

## Chapter CHA. Home Rule Charter

### Editor's notes:

(1) The home rule charter of the City of Sherman, Texas, was adopted at an election on February 20, 1973. Amendments to the charter are noted in parentheses at the end of the section or subsection amended. The absence of a history note indicates the material is unchanged since its adoption on Feb. 20, 1973. Material enclosed in brackets has been editorially supplied for purposes of clarification. Obviously misspelled words have been corrected without notation.

(2) At an election held on May 7, 2005, Proposition No. 11, which was approved, provided: "To authorize the amendment of the city charter to facilitate its use and understanding by simplifying, clarifying and repositioning sections, paragraphs, words or phrases." Those changes, when made by the city, will be incorporated in a future supplement.

(3) At an election held on November 2, 2010, Proposition No. 3 (Ordinance 5661), which was approved by a majority vote, provided: "To authorize the timely amendment of the city charter by resolution to eliminate conflict with state and federal law by deleting, altering, replacing, simplifying, or repositioning sections, paragraphs, words or phrases as needed." Those changes, when made by the city, will be incorporated in a future supplement.

### PREAMBLE

We, the Citizens of Sherman, Texas, dedicated to the principle of local self government, under law, as interpreted by the light of reason, and administered to secure justice, do invoke the guidance of God in establishing a municipal government, and do hereby ordain and establish this Home Rule Charter in accordance with the Statutes of the State of Texas, and do hereby declare the residents of the City of Sherman in Grayson County, Texas, living within the legally established boundaries of the said city, to be a political subdivision of the State of Texas incorporated forever under the name and style of the "City of Sherman" with such powers, rights, and duties as are herein provided.

## ARTICLE I. INCORPORATION, FORM OF GOVERNMENT, AND POWERS

### § 1. Incorporation.

The inhabitants of the City of Sherman, Grayson County, Texas, residing within its corporate limits, as heretofore or 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 Sherman", hereinafter referred to as the "city".

### § 2. Powers (general and corporate).

The city shall have and be possessed of all authority and all powers, privileges, rights, duties and immunities provided hereunder; all those which are now or which at any time hereafter may be granted to or provided in favor of cities by or under the Constitution or Laws of the State of Texas, as now existing and as hereafter changed and amended; all those which, without the necessity of express enumeration, the people of the city are empowered by election to grant or confer upon the city by

expressly and specifically granting and enumerating the same herein; and all those necessary or incidental to any and all of the foregoing or implied therefrom. To the extent provided by or under this charter, same shall be exercised and enforced in the manner provided for hereunder, but otherwise in such manner as may be provided by ordinance or other applicable law.

Solely by way of illustration and example, and not by way of limitation on or enumeration of the foregoing, or any part thereof, the city, being a home rule city, shall have all powers, privileges, rights, duties and immunities, express and implied, provided in favor of or exercisable by home rule cities by or under the Constitution of the State of Texas or laws enacted pursuant thereto, as now existing and as hereafter at any time amended or changed.

The provisions of this charter shall be construed liberally in favor of the city, and the specific mention of particular powers in the charter shall not be construed as limiting in any way the general powers stated in this article.

The city may exercise any of its powers or perform any of its functions, and may participate in the financing thereof, jointly or in cooperation, by contract or otherwise, with any one or more states or civil divisions or agencies thereof, or the United States or any agency thereof.

### § 3. Form of government.

The municipal government provided by this charter shall be known as the "council-manager" government. Pursuant to its provisions and subject only to the limitations imposed by the Constitution of the State of Texas and by this charter, all powers of the city shall be vested in an elective council. All of the powers of the city shall be exercised in the manner as may be prescribed by ordinance.

## ARTICLE II. CITY COUNCIL

### § 1. Membership.

#### (a) Composition.

- (1) There shall be a city council consisting of six (6) councilmembers and a mayor. There shall be only the office of mayor and the office of councilmember. The mayor shall be elected by the qualified voters of the city at large. Two (2) councilmembers shall be known as councilmembers at-large, but will file for either Place 1 or Place 2, but not both, and shall be elected by the qualified voters of the city at-large. The other four (4) shall be known as district councilmembers, one to be elected from each district by the qualified voters of the city at-large.

Districts shall be as follows:

DISTRICT NO. 1 - shall consist of all the property north of the former Texas and Pacific Railroad right-of-way and west of the center line of Travis Street to its intersection with the city limits, and all of the property within the city limits of the City of Sherman north and west of these lines.

DISTRICT NO. 2 - shall consist of all the property north of the former Texas and Pacific Railroad right-of-way and east of the center line of Travis Street to its intersection with the city limits, and all of the property within the city limits of the City of Sherman north and east of these lines.

DISTRICT NO. 3 - shall consist of all the property south of the former Texas and Pacific Railroad right-of-way, east of the center line of Travis Street to its intersection with U.S. Highway 75S, east of the center line of U.S. Highway 75S to the city limits, and all property within the city limits of the City of Sherman south and east of these lines.

DISTRICT NO. 4 - shall consist of all the property south of the former Texas and Pacific Railroad right-of-way, west of the center line of Travis Street to its intersection with U.S.

Highway 75S, west of the center line of U.S. Highway 75S to the city limits, and all of the property within the city limits of the City of Sherman south and west of these lines.

The city council shall reevaluate the four (4) districts every ten (10) years after the census has been taken by the United States Census Bureau and redelineate the boundaries of the districts conforming as nearly to quadrants as possible with the view of establishing an equality of the inhabitants in each quadrant as nearly as possible for a sectional geographical division.

- (2) Each candidate for office and each elected official shall have and maintain their primary residence within the corporate limits of the City of Sherman and of the district for which they are running or to which they were elected. The election of the councilmember for a district shall be by the voters of the entire City of Sherman.
  - (3) Commencing with the regular election held in April 1973, a mayor and two (2) councilmembers shall be elected from the city at-large.
  - (4) All terms of office shall be for three (3) years, or until the successor has been elected and qualified. Service in office for more than eighteen (18) months of a three (3) year term, shall constitute a full term.
  - (5) A councilmember or mayor may serve a maximum of four (4) consecutive terms in any combination of offices. After a councilmember or mayor has served their maximum term of office, a one (1) year (360 day) absence from office is required before that person will be eligible to hold another elective office.
- (b) Eligibility. Each candidate for an elected office and each elected official of the city shall be a citizen of the United States of America, and a qualified voter of the State of Texas; shall be at least twenty-one (21) years old, shall have resided at least twelve (12) months next preceding the election, at which they are a candidate, within the corporate limits of the City of Sherman, shall be a resident of their district, nor be disqualified by reason of any provision of any other section of this charter. Eligibility is determined as of five o'clock p.m. on the last day for filing for the office the candidate is seeking.
- (c) Additional councilmembers when population reaches 75,000. When the population of the City of Sherman reaches seventy-five thousand (75,000) as shown by the official United States census, the council shall be increased by two (2) members who shall be elected at-large at the next regular election of councilmembers at-large.

(Ordinance 3048, sec. 2(1), (2), adopted 4/5/75; Ordinance 4267, sec. 2, adopted 1/16/93; Ordinance 4745, sec. 2, adopted 3/8/99; Ordinance 4927, sec. 4(1), (2), adopted 5/5/01; Resolution 4442, adopted 5/6/03; Subsecs. (a)(6) & (b) amnd. by 5/7/05 election, proposition no. 3, 4 & 10; Subsecs. 1(a)(4)–(6) amnd. by amendments 1, 2, & 3 approved at an election held 5/12/07 and certified by Resolution 5017 adopted 5/22/07; Ordinance 6083 adopted 12/4/17; Resolution 6561 adopted 11/18/19)

## § 2. Compensation and expenses.

Each councilmember shall receive fifty dollars (\$50.00) for each attended regular, special or emergency meeting of the council. The mayor shall receive seventy-five dollars (\$75.00) for each attended regular, special or emergency meeting of the council. In addition, each shall be entitled to necessary expenses incurred in the performance of their official duties. In the event that such expenses exceed the budget, approval for reimbursement by the City Council shall be required. There shall be no other allowance, compensation, benefits, or special consideration received by the mayor, councilmembers, or fee for service employees. All expenses shall be itemized and approved by the city manager before payment to the recipient. The City of Sherman shall not be financially responsible for personnel service required by the mayor or a councilmember in performance of his or her official duties other than those services that may be provided by regularly employed personnel of the city.

