowed by Law, regulate the quality of the City's natural resources, including the air and water and to regulate waste disposal and storm water runoff;

(13) 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;

(14) To the extent allowed by Law, assume and exercise such control over the public schools and public school systems within the City as deemed appropriate by the City Council; and

(15) For the purpose of carrying out the powers and duties conferred or imposed on the City, the City shall have the power to require licenses and permits and fix fees to be paid therefor and to charge compensation for any privilege granted or service rendered.

b. In addition to the powers enumerated herein and subject only to the limitations imposed by the Constitution and laws of the State of Texas and by this Charter, the City shall have, without the necessity of expressed enumeration in this Charter, each and every power which, by virtue of Article XI, Section V, of the Constitution of the State of Texas, the people of the City are empowered by election to grant or to confer upon the City by expressly and specifically granting and enumerating the same herein. All such powers, whether expressed or implied, shall be exercised and enforced in the manner prescribed in this Charter, or when not prescribed herein, in such manner as shall be provided by ordinance of the City Council.

**SECTION 2.02 – CHANGE OF BOUNDARIES AND ANNEXATION OF TERRITORY**

The City Council shall have the power by ordinance to establish the boundary limits of the City and to provide by ordinance for the annexation of additional territory lying adjacent to the City, with or without the consent of the owners or inhabitants of the territory to be annexed; and upon the final passage of any such ordinance, the corporate limits of the City shall thereafter include the territory so annexed; and the inhabitants thereof shall be entitled to all the rights and privileges of all citizens, and shall be bound by the acts and ordinances, resolutions, and regulations of the City. The City Council shall have the power to detach by ordinance any territory with or without the consent of the inhabitants or owners of such area to be detached. Such annexation or detachment of any such territory shall be in accordance with the provisions of State Law, as it now exists or may be hereafter amended.

## ARTICLE III

## THE CITY COUNCIL

### SECTION 3.01 – NUMBER, SELECTION, AND TERM

The governing body of the City shall be the City Council. The City Council shall be composed of a Mayor and six (6) Councilmembers. The Mayor and all Councilmembers shall be elected from the City at-large. The Mayor and the Councilmembers shall be elected in the manner provided in Article V of this Charter to serve for two-year terms, and shall hold office until their respective successors have been elected and qualified.

### SECTION 3.02 – QUALIFICATIONS

Upon commencement of the term to be filled at their respective elections, each Councilmember and the Mayor shall be at least twenty-one (21) years of age, be a resident qualified voter of the City, and shall have resided continuously in the City for at least twelve (12) months immediately preceding the filing deadline for an application for a place on the ballot.

### SECTION 3.03 – MAYOR AND MAYOR PRO TEM

a. Mayor.

The Mayor shall:

(1) preside at all meetings of the City Council, be recognized as head of the City government for emergency purposes, for the purpose of receiving service of process, for military purposes, and for ceremonial purposes;

(2) be entitled to vote upon all matters before the City Council unless prohibited by Law, but shall have no power of veto;

(3) see that ordinances, regulations, and resolutions of the City Council are faithfully obeyed and enforced;

(4) when authorized by the City Council, sign all official documents such as ordinances, resolutions, conveyances, agreements, contracts, and bonds;

(5) appoint special committees which the Mayor deems advisable or as instructed by the City Council;

(6) oversee the preparation of each annual fiscal year budget, file it with the City Secretary, and be responsible for its administration after adoption by City Council;

(7) in January of each year, deliver a State of the City Message to the City Council and the members of the public, which shall include, but not be limited to:

(i) a report on the current status of the City;

(ii) major developments and accomplishments during the past year;

(iii) recommendations of such measures as the Mayor believes necessary and expedient to the good government of the City; and

(iv) goals for the coming year; and

(8) perform such other duties and possess and exercise such other authority as may be prescribed and conferred by City Council when not inconsistent with this Charter.

b. Mayor Pro Tem. The Mayor Pro Tem shall be a Councilmember and shall be elected by the City Council at the first regular meeting following the general municipal election each year or as soon thereafter as practicable. The Councilmember elected as the Mayor Pro Tem shall hold the title and serve in such capacity at the pleasure of the City Council. If the Mayor fails, or is unable, or refuses to act, the Mayor Pro Tem shall have power to perform the Mayor's duties. If the Mayor and the Mayor Pro Tem are absent from a meeting, the City Councilmember next in line of succession present shall preside over such meeting.

c. Succession. At the first regular meeting following the general municipal election each year or as soon thereafter as practicable, the City Council shall designate the order in which other Councilmembers shall have the power to perform the duties of the Mayor and the Mayor Pro Tem, in the event the Mayor and the Mayor Pro Tem fail, or are unable, or refuse to act.

**SECTION 3.04 – POWERS OF THE CITY COUNCIL**

All powers and authority which are expressly or impliedly conferred on or possessed by the City shall be vested in and exercised by the City Council; provided, that the City Council shall have no power to exercise those powers which are expressly conferred on other city officers by this Charter.

**SECTION 3.05 – COMPENSATION**

The Mayor and Councilmembers may receive such pay and compensation, including necessary expenses incurred in the performance of their official duties, as may be prescribed and set by City Council by ordinance; however, the compensation set for the Mayor or a Councilmember may not be changed during the term for which the Mayor or such Councilmember is elected or appointed.

**SECTION 3.06 – HOLDING OTHER OFFICE**

Except where authorized by Law, a Mayor or Councilmember shall not hold any other City office or City employment during the term for which he or she was elected.

**SECTION 3.07 – VACANCIES; FORFEITURE OF OFFICE; FILLING OF VACANCIES**

a. Vacancies. The office of Mayor or Councilmember shall become vacant upon death, resignation, removal, or forfeiture of office.

b. Forfeiture of office. The Mayor or a Councilmember shall forfeit his or her office if he or she:

(1) lacks at any time during the term of office for which elected any qualification for the office prescribed by this Charter or by Law;

(2) violates any express prohibition of this Charter; or

(3) is convicted of a crime involving moral turpitude.

c. Any member of the City Council remaining absent for three (3) consecutive regular meetings of the City Council, without having first obtained a leave of absence, may have his or her office declared vacated by a majority vote of all the remaining members of the City Council. Any member of the City Council remaining absent for six (6) consecutive regular meetings of the City Council shall be deemed to have vacated his or her office.

d. Filling vacancies.

(1) If for any reason a single vacancy exists on the City Council, the vacancy shall be filled by a majority vote of the remaining members or by special election as follows:

i. If on the date the vacancy occurs, there is sufficient time to order a special election to be held on the next authorized uniform election date prescribed by the Election Code, a special election shall be ordered to fill the vacancy for the remainder of the unexpired term.

ii. If on the date the vacancy occurs, there is insufficient time to order a special election to be held on the next uniform election date prescribed by the Election Code, City Council shall appoint a person to fill the vacancy until the next regular municipal election, at which time, if there is an unexpired term remaining, a special election shall be ordered to elect a person to fill the vacancy for the remainder of the unexpired term. The person appointed to fill such vacancy shall possess all qualifications required for the office as set for the in Section 3.02 of this Charter.

iii. If City Council fails to appoint a person to fill a vacancy on City Council as provided in d.(1)ii above, a special election shall be ordered to elect a person to fill the vacancy for the remainder of the unexpired term. The special election shall be held on the first authorized uniform election date prescribed by the Election Code that occurs before the general election and that allows enough time to hold the election in the manner required by Law.

