



**CHARTER**

**OF THE**

**CITY OF CARRIZO SPRINGS,**

**TEXAS**

**ADOPTED MAY 6, 2017**

**OFFICIALS**  
**of the**  
**CITY OF CARRIZO SPRINGS, TEXAS**  
**AT THE TIME OF THE MAY 6, 2017**  
**CHARTER AMENDMENT ELECTION**

---

**Dina Ojeda-Balderas**

*Mayor*

**Sofia Morones**  
*Mayor Pro-Tem*

**Oscar Puente**  
*Council Member*

**Jesse Johnson**  
*Council Member*

**Sandra C. Little**  
*Council Member*

*City Council*

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*City Manager*

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*City Clerk*

### *Acknowledgements*

This amendment was drafted under the supervision of Rogelio Ortiz, Elia Ramirez, Scott Massey, David Briseño, Claudia McDaniel, and Sandra Little of the City Charter Commission, Carrizo Springs, Texas. Credit is gratefully given to the Charter Commission Members for their interest and able assistance throughout the project.

The Commission is most grateful to Lamar Schulz, City Manager and Melissa M. Guerra, City Clerk for their cooperation and assistance during the progress of the work on this charter amendment. It is hoped that their efforts resulted in a Charter that will make the laws of the city readily accessible to all citizens and that will be a valuable tool in the day-to-day administration of the city's affairs.

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## **PREAMBLE**

We the people of the City of Carrizo Springs, under the Constitution and laws of the State of Texas, in order to secure the benefits of local self-government and to provide for an honest and accountable council-manager government, do hereby adopt this Charter and confer upon the city the following powers, subject to the following restrictions, and prescribed by the following procedures and governmental structure. By this action, we secure the benefits of home rule and affirm the values of representative democracy, professional management, strong political leadership, citizen participation, and regional cooperation.

## **ARTICLE I. INCORPORATION; FORM OF GOVERNMENT; CORPORATE AND GENERAL POWERS**

### **1.01. Incorporation.**

The inhabitants of the City of Carrizo Springs, Dimmit County, Texas, within the corporate limits as now established or as hereafter established in the manner provided by this Charter, shall continue to be and are hereby constituted a municipal body politic and corporate, in perpetuity, under the name of the “City of Carrizo Springs,” hereinafter referred to as “the city,” with such powers, privileges, rights, duties, and immunities as are herein provided.

### **1.02. Form of government.**

- a. The municipal government provided by this Charter shall be known as the “council-manager form of city government.”
- b. All powers of the city shall be vested in an elective City Council, hereinafter referred to as “the City Council” or “the Council,” which shall enact local legislation, adopt budgets, determine policies, and appoint the City Manager who shall execute the laws and administer the government of the city.
- c. All powers of the city shall be exercised in the manner prescribed by this Charter, or if the manner be not prescribed, then in such manner as may be prescribed by law.

### **1.03. General powers of the city.**

The city shall have all the powers granted to cities by the Constitution and laws of the State of Texas together with all the implied powers necessary to carry into execution all the powers granted.

### **1.04. Eminent domain.**

- a. The city shall have the full right, power and authority to exercise the power of eminent domain when necessary or desirable to carry out any of the powers conferred upon it by this Charter, or by the Constitution or general laws of the State of Texas.

- b. In all cases where the city seeks to exercise the power of eminent domain, it may be controlled, as nearly as practicable, by the laws governing the condemnation of property by railroad corporations in this State, the city taking the position of the railroad corporation in any such case.
- c. The power of eminent domain hereby conferred shall include the right of the city to take the fee in the lands so condemned and such power and authority shall include the right to condemn public property for such purposes.
- d. The city shall have and possess this power of condemnation for any municipal or public purpose, even though not specifically enumerated herein or in this Charter.

### **1.05. Annexation**

The City Council shall have the power, by ordinance, to fix and change the bounds and limits of the city and to provide for the extension of said bounds and limits and the annexation of additional territory lying adjacent to the city with or without the consent of the territory and the inhabitants thereof annexed; provided, however, that such an ordinance, or any amendment thereto, shall be published one time, prior to passage, in the newspaper of record and such ordinance shall not be passed until at least thirty days have elapsed after publication. The city shall have power to annex additional territory, lying adjacent to the city, and the inhabitants thereof, as may be authorized by, and in the manner and form prescribed by the Texas constitution and state law.