(Ordinance 3565, sec. 2, adopted 2/8/82; Ordinance 4745, sec. 2, adopted 3/8/99; Resolution 4442 adopted 5/6/03)

### § 3. Mayor and deputy mayor.

The mayor shall preside at the 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. The mayor shall be entitled to vote upon all matters considered by the council. The mayor shall not make or second motions. The council shall elect a deputy mayor from the council for a one-year term, or until the council is reorganized, who shall act as mayor during the absence or inability of the mayor to serve. If a vacancy should occur in the office of mayor, the deputy mayor shall serve for the remainder of the mayor's term or until the next general election, whichever shall first occur.

(Ordinance 3048, sec. 2(3), adopted 4/5/75; Ordinance 4745, sec. 2, adopted 3/8/99)

### § 4. Powers and duties of council.

All powers of the city shall be vested in the council, except as otherwise provided by law or this charter, and the council shall provide for the exercise thereof, and for the performance of all duties and obligations imposed upon the city by law, and the council is granted all the powers presently authorized by the legislature, expressly or by implication, including the power to cause the creation of one or more non-profit corporations under the laws of the state to act on behalf of and to assist the city with respect to the city's public utilities or other functions of the city.

(Ordinance 4745, sec. 2, adopted 3/8/99)

### § 5. Prohibitions.

- (a) Holding other offices. Except when authorized by law, no mayor or councilmember shall hold dual offices or incompatible offices or any other city office or city employment during the term for which he or she was elected to the council, and no former mayor or former councilmember shall hold any compensated appointive city office or city employment until one year after the expiration of the term for which he or she was elected.
- (b) Appointments and removals. Neither the city council nor any of its members shall in any manner dictate the appointment or removal of any city administrative officer or employee whom the manager or any of his or her subordinates are empowered to appoint, but the council may express its views and fully and freely discuss with the manager anything pertaining to appointment and removal of such officers and employees.
- (c) Interference with administration. Except for the purpose of inquiries, the council or its members shall deal with city officers and employees who are subject to the direction and supervision of the manager only through the manager, and neither the council nor its members shall give orders to any such officer or employee, either publicly or privately. Nothing in this Section should be interpreted to limit the council's power of investigation and inquiry under Section 8 of this Article.

(Ordinance 3048, sec. 2(4), (5), adopted 4/5/75; Ordinance 4745, sec. 2, adopted 3/8/99; Subsec. 5(c) amnd. by amendment 4 approved at an election held 5/12/07 and certified by Resolution 5017 adopted 5/22/07)

### § 6. Vacancies, forfeitures, filling of vacancies.

- (a) Vacancies. The office of the mayor or councilmember shall become vacant upon their death, resignation, removal from office in any manner authorized by law, or forfeiture of the office. If an elected official changes their primary residence to outside the corporate limits of the City of



Sherman or the district to which they were elected, their office shall immediately become forfeit and vacant.

- (b) Forfeiture of office. The mayor or a councilmember shall forfeit their office if, during the term of office, they:
- (1) Lack any qualification for the office prescribed by this charter or by law;
  - (2) Violate any express prohibition of this charter;
  - (3) Have been given probation, deferred adjudication, or are convicted of a crime involving a felony or a crime involving dishonesty or deceit;
  - (4) Fail to attend three (3) consecutive regular meetings of the council or a total of six (6) such meetings in any one year without being excused by the council; or
  - (5) Commits an act of malfeasance, incompetence, or misconduct as determined by a super-majority vote of a quorum of the remaining members of the City Council.
- (c) Filling of vacancies. If only one seat on the council becomes vacant at a time, it shall be filled by a majority vote of the remaining members present and voting until the next regular city election. If two (2) or three (3) seats on the council become vacant at the same time, a special election shall be ordered to fill such vacancies unless the next regular city election is to be held within a ninety (90) day period and, in that event, the seats shall remain vacant until filled at such regular election. If four (4) or more vacancies exist at the same time, the mayor, or the deputy mayor in the mayor's absence, shall have the power and shall immediately order a special election to fill all such vacancies. In the event a special election is not ordered as provided herein, then it shall be ordered as provided in Section 1 of Article III of this charter.

(Ordinance 4745, sec. 2, adopted 3/8/99; Resolution 4442 adopted 5/6/03; Resolution 6300 adopted 11/20/17)

## § 7. Judge of qualifications.

The council shall be the judge of the election and qualifications of its members and of the grounds for forfeiture of their office and for that purpose shall have power to subpoena witnesses, administer oaths and require the production of evidence. A member charged with conduct constituting grounds for forfeiture of their office shall be entitled to a public hearing on demand, and notice of such hearing shall be published at least once in one or more newspapers of general circulation in the city at least one week in advance of the hearing. Decisions made by the council under this section may be subject to review by the courts.

(Ordinance 4745, sec. 2, adopted 3/8/99)

## § 8. Investigations.

The city council shall have the power to inquire into and investigate all matters involving the municipal affairs of any office, department, agency or employee of the city and, for that purpose, with due process, may order the presence and testimony of witnesses by subpoena and order the production of books, records, papers or other evidence. Failure to obey such subpoena, failure to testify fully and truthfully or failure to produce the evidence as ordered shall constitute sufficient grounds for termination of employment.

(Ordinance 4745, sec. 2, adopted 3/8/99; Resolution 4442 adopted 5/6/03)

## § 9. Rules of procedure and meetings.

- (a) Meetings. The first meeting of each newly elected council shall take place in accordance with the Texas Election Code. Thereafter, the city council will hold regular meetings on the first and third Mondays of each month, excluding city staff holidays, at its discretion. In the case of a holiday, the regular meeting shall be held on the Tuesday immediately following said holiday. Special and emergency meetings may be held on the call of the mayor or of four (4) or more councilmembers. All meetings shall be open to the public in accordance with the Texas Open Meetings Act, except for lawfully conducted executive sessions, the discussions of which shall be confidential. An final action shall be noticed on the agenda and decided in a public meeting.
- (b) Rules and journal. The council shall determine its own rules and order of business except that, upon the request of any member, Roberts Rules of Order shall be followed for the designated issue. There shall be kept a detailed journal of its proceedings, which shall be a public record.
- (c) Voting. The council shall determine its own rules for voting except that, upon the request of any member, a roll call vote shall be required for the issue being considered. Four (4) members of the council shall constitute a quorum. No action of the council except as otherwise provided in this charter shall be valid or binding unless adopted by the affirmative vote of the majority of councilmembers present and voting.

(Ordinance 3048, sec. 2(6), adopted 4/5/75; Ordinance 4745, sec. 2, adopted 3/8/99; Ordinance 4927, sec. 4(3), adopted 5/5/01; Resolution 4442 adopted 5/6/03; Ordinance 5917, sec. 1, adopted 12/7/15; Ordinance 6092 adopted 12/18/17)

## § 10. Action requiring an ordinance.

In addition to other acts required by law or by specific provision of this charter to be done by ordinance, those acts of the city council shall be by ordinance which:

- (a) Adopt or amend an administrative code or establish, alter or abolish any city department, office or agency;
- (b) Provide for a fine or other penalty or establish a rule or regulation for violation of which a fine or other penalty is imposed;
- (c) Levy taxes, except as otherwise provided in Article V with respect to the property tax levied by adoption of the budget;
- (d) Grant, renew or extend a franchise;
- (e) Regulate the rate charged for its services by a public utility;
- (f) Authorize the borrowing of money;
- (g) Adopt with or without amendment ordinances proposed under the initiative powers; and
- (h) Amend or repeal any ordinance previously adopted, except as otherwise provided in this charter with respect to repeal of ordinances reconsidered under the referendum power.

Acts other than those referred to in the preceding sentences may be done either by ordinance, resolution, motion and/or order. A resolution, motion and/or order is the form in which the city council expresses an opinion or a decision applicable to the performance of a ministerial act, or the administrative business of the City of Sherman, Texas. The procedural requirements of passing resolutions, motions and/or orders shall be different from the procedural requirements effecting [affecting] the passing of ordinances as set out in this chapter [charter].