(2) If two or more vacancies on the City Council exist at the same time, a special election shall be ordered to fill the vacancies.

**SECTION 3.08 – COUNCIL TO BE JUDGE OF QUALIFICATIONS OF ITS MEMBERS**

The City Council shall be the sole judge of all elections and of qualifications of its members and for such purposes shall have the power to subpoena witnesses and require the production of records.

**SECTION 3.09 – INVESTIGATIONS 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 and to investigate municipal affairs, and for that purpose shall have the power to administer oaths, subpoena witnesses, compel the production of books, papers and other evidence material to the inquiry. The City Council may provide by ordinance penalties for contempt in 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 such contempt in the manner provided by such ordinance.

**SECTION 3.10 – MEETINGS OF CITY COUNCIL**

a. The City Council shall hold at least one (1) or more regular meetings each month and as many additional special meetings as it deems necessary to transact the business of the City. Special meetings may be held on the call of the Mayor or four (4) or more Councilmembers. The City Council shall fix, by ordinance, the days and times of the regular meeting or meetings. All meetings of the City Council shall be held at the City Hall or at such other public place as may be approved by City Council, provided such meetings are held at locations accessible to the general public. All meetings shall be open to the public except as authorized by State Law. Each member of City Council, if present, shall vote upon all matters before the City Council except when the matter involves the consideration of that member's own official conduct or where that member's participation in the vote is prohibited by State Law.

b. Four (4) members of City Council shall constitute a quorum for the purpose of transaction of business at any regular or special called meeting. No action of the City Council shall be valid or binding unless approved by the affirmative vote of a majority of the members of City Council present.

c. If at any meeting neither the Mayor nor Mayor Pro Tem is present, the Councilmember next in line of succession that is present shall conduct the meeting as provided herein.

d. The City Council shall provide for minutes being taken and recorded of all its public meetings, as required by Law, except for closed sessions, as provided by Law, and such minutes shall be a public record.

e. The City Council shall provide that the citizens of the City shall have a reasonable opportunity to be heard at any meeting in regard to any matter under consideration.

f. The agenda for the meetings of City Council shall be prepared by the Mayor and posted in the manner required by State Law. Any Councilmember may request that an item be placed on the agenda; however, the Mayor is not obligated to comply unless such request is timely submitted in writing and signed by three (3) or more Councilmembers. The item shall then be included on the next regular City Council meeting agenda unless a different meeting date was specified in the request.

## SECTION 3.11 – RULES OF PROCEDURE

The City Council shall by ordinance determine its own rules and order of business. The City Council may adopt such rules and prescribe such penalties as it may deem proper to enforce the attendance of its members at all regular and special meetings of the City Council or its committees.

## SECTION 3.12 – PROCEDURE TO ENACT LEGISLATION

The City Council shall legislate by ordinance. The enacting clause of every ordinance shall be, "Be it Ordained by the City Council of the City of Stafford, Texas." Every ordinance enacted by the City Council shall be signed by the Mayor and attested by the City Secretary within ten (10) days of its final passage and shall be filed with and recorded by the City Secretary for authentication; however, all ordinances, unless otherwise provided by Law, by the terms of such ordinance, or by this Charter, shall take effect immediately upon final passage. In the event the Mayor fails or refuses to sign an ordinance within the time required, such ordinance shall be signed by the Mayor Pro Tem or by two (2) Councilmembers.

## SECTION 3.13 – PUBLICATION OF ORDINANCES

Except as otherwise provided by Law or this Charter, the City Secretary shall give notice of the enactment of every ordinance imposing any penalty, fine, or forfeiture for any violation of any of its provisions, and of every other ordinance required by Law or this Charter to be published, by causing said ordinance, or its caption and penalty, to be published at least one time within ten (10) days after final passage thereof in the official newspaper of the City. The affidavit of publication by the publisher of such newspaper taken before any officer authorized to administer oaths and filed with the City Secretary shall be conclusive proof of the legal publication and promulgation of such ordinance in all Courts.

## SECTION 3.14 – CODE OF ORDINANCES

The City Council shall have the power to cause all general ordinances of the City to be compiled and printed in code form. Every general ordinance enacted subsequent to such codification may be enacted as an amendment to the code. The City Council shall cause all general ordinances to be codified, recodified and reprinted whenever in its discretion such is deemed desirable, or when such codification or recodification is required by Law. When adopted by the City Council, the printed codes of general ordinances contemplated by this Section shall be in full force and effect without the necessity of such code or any part thereof being published in any newspaper. The caption, descriptive clause,

and other formal parts of the ordinances of the City may be omitted without affecting the validity of such ordinances when they are published as a code.

## ARTICLE IV

## ADMINISTRATIVE SERVICES

### SECTION 4.01 – ATTORNEY FOR THE CITY

The City Council shall appoint as the attorney for the City (referred to as city attorney) a competent and duly qualified attorney who is licensed to practice Law in the State of Texas. The city attorney shall hold the office at the will and pleasure of the City Council. The city attorney shall be the legal advisor of, and the attorney for, all of the offices and departments of the City, and shall represent the City in litigation and legal proceedings; provided, that the City Council may retain special legal counsel for any purpose and at any time it shall deem same appropriate and necessary. The city attorney shall perform other duties prescribed by this Charter, ordinance, or as directed by City Council

### SECTION 4.02 – MUNICIPAL COURT

a. There shall be established and maintained a court, designated as a "municipal court" for the trial of misdemeanor offenses, with all such jurisdiction, powers, and duties as are now, or may hereafter be prescribed by the laws of the State relative to municipal courts.

b. The municipal court shall be presided over by a magistrate who shall be known as the "judge of the municipal court." The City Council may, by ordinance, divide the municipal court into two (2) or more panels or divisions, one of which shall be presided over by the presiding judge. Each additional panel or division shall be presided over by an associate judge, who is a magistrate with the same powers as the presiding judge. Each judge shall be a competent, duly qualified attorney; licensed and practicing for at least two (2) years in the State of Texas. The judge or judges for said court shall be appointed by the Mayor with confirmation by City Council for a term of two (2) years to run concurrent with the term of the Mayor, but any judge may be removed for cause by majority vote of the entire City Council. Each judge shall receive such salary as may be fixed by the City Council.

c. There shall be a clerk of said court and such deputy clerks as may be authorized by the City Council and appointed by the City Council.

d. The clerk and deputy clerks of said court shall have the power to administer oaths and affidavits, make certificates, affix the seal of said court thereto, and generally do and perform any and all acts usual and necessary to be

performed by clerks of court in issuing process of said court and conducting the business thereof.

e. In case of the disability or absence of the judge of the municipal court, the City Council shall appoint a person having the qualifications prescribed by this section to act as judge of the municipal court.