### **1.06. Enumerated Powers.**

All powers of the city, except as otherwise provided by this Charter, and the determination of all matters of policy shall be vested in the City Council. Without limitation, the following are hereby enumerated for greater certainty:

- a. Appoint and remove the City Manager;
- b. Establish administrative departments;
- c. Distribute the work of departments and divisions;
- d. Adopt the budget of the city;
- e. Authorize the issuance of bonds and calling the elections therefor;
- f. Inquire into the conduct of any office, department or agency;
- g. Investigate municipal affairs;
- h. Provide for boards and commissions as deemed necessary, which shall have all powers and duties conferred by ordinance;
- i. Adopt plats;
- j. Adopt and modify a master plan for the city;
- k. Adopt, modify and carry out plans for improvement or redevelopment;
- l. Provide for regulations as permitted by law;
- m. Appoint representation to the Dimmit Central Appraisal District;
- n. Establish utilities and set rates for those utilities as permitted by law;
- o. Lay out, establish, open, alter, widen, lower, extend, grade, abandon, discontinue, abolish, close, care for, dispose of, pave, supervise, maintain and improve streets, alleys, sidewalks, parks, squares, libraries, public places and bridges and regulate the use thereof;

- p. Fix departmental salaries;
- q. Establish and maintain a free public library within the city and to cooperate with another entity under such terms as the City Council may agree to or prescribe for the establishment of such free public library; or
- r. Purchase, own, construct, maintain, and operate utilities and to manufacture and distribute water, electricity, gas, or anything else that may be needed or used by the public.

#### **1.07 Effect of this Charter on existing laws.**

- a. All ordinances, resolutions, rules, and regulations now in force under the government of the City of Carrizo Springs and not in conflict with the provisions of this Charter, shall remain in force under this Charter until altered, amended or repealed by the Council after this Charter takes effect; and all rights and obligations of the city under existing franchises and contracts are preserved in full force and effect.
- b. All suits, taxes, penalties, forfeitures, and all other rights, claims and demands, which have accrued under the laws heretofore in force governing the City of Carrizo Springs shall belong to and be vested in and shall be prosecuted by and for the use and benefit of the municipal corporation hereby created, and shall not in anywise be diminished affected or prejudiced by the adoption and taking effect of this Charter.

#### **1.08. Amending the Charter.**

Amendments to this Charter may be framed and submitted to the qualified voters of the city by a Charter Commission in the manner provided by law for framing and submitting a new Charter.

#### **1.09. Separability clause; construction.**

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

## **ARTICLE II. THE CITY COUNCIL**

#### **2.01. Number, selection, term; Mayor.**

- a. The City Council shall be composed of four Council Members and a Mayor.
- b. Each of the Council Members and the Mayor shall be elected at-large and for a two-year term.

## **2.02. Qualifications.**

Only registered voters who are legal residents of the city for six months prior to the filing deadline are eligible to hold the office of Council Member or Mayor.

## **2.03. Compensation of members of City Council.**

No member of the City Council or any appointed board or commission shall be compensated, but City Council Members and board or commission appointees shall be entitled to all necessary expenses incurred in the performance of their official duties or officially representing the city when such expenses are authorized and approved by the City Council.

## **2.04. Presiding officer; Mayor; Mayor Pro Tem.**

- a. The Mayor shall preside at meetings of the Council and shall be recognized as head of the city government for all ceremonial purposes and by the governor for purposes of military law, but shall have no regular administrative duties.
- b. The Mayor shall be entitled to vote upon all matters considered by the Council, but he or she shall have no veto power.
- c. The Mayor Pro Tem shall act as Mayor during the absence or disability of the Mayor.

## **2.05. Vacancies in Council.**

- a. The office of a Council Member or the Mayor shall become vacant upon the member's death, resignation or removal from office in any manner authorized by law.
- b. A Council Member or the Mayor shall forfeit his or her office if the Council Member fails to meet residency requirements, violates any express prohibition of this Charter, is convicted of a crime involving moral turpitude, or fails to attend three consecutive regular meetings of the Council without being excused by Council.
- c. A vacancy in the City Council shall be filled for the remainder of the unexpired term, if any, at the next practicable regular election following the occurrence of the vacancy.
- d. The Council shall appoint a qualified person to fill the vacancy until the person elected to serve the remainder of the unexpired term takes office.

## **2.06. Limitation on City Manager Appointment.**

No Council Member shall receive such appointment during the term for which he or she shall have been elected, nor within one year after the expiration of his or her term.

## **2.07. Appointment and Removal of City Manager.**

The Council shall appoint the City Manager for an indefinite term. Three (3) affirmative votes shall be required for appointment or removal of the City Manager.

## **2.08. Council not to interfere in appointment or removals.**

- a. Appointment of department heads shall be subject to the approval of the Council.
- b. City Council Members shall not request or direct the appointment of any person to their position, or their removal from office or employment, by the City Manager or by any of his or her subordinates.
- c. Except for the purpose of inquiry the Council and its members shall deal with the administrative service solely through the City Manager and neither the Council nor any member thereof shall give orders to any subordinates of the City Manager, either publicly or privately.

## **2.09. City Clerk.**

- a. The City Council shall designate an officer of the city who shall be recommended by the City Manager to serve as City Clerk.
- b. The City Clerk shall give notices of Council meetings, shall keep the journal of its proceedings, shall authenticate by his or her signature and record in full in a book kept for the purpose of all ordinances and resolutions, and shall perform such other duties as the City Manager shall assign to him or her.