(Ordinance 3048, sec. 2(7), adopted 4/5/75; Ordinance 4745, sec. 2, adopted 3/8/99)

## § 11. Ordinances, resolutions, motions and/or orders in general.

- (a) Form. Ordinances may pertain to matters regulating persons or property and have the force of local law. Each proposed ordinance shall be introduced in written or printed form, and shall not contain more than one subject, which shall be clearly stated in the title; but general appropriation ordinances may contain the various subjects and accounts for which monies are to be appropriated. The enacting clause of all ordinances passed by the council shall be: "Be it ordained by the City Council of the City of Sherman." The enacting clause of all ordinances submitted by the initiative shall be: "Be it ordained by the people of the City of Sherman."

When any proposed ordinance, resolution, motion and/or order, or other thing duly presented for action by the city council shall be finally acted upon, such action shall be binding as the final action of the city thereupon until the same shall be amended or repealed in some legal manner authorized and provided by this charter.

Any ordinance which repeals or amends an existing ordinance or part of the City Code shall set out in full the ordinance, sections or subsections to be repealed or amended, and shall indicate the matter to be omitted by enclosing it in brackets or by strikeout type, and shall indicate new matter by underscoring or by italics.

If the provisions of two (2) or more ordinances adopted or approved at the same meeting conflict, the ordinance receiving the highest affirmative vote shall prevail.

- (b) Procedure affecting ordinances only. An ordinance may be introduced by any city council member by causing the proposed caption to be read and adopted at any regular or special meeting of the council after a public hearing, provided that prior to adoption the officer of public records shall distribute a copy to each councilmember and to the manager, shall file a reasonable number of copies in the office of the officer of public records and such other public places as the council may designate, and shall publish the caption of the ordinance one time, together with a notice setting out the time and place for a public hearing thereon. The public hearing shall follow the publication by at least a seventy-two (72) hour notice, in accordance with the Texas Open Meetings Act, and may be adjourned from time to time. The public hearing shall be held where all persons interested shall have an opportunity to be heard. Immediately after the hearing, the council may adopt the ordinance with or without amendments or reject it but, if it is amended as to any matter of substance that is not within the scope of the published caption, the council may not adopt it until the amended caption of the ordinance or its amended sections have been published and a new public hearing has been held. Adoption shall occur upon the affirmative vote of the members present and voting, and the ordinance shall take effect immediately upon the signature of the mayor, the deputy mayor or automatically seven (7) days after its adoption, unless otherwise provided by law or by its own terms.
- (c) Resolutions, motions and orders. Matters pertaining to city policy, administration or directing action to be taken may be made by a resolution or motion and order and shall be adopted and take effect immediately upon the majority vote of the members present and voting. Resolutions shall be written, assigned a sequential number, and kept as a permanent record by the city clerk. Motions and orders may be oral and their subject matter shall be recorded in the minutes.
- (d) "Publish" defined. As used in this section, the term "publish" means to print one time or as required by law on the City's official website:
- (1) the ordinance, or a brief summary thereof, and
  - (2) the places where copies of it have been filed, and the times when they are available for public inspection.
- (e) Emergency ordinance. The city council may meet in an emergency meeting because of an imminent threat to public health and safety or an unforeseen combination of circumstances that calls for immediate action, in accordance with the Texas Open Meetings Act. The council may adopt one or more emergency ordinances, but such ordinances may not levy taxes, issue time warrants or revenue bearing warrants, grant, renew or extend a franchise, or authorize the borrowing of money except as provided by subsection 5(b), Article V. An emergency ordinance shall be introduced in the form and manner prescribed for ordinances generally, except that it shall be plainly designated as an emergency ordinance, and shall contain, after the enacting clause, a

declaration stating that an emergency exists and describing it in clear and specific terms. An emergency ordinance may be adopted with or without amendment, or rejected at the meeting at which it is introduced, but the affirmative vote of a majority of the members present and voting shall be required for adoption. After its adoption, the ordinance shall be published and printed as prescribed for other adopted ordinances. It shall become effective upon adoption, or at such later time as it may specify. Every emergency ordinance except one made pursuant to Article V, subsection 5(b), or made to regulate the rates charged by any public utility for its services, shall automatically stand repealed as of the ninety-first day following the date on which it was adopted, but this shall not prevent reenactment of the ordinance in the manner specified in this section if the emergency still exists. An emergency ordinance may also be repealed by adoption of a repealing ordinance in the same manner specified in this section for adoption of an emergency ordinance.

- (f) The foregoing provisions relating to the passage of ordinances or resolutions shall not apply to an ordinance or resolution calling a bond election, an ordinance or resolution canvassing the returns of a bond election, an ordinance authorizing the issuance of bonds which have previously been authorized by the qualified electors, or to an ordinance authorizing the issuance of refunding bonds. Nor shall said provisions apply to ordinances or resolutions giving notice of intention to issue time warrants or certificates of obligation or to ordinances authorizing same within the amounts provided for elsewhere in this charter. And, provided further, the aforementioned ordinances and resolutions may be passed, approved and adopted on one reading.

(Ordinance 3048, sec. 2(8)–(11), adopted 4/5/75; Ordinance 3565, sec. 2, adopted 2/8/82; Ordinance 4745, sec. 2, adopted 3/8/99; Resolution 4442 adopted 5/6/03; Ordinance 5917, sec. 2, adopted 12/7/15; Ordinance 6244 adopted 9/3/19)

## § 12. Code of technical regulations.

The council may adopt any standard code of technical regulations by reference thereto in an adopting ordinance. The procedure and requirements governing such an adopting ordinance shall be as prescribed for ordinances generally, except that:

- (a) The requirements of Article II, Section 11 for distribution and filing of copies of the ordinance shall be construed to include copies of the code of technical regulations, as well as of the adopting ordinance, and
- (b) A copy of each adopted code of technical regulations, as well as of the adopting ordinance, shall be authenticated and recorded by the officer of public records pursuant to Article II, Section 13.

Copies of any adopted code of technical regulations shall be made available by development services and on-line.

(Ordinance 5917, sec. 3, adopted 12/7/15)

## § 13. Authentication and recording; codification and printing.

- (a) *Authentication and recording.* The officer of public records shall authenticate by his or her signature and record in full in a properly indexed book kept for the purpose all ordinances, resolutions, motions and orders adopted by the council.
- (b) *Codification.* Within three (3) years after adoption of this charter, and at least every ten (10) years thereafter, the council shall provide for the preparation of a general codification of all city ordinances having the force and effect of law. The general codification shall be adopted by the council by ordinance and shall be published promptly in bound or looseleaf form and electronically, together with this charter and any amendments thereto, pertinent provisions of the constitution, and other laws of the State of Texas, and such codes of technical regulations and other rules and regulations as the council may specify. This compilation shall be known and cited officially as the

Sherman City Code. Copies of the code shall be furnished to city officers, placed in libraries and public offices for free public reference and made available on-line.

- (c) *Printing of ordinances.* The council shall cause each ordinance having the force and effect of law, and each amendment to this charter to be printed promptly following its adoption, and the printed ordinances and charter amendments shall be distributed or sold to the public at reasonable prices to be fixed by the council. Following publication of the first Sherman City Code and at all times thereafter, the ordinances and charter amendments shall be printed in substantially the same style as the code currently in effect, and shall be suitable in form for integration therein. The council shall make such further arrangements as it deems desirable with respect to reproduction and distribution of any current changes in or additions to the provisions of the constitution, and other laws of the State of Texas, or the codes of technical regulations and other rules and regulations.