**SECTION 4.03 – CITY SECRETARY**

a. There shall be a city secretary, who shall be appointed by the Mayor with confirmation by the City Council. City Council shall appoint an assistant city secretary who shall act in the absence of the city secretary. The city secretary and assistant city secretary shall hold office at the will and pleasure of the City Council.

b. 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;

(4) Attest contracts, certificates, and other legal instruments when executed by the authorized officers of the City;

(5) Serve as the election official for all City elections; and

(6) Perform such other duties as may be required of the city secretary by this Charter, the City Council or State Law.

**SECTION 4.04 – ADMINISTRATIVE DEPARTMENTS**

a. There shall be such administrative departments as are established by this Charter and as may be established by ordinance. Except as otherwise provided in this Charter or as may be established by ordinance, these administrative departments shall be under the direction of the Mayor.

b. The City Council shall have power by ordinance to establish administrative departments or offices not herein provided. The City Council may discontinue, redesignate, or combine any of the departments and/or administrative offices.

c. The head of each department shall be a director, who shall have supervision and control over his or her department. Two (2) or more departments may be headed by the same individual. Directors shall be appointed by the Mayor with confirmation by the City Council. All directors shall hold the office at the will and pleasure of City Council.

## ARTICLE V

## ELECTIONS

### SECTION 5.01 – MUNICIPAL ELECTIONS

All City elections shall be held in accordance with State Law regulating the holding of municipal elections and in accordance with the ordinances adopted by the City Council for the conduct of elections. Voting precincts shall be established by the City Council by ordinance and may be altered from time to time in like manner and in accordance with the State Law applicable to elections in municipalities.

### SECTION 5.02 – QUALIFICATIONS OF VOTERS

All residents of the City who shall have qualified to vote in accordance with the provisions of the Texas Election Code shall have the right to vote in all City elections.

### SECTION 5.03 – ELECTION OF MAYOR AND COUNCILMEMBERS

a. Date of General Election. The general election for the Mayor and Councilmembers shall be held on the spring uniform election date set forth in the Texas Election Code, or as otherwise prescribed by State Law.

b. Elections prior to adoption of Charter. The terms of the Mayor and all Councilmembers elected to their positions prior to the effective date of this Charter shall expire at the conclusion of the term for which such person was elected prior to the effective date of this Charter.

c. Election of Mayor. The Mayor shall be elected at the general election in each odd numbered year, and shall serve for a term of two (2) years.

d. Election of Councilmembers. Except as provided under Article XI, Transitional Provisions, Councilmembers shall be elected as follows:

(1) Three (3) Councilmembers shall be elected without reference to position at the general election in each odd numbered year beginning with the election in 2005 and shall serve for a term of two (2) years. The three

(3) candidates receiving the highest number of votes cast and that are otherwise qualified shall be elected.

(2) Three (3) Councilmembers shall be elected without reference to position at the general election in each even numbered year beginning with the election in 2004 and shall serve for a term of two (2) years. The three (3) candidates receiving the highest number of votes cast and that are otherwise qualified shall be elected.

**SECTION 5.04 – SPECIAL ELECTIONS**

The City Council may call such special elections as are authorized by State Law and this Charter, fix the time and places for holding such elections, and shall provide all means for holding same.

**SECTION 5.05 – ELECTION BY PLURALITY**

The qualified person receiving the highest number of votes cast for any office of the City subject to election shall thereupon be declared by said City Council elected.

**SECTION 5.06 – FILING BY CANDIDATES**

Any qualified person who desires to become a candidate for election to the City Council shall file an application with the City Secretary within the time prescribed by Law. Such application shall clearly designate the office to which the candidate seeks election and shall contain a sworn statement by the candidate that he or she is fully qualified under the Constitution and laws of the State of Texas and the provisions of this Charter to hold the office he or she seeks.

**SECTION 5.07 – CANVASSING ELECTION AND DECLARING RESULTS**

The City Council shall canvass the returns and declare the official results of each municipal election in accordance with applicable provisions of Law. The returns of every municipal election shall be recorded in the minutes of the City Council.

**SECTION 5.08 – NOTIFICATION AND QUALIFICATIONS OF CITY OFFICERS**

The City Secretary shall notify all persons elected or appointed to office of their election or appointment. Any officer elected or appointed must qualify by taking and subscribing to the oath of office within thirty (30) days after such election or appointment. An officer elected or appointed shall, after taking the oath of office as prescribed by this section, take office and enter upon his or her duties.

If a person elected or appointed to an office of the City fails to take and subscribe to the oath of office within thirty (30) days following such election or appointment, such office may be deemed vacant by City Council.

## ARTICLE VI

## FINANCIAL ADMINISTRATION

### SECTION 6.01 – FISCAL YEAR

The fiscal year of the City shall begin on the first day of each October and end on the last day of September of the following year; provided, however, City Council may, by ordinance, establish a different fiscal year of the City after holding a public hearing on the proposed change.

### SECTION 6.02 – ANNUAL BUDGET

a. Itemized Budget; Contents. The budget shall be itemize to allow as clear a comparison as practicable between expenditures included in the proposed budget and actual expenditures for the same or similar purposes made for the preceding year. The budget shall show as definitely as possible each of the projects for which expenditures are set up in the budget and the estimated amount of money carried in the budget for each project. The budget shall contain a complete financial statement of the City that shows:

(1) the outstanding obligations of the City;
(2)
(3) the cash on hand to the credit of each fund;
(4)
(3) the funds received from all sources during the preceding year;

(5) the funds available from all sources during the ensuing year;
(6)
(5) the estimated revenue available to cover the proposed budget;

(7) the estimated tax rate required to cover the proposed budget; and
(8)
(7) such other information as may be required by the City Council or by Law.

b. Authority to require information. In overseeing the preparation of the budget, the Mayor may require any municipal officer or board to furnish information necessary to properly prepare the budget.

c. Submission. Before the thirtieth (30th) day before the date the City Council makes its tax levy for the fiscal year, the Mayor shall file with the City Secretary a proposed budget. The proposed budget shall be available for inspection by any person.

d. Budget Message. A budget message shall be submitted by the Mayor to the City Secretary on or before the seventh (7th) day after the date the proposed budget is submitted. It shall outline proposed financial matters of the City for the ensuing year, describe important features of the budget and contrast major changes in financial matters, expenditures and revenues for the current year with those of the ensuing year. It shall also contain such other material as the Mayor deems desirable or City Council requires and shall be available for inspection by any person.

e. Public notice and hearing. The City Council shall hold a public hearing on the proposed budget. Any person may attend and may participate in the hearing. City Council shall set the hearing for a date occurring after the fifteenth (15th) day after the date the proposed budget is filed with the City Secretary but before the date the City Council makes its tax levy or as required by Law.

The City Council shall cause to be posted in the City Hall and published in the official newspaper a notice stating:

(1) The date, time and location where copies of the message and budget are available for inspection by the public; and

(2) The date, time and location of the public hearing on the budget.