## **2.10. Municipal Court.**

- a. There is hereby established a Municipal Court.
- b. A Municipal Judge shall be appointed by the City Council to serve for a term of two years.
- c. A Municipal Judge may be removed for incompetency, misconduct, or malfeasance.
- d. The Municipal Judge shall receive such salary as may be fixed by the Council.
- e. The Municipal Court shall also have jurisdiction over violations of any ordinance as permitted or authorized by law.
- f. In the event the Municipal Judge is unable to act for any reason, the City Council shall appoint someone to act in his or her place.
- g. All costs and fines imposed by the court shall be paid into the city treasury for the use and benefit of the city as permitted by law.
- h. The clerk of the said court and his or her deputies shall have the power to administer oaths and affidavits, make certificates, affix the seal of said court thereto, and generally do and perform any and all acts usual and necessary by clerks of courts in issuing processes of said courts and conducting the business thereof.
- i. The City Council shall have the power to adopt ordinances related to the administration of the affairs of the Municipal Court.

**2.11. Induction of Council into office; meetings of Council.**

Newly-elected members shall be inducted into office at the meeting in which the election results are canvassed and shall qualify and assume the duties of office. Thereafter, the Council shall meet regularly at such time and place as may be prescribed by the Council.

**2.12. Council to be judge of qualifications of its members.**

The Council shall be the judge of the election and qualifications of its members and for such purpose shall have power to subpoena witnesses and require the production of records, but the decision of the Council in any such case shall be subject to review by the courts.

**2.13. Rules of procedure; journal.**

The Council shall determine its own rules and order of businesses. It shall keep a journal of its proceedings and the journal shall be open to public inspection in accordance with state law.

**2.14. Ordinances.**

- a. In addition to such acts of the Council as are required by statute or by this Charter to be by ordinance, every act of the Council establishing a fine or other penalty or providing for the expenditure of funds or fore the contracting of indebtedness, shall be by ordinance.
- b. Ordinances shall be passed using a procedure to be established by Council that is consistent with state law.

**2.15. Council investigation.**

- a. The Council shall have power to inquire into the conduct of any office, department, agency, officer, board or commission of the city and to make investigations as to municipal affairs, and for that purpose may subpoena witnesses, administer oaths, and compel the production of books, papers and other evidence.
- b. Failure to obey such subpoena or to produce books, papers or other evidence as ordered under the provisions of this section shall constitute a misdemeanor and shall be punishable by fine not to exceed one hundred dollars.

**2.16. Independent annual audit.**

Prior to the end of each fiscal year, the Council shall designate a public accountant who, as of the end of each fiscal year, shall make an independent audit of accounts and other evidences of financial transactions of the city government and shall submit his report to the Council. Notice shall be given by publication in the official newspaper in the city that the annual audit is on file at the city hall for inspection. Such accountants shall have no personal interest, direct or indirect, in the fiscal affairs of the city government. They shall not maintain any

accounts or record of the city business, but, within specifications approved by the Council, shall audit the books and documents kept by the department of finance and any separate or subordinate accounts kept by any other office, department or agency of the city government.

### **ARTICLE III. NOMINATIONS AND ELECTION**

#### **3.01. Municipal election; regular and special.**

- a. The regular elections to elect members of the City Council shall be held on the state uniform election day in May.
- b. At the regular elections to be held each odd-numbered year there shall be elected two Council Members and the Mayor, and at the regular elections to be held each even-numbered year there shall be elected two Council Members.
- c. Each Council Member and the Mayor shall be elected from the city at-large and shall hold their respective offices for a term of two years.
- d. The Council may by appropriate ordinance or resolution order special elections, fix dates and give notice of same, and provide all means for holding such special election.

#### **3.02. Regulation of elections.**

Municipal elections shall be conducted by the appointed election officials, who shall also have power to make such regulations not inconsistent with this Charter, with any regulations made by ordinance or the laws of the State of Texas.

#### **3.03. How to get name on ballot.**

Any qualified voter of the city who is otherwise qualified to hold elective office under this Charter may have his or her name printed upon the official ballot for the particular office at any election by filing his or her sworn application as required by the Election Code of the State of Texas with the City Clerk at least thirty days prior to the election date.

#### **3.04. Council ballots.**

- a. The full names of all candidates for the Council, except such as may have withdrawn, died or become ineligible, shall be printed on the official ballots without party designations.
- b. If two candidates with the same surnames, or with names so similar as to be likely to cause confusion have made application to have a place on the ballot, the addresses of their places of residence shall be placed with their names on the ballot.
- c. The order of the names on the ballot shall be determined by lot.

### **3.05. Election of Council Member by plurality; tie votes.**

- a. At the regular election, the candidates who have received the highest number of votes shall be declared elected.
- b. In the event of a tie vote, the respective candidates so tied shall have the option to cast lot to determine who shall be the duly elected Council Member. If either of the respective candidates does not agree to cast lot, a runoff election shall be ordered.

### **3.06 Canvassing elections.**

The City Council shall canvass and declare the results of all elections at a meeting on the Tuesday following each election.

## **ARTICLE IV. THE CITY MANAGER**

### **4.01. The City Manager; qualifications.**

- a. The City Manager shall be chosen by the Council solely on the basis of his or her executive and administrative qualifications with special reference to his or her actual experience in, or his or her knowledge of, accepted practice in respect to the duties of his or her office as hereinafter set forth.
- b. At the time of his or her appointment, he or she need not be a resident of the city or State of Texas, but during his or her tenure of office he or she shall reside within the city.