(Ordinance 3048, sec. 2(12)–(14), adopted 4/5/75; Ordinance 5917, sec. 4, adopted 12/7/15)

## ARTICLE III. NOMINATIONS AND ELECTIONS

[1] *Editor's note—Article III, Section 7, Availability of list of qualified, registered voters, was deleted by Resolution 4442 adopted May 6, 2003.*

### § 1. Municipal elections.

- (a) Regular elections. Regular elections shall be held annually on the first Tuesday following the first Monday in November to fill those offices becoming vacant that year.
- (b) Qualified voters. All citizens qualified by the Constitution and Laws of the State of Texas to vote in the city and who satisfy the requirements for registration prescribed by law shall be qualified voters of the city within the meaning of this charter, provided that the citizen must have resided inside the corporate limits of the City of Sherman for at least a thirty (30) day period prior to any election.
- (c) Conduct of elections. Except as otherwise provided by this charter, the provisions of the Election Code of the State of Texas shall apply to elections held under this charter. All elections provided for by the charter shall be conducted by the election authorities established by law. For the conduct of city elections, for the prevention of fraud in such elections, and for the recount of ballots in cases of doubt or fraud, the council shall adopt by ordinance all regulations which it considers desirable, consistent with law and this charter.
- (d) Special elections. The council may by ordinance order a special election, fix the time for holding same, and provide all means for holding such special election which shall be held as nearly as practicable according to the provisions for regular elections.
- (e) Failure to act. In the case of the failure of the council to act, the election may be ordered by the director of public records, and, in case of his or her failure to act, by the County Judge of Grayson County, Texas, and, in case of his or her failure to act, by the Governor of the State of Texas. The director of public records shall give notice of such election by causing said notice to be published not earlier than the 30th day nor later than the 10th day before election day on the City's official website.

(Ordinance 4267, sec. 2, adopted 1/16/93; Subsec. (a) amnd. by amendment 1 approved at an election held November 2, 2010 and certified by Resolution 5535 adopted 11/15/10; Ordinance 6245 adopted 9/3/19)

### § 2. Filing of candidates.

Any person who attests the eligibility herein stated and who desires to become a candidate for mayor or member of the council shall file with the city clerk a sworn application containing his or her correct name

for a designated place on the ballot as required by state law. Such candidate shall comply with the requirements of all laws of the State of Texas which prescribe procedures for the filing of candidates for elective municipal office, and the provisions of this charter.

(Ordinance 4267, sec. 2, adopted 1/16/93; Resolution 4442 adopted 5/6/03; Ordinance 6245 adopted 9/3/19)

### § 3. Council ballots.

The election ballot shall list in sequence the office of mayor followed by Place 1, Place 2, District 1, District 2, District 3 and District 4, as applicable, for each election year. The names of all candidates for the mayor and council as contained in their applications, and as hereinbefore provided, except such as may have withdrawn, died, or become ineligible, shall be listed under the position sought and printed on the official ballot without party designations. If two (2) candidates with the same surname, or with names so similar as to likely cause confusion, are nominated, the address of their places of residence shall be placed with their names on the ballot. The order of the names for each position shall be determined by lot. The official ballot shall be printed not less than twenty (20) days before the date of the election.

(Ordinance 4745, sec. 2, adopted 3/8/99)

### § 4. Determination of election results.

- (a) Elections and declaring results. The returns of every municipal election shall be delivered forthwith by the election judges to the city clerk. The council shall canvass the returns, certify the qualifications of the candidates, and declare the official results of the election in accordance with the Texas Election Code. The qualified person for the office of mayor receiving a majority of the qualified votes polled at this election shall thereupon be declared by the council to have been elected. The qualified person for the office of councilmember, for their place or district, receiving the greatest number of qualified votes polled at this election shall thereupon be declared by the council to have been elected. In the event no candidate receives a majority vote for the office of mayor or a tie vote occurs for the office of councilmember, based upon the qualified votes polled at such regular election for the office for which he or she is a candidate, the council shall immediately order a special election to be held in accordance with the Texas Election Code. At such special election, the two candidates receiving the highest number of votes for the office of mayor at the regular election and the candidates receiving a tie vote at the regular election for the office of councilmember shall be submitted for the election, and the candidate receiving the majority of votes at such special election for the position for which he or she was a candidate shall be declared duly elected.
- (b) Notification and qualification of city officers. It shall be the duty of the officer of public records to promptly notify all persons elected or appointed to office of their election or appointment. Any officer elected or appointed must qualify by taking and subscribing his or her oath of office within thirty (30) days; otherwise, the office shall be vacant.

(Ordinance 3048, sec. 2(15), adopted 4/5/75; Ordinance 4267, sec. 2, adopted 1/16/93; Resolution 4442 adopted 5/6/03; Ordinance 5918 adopted 12/7/15)

### § 5. Ballots for charter amendments.

A charter amendment to be voted on by the city shall be presented for voting by ballot title. The ballot title of an amendment shall be a clear, concise statement describing the substance of the proposal without argument or prejudice. Below the ballot title shall appear the proposed amendment with the section to be amended indicated by strikeout type and the new section indicated by italics. Immediately below such proposed amendment shall appear, in the following order, the words "for" and "against," with

a blank oval beside each word, one of which is to be filled in indicating the voter's choice. A charter amendment election may not be held earlier than every two years.

(Resolution 4442 adopted 5/6/03; Ordinance 6245 adopted 9/3/19)

## § 6. Voting machines and devices.

The council may provide for the use of mechanical equipment or other devices for voting or counting the votes not inconsistent with law.

# ARTICLE IV. ADMINISTRATIVE DEPARTMENTS

## § 1. General provisions.

City departments may be established, modified and/or abolished by ordinance upon the recommendation of the city manager.

The council, by ordinance, may create, change, and abolish offices, departments, or agencies.

The city clerk shall be known as the officer of public records. The city clerk shall also be the officer in charge of the department of public records.

(Ordinance 3048, sec. 2(16), adopted 4/5/75; Ordinance 4267, sec. 2, adopted 1/16/93; Ordinance 5919 adopted 12/7/15)

## § 2. City manager.

- (a) *Appointment and qualifications.* The council shall appoint a city manager who shall be the administrative and executive officer of the city. He or she shall be chosen by the council solely on the basis of his or her training, experience, and ability. He or she need not, when appointed, be a resident of the City of Sherman; however, upon acceptance, he or she shall immediately establish his or her residence within the city. The city manager shall receive such compensation as may be fixed by the council.
- (b) *Removal.* The city council may contract with the city manager. However, the city manager shall not be employed or appointed for a definite term, but may be removed at the will of the council by a majority vote of all members of the council. If removed at any time after having served six (6) months, the city manager may, within ten (10) days of the order of removal, demand written charges specifying the grounds of the removal, and the right to be heard thereon at a public meeting of the council. Such hearing shall be at a time and on a date set by the council within thirty (30) days from the date of the issuance of the order of the removal of the city manager. Regardless of whether or not a hearing is demanded, the action of the council in removing the city manager shall be final, it being the intention of this charter to vest all authority and fix all responsibility for such removal in the council.
- (c) *Acting city manager.* The assistant city manager shall, subject to the approval of the council, exercise the powers and perform the duties of city manager during an absence or disability of the city manager. During such absence or disability, the council may revoke such designation at any time, and appoint another officer of the city to serve until the city manager shall return.
- (d) *Powers and duties of the city manager.* The city manager shall be the chief administrative officer of the city. He or she shall be responsible to the council for the administration of all city affairs placed in his or her charge by or under this charter. He or she shall have the following powers and duties:

- (1) He or she shall appoint all department heads, subject to the approval of the council.

- (2) The city manager shall appoint and, when necessary for the good of the city, suspend or remove city employees and administrative officers provided for by or under this charter, except as otherwise provided by law, this charter, or personnel rules adopted pursuant to this charter. The city manager may authorize any administrative officer who is subject to his or her direction and supervision to exercise these powers with respect to subordinates in that officer's department, offices, or agency.
- (3) He or she shall direct and supervise the administration of all departments, offices, and agencies of the city, except as otherwise provided by this charter or by law.
- (4) He or she shall attend all council meetings, and shall have the right to take part in the discussion, but may not vote.
- (5) He or she shall see that all laws, provisions of this charter, and acts of the council, subject to enforcement by him or her or by officers subject to his or her direction and supervision, are faithfully executed.
- (6) He or she shall prepare and submit the annual budget and capital program to the council.
- (7) He or she shall submit to the council, and make available to the public, a complete report of the finances and administrative activities of the city as of the end of each fiscal year.
- (8) He or she shall make such other reports as the council may require concerning the operations of city departments, offices, and agencies subject to his or her direction and supervision.
- (9) He or she shall keep the council fully advised as to the financial condition and future needs of the city, and make such recommendations to the council concerning the affairs of the city as he or she deems desirable.
- (10) He or she shall perform such other duties as are specified in this charter or as may be required by the council.