Such notice shall be published not earlier than the thirtieth (30th) or later than the tenth (10th) day before the date of the hearing or as required by Law.

f. Amendment before adoption. After the public hearing, the City Council may adopt the budget with or without amendment. In amending the budget, it may add or increase programs or amounts and may delete or decrease any programs or amounts, except expenditures required by Law or for debt service.

g. Adoption. The City Council shall adopt the budget by ordinance on or before the start of the fiscal year to which it applies. Adoption of the budget shall constitute appropriations of the amounts specified therein as expenditures from the funds indicated.

h. Failure to adopt. If the City Council fails to adopt the budget by the first (1st) day of the fiscal year, 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 City Council adopts a budget for the ensuing fiscal year.

**SECTION 6.03 – AMENDMENTS AFTER ADOPTION**

a. Supplemental appropriations. If during the fiscal year the Finance Director certifies that there are available for appropriation revenues in excess of those estimated in the budget, the City Council by ordinance may make supplemental appropriations for the year up to the amount of such excess.

b. Emergency Appropriations. To meet an extreme emergency condition which may arise affecting life, health, property, or the public peace, and which could not reasonably have been foreseen in the normal process of planning the budget, the City Council may amend or change the budget to provide for an emergency appropriation. These amendments shall be by ordinance, and shall become an attachment to the original budget.

c. Insufficient appropriations. If at any time during the fiscal year it appears probable to the Finance Director that the revenues available will be insufficient to meet the amount appropriated, the Finance Director shall report to the City Council without delay, indicating the estimated amount of the deficit, any remedial action taken and recommendations as to any other step to be taken. The City Council shall then take such further action as it deems necessary to prevent or minimize any deficit and for that purpose it may by ordinance reduce one or more appropriations.

d. Transfer of appropriations. At any time during the fiscal year, the City Council may by ordinance transfer part or all of any unencumbered appropriations balance among programs within a department, division, office, or agency or transfer part or all of any unencumbered appropriation balance from one department, division, office, or agency to another.

**SECTION 6.04 – 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.

**SECTION 6.05 – ADMINISTRATION OF BUDGET**

No payment shall be made or obligation incurred against any allotment or appropriation except in accordance with appropriations duly made and unless the Finance Director or their designee first certified that there is a 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. Any authorization of payment or incurring of obligation in violation of the provisions of this Charter shall be void and any payments so made illegal. However, this prohibition shall not be construed to prevent the making or authorizing the making of any contract or lease providing for payments beyond the end of the fiscal year, provided that such action is authorized by Law and approved by City Council. The Finance Director shall submit a monthly report to the City Council covering the revenues and expenditures of the City in such form as requested by the City Council.

**SECTION 6.06 – POWER TO BORROW MONEY**

The City 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, revenue 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. Such power shall include the authority to issue bonds, warrants, certificates of obligation and other evidence of indebtedness payable from revenues other than taxation for any purpose permitted by the laws of the State of Texas.

**SECTION 6.07 – INDEPENDENT AUDIT**

At the close of each fiscal year, the City Council shall cause an independent audit to be made of all accounts of the City by a certified public accountant. The City Council may, at such other times as it may be deemed necessary, cause an independent audit to be made of any or all accounts of the City by a certified public accountant. The certified public accountant so selected shall have no personal interest, directly or indirectly in the financial affairs of the City or any of its officers. Upon completion of the audit, the results thereof shall be presented to City Council for acceptance, in a meeting open to the public, and thereafter shall be placed on file in the City Secretary's office as a public record.

**SECTION 6.08 – DEPOSITORY**

All moneys received by any person, department, or agency of the City, for or in connection with affairs of the City shall be deposited promptly in the City depository or depositories, which shall be designated by the City Council in accordance with such regulations and subject to such requirements as to security for deposits and interest thereon as may be established by ordinance or by the laws of the State of Texas. All checks, vouchers, or warrants for the withdrawal of money from the City depositories shall be signed or otherwise authorized by the Mayor and/or such other person or persons as the City Council shall

designate by ordinance or resolution. The City Council, under such regulations and limitations as it may prescribe, may by ordinance authorize the use of machine imprinted facsimile signatures on such checks, vouchers or warrants.

**SECTION 6.09 – POWER TO TAX**

The City Council, for any municipal purpose, shall have the power to levy, assess, and collect taxes of every type and character, at such rates and in such amounts, not prohibited by the Constitution or laws of the State of Texas.

**SECTION 6.10 – ARREARS OF TAXES OFFSET TO DEBT AGAINST CITY**

The City shall be entitled to counterclaim and offset against any debt, claim, demand, or account owed by the City to any person, firm, or corporation who is in arrears to the City for taxes, in the amount of taxes in arrears, and no assignment or transfer of such debt, claim, demand, or account after the said taxes are due shall affect the right of the City to so offset the said taxes against the same.

**SECTION 6.11 – TAX ASSESSOR-COLLECTOR**

The City Council, by ordinance, may establish an office of taxation to collect taxes, the head of which shall be the city tax assessor-collector, who shall be appointed by the Mayor with confirmation by the City Council, or the City Council may contract for such services.

## ARTICLE VII

## FRANCHISES AND PUBLIC UTILITIES

**SECTION 7.01 – INALIENABILITY OF CONTROL OF PUBLIC PROPERTY**

The right of control and use of the public streets, highways, sidewalks, alleys, parks, public squares, and public places of the City is hereby declared to be inalienable by the City, except by ordinance not in conflict with the provisions of this Charter. No act or omission by the City Council or of an officer or agent of the City shall be construed to grant, renew, extend, or amend, expressly or by estoppel or implication, any right, franchise, or easement affecting such public streets, highways, sidewalks, alleys, parks, public squares, public places, and other real property, except as provided in this Charter.

**SECTION 7.02 – POWER TO GRANT FRANCHISE**

The City Council shall have the power by ordinance to grant, renew, and extend all franchises of all public utilities of every character operating within the City

and, with the consent of the franchise holder, to amend the same. Provided, however, that no franchise shall be granted for an indefinite term or for a term of more than twenty (20) years. No exclusive franchise shall ever be granted.

**SECTION 7.03 – ORDINANCE GRANTING FRANCHISE**

Every ordinance granting, renewing, extending, or amending a public utility franchise shall be presented at two (2) regular meetings of the City Council and shall not be finally acted upon until thirty (30) days after the first presentation thereof. Within ten (10) days following each of the two presentations of the ordinance, a descriptive caption of the ordinance stating in summary the purpose of the ordinance shall be published one time in the official newspaper of the City, and the expense of such publication shall be borne by the prospective franchise holder.

**SECTION 7.04 – TRANSFER OF FRANCHISE**

No public utility franchise shall be transferred by the holder thereof except with the approval of the City Council expressed by ordinance.

**SECTION 7.05 – FRANCHISE VALUE NOT ALLOWED**

In fixing reasonable rates and charges for public utility service within the City and in determining the just compensation to be paid by the City for public utility property which the City may acquire by condemnation or otherwise, nothing shall be included as the value of any franchise by the City under this Charter.