### **4.02. The City Manager; powers and duties.**

The City Manager shall be the chief executive officer and the head of the administrative branch of the city government. He or she shall be responsible to the Council for the proper administration of all affairs of the city and to that end, he or she shall have power and be required to:

- a. Appoint and, when necessary for the good of the service, remove all officers and employees of the city except as otherwise provided by this Charter and except as he or she may authorize the head of a department to appoint and remove subordinates in such department.
- b. Prepare the budget annually and submit it to the Council and be responsible for its administration after adoption.
- c. Prepare and submit to the Council as of the end of the fiscal year a complete report on the finances and administrative activities of the city for the preceding year.
- d. Keep the Council advised of the financial condition and future needs of the city and make such recommendations as may seem to him or her desirable.
- e. Establish divisions with administrative departments for the purpose of efficient operations.

- f. Perform such other duties as may be prescribed by this Charter or required of him or her by the Council, not inconsistent with this Charter.

**4.03. Absence of City Manager.**

- a. The City Manager may designate an acting City Manager by letter filed with the City Clerk if the City Manager is unavailable for a temporary period.
- b. In the event of failure of the City Manager to make such designation, the Council shall by resolution appoint an acting City Manager until the City Manager returns.

**4.04. Directors of departments.**

- a. Each administrative department shall have a director, who shall be an officer of the city with supervision and control over the department subject to the City Manager.
- b. Two or more departments may be headed by the same individual. The City Manager may head one or more departments.

**ARTICLE V. LEGAL DEPARTMENT**

**5.01. City Attorney; appointment.**

There shall be a legal department, the head of which shall be the City Attorney, who shall be appointed by and serve at the pleasure of the City Council. The City Council may engage special counsel as necessary.

**5.02. City Attorney; qualifications.**

The City Attorney shall be a qualified attorney-at-law who is licensed to practice in the State of Texas.

**5.03. City Attorney; powers and duties.**

- a. The City Attorney shall be the chief legal adviser of the Council, of all offices, departments and agencies and of all officers and employees in matters relating to their official powers and duties.
- b. The City Attorney shall represent the city in all legal proceedings.
- c. It shall be the City Attorney's duty to perform all services incident to his or her position as may be required by Statute, by this Charter or by ordinance.
- d. The City Attorney and the City Manager shall not be the same individual.

## **ARTICLE VI. THE BUDGET**

### **6.01. Fiscal year.**

- a. The fiscal year of the city government shall begin on the first day of October and shall end on the last day of September of the next following calendar year. Such fiscal year shall also constitute the budget and accounting year.
- b. As used in this Charter the term “budget year” shall mean the fiscal year for which any particular budget is adopted and in which it is administered.
- c. The Council shall have the power to change the dates of the fiscal year, after notice and public hearing.

### **6.02. Preparation and submission of budget.**

The City Manager, at least twenty days prior to the beginning of each budget year, shall submit to the Council a proposed budget and an explanatory budget, message, supporting schedules and exhibits, and a proposed property tax rate.

### **6.03. Budget a public record.**

- a. The budget and budget message and all supporting schedules shall be a public record in the office of the City Clerk open to public inspection.
- b. The City Manager shall cause sufficient copies of the proposed budget and budget message to be prepared for distribution to interested persons.

### **6.04. Publication of notice of public hearing.**

At the meeting of the Council at which the budget and budget message are submitted, the Council shall determine the place and time of the public hearing on the budget, and shall cause to be published a notice of the place and time, not less than seven days after date of publication, at which the Council will hold a public hearing.

### **6.05. Public hearing on budget.**

At the time and place so advertised, or at any time and place to which such public hearing shall from time to time be adjourned, the Council shall hold a public hearing on the budget as submitted, at which all interested persons shall be given an opportunity to be heard.

### **6.06. Vote required for adoption.**

The budget shall be adopted by a minimum of three (3) favorable votes of the Council, unless otherwise provided by law.

### **6.07. Date of final adoption; failure to adopt.**

- a. The budget for the ensuing fiscal year shall be finally adopted by ordinance not later than the last day of the last month of the current fiscal year.
- b. Should the Council take no final action on or prior to such day, the budget of the preceding fiscal year shall be applicable automatically for the first month of the ensuing fiscal year, under the presumption that action will be taken during that time.
- c. The budget shall be amended by ordinance.

**6.08. Effective date of budget; certification; copies made available.**

- a. Upon final adoption, the budget shall be in effect for the budget year. A copy of the budget, as finally adopted, shall be filed with the City Clerk, the County Clerk, and as otherwise provided by state law.
- b. The final budget shall be reproduced and sufficient copies shall be made available for the use of all interested parties.

**6.09. Budget establishes appropriations.**

From the effective date of the budget, the several amounts stated therein as proposed expenditures shall be and become appropriated to the several objects and purposes therein named.

**6.10. Budget establishes amount to be raised by property tax.**

From the effective date of the budget, the amount stated therein as the amount to be raised by property tax shall constitute a determination of the amount of the levy for the purpose of the city in the corresponding tax year.