(Ordinance 4745, sec. 2, adopted 3/8/99; Ordinance 4927, sec. 4(4), adopted 5/5/01; Resolution 4442 adopted 5/6/03; Subsec. 2(b) amnd. by amendment 5 approved at an election held 5/12/07 and certified by Resolution 5017 adopted 5/22/07)

### § 3. Personnel system.

- (a) Directors of departments. At the head of each administrative department there shall be a director who shall be an officer of the City of Sherman, and shall have supervision and control of the department, but said director shall be subject to the control of the city manager, and shall report to him or her.

Two (2) or more departments may be managed by the same director or by the city manager. The city manager may create divisions which shall consist of two (2) or more departments, with directors of departments or the city manager serving as chiefs of the divisions.

(Ordinance 4745, sec. 2, adopted 3/8/99)

### § 4. Municipal court.

There is hereby created and established in the city a court to be known as the Municipal Court of the City of Sherman, which court shall have all the powers and duties that are given and prescribed by the Laws of the State of Texas and shall have the greater possible power in both original and concurrent jurisdiction under the Laws of the State of Texas.

From nominations made by the city manager, the city council shall appoint a judge to preside over said court and to be known as the Municipal Judge of the City of Sherman. The judge shall be an attorney currently licensed under the Laws of the State of Texas, a member in good standing of the State Bar of



Texas, and shall be responsible to the city manager. The judge of said court may, with the advice and consent of the city manager, appoint bailiffs and clerical assistants as may be needed in said court. Alternate Judges shall be appointed in the same manner, as needed, and shall have the same qualifications. Such alternate municipal judges shall be authorized to act for and on behalf of the Municipal Judge.

Trial by jury in said court shall be and remain inviolate, and all matters of procedure, writs, fees, fines, and costs shall be as provided by the Statutes of the State of Texas.

(Ordinance 6084 adopted 12/18/17)

## § 5. Legal officer.

From among nominations made by the city manager, the city council shall appoint an attorney currently admitted to practice law before the State Supreme Court, who is not the subject of any ongoing disciplinary investigation or trial, and who possesses the necessary legal transactional and trial training, experience and ability to successfully represent the city in all matters. The city council may contract with the city attorney. The city attorney shall serve at the will of the city council and may be removed by a majority vote of all members of the council. The city attorney shall perform such services as the council or the city manager may direct and shall be responsible and report directly to the city manager and shall timely coordinate with and inform the city manager of all activities of the office. The city attorney shall serve as the parliamentarian for all city council meetings. The city attorney shall be the legal advisor of and attorney for the city, the city council or any member of the council, and all of the officers and departments of the city, in the matters affecting the conduct of city business, and shall represent the city in all legal proceedings, assist in all civil service disciplinary matters and internal affairs investigations, and may, with the approval of the city manager, assign work to specialized outside legal counsel as the need may arise. The city attorney shall aid the city council in any investigations it may conduct. Before the city shall act as a plaintiff or petitioner in any suit and during the defense of any suit, the city attorney shall investigate the facts and legal issues involved and report the findings, conclusions and recommendations to the city council, provided the time to conduct such a process would not cause irreparable harm to the city. The city attorney shall always act in accordance with the promulgated rules, regulations and ethics of the State Bar of Texas.

There may be such assistant city attorneys as may be authorized by the council and appointed by the city attorney with the approval of the city manager, and such assistant city attorneys shall be authorized to act for and on behalf of the city attorney.

(Ordinance 3565, sec. 2, adopted 2/8/82; Ordinance 4745, sec. 2, adopted 3/8/99; Ordinance 4927, sec. 4(5), adopted 5/5/01; Amended by Res. 5017 at an election held on 5/12/07; Amended by Res. 6039 at an election held on 11/3/15)

## § 6. Bonds for designated officers and employees.

The city manager, director of public records, the heads of all departments, and all persons authorized to receive or disburse the city's money shall be required to enter into bond in such amount and with such sureties as may be required by resolution or ordinance of the city council. All bonds shall be made payable to the City of Sherman, and shall be conditioned for the faithful performance of the duties of the office as well as faithful accounting to the city of all money, books, and properties which may come into his or her possession.

# ARTICLE V. FINANCE ADMINISTRATION

## § 1. Fiscal year.

The fiscal year of the city shall begin on the first day of October, and end on the last day of September. Recognition of revenues and expenditures for each fiscal year shall be governed by generally accepted accounting principles, properly applied to municipal governments.

(Ordinance 4267, sec. 2, adopted 1/16/93; Ordinance 4745, sec. 2, adopted 3/8/99)

## § 2. Budget preparation and message.

- (a) Preparation and submission of the proposed budget. The city manager, at least fifty (50) days prior to the beginning of each fiscal year, shall submit to the council a proposed budget. The proposed budget shall be prepared in conformance with standard municipal budgeting procedures. It shall provide a complete financial plan for the fiscal year. It shall include, but is not limited to, the disclosures required by state law.
- (1) A budget message, explanatory of the budget, which message shall contain an outline of the proposed financial policies of the city for the fiscal year, shall set forth the reasons for salient changes from the previous fiscal year in expenditure and revenue items, and shall explain any major changes in financial policy.
  - (2) A consolidated statement of receipts and expenditures for all funds.
  - (3) Analysis of property valuation.
  - (4) An analysis of tax rate.
  - (5) Tax levies and tax collections by years for the last five (5) years.
  - (6) General fund resources in detail.

The anticipated revenues and proposed expenditures of each utility or other public service enterprise owned or operated by the City of Sherman shall be stated in a separate section of the budget (each bearing the name of the utility) and, as each such utility, an anticipated surplus, if legally available for general purposes, shall be stated as an item of miscellaneous revenue in the budget.
  - (7) Summary of proposed expenditures by function, department, and activity.
  - (8) Summary of proposed expenditures by character and object.
  - (9) Detailed estimates of expenditures shown separately for each activity to support the summaries in Nos. 7 and 8 above. Such estimates of expenditures are to include an itemization of position, showing the number of persons by classification and personnel costs by department.
  - (10) A revenue and expense statement for all types of bonds.
  - (11) A description of all bond issues outstanding, showing rates of interest, date of issue, maturity date, amount authorized, amount issued, and amount outstanding.
  - (12) A schedule of requirements for the principal and interest of each issue of bonds.
  - (13) A special funds section.
  - (14) The appropriation ordinance.
  - (15) The tax levying ordinance.
  - (16) Anticipated revenues compared with other years in budget.
  - (17) Proposed expenditures compared with other years.

- (b) Reservation of fund balance. Provisions shall be made in the annual budget and in the appropriation ordinance for a reservation of fund balance in an amount equal to five percent (5%) of the total general fund expenditures and ten percent (10%) of the utility fund expenditures. Such funds shall only be expended in accordance with the provisions of Section 5(b) of this article. Other reservations of fund balances, as seem prudent in the judgment of the city manager and city council, are allowable.
- (c) Estimated expenditures shall not exceed estimated resources. Total estimated expenditures of the general fund and debt service fund shall not exceed the total estimated resources of each fund (prospective revenue plus cash on hand).

(Ordinance 3048, sec. 2(17), (18), adopted 4/5/75; Ordinance 4267, sec. 2, adopted 1/16/93; Ordinance 6246 adopted 9/3/19)

### § 3. Budget adoption.

- (a) *Proposed budget.* The city council shall hold a public hearing on the proposed budget, as required by state law, and shall publish notice of the date, time and place at least five (5) days prior to the hearing.
- (b) *Final budget adoption.* The city council shall publish notice of the date, time and place at least five (5) days prior to the public hearing at which the final budget is submitted for adoption.
- (c) *Public record.* The proposed budget, the final budget, and all supporting schedules are a public record and shall be filed with the city clerk as the officer of public records.