**SECTION 7.06 – REGULATION OF FRANCHISE**

Every grant, renewal, extension, or amendment of a public utility franchise, whether so provided in the ordinance or not, shall be subject to the right of the City Council:

a. To forfeit any such franchise by ordinance at any time for failure of the holder thereof to comply with the terms of the franchise. Such power shall be exercised only after written notice to the franchise holder stating wherein the franchise holder has failed to comply with the terms of the franchise and setting a reasonable time for the correction of such failure, and shall be exercised only after hearing and after such reasonable time has expired.

b. To impose reasonable regulations to insure safe, efficient, and continuous service to the public.

c. To require such expansion, extension, enlargement, and improvement of plants and facilities as are necessary to provide adequate service to the public.

d. To require every franchise holder to furnish to the City, without cost to the City, full information regarding the location, character, size, length, and terminals of all facilities of such franchise holder in, over, and under the streets, alleys, and other public properties of the City, and to regulate and control the location, relocation, and removal of such facilities.

e. To collect from every public utility operating in the City such proportion of the expense of excavating, grading, paving, repaving, constructing, reconstructing, draining, repairing, maintaining, lighting, sweeping, and sprinkling the streets, alleys, bridges, culverts, viaducts, and other public places of the City as represents the increased cost of such operation resulting from the occupancy of such public places by such public utility, and such proportion of the cost of such operations as results from the damage to or the disturbance of such public places caused by such public utility; or to compel such public utility to perform at its own expense, such operations as above listed that are made necessary by the occupancy of such public places by such utility or by damage to or disturbance of such public places caused by such public utility.

f. To require every franchise holder to allow other public utilities to use its poles and other facilities, including bridges and viaducts, whenever in the judgment of the City Council such use shall be in the public interest, provided that in such an event a reasonable rental shall be paid such owner of the facilities for such use. Provided further, that inability of such public utilities to agree upon rental facilities shall not be a excuse for failure to comply with such requirement by the City Council.

g. (1) To require the keeping of accounts in such form as will accurately reflect the value of the property of each franchise holder which is used and useful in rendering its service to the public and the expenses, receipts, and profits of all kinds of such franchise holder.

(2) To examine and audit at any time during business hours the accounts and other records of any franchise holder.

(3) To require reports on the operation of the utility, which shall be in such form and contain such information as the City Council shall prescribe.

h. To require that the public utility give notice to any subscriber to its service prior to the permanent or temporary discontinuance or disruption of such service by the public utility, except in cases of emergency, and to require that no officer, agent, servant, or employee of the public utility nor any vehicles or equipment under their control shall make use of, go upon or across any private property in the City without first obtaining the permission of the owner or occupant

of such property, except in cases of emergency, and to provide a penalty for the violation of such requirements.

i. To impose such other reasonable regulations, restrictions, requirements, and conditions as may be deemed necessary or desirable to promote the health, safety, welfare, or accommodations of the public.

**SECTION 7.07 – FRANCHISE RECORDS**

Within six (6) months after the effective date of this Charter every public utility operating in the City and every owner of a public utility franchise within the City shall file with the City Secretary certified copies of all franchises owned or claimed or under which such utility is operating in the City. The City shall compile and maintain a public record of public utility franchises.

**SECTION 7.08 – REGULATION OF RATES**

The City Council shall have full power, after notice and hearing to regulate by ordinance the rates, charges, and fares of every public utility franchise holder operating in the City, to the extent permitted by Law. Every franchise holder who shall request an increase in rates, charges, or fares shall have, at the hearing of the City Council called to consider such request, the burden of establishing by clear, competent, and convincing evidence the value of its investments properly allocable to service in the City, and the amount and character of its expenses and revenues connected with the rendering of such service. If, upon such hearing, the City Council is not satisfied with the sufficiency of the evidence so furnished, it shall be entitled to call upon such public utility for the furnishing of additional evidence at a subsequent date to which said hearing may be adjourned. No public utility franchise holder shall institute any legal action to contest any rate, charge, or fare fixed by the City Council until such franchise holder has filed a motion for rehearing with the City Council for a specific date setting out each ground of its complaint against the rate, charge, or fare fixed by the City Council, and until the City Council shall have acted upon such motion. Such motion shall be deemed overruled unless acted upon by the City Council within a reasonable time, not to exceed ninety (90) days from the filing of such motion for rehearing; provided, however, the City Council may by resolution extend such time limit for acting on said motion for rehearing from ninety (90) days to one hundred eighty (180) days.

## ARTICLE VIII

## BOARDS AND COMMISSIONS

### SECTION 8.01 – AUTHORITY, COMPOSITION AND PROCEDURES

a. The City Council shall have the authority to establish such boards, commissions, and committees as it may deem necessary or desirable for the conduct of the City's business and the management of its affairs. The authority, duties, functions, and responsibilities of such boards, commissions, and committees shall be such as are specified by ordinance or resolution. The authority, duties, functions, and responsibilities thus granted to and conferred on such boards, commissions, and committees shall not be incompatible with the provisions of this Charter and shall in no manner conflict with, usurp or transfer any privilege, authority, duty, function, or responsibility specifically granted herein or by the laws of the State of Texas to another officer, board, agency, or commission of the City.

b. The City Council shall give preference to qualified voters of the City when appointing individuals to serve on such boards, commissions, or committees where such qualification is not otherwise prescribed by Law or this Charter.

c. All boards, commissions, or committees of the City shall keep and maintain minutes of any proceedings to be placed on file with the city secretary.

d. Members of the City Council may be appointed to any board, commission, or committee created or established by the City Council, provided that such appointment is not incompatible with the office of Councilmember or prohibited by this Charter, the laws of the State of Texas, or common law conflicts of interest.

## ARTICLE IX

## INITIATIVE, REFERENDUM, AND RECALL

### SECTION 9.01 – POWER OF INITIATIVE

The qualified voters of the City reserve the power of direct legislation by initiative, and in the exercise of such power may propose any ordinance which is not in conflict with this Charter, the State Constitution, or the laws of this State; provided, however, such power shall not extend to the budget or capital programs, ordinances relating to the appropriation of money, the levy of taxes, the salaries of city officials or employees, zoning ordinances or ordinances repealing zoning ordinances, or ordinances annexing or disannexing territory. Any initiated

ordinance may be submitted to the City Council by a petition signed by qualified voters of the City equal in number to at least ten percent (10%) of the qualified voters of the City at the time of such submission. All the signatures on such a petition must have been collected within the ninety (90) day period immediately preceding the date of submission.

**SECTION 9.02 – POWER OF REFERENDUM**

The qualified voters of the City reserve the power to approve or reject any ordinance enacted by the City Council which is subject to the initiative process under this Charter and under the laws of this State, except that ordinances authorizing the issuance of either tax or revenue bonds, whether original or refunding bonds, shall not be subject to such referendum. Ordinances submitted to the City Council by initiative petition and passed by the City Council without change shall be subject to the referendum in the same manner as other ordinances. Within sixty (60) days after the enactment by City Council of any ordinance which is subject to a referendum, a petition signed by qualified voters of the City equal in number to at least ten percent (10%) of the qualified voters of the City at the time of filing the petition may be filed with the City Secretary requesting that any such ordinance be either repealed by the City Council or submitted to a vote of the people.