**6.11. Budget contents.**

The budget shall provide a complete financial plan for the fiscal year. It shall contain the following:

- 1) A budget message.
- 2) A consolidated statement of receipts and expenditures for all funds.
- 3) An analysis of property valuations.
- 4) An analysis of anticipated tax rate.
- 5) Tax levies and tax collections by years for at least ten years.
- 6) General fund resources in detail.
- 7) Summary of proposed expenditures by function, department and activity.
- 8) Summary of proposed expenditures by character and object.
- 9) Detailed estimates for expenditures shown separately for each activity to support the summaries mentioned in [subsections] (7) and (8) above. Such estimates of expenditures are to include an itemization of positions showing the number of persons having each title and the rate of pay.
- 10) A revenue and expense statement for all types of bonds.

- 11) A description of all bond issues outstanding, showing rate of interest, date of issue, maturity date, amount authorized, amount issued, and amount outstanding.
- 12) A schedule of requirements for the principal and interest on each issue of bonds.
- 13) A special funds section.
- 14) The appropriation ordinance.
- 15) A copy of the form of the proposed tax-levying ordinance.

The total estimated expenditures of the general fund and debt service fund shall not exceed the total estimated resources of each fund (prospective income plus cash on hand). The classification of revenue and expenditure accounts shall conform as nearly as local conditions will permit to the uniform classification as promulgated by the National Committee on Municipal Accounting or some other nationally accepted classification.

#### **6.12. Anticipated revenues compared with other years.**

In parallel columns opposite the several items of revenue there shall be placed the actual amount of such items for the last completed fiscal year, the estimated amount for the current fiscal year, and the proposed amount for the ensuing budget year.

#### **6.13. Proposed expenditures compared with other years.**

- a. The proposed expenditures for the administration, operation, maintenance and capital outlay of each office, department or agency of the city shall be itemized by character and object.
- b. In parallel columns opposite the various items of expenditures, there shall be placed the actual amount of such items of expenditures for the last completed fiscal year, the estimated amount for the current fiscal year and the proposed amount for the ensuing budget year.

#### **6.14. Contingent appropriation.**

Provision shall be made in the annual budget and in the appropriate ordinance for a contingent appropriation in an amount not more than three percent (3%) of the total general fund expenditure, and like amounts of the utility funds, to be used in the case of unforeseen items of expenditures. Such contingent appropriation shall be under the control of the City Manager and distributed by him or her after approval by the City Council. Expenditures from this appropriation shall be made only in case of established emergencies and a detailed account of such expenditures shall be recorded and reported. The proceeds of the contingent appropriation shall be disbursed only by transfer to other departmental appropriations, the spending of which shall be charged to the departments or activities for which the appropriations are made.

## **ARTICLE VII. FINANCE ADMINISTRATION**

### **7.01. Director of Finance; appointment.**

- a. There shall be a Department of Finance, the head or director of which shall be the City Manager or be appointed by the City Manager subject to the City Council's approval.
- b. The Director of Finance shall be selected only after the solicitation of qualified applicants.

### **7.02. Director of Finance; powers and duties.**

The Director of Finance shall have charge of the administration of the financial affairs of the city and to that end he or she shall have authority and shall be required to:

- 1) Compile the estimates of revenues and expenditures for the budget as directed by the City Manager.
- 2) Supervise and be responsible for the disbursement of all monies and have control over all expenditures to ensure that budget appropriations are not exceeded.
- 3) Maintain a general accounting system for the city government and each of its offices, departments and agencies; keep books for and exercise financial budgetary control over such office, department and agency; keep separate accounts for the items of appropriation contained in the city budget, each of which accounts shall show the amount of the appropriation, the amounts paid therefrom, the unpaid obligations against it and the unencumbered balance; require reports of receipts and disbursements from each receiving and spending agency of the city government to be made daily or at such intervals as he or she may deem expedient.
- 4) Submit to the Council through the City Manager a monthly statement of all receipts and disbursements in sufficient detail to show the exact financial condition of the day.
- 5) Prepare, as of the end of each fiscal year, a complete financial statement and report.
- 6) Supervise and be responsible for the collection of all taxes, special assessment, license fees and other revenues of the city or for whose collection the city is responsible and receive all money receivable by the city from the State or Federal Government, or from any court, or from any office, department or agency of the city.
- 7) Shall have custody of all public funds belonging to or under the control of the city, or any office, department or agency of the city government, and deposit all funds coming into his or her hands in such depositories as may be designated by resolution of the Council, or by the City Manager, if no such resolution be adopted, subject to the requirements of law as to surety and the payment of interest on deposits, but all such interest shall be the property of the city and shall be accounted for and credited to the proper account.
- 8) Have custody of all investments and invested funds of the city government, or in possession of such government in a fiduciary capacity, and have the safekeeping

- of all bonds and notes of the city and the receipt and delivery of city bonds and notes for transfer, registration or exchange.
- 9) Supervise and be responsible for the purchase, storage and distribution of all supplies, materials, equipment and other articles used by any office, department or agency of the city government.
  - 10) Approve all proposed expenditures; and unless he or she shall certify that there is an unencumbered balance of appropriation and available funds, no appropriation shall be encumbered and no expenditure shall be made.
  - 11) Prescribe the forms of receipts, vouchers, bills or claims to be used by all the offices, departments and agencies of the city.
  - 12) Examine and approve all contracts, orders and other documents by which the city incurs financial obligations, having previously ascertained that monies have been appropriated and allotted and will be available when the obligations shall become due and payable.
  - 13) Audit and approve before payment all bills, invoices, payrolls and other evidence of claims, demands or charges against the city government and with the advice of the City Attorney determine the regularity, legality and correctness of such claims, demands or charges.
  - 14) Inspect and audit any accounts or records of financial transactions which may be maintained in any office, department or agency of the city apart from or subsidiary to the accounts kept in his or her office.