(Ordinance 4267, sec. 2, adopted 1/16/93; Ordinance 5920, sec. 1, adopted 12/7/15)

### § 4. Council action on budget.

- (a) *Proceedings on proposed budget after public hearing amending or supplementing budget.* After the conclusion of such public hearing, the council may insert new items or may increase or decrease the items of the budget, except items in proposed expenditures fixed by law. Before inserting any additional item or increasing any item of appropriation, it must cause to be published a notice setting forth the nature of the proposed increases and fixing a place and time, not less than five (5) days after publication, at which the council will hold a hearing thereon.
- (b) *Proceedings on adoption of budget.* After such further hearing, the council may insert the additional item or items, and make the increase or increases, to the amount in each case indicated by the published notice, or to a lesser amount but, where it shall increase the total proposed expenditures, it shall also provide for an increase in the total anticipated revenue to at least equal such total proposed expenditures.
- (c) *Vote required for adoption.* The budget shall be adopted by the favorable vote of a majority of the members present and voting.
- (d) *Date of final adoption; failure to adopt.* The budget shall be finally adopted not later than the twenty-fifth day of the last month of the fiscal year. Should the council take no final action on or prior to such day, the budget as submitted by the city manager shall be deemed to have been finally adopted by the council.
- (e) *Effective date of budget; certification; copies made available.* Upon final adoption, the budget shall be in effect for the fiscal year. A copy of the budget, as finally adopted, shall be filed with the officer of public records and may be obtained from the office of public records or from the city's website.
- (f) *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.

(Ordinance 3048, sec. 2(19), adopted 4/5/75; Ordinance 4745, sec. 2, adopted 3/8/99; Subsec. (e) amnd. by amendment 6 approved at an election held November 2, 2010 and certified by Resolution 5535 adopted 11/15/10; Ordinance 5920, sec. 2, adopted 12/7/15)

## § 5. Amendments after adoption.

- (a) *Supplemental appropriations.* If, during the fiscal year, the city manager determines that there are resources available for appropriation, the council may by resolution make supplemental appropriations.
- (b) *Emergency appropriations.* To meet a public emergency affecting life, health, property, or the public peace, the council may make emergency appropriations by a majority vote of the city council members present and voting. Such appropriations may be made by emergency ordinance in accordance with the provisions governing emergency ordinances. To the extent that there are no available unappropriated revenues to meet such appropriations, the council may by such emergency ordinances authorize the issuance of the emergency notes, which may be renewed from time to time, but the emergency notes and renewals of the fiscal year shall be paid not later than the last day of the fiscal year next succeeding that in which the emergency appropriations was [sic] made.
- (c) *Reduction of appropriations.* If at any time during the fiscal year it appears probable to the city manager that the revenues available will be insufficient to meet the amount appropriated, he or she shall report to the council without delay, indicating the estimated amount of the deficit, any remedial action taken by him or her and his or her recommendations as to any other steps to be taken. The 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) *Level of budgetary control.* Budgetary control shall be exercised at the fund level. The city manager may move part or all of any unencumbered appropriation balance among the various departments, programs, offices or agencies within each fund, provided that total expenditures do not exceed total appropriations for that fund. In the case where additional expenditures are required within a fund, the city council, by resolution, may increase that fund's appropriations.
- (e) *Limitations; effective date.* No appropriation for debt service may be reduced or transferred, and no appropriation may be reduced below any amount required by law to be appropriated or by more than the amount of the unencumbered balance thereof. The supplemental and emergency appropriations and the reduction or transfer of appropriations authorized by this section may be made effective immediately upon adoption.

(Ordinance 4267, sec. 2, adopted 1/16/93; Ordinance 4745, sec. 2, adopted 3/8/99; Resolution 4442 adopted 5/6/03)

## § 6. Lapse of appropriations.

Every appropriation shall lapse at the close of the fiscal year in which it is made, except those related to encumbrances outstanding at the close of the fiscal year. Encumbrances are defined as commitments related to unperformed contracts or purchase orders for goods or services. Appropriations pertaining to capital projects that have lapsed may be reinstated by resolution.

(Ordinance 3048, sec. 2(20), adopted 4/5/75; Ordinance 4745, sec. 2, adopted 3/8/99)

## § 7. Administration of budget.

- (a) Work programs and allotments. At such time as the city manager shall specify, each department, office, or agency shall submit work programs for the ensuing fiscal year, showing the requested

allotments of its appropriation by periods within the year. The manager shall review and authorize such allotments with or without revision as early as possible in the fiscal year. He or she may revise such allotments during the year if he or she deems it desirable, and shall revise them to accord with any supplemental, emergency, reduced, or transferred appropriations made pursuant to Section 5 of this article.

- (b) Payments and obligations prohibited. No payment shall be made or obligation incurred against any allotment or appropriation except in accordance with appropriations duly made and unless the city manager or his or her designee first certifies 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 payment so made illegal; such action shall be cause for removal of any officer who knowingly authorized or made such payment or incurred such obligation, and he or she shall also be liable to the city for any amount so paid. However, except where prohibited by law, nothing in this charter shall be construed to prevent the making or authorizing of payments or the making of contracts for capital improvements to be financed wholly or partly by the issuance of bonds or to prevent the making of any contract or lease providing for payments beyond the end of the fiscal year, provided that such action is made or approved by ordinance.
- (c) 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 be made available for the use of all offices, departments, and agencies.
- (d) Penalty for diversion of interest or sinking fund. Any officer of the City of Sherman, who shall divert or use the interest or sinking funds for any purpose except that for which the fund is created or is expressly authorized to be invested, shall be liable and responsible to the City of Sherman in the full amount of such diversion and/or use, with lawful interest; and, in case such diversion or use is made or participated in by more than one officer of the City of Sherman, the liability and responsibility therefore [therefor] shall be joint and several.

(Ordinance 3048, sec. 2(21), adopted 4/5/75)

## § 8. Independent audit.

The council shall designate a qualified certified public accountant who, as of the end of the fiscal year, shall make an independent audit of accounts and other evidences of financial transactions of the city government, and shall submit his or her report to the council and to the city manager. The original reports shall be kept among the permanent records of the city, and a copy of the audit report shall be available from the finance department, by calling the city, or from the city's website. Such accountant shall have no personal interest, direct or indirect, in the fiscal affairs of the city government or of any of its officers. The accountant shall not maintain any accounts or records of the city business, but, within specifications approved by the council, shall post-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. Special audits shall be made when deemed necessary by the council.

(Ordinance 3048, sec. 2(22), adopted 4/5/75; Ordinance 4745, sec. 2, adopted 3/8/99; Ordinance 5920, sec. 3, adopted 12/7/15; Ordinance 6085, sec. 1, adopted 12/4/17)

## § 9. Capital program.

- (a) Submission to council. The city manager shall cause to be prepared and shall submit to the council a five (5) year capital program in conjunction with the final date for submission of the annual budget.
- (b) Contents. The capital program shall include:

- (1) A clear general summary of its contents.
- (2) A list of all capital improvements which are proposed to be undertaken during the five (5) fiscal years next ensuing, with appropriate supporting information as to the necessity for such improvements.
- (3) Cost estimates, method of financing, and recommended time schedule for each such improvement.
- (4) The estimated annual cost of operating and maintaining the facilities to be constructed or acquired.

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

(Ordinance 4267, sec. 2, adopted 1/16/93)

## § 10. Council action on capital program.

- (a) Notice and hearing. The council shall publish on the City's official website, the general summary of the capital program and a notice stating:
  - (1) The times and places where copies of the capital program are available for inspection by the public.
  - (2) The time and place, not less than two (2) weeks after such publication, for a public hearing on the capital program.
- (b) Adoption. The council, by resolution, shall adopt the capital program, with or without amendments, after the public hearing and on or before the twenty-fifth (25th) day of the last month of the current fiscal year. Copies of the capital program, as adopted, shall be public records and shall be available from the office of public records, by calling the city, or from the city's website.

(Ordinance 4267, sec. 2, adopted 1/16/93; Ordinance 5920, sec. 4, adopted 12/7/15; Ordinance 6246 adopted 9/3/19)

## § 11. Borrowing.

- (a) General obligation bonds. The city shall have the power to borrow money on credit of the city, and to issue general obligation bonds for permanent public improvements, or for any other public purpose not prohibited by the Constitution and laws of the State of Texas, and to issue refunding bonds to refund outstanding bonds of the city previously issued. All such bonds shall be issued in conformity with the laws of the State of Texas, and only after an election by the qualified voters of the City of Sherman, and after these bonds have been authorized by a majority of the electorate voting, unless now or hereafter prohibited by law.
- (b) Revenue bonds. The city shall have the power to borrow money for the purpose of constructing, purchasing, improving, extending or repairing of public utilities, recreational facilities, or any other self-liquidating municipal function not prohibited by the Constitution and Laws of the State of Texas, and to issue revenue bonds to evidence the obligation thereby created. Such bonds shall be a charge upon and payable solely from the properties, or interest therein pledged, or the income therefrom, or both, and shall never be a debt of the city. All such bonds shall be issued in conformity with the Laws of the State of Texas.
- (c) Other debt instruments. The city shall have the power to borrow money on the credit of the City for any public purpose not prohibited and as provided by the Constitution and Laws of the State of Texas.