**SECTION 9.03 – FORM OF PETITION; COMMITTEE OF PETITIONERS**

a. All petitions circulating for purposes of an initiative or referendum shall be uniform in size and style.

b. Each copy of an initiative or referendum petition shall contain:

(1) the full text of the proposed ordinance, or the ordinance petitioned for referendum, including a descriptive caption;

(2) the names and addresses of the five (5) qualified voters who, as a committee of the petitioners, shall be regarded as responsible for the circulation and filing of the petition; and

(3) the following statement in bold print: "PURSUANT TO THE CITY'S HOME RULE CHARTER, THE COMMITTEE OF PETITIONERS HAS THE AUTHORITY TO NEGOTIATE WITH CITY COUNCIL, ACCEPT AN ALTERNATIVE TO THIS PETITION, AND WITHDRAW THIS PETITION PRIOR TO THE CITY COUNCIL CALLING AN ELECTION."

c. The signatures to an initiative or referendum petition need not be appended to a single copy of the petition.

d. Each signer of any copy of such petition shall sign only his or her name in ink or indelible pencil, together with the signer's printed name, date of birth, the signer's voter registration number, the signer's residence address, and the date of signing.

e. Attached to each copy of such petition, there shall be an affidavit of the circulator thereof:

(1) that he or she, and he or she only, personally circulated the foregoing copy of such petition;

(2) that it bears a stated number of signatures;

(3) that all signatures appended thereto were made in his or her presence;

(4) that he or she believes them to be the genuine signatures of the persons whose names they purport to be; and

(5) that all signatures appended thereto were collected within the ninety (90) day period immediately preceding the date of filing the petition.

**SECTION 9.04 – FILING, EXAMINATION AND CERTIFICATION OF PETITIONS**

All copies of a petition comprising an initiative or referendum petition shall be assembled and filed with the City Secretary as one instrument. Within thirty (30) days after a petition is filed, the City Secretary shall determine that each copy of the petition has a proper statement of the circulator and whether the petition is validly signed by a sufficient number of qualified voters. The City Secretary shall declare any copy of the petition entirely invalid which does not have attached thereto an affidavit signed by the circulator thereof. If a copy of the petition is found to be signed by more persons than the number of signatures certified by the circulator, the last signatures in excess of the number certified shall be disregarded. If a copy of a petition is found to be signed by fewer than the number certified, the signatures shall be accepted unless void on other grounds. After completing examination of the petition, the City Secretary shall certify the results thereof to the City Council at its next regular meeting. If the City Secretary shall certify that the petition is insufficient, the City Secretary shall set forth in the certificate the particulars in which it is defective and shall at once notify the committee of the petitioners of such finding.

**SECTION 9.05 - SUPPLEMENTAL PETITIONS**

An initiative or referendum petition may be supplemented once by the deadline for filing the original petition if the original petition contains a number of

signatures that exceeds the required minimum number by ten percent (10%) or more and is received by the City Secretary no later than the 10th day before the date of the deadline. The City Secretary shall, not later than the fifth regular business day after such supplement is filed, examine the supplemental petition, and certify as to its sufficiency. If the original petition, together with the supplemental petition, is then found to be insufficient, the City Secretary shall file a certificate to that effect and notify the committee of the petitioners of such findings and no further action shall be had on such insufficient petition.

**SECTION 9.06 – EFFECT OF CERTIFICATION OF REFERENDUM PETITION**

When a referendum petition has been certified as sufficient by the City Secretary, the ordinance specified in the petition shall remain in effect unless and until repealed by City Council or rejected by a majority of the qualified voters of the City.

**SECTION 9.07 – CONSIDERATION BY COUNCIL AND SUBMISSION TO ELECTORS**

a. When the City Council receives an authorized initiative petition certified by the City Secretary to be sufficient, the City Council shall either:

(1) Pass the initiated ordinance without amendment within forty-five (45) days after the date of the certification to the City Council; or

(2) Confer with the committee of petitioners and offer an alternative to the initiated ordinance. If the committee of petitioners accepts the alternative ordinance and City Council passes the alternative ordinance within forty-five (45) days after the date of certification to the City Council, the City Council is not required to call the election required by subsection a.(3) below; or

(3) Submit said initiated ordinance without amendment to a vote of the qualified voters of the City at a special election to be held not later than the first authorized uniform election date after the expiration sixty (60) days after the date of certification to the City Council; or

(4) At such election submit to a vote of the qualified voters of the City such initiated ordinance without amendment and an alternative ordinance on the same subject proposed by the City Council.

b. When the City Council receives an authorized referendum petition certified by the City Secretary to be sufficient, the City Council shall either:

(1) Reconsider the referred ordinance and repeal it within forty-five (45) days after the date of the certification to City Council; or

(2) Confer with the committee of petitioners and offer an alternative to repealing the referred ordinance. If the committee of petitioners accepts the alternative to repealing the referred ordinance and City Council takes any action required by such alternative within forty-five (45) days after the date of certification to the City Council, the City Council is not required to call the election required by subsection b.(3) below; or

(3) Submit the referred ordinance to the qualified voters of the City at a special election to be held not later than the first authorized uniform election date after the expiration of sixty (60) days after the date of certification to the City Council.

c. 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, or a referred ordinance which has been approved at any election may be initiated or referred by the voters within two (2) years from the date of such election.

d. The petitioners committee for an authorized initiative petition or an authorized referendum petition, may withdraw such petition at any time prior to the date upon which City Council calls the election on the initiated or referred ordinance.

**SECTION 9.08 – FORM OF BALLOT FOR INITIATED AND REFERRED ORDINANCES**

a. The ballot used in voting upon initiated or referred ordinances shall, as provided by the Texas Election Code, state the caption of the ordinance and to the left of the caption shall set forth on separate lines the words, "For" and "Against."

b. Where an initiated ordinance and an alternative ordinance proposed by the City Council are submitted, the ballot shall state the captions of each ordinance, clearly designating them "Ordinance No. 1" and "Ordinance No. 2," respectively, and shall set forth to the left of each caption on separate lines the words "For" and "Against."

c. Any number of ordinances may be voted on at the same election in accordance with the provisions of this article. If a majority of the votes cast is in favor of a submitted ordinance, it shall thereupon be effective as an ordinance of the City.

**SECTION 9.09 – RESULTS OF ELECTION**

If a majority of the qualified voters vote in favor of a proposed initiative ordinance, it shall thereupon be an initiative 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 or alternative ordinances are approved by the electors at the same election, the one receiving the greatest number of affirmative votes shall prevail.

**SECTION 9.10 – REPEALING ORDINANCES**

An initiated ordinance approved by a majority of qualified voters, and thus adopted, may be repealed or amended at any time after the expiration of two (2) years by five (5) members of the entire City Council voting in favor of the repeal or amendment. A referred ordinance which is rejected by a majority of qualified voters, and thus repealed, may be reenacted at any time after the expiration of two (2) years by five (5) members of the entire City Council voting in favor of the reenactment.