### **7.03. Director of Finance; surety bond.**

The Director of Finance shall provide a bond with such surety and in such amount as the Council may require, except that such bond shall be in an amount of not less than \$10,000. The premium of such bond shall be paid by the city.

### **7.04. Accounting supervision and control.**

The Director of Finance shall have power and shall be required to:

- 1) Prescribe a purchase order system to be used by all the offices, departments and agencies of the city.
- 2) Examine and advise the City Manager on all contracts, orders and other documents by which the city incurs financial obligations, having previously ascertained that monies have been appropriated and allotted and will be available when the obligations shall become due and payable.
- 3) Audit and approve before payment all bills, invoices, payroll and other evidence of claims, demands or charges against the city government and with the advice of the City Attorney determine the regularity, legality and correctness of such claims, demands or charges.
- 4) Inspect and audit any accounts or records of financial transactions that may be maintained in any office, department or agency of the city apart from or subsidiary to the accounts kept in his or her office.

- 5) Establish a purchasing division, which shall contract for the purchase, storage, and distribution of all supplies, materials, and equipment required by any office department or agency of the city. The division of purchases shall also:
  - a. Establish and enforce specifications with respect to supplies, materials, and equipment required by the city; and
  - b. Inspect or supervise the inspection of all deliveries of supplies, materials, and equipment, and determine their quality and conformance with specifications.

#### **7.05. Appropriations lapse at end of year.**

All appropriations shall lapse at the end of the budget year to the extent that they shall not have been expended or lawfully encumbered.

#### **7.06. Fees shall be paid to city.**

All fees and charges for city services received by any officer or employee shall belong to the city and shall be paid to the Department of Finance at such times as required by the Director of Finance.

#### **7.07. Sale of city personal property; procedure.**

- a. Before the city makes any sale or contract for the sale of any personal property belonging to the city, having an estimated value of \$1,000.00 or less, opportunity shall be given for open competition under such rules and regulations as the City Council may prescribe.
- b. In the sale of any such property valued at more than \$1,000.00 the property shall be advertised for sale and bids in the local newspaper of record, and the contract of sale shall be awarded to the highest responsible bidder after such public notice and competition as may be prescribed, provided the City Council shall have the power to reject all bids and advertise again. These same procedures shall be used whenever the city acts as transfer agent.
- c. The City Manager shall advise City Council and seek approval before any such sale of city property, regardless of the price.

#### **7.08. Procurement**

All purchases or contracts for any supplies, materials, equipment, or contractual services shall follow a procurement procedure to be established by City Council in accordance with state law.

#### **7.09. Disbursement of funds.**

- a. All checks, vouchers or warrants for the withdrawal of money from the city depository shall be prepared and signed by two separate authorized signatories.

- b. The City Manager, Finance Director, and Mayor are automatically authorized signatories.
- c. The Council may designate authorized signatories by resolution.

#### **7.10. Borrowing.**

The city shall have the right and power to borrow money on the credit of the city for any purpose authorized by law.

### **ARTICLE VIII. INITIATIVE, REFERENDUM AND RECALL**

#### **8.01. Power of initiative.**

- a. The qualified voters of the city shall have power to propose any ordinance not in conflict with this Charter or with state law, except an ordinance appropriating money or authorizing the levy of taxes. This power shall be known as the power of initiative.
- b. Any initiative ordinance may be submitted to the Council by a petition signed by qualified voters of the city equal in number to at least twenty-five percent (25%) of the number of votes cast at the last regular municipal election. The City Clerk shall provide an exact number of the required signatures to any party who requests that number.

#### **8.02. Power of referendum.**

- a. The qualified voters of the city shall have power to approve or reject at the polls any ordinance, such power being known as the referendum. Ordinances submitted to the Council by initiative petition and passed by the Council without change shall be subject to the referendum in the same manner as other ordinances.
- b. Within twenty days after the enactment by the 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 twenty-five percent (25%) of the number of votes cast at the last preceding regular municipal election may be filed with the City Clerk requesting that any such ordinance be either repealed or submitted to a vote of the qualified voters. The City Clerk shall provide an exact number of the required signatures to any party who requests that number.

#### **8.03. Form of petitions; committee of petitioners.**

- a. Initiative petition papers shall contain the full text of the proposed ordinance. The signatures to initiative or referendum petition need not all be appended to one paper, but to each separate petition there shall be attached a statement of the circulator thereof as provided by this section.
- b. Each signer of any petition paper shall sign his or her name in ink or indelible pencil and shall indicate after his or her name his or her place of residence by street and number, or other description sufficient to identify the place.