The aggregate amount of bonds and other debt instruments secured by the value of property within the city that is subject to ad valorem taxes at the time of issuance shall at no time exceed ten percent (10%) of the value of the property within said city subject to ad valorem tax.

All bonds of the city having been issued and sold in accordance with the terms of this section, and having been delivered to the purchasers thereof, shall thereafter be incontestable, and all bonds issued to refund and in exchange for outstanding bonds previously issued shall, after said exchange, be incontestable.

No bonds of the City of Sherman shall be sold until after they have been advertised once a week for two (2) consecutive weeks, the first publication to be at least fourteen (14) days prior to the time set for the sale, and shall be sold at public sale for the best bid, upon sealed bids, and upon such other terms and conditions not inconsistent with express provisions of law and of this charter, as the city council may order. The city council shall have the right to reject any or all bids. The provisions of this section shall not apply to the sale of refunding bonds unless the council so elects.

The ordinance authorizing any bonds to be issued shall provide for the creation of a sinking fund sufficient to pay the bonds at maturity, and shall make provision for the payment of the interest thereon as it matures, and any surplus in any sinking fund or any general fund may be invested in bonds of the State of Texas or in securities of the United States, or such funds may be used for the purchase of the bonds of the City of Sherman which are not yet due; provided, however, that the price paid for said bonds or securities shall not exceed the market value at the time of purchase and the accrued interest on said bonds; and provided further that no such bonds shall be purchased which, according to their terms, mature at a date subsequent to the time of maturity of the bonds for the payment of which such sinking fund was created. Neither interest nor sinking fund shall be devoted to any other purpose whatsoever.

(Ordinance 3048, sec. 2(23), adopted 4/5/75; Ordinance 4267, sec. 2, adopted 1/16/93; Ordinance 4745, sec. 2, adopted 3/8/99; Resolution 6300 adopted 11/20/17; Ordinance 6085, sec. 2, adopted 12/4/17)

## § 12. City depository.

- (a) All laws of the State of Texas now or hereafter existing which pertain to the selection of city depositories by home rule cities shall apply to the selection of the city depository, save and except as may be validly provided otherwise by this charter or by resolution or ordinance of the city council.
- (b) The city depository shall be selected for a period of one year or for such longer period of time as may be determined by the city council by resolution or ordinance.
- (c) In determining which application or applications offer the most favorable terms and conditions for the handling of city funds, the city council may give such consideration as it deems appropriate to additional services of value to the city which may be offered by any applicant or applicants.
- (d) The city council shall have the right to reject any and all applications and readvertise for applications. If for any reason no application is submitted to act as city depository, or if all applications are declined, or in any other event in which there is no duly selected and qualified city depository, then, in any such case, the city council shall have the power and the duty to deposit the funds of the city with any one or more banking corporations or associations not doing business within the city but doing business in Texas within a radius of seventy-five (75) miles of the city, in such amounts and for such periods of time as may be determined by the city council to be advisable.
- (e) An applicant selected as city depository shall comply and continue to comply with the applicable laws of Texas relating to the pledge of securities by a city depository including requirements for securing public funds with eligible securities in accordance with Government Code Chapter 2257.
- (f) The city depository shall provide continuous, secure, online access to the city's accounts.

- (g) As used herein, "city depository" means each city depository if there be more than one.
- (h) All money and all other evidences of funds payable to or belonging to the city, received by any department or other agency of the city or by any officer, employee or agent of the city, for or in connection with affairs of the city, shall be transmitted forthwith to the director of finance, who shall deposit the same promptly in the city depository.
- (i) All checks, vouchers or warrants for the withdrawal of funds from the city depository shall have affixed thereto the legal signature of both the city manager and officer or officers of the city as may be designated by the city council.

(Ordinance 5920, sec. 5, adopted 12/7/15; Ordinance 6085, sec. 3, adopted 12/4/17)

## § 13. Reserved.

**Editor's note**—Former section 13, pertaining to the "appropriation of revenue for retiring bonded indebtedness and making public improvements; general authority to borrow money and issue bonds," was deleted in its entirety by Ordinance 6085, sec. 4, adopted 12/4/17.

## § 14. Reserved.

**Editor's note**—Former section 14, pertaining to the "issuance of notes for current expenses," was deleted in its entirety by Ordinance 6085, sec. 5, adopted 12/4/17.

## § 15. Contracts, expenditures, purchases and procedure.

Contracts, expenditures, purchases and procedure: The city council shall approve all contracts, expenditures, and purchases for non-budgeted items, and shall approve such for budgeted items in excess of that amount fixed by state law for competitive bidding, before they can become binding upon the city. The city council annually may designate a not to exceed amount for which the city manager may approve such contracts, expenditures, and purchases for budgeted items, without further council approval being required, provided that such established amount shall not exceed that amount fixed by state law for competitive bidding and any contracts, expenditures, or purchases in excess of the amount so established shall require council approval.

Items requiring competitive bidding by state law shall be let to the lowest responsible bidder after considering responsiveness to the specifications, ability to perform, quality of the products or services, and applicable warranties, except that the city reserves the right at all times to reject any and all bids. If a change order involves a decrease or an increase of the amount fixed by state law, or less, the city council may grant general authority to the city manager to approve the change order. Contracts for professional services need not be, but can be, made by competitive bids as provided by law, and insurance coverage and programs may be adopted by the city council with or without competitive bids by a resolution.

All managers and directors of any office, department, or agency shall first submit to the city manager, for his or her approval, a written request to make any contract, expenditure or purchase, which may not be binding upon the city without such approval at the council's election, and provided that there exists to the credit of such office, department, or agency a sufficient unencumbered appropriation or allotment balance to cover the cost and expense of the request.

(Ordinance 3048, sec. 2(24), adopted 4/5/75; Ordinance 3565, sec. 2, adopted 2/8/82; Ordinance 4745, sec. 2, adopted 3/8/99; Ordinance 6246 adopted 9/3/19)

## ARTICLE VI. TAXATION



## § 1. Powers of taxation.

- (a) Ad valorem taxes. The city council shall have the power within the city to annually levy and collect taxes in an amount not exceeding two and one-half percent (2½%) of the assessed value of property situated in the city which is not exempt from taxation by the Constitution and Laws of the State of Texas, for all purposes, including the payment of interest and sinking funds for all bonded indebtedness, and for all other purposes, and shall at the time of the levy provide first for the payment of the interest and sinking funds, and allocate the remainder as may be required.

No debt shall ever be created by the city unless at the same time provision be made to assess and collect annually a sufficient sum to pay the interest thereon, and create a sinking fund of at least two percent (2%).

- (b) Franchise taxes. The council shall have the power annually to levy and collect a franchise tax and a gross receipts tax against any public service corporation, person, or entity holding a franchise for the use and occupancy of public streets, alleys, or grounds of the city, separately from the tangible property of such corporation, companies and corporate institutions, as the same now or may be assessed by the state laws, and shall have full power to enforce the collection of such taxes.

The council shall also have the power to regulate, control, and prohibit the use of streets, alleys, sidewalks, and public grounds of the city by the said franchise holders, and may fix and impose a reasonable annual tax on each pole or other obstruction maintained by the said franchise holders in any street, sidewalk, alley or any other public grounds of the city, and may also fix, regulate, and graduate the taxes so imposed by levying and imposing a greater or less tax, depending upon the location of said poles or other obstruction.

- (c) Reserved.

- (d) Hotel/motel taxes. The city council shall have the right to impose a tax on the rental of hotel and motel rooms, as provided by the laws of the State of Texas.

- (e) Sales taxes. The city council shall have the right to impose various taxes on taxable sales and uses, as provided by the laws of the State of Texas.