**SECTION 9.11– POWER OF RECALL**

The qualified voters of the City reserve the power to recall any elected official of the City 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 ten percent (10%) of the qualified voters of the City at the time of such filing, demanding the removal of such elected official. All the signatures on such a petition must have been collected within the ninety (90) day period immediately preceding the date of submission. The petition shall be signed and verified in the manner required for an initiative petition, shall contain a general statement of the grounds for which the removal is sought and the circulator of each petition paper shall make an affidavit that the statements therein made are true.

**SECTION 9.12 – RECALL ELECTION**

Within thirty (30) days after a recall petition is filed, the City Secretary shall determine whether the same complies with the requisites of this Charter and is validly signed by a sufficient number of qualified voters. The provisions of this Charter regulating the validity, certification, and supplement of initiative petitions shall apply to recall petitions. If the petition is certified by the City Secretary to be sufficient and the elected official whose removal is sought does not resign within five (5) days after the certification to the City Council, the City Council shall order and hold a recall election on the first authorized uniform election date following the date of certification to the City Council. Provided, however, if a general election for City officers is to be held within one hundred twenty (120) days after such certification and there is sufficient time to order a special election to be held on the

date of the general election, the recall election shall be held at such general election.

**SECTION 9.13 – BALLOTS IN RECALL ELECTION**

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

(1) With respect to each official whose removal is sought the question shall be submitted "shall (name of person) be removed from the office of (name of office) by recall?"

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

"For the recall of (name of person)"

"Against the recall of (name of person)"

**SECTION 9.14 – RESULTS OF RECALL ELECTION**

If a majority of the votes cast at a recall election shall be against the recall of the elected official named on the ballot, the official shall continue in office. If a majority of the votes cast at such an election shall be for the recall of the official named on the ballot, the official shall be deemed removed from office and the vacancy shall be filled as provided by Section 3.07 of this Charter. An officer removed by recall shall also be deemed removed from all appointed offices or positions of the City. An officer removed by recall shall not be eligible to hold any City office or appointed position again for a period of two (2) years from the date recalled.

**SECTION 9.15 – LIMITATION ON RECALLS**

No recall petition shall be filed against an elected official within six (6) months after such official takes office. An elected official subjected to a recall election and not removed thereby shall not be subjected to another recall election during that official's then existing term of office.

## ARTICLE X

## MISCELLANEOUS PROVISIONS

**SECTION 10.01 – PUBLIC RECORDS**

All public records of every office, department, agency or other entity of the city shall be open to inspection by any citizen at all reasonable times; provided that

any records not required by Law to be available for public inspection shall not be considered public records for the purpose of this section.

**SECTION 10.02 – OFFICIAL NEWSPAPER**

The City Council shall have power to contract with, and by ordinance or resolution designate, a public newspaper of general circulation in the City as the official newspaper thereof and to continue as such until another is designated, and shall cause to be published therein all ordinances, notices and other matters required to be published by this Charter, by the ordinances of the City, or by the Constitution or laws of the State of Texas.

**SECTION 10.03 – TORT LIABILITY**

Before the City shall be liable for damages for the death or personal injuries of any person or for damages to or destruction of property of any kind, which does not constitute a taking or damaging of property under Article I, Section 17, Constitution of the State of Texas, the person injured, if living, or his legal representatives, if deceased, or the parent or guardian of a minor child, or the owner, his agent or attorney of the property damaged or destroyed, shall give the City notice in writing of such death, injury, damage or destruction, duly verified by affidavit, within ninety (90) days after same has been sustained, stating specifically in such written notice when, where and how the death, injury, damage or destruction occurred, and the apparent extent of any such injury, the amount of damages sustained, the actual residence of the claimant by street and number on the date the claim is presented, the actual residence of such claimant for six months immediately preceding the occurrence of such death, injury, damage or destruction, and the names and addresses of all witnesses upon whom it is relied to establish the claim for damages. Such notice shall be directed to the attention of the City Secretary. The failure to so notify the City within the time and manner specified herein shall exonerate, excuse and exempt the City from any liability whatsoever. No act of any officer, employee or agent of the City shall waive compliance, or preclude the City from requiring compliance, with the provisions of this section as to notice.

**SECTION 10.04 – ASSIGNMENT, EXECUTION AND GARNISHMENT**

The property, real and personal, belonging to the City shall not be liable for sale or appropriation under any writ of execution. The funds belonging to the City, in the hands of any person, firm or corporation, shall not be liable to garnishment on account of any debt it may owe or funds or property it may have on hand or owing to any person. Neither the City nor any of its officers, employees or agents shall be required to answer any such writ of garnishment on any account whatsoever. The City shall not be obligated to recognize any assignment of wages or funds by any of its officers, employees, agents or contractors.

## SECTION 10.05 – SECURITY OR BOND NOT REQUIRED

It shall not be necessary in any action, lawsuit or proceeding, in which the City shall be a party, for any bond, undertaking or security to be executed on behalf of the City; but all actions, lawsuits, and proceedings shall be conducted in the same manner as if such bond, undertaking or security had been given. The City shall have all remedies by appeal, as provided by Law, to all courts of this State without bond or security of any kind. For all the purposes of such actions, lawsuits, proceedings, and appeals, the City shall be liable in the same manner, and to the same extent, as if the bond, undertaking or security in ordinary cases had been given and executed.

## SECTION 10.06 – NEPOTISM

No member of the City Council or other officer of the City shall appoint, or approve, vote for, or confirm the appointment of, any person to any paid office, position, employment, duty, or other service of the City if such person is related within the second degree by affinity or within the third degree by consanguinity to the person making such appointment or to any member of the City Council. No person to whom this prohibition applies shall be permitted to embark upon any duties or commence any employment with the City or receive any salary, fee, or other emolument from the City. Provided, however, nothing contained in this Charter or in any ordinance of the City shall prevent the appointment, approval, voting for, or confirmation, of any person who shall have been continuously employed in any office, position, employment, duty, or other service of the City for a period of at least two (2) years prior to the election or appointment of the member or officer appointing, approving, voting for, or confirming the appointment, or to the election or appointment of the member or officer related to such person in the prohibited degree.

## SECTION 10.07 – PERSONAL INTEREST IN CITY BUSINESS

No member of the City Council or employee of the City shall personally engage in any business with the City or have a substantial interest in a business entity doing business with the City without making disclosure thereof. As used in this Section the term "substantial interest in a business entity" shall have the same meaning as set forth in Section 171.002, et. seq., of the Texas Local Government Code. Any willful violation of this section shall constitute malfeasance in office, and any such member of City Council or City employee guilty thereof shall thereby forfeit his position or employment. Any violation of this section with the express or implied knowledge of the person or entity doing business with the City shall render the contract voidable by the City Council.

**SECTION 10.08 – OFFICIAL OATH**

Before entering upon the duties of their respective offices, all officers of the City shall take and subscribe the official oath prescribed in the Constitution of the State of Texas.