- c. There shall appear on each petition the names and addresses of five qualified voters, who, as a committee of the petitioners, shall be regarded as responsible for the circulation and filing of the petition.
- d. Attached to each separate petition paper then shall be an affidavit of the circulator thereof that he or she, and he or she only, personally circulated the foregoing paper, that it bears a stated number of signatures, that all signatures appended thereto were made in his or her presence, and that he or she believes them to be the genuine signatures of the persons whose names they purport to be.

#### **8.04. Filing, examination and certification of petitions.**

- a. All petition papers comprising an initiative or referendum petition shall be assembled and filed with the City Clerk as one instrument.
- b. Within twenty days after a petition is filed, the City Clerk shall determine whether each paper of the petition has a proper statement of the circulator and whether the petition is signed by a sufficient number of qualified voters.
- c. The City Clerk shall declare any petition paper entirely invalid which does not have attached thereto an affidavit signed by the circulator thereof.
- d. If a petition paper 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 petition paper is found to be signed by fewer persons than the number certified, the signatures shall be accepted unless void on other grounds.
- e. After completing his or her examination of the petition, the City Clerk shall certify the result thereof to the Council at its next regular meeting. If he or she shall certify that the petition is insufficient, he or she shall set forth in his or her certificate the particulars in which it is defective and shall at once notify the committee of the petitioners of his or her findings.
- f. An initiative or referendum petition may be amended at any time within ten days after the notification of insufficiency has been sent by the City Clerk, by filing a supplementary petition upon additional papers signed and filed as provided in case of an original petition.
- g. The City Clerk shall, within five days after such an amendment is filed, examine the amended petition. If the petition is still insufficient, he or she shall file his or her certificate to that effect and notify the committee of the petitioners of his or her findings. No further action on the insufficient petition shall be taken, but a finding of insufficiency of a petition shall not prejudice the filing of a new petition for the same purpose.

#### **8.05. Referendums; suspension of effect of ordinance**

- a. When a referendum petition is filed with the City Clerk, the ordinance proposed for reconsideration shall be suspended from taking effect.
- b. Such suspension shall terminate when:
  - i) There is a final determination of insufficiency of the petition;
  - ii) The committee of petitioners withdraws the petition;

- iii) The Council repeals the ordinance; or,
- iv) Thirty days have elapsed after a vote of the city on the ordinance.

#### **8.06. Consideration by Council.**

- a. The City Council shall consider a certified initiative or referendum petition at the next practicable regular meeting of the City Council after certification of the petition.
- b. There shall be a public hearing held on the proposed ordinance.
- c. The Council shall take final action on the ordinance not later than sixty days after the date on which such ordinance was submitted to the Council by the City Clerk.
- d. A referred ordinance shall be reconsidered by the Council, and its final vote upon such reconsideration shall be upon the question, "Shall the ordinance specified in the referendum petition be repealed?"

#### **8.07. Submission to qualified voters.**

A proposed or referred ordinance shall be submitted at the next practicable uniform election date, if:

- a. the City Council shall fail to pass an ordinance proposed by initiative petition;
- b. the City Council shall pass it in a form different from that set forth in the petition therefor; or,
- c. the City Council fails to repeal a referred ordinance.

#### **8.08. Form of ballot for initiated and referred ordinances.**

- a. Ordinances submitted to vote of the qualified voters in accordance with the initiative and referendum provisions of this Charter shall be submitted by ballot title, which shall be prepared in all cases by the City Attorney.
- b. The ballot title may be different from the legal title of any such initiated or referred ordinance and shall be a clear, concise statement, without argument or prejudice, descriptive of the substance of such ordinance, if a paper ballot, shall have below the ballot title and following propositions, one above the other, in the order indicated: "FOR THE ORDINANCE" and "AGAINST THE ORDINANCE".
- c. Any number of ordinances may be voted on at the same election and may be submitted on the same ballot, but any paper ballot used for voting thereon shall be for that purpose only.
- d. If voting machines are used, the ballot title of any ordinance shall have below it the same two propositions, one above the other or one preceding the other in the order indicated, and the qualified voter shall be given an opportunity to vote for either of the two propositions and thereby to vote for or against the ordinance.

#### **8.09. Results of election.**

- a. If a majority of the qualified voters voting on a proposed initiative ordinance shall vote in favor thereof, it shall thereupon be an ordinance of the city.
- b. A referred ordinance that is not approved by a majority of the qualified voters voting thereon shall thereupon be deemed repealed.
- c. If conflicting ordinances are approved by the qualified voters at the same election, the one receiving the greatest number of affirmative votes shall prevail to the extent of such conflict.

#### **8.10. Repealing ordinances; publication.**

Initiative and referendum ordinances adopted or approved by a majority of the qualified voters shall be published as provided elsewhere in this Charter, and may be amended or repealed by the Council, as in the case of other ordinances.

#### **8.11. Recall; generally.**

The Mayor or any member of the City Council may be removed from office by recall.