(Ordinance 4745, sec. 2, adopted 3/8/99; Resolution 6300 adopted 11/20/17)

## § 2. Assessment of property for taxing.

All property, real, personal, or mixed, having a location within the corporate limits of the city on January first of each year, not expressly exempted by law, shall be subject to taxation by the city for that year.

The tax assessor/collector of the Grayson County Appraisal District, or his or her designee, shall assess and collect property taxes according to the Texas Property Tax Code and the ordinances of the City of Sherman.

The tax assessor/collector of the Grayson County Appraisal District, or his or her designee, shall have the power to make reassessments, at the same value and tax rates as such property should have been assessed and taxed and indicating the year or years for which it is assessed.

(Ordinance 3565, sec. 2, adopted 2/8/82; Ordinance 4745, sec. 2, adopted 3/8/99)

## § 3. Board of equalization.

- (a) The appraisal review board shall act as a board of equalization as provided by the Texas Property Tax Code.
- (b) The city manager or his or her designee shall have the power to challenge appraisals as provided by the Texas Property Tax Code.

- (c) A property owner is entitled to protest before the appraisal review board as provided by the property tax code.

(Ordinance 3565, sec. 2, adopted 2/8/82; Ordinance 4745, sec. 2, adopted 3/8/99)

## § 4. Payment of taxes.

All ad valorem taxes due the City of Sherman shall be payable at a location designated by the City, and shall become due on October first of the year of the levy, and shall be paid not later than the following January thirty-first, after which date they shall be deemed delinquent. All sales taxes shall be payable at the times, methods and locations that are prescribed in the general laws of the State. All hotel/motel taxes are payable at the Finance Department of the City. All taxes, other than ad valorem taxes, which are not paid on or before the date they are due shall be deemed delinquent. All delinquent taxes shall be subject to such penalty and interest as authorized by law.

(Ordinance 3048, sec. 2(25), adopted 4/5/75; Ordinance 3565, sec. 2, adopted 2/8/82; Ordinance 4745, sec. 2, adopted 3/8/99; Ordinance 5921 adopted 12/7/15)

## § 5. Tax liens and liabilities.

- (a) Tax liens. A lien is hereby created on all property, personal and real, in favor of the City of Sherman, for all taxes, ad valorem, or otherwise. Said lien shall exist from January first in each year until the taxes are paid. Such lien shall be prior to all other claims, and no gift, sale, assignment, or transfer of any kind, or judicial writ of any kind, can defeat such lien. The tax assessor/collector of the Grayson County Appraisal District, or his or her designee, can pursue such property, and whenever found out may seize and sell enough thereof to satisfy such taxes. The city shall grant, in appropriate cases, a partial release of lien when the entire tax delinquency balance is not being paid in full, and shall not grant a full release until all such delinquency due the city is paid in full or becomes uncollectible by operation of law.

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

The personal property of all persons owing such taxes to the City of Sherman is hereby made liable for all of said taxes, whether the same be due upon personal or real property, or upon both.

- (b) Church and school property not exempt from special assessments. No property of any kind, church, school, or otherwise, in the City of Sherman shall be exempt from any of the special taxes and assessments authorized by this charter for local improvements unless the exemption is required by state law.

(Ordinance 4745, sec. 2, adopted 3/8/99; Ordinance 6086 adopted 12/4/17)

## § 6. Joint interests on property.

The owner of a partial interest in real property may furnish to the tax assessor/collector of the Grayson County Appraisal District, or his or her designee, at any time before May first of each year a written description of any parcel of land in which he or she has an interest less than the whole, showing the amount of his or her interest therein, and the tax assessor/collector of the Grayson County Appraisal District, or his or her designee, may thereupon assess such interest as a separate parcel.

(Ordinance 4745, sec. 2, adopted 3/8/99)

## § 7. 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 so in arrears, including all penalties and interest, 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 against the same.

## § 8. Other rules and regulations.

Except as otherwise provided by law or this charter, the council shall have the power to provide by ordinance for the assessment and collection of all taxes, and to make such rules, regulations, and mode of procedure to enforce to collection by the payment to the tax assessor/collector of the Grayson County Appraisal District, or his or her designee, as it may deem expedient, and shall provide such penalties for the failure to pay such taxes as it may deem expedient.

(Ordinance 3565, sec. 2, adopted 2/8/82; Ordinance 4745, sec. 2, adopted 3/8/99)

# ARTICLE VII. PLANNING AND ENGINEERING

## § 1. City planning and zoning board.

There shall be a city planning and zoning board consisting of seven (7) members, each of whom must reside within the city and each of whom must be a qualified voter of the City of Sherman.

The members of the board may be appointed by the city council for a partial or full term. All terms of office shall be for three (3) years, or until the successor has been appointed. Service in office for more than eighteen (18) months of a three (3) year term, shall constitute a full term.

Members of the planning and zoning board may serve a maximum of four (4) consecutive terms in any combination of offices. After a member has served their maximum term of office, a one (1) year (360 days) absence from office is required before that person will be eligible for reappointment.

The city planning and zoning board shall have the following powers and duties:

- (a) To recommend approval or disapproval to any property changes in the zoning plans and requirements of the City of Sherman and of all specific use permits with reference thereto, and to grant any exceptions and make any and all decisions with reference to the zoning laws of the City of Sherman, subject only to the ordinances of the City of Sherman and building codes.
- (b) To adhere to and follow the recommendations contained in any comprehensive plan for the physical development of the city.
- (c) To recommend to the city council the adoption of any comprehensive plan or deviation therefrom and make recommendations to the city manager and the city council on all matters affecting the physical development of the city, and this board shall be consulted on all comprehensive plans and implementation thereof as may be adopted or otherwise provided for herein.
- (d) To formulate any additions to or implementations of any comprehensive plan, which said recommendation, when adopted by the city council, shall become a part of the comprehensive plan.
- (e) To exercise control over all platting or subdividing on any surface, subsurface or air space and area within the corporate limits of the City of Sherman and outside said corporate limits to the extent authorized by law.
- (f) Any other powers and duties which may be prescribed by ordinance.

(Ordinance 3048, sec. 2(26), (27), adopted 4/5/75; Ordinance 4267, sec. 2, adopted 1/16/93; Ordinance 4745, sec. 2, adopted 3/8/99; Resolution 6300 adopted 11/20/17; Resolution 6561 adopted 11/18/19)

## § 2. Reserved.

**Editor's note**—Ordinance 3048, sec. 2(28), adopted 4/5/75, repealed art. VII, sec. 2, relative to the board of adjustment.

## § 3. Comprehensive plans.

- (a) Content. The council may accept as advisory and as a guide, and may from time to time modify, a comprehensive plan setting forth in graphic and textual form policies to govern the future physical development of the city. Such plan may cover the entire city and all of its functions and services or may consist of a combination of plans governing specific functions and services or specific geographic areas, which together cover the entire city and all of its functions and services.
- (b) Acceptance. Upon receipt from the city manager of a proposed comprehensive plan or a proposed modification of the existing plan, the city planning and zoning board, which shall within a time specified by the city manager report its recommendations thereon to the city council. After receipt of the recommendations of the planning and zoning board, the council shall hold a public hearing on the proposed comprehensive plan or modification thereof and shall thereafter accept it, as advisory and as a guide, by resolution with or without amendment, or deny it. (Subsec. (b) amnd. by 5/7/05 election, proposition no. 8)
- (c) Effect. The comprehensive plan shall serve as a guide and is advisory only to all future council action concerning land use and development regulations, urban renewal programs and expenditures for capital improvements.
- (d) Implementation of the comprehensive plan.
  - (1) LAND USE AND DEVELOPMENT REGULATIONS. The council may by ordinance adopt land use and development regulations, and zoning and subdivision regulations.
  - (2) URBAN RENEWAL. The council may by ordinance provide for redevelopment, rehabilitation, conservation, and renewal programs for: (1) the alleviation or prevention of slums, obsolescence, blight, or other conditions of deterioration and (2) the achievement of the most appropriate use of land. No funds or credit of the city shall be expended or lent until approval by a majority of the qualified electors of said city, those electors being owners of property therein.
  - (3) COUNCIL ACTION. Before acting on any proposed ordinance concerning