**SECTION 10.09 – BONDS**

a. City Council shall require a bond or bonds covering all municipal officers and employees who receive or pay out any monies of the City. The bond(s) must:

(1) be in favor of the City;

(2) be in the form and amount required by City Council;

(3) have security approved as sufficient by City Council; and

(4) be conditioned that the officer(s) and employee(s) covered by the bond(s) will faithfully discharge the duties of the office.

b. City Council may require a bond covering any other municipal officer or employee, payable to the City, in the form and amount as determined by City Council, and conditioned that the officer or employee will faithfully perform the duties of the office or position held.

c. The cost of the bonds required by this section shall be borne by the City.

**SECTION 10.10 – JUDICIAL NOTICE**

This Charter shall be deemed a public act; shall have the force and effect of a general Law; may be read in evidence without pleading or proof; and judicial notice shall be taken hereof in all courts and places without further proof.

**SECTION 10.11 – SEVERABILITY CLAUSE**

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

## SECTION 10.12 – EFFECT OF HEADINGS AND NUMERATION

All headings and numeration in this Charter for its respective articles, sections and subsections are provided for the sole purpose of convenient reference, and shall have no substantive legal effect.

## SECTION 10.13 – REARRANGEMENT AND RENUMBERING

The City Council shall have the power, by ordinance, to renumber and rearrange all articles, sections, subsections, and paragraphs of this Charter or any amendments thereto, as it shall deem appropriate, and upon the passage of any such ordinance a copy thereof, certified by the City Secretary, shall be forwarded to the Secretary of State for filing.

## SECTION 10.14 – CHARTER AMENDMENT

This Charter may be amended in accordance with the Constitution and laws of the State of Texas.

## SECTION 10.15 – CHARTER REVIEW COMMISSION

a. Every five (5) years the City Council shall at its first regular meeting in July appoint a Charter Review Commission of four (4) or more qualified voters of the City.

b. Duties of the commission.

(1) Inquire into the operation of the City government under the Charter provisions and determine whether any such provisions require revision. To this end public hearings may be held; and the commission shall have the power to compel the attendance of any official or employee of the City and require the submission of any of the City's records subject to public inspection which it may deem necessary to the conduct of such hearing.

(2) Propose any recommendation it may deem desirable to ensure compliance with the provisions of the Charter by the several departments of the City government.

(3) Propose, if it deems desirable, amendments to this Charter to improve the effective application of the Charter to current conditions.

(4) Report its findings and present its proposed amendments, if any, to the City Council.

c. Term of office. The term of such Charter review commission shall be six (6) months; provided, however, prior to the expiration of such term, City Council may grant an extension, once, for a period not to exceed six (6) months. At the completion of the Charter review commission's term, including any extension thereof, a report shall be presented to the City Council, and all records of the proceedings of such commission shall be filed with the City Secretary and shall become a public record.

d. Actions by the City Council. The City Council shall receive any report presented by the Charter review commission, make such report available to the public, post any recommendations made by the commission, consider any recommendations made by the commission and may, but shall not be required to, submit proposed Charter amendments to the qualified voters of the City in the manner provided by the Texas Local Government Code, as now or hereafter amended.

## ARTICLE XI

## TRANSITIONAL PROVISIONS

### SECTION 11.01 – SCHEDULE

a. This Charter shall take effect upon adoption by the qualified voters of the City.

b. The ballot of the regular election scheduled for the spring uniform election date in 2004 shall provide for the election of three (3) Councilmembers, being the three (3) Councilmembers positions existing on the date of adoption of this Charter with terms of expiring in May of 2004. The three (3) candidates receiving the highest number of votes cast and that are otherwise qualified shall be elected and shall serve a term of two (2) years concluding with the election and qualification of their successors.

c. The ballot of the special election scheduled for the spring uniform election date in 2004 shall provide for the election of one (1) Councilmember to fill the sixth Councilmember position created by this Charter. If this Charter becomes effective, the candidate receiving the highest number of votes cast and who is otherwise qualified shall be elected to the position and shall serve an initial term of one (1) year. If this Charter is not adopted, no person shall be elected to this Councilmember position.

d. If this Charter is adopted, the ballot of the regular election scheduled for the spring uniform election date in 2005, shall provide for the election of Mayor and three (3) Councilmembers, the three (3) Councilmembers being the two (2) Councilmember positions existing on the date of adoption of this Charter with terms expiring in 2005 and the Councilmember position filled at the special election in 2004 with a term expiring in 2005. The candidate for Mayor and the three (3) candidates for Councilmember receiving the highest number of votes cast for the respective office and that are otherwise qualified shall be elected and shall serve for a term of two (2) years concluding with the election and qualification of their successors.

e. The members of City Council at the time of adoption of this Charter shall have all the powers and duties granted in this Charter.

f. All boards, commissions, and committees in existence on the effective date of this Charter, and not in conflict with the provisions thereof, may continue in existence on the effective date of this Charter.

**SECTION 11.02 – APPOINTIVE OFFICIALS AND EMPLOYEES**

Nothing in this Charter, except as may be specifically provided otherwise, shall affect or impair the rights or privileges of persons who are appointive officials or employees of the City at the time of its adoption.

**SECTION 11.03 – EFFECT OF THE CHARTER ON EXISTING LAW**

a. All codes, ordinances, resolutions, rules, and regulations in force in the City on the effective date of this Charter, and not in conflict with the provisions thereof, shall remain in force until altered, amended, or repealed by the City Council. Any code, ordinance, resolution, rule, or regulation which conflicts with the provisions of this Charter is repealed to the extent that it is inconsistent or will interfere with the effective operation of this Charter or ordinances enacted pursuant thereto.

b. All taxes, assessments, liens, encumbrances, and demands, of or against the City, fixed or established before the effective date of this Charter, or for the fixing or establishing of which proceedings had begun prior to such date, shall be valid when properly fixed or established under the law in force at the time of the beginning of such proceedings or under the law after adoption of this Charter.

**SECTION 11.04 – PENDING MATTERS**

All rights, claims, actions, orders, contracts, franchises, and legal or administrative proceedings in existence or pending on the effective date of this Charter shall continue until consummation. All new or renewal rights, claims,

actions, orders, contracts, franchises, and legal or administrative proceedings initiated after the effective date of this Charter shall conform to the requirements and provisions thereof.

**SECTION 11.05 – SUBMISSION OF THE CHARTER TO THE VOTERS**

The Charter commission in preparing this Charter concludes that it is impracticable to segregate each subject so as to permit a vote of "yes" or "no" on the same, for the reason that 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 the Charter be voted upon as a whole and that it shall be submitted to the qualified voters of the City at an election to be held on May 15, 2004. Not less than thirty (30) days prior to that election, the City Council shall cause the city secretary to mail a copy of this Charter to each qualified voter of the City as appears from the latest certified list of qualified voters. If a majority of the qualified voters voting in the election shall vote in favor of the adoption of this Charter, it shall become the Charter of the City of Stafford and after the returns have been canvassed, the same shall be declared adopted, the Mayor shall certify to the Secretary of State an authenticated copy under the City's seal showing the approval by the voters of the City, and the City Secretary shall file an official copy of the Charter with the records of the City.