#### **8.12. Recall procedure.**

- a. Any qualified voter of the city may make and file with the City Clerk an affidavit containing the name or names of the officer or officers whose removal is sought and a statement of the grounds for removal.
- b. The City Clerk shall thereupon deliver to the qualified voter making such affidavit copies of petition blanks demanding such removal. The City Clerk shall keep a sufficient number of such printed petition blanks on hand for distribution.
- c. Such blanks when issued by the City Clerk shall bear the signature of that officer and be addressed to the City Council, and shall be numbered, dated, and indicate the name of the person to whom issued. The petition blanks when issued shall also indicate the number of such blanks issued and the name of the officer whose removal is sought. The City Clerk shall enter in a record to be kept in his or her office the name of the qualified voter to whom the petition blanks were issued and the number issued to said person.

#### **8.13. Recall petitions.**

- a. The recall petition to be effective must be returned and filed with the City Clerk within thirty days after the filing of the affidavit required, and it must be signed by qualified voters of the city equal in number to at least thirty percent (30%) of the total number of votes cast at the last regular municipal election at which Council Members were elected.
- b. No petition papers shall be accepted as part of a petition unless it bears the signature of the City Clerk as required therein.

#### **8.14. Recall election.**

- a. The City Clerk shall at once examine the recall petition and if he or she finds it sufficient and in compliance with the provisions of this Article of the Charter, he or she shall within five days submit it to the City Council with his or her certificate to that effect and notify the officer sought to be recalled of such action.
- b. If the officer whose removal is sought does not resign within five days after such notice, the City Council shall thereupon order and fix a date for holding a recall election on the next practicable uniform election date.

**8.15. Ballots in recall election.**

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

- 1) With respect to each person whose removal is sought the question to be submitted shall be: “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 two following propositions, one above the other, in the order indicated:

“For the recall of (name of person)”

“Against the recall of (name of person)”

**8.16. Results of recall election.**

- a. If a majority of the votes cast at a recall election shall be against the recall of the officer named on the ballot, he or she shall continue in office for the remainder of his or her unexpired term, subject to recall as before.
- b. If a majority of the votes cast at such an election be for the recall of the officer named on the ballot, he or she shall, regardless of any technical defects in the recall petition, be deemed removed from office and the vacancy shall be filled by the City Council as in other vacancies.

**8.17. Limitations on recalls.**

No recall petition shall be filed against the Mayor or a Council Member within six months after he or she takes office nor in respect to an officer subjected to a recall election and not removed thereby, until at least six months after such election.

**8.18. District Judge may order election.**

If the City Council fails or refuses to order an election provided for in this Article, and if all the requirements for such election have complied with this Article, then the District Judge shall have the duty, upon proper application being made, to order such election and to enforce the provisions of this Article.

## **ARTICLE IX. GENERAL PROVISIONS**

### **9.01. Oath of office.**

Every person elected or appointed to office in the city shall, before entering upon the duties of his or her office, take and subscribe the official oath prescribed by the state constitution and shall give such bond and security for the faithful discharge of his or her duties as may be required by ordinance.

### **9.02. Execution and garnishment.**

No execution shall be issued or levied by virtue of any judgment that may be recovered against the city, but the council shall provide for the payments of judgments in the levying of taxes next after the final recovery of such judgments from the city. All assets of the city, including lands, houses, moneys, debts due the city, personal and real property, and assets of every description belonging to the city, shall be exempt from execution and sale; but the city shall make provisions, by taxation or otherwise, for the payment of any and all indebtedness incurred by the city. No writ of garnishment shall issue against the city to subject or seize any debt to any person or corporation, or any claim or demand upon any fund in the hands of said city or any of its officers; nor shall the city or any of its officers or agents, be required to answer any writ of garnishment.

### **9.03. Conflicts of interest; Board of Ethics.**

- a. Conflicts of interest. The use of public office for private gain is prohibited. The City Council shall implement this prohibition by ordinance, the terms of which shall include, but not be limited to: acting in an official capacity on matters in which the official has a private financial interest clearly separate from that of the general public; the acceptance of gifts and other things of value; acting in a private capacity on matters dealt with as a public official; the use of confidential information; and appearances by city officials before other city agencies on behalf of private interests. This ordinance shall include a statement of purpose and shall provide for reasonable public disclosure of finances by officials with major decision-making authority over monetary expenditures and contractual and regulatory matters and, insofar as permissible under state law, shall provide for fines and imprisonment for violations.
- b. Board of Ethics. The City Council shall, by ordinance, establish an independent Board of Ethics to administer and enforce the conflict of interest and financial disclosure ordinances. No member of the board may hold elective or appointed office under the city or any other government or hold any political party office. Insofar as possible under state law, the City Council shall authorize the board to issue binding advisory opinions, conduct investigations on its own initiative and on referral or complaint from officials or citizens, subpoena witnesses and documents, refer cases for prosecution, impose administrative fines, and to hire

independent counsel. The City Council shall appropriate sufficient funds to the Board of Ethics to enable it to perform the duties assigned to it and to provide annual training and education of city officials and employees, including candidates for public office, regarding the ethics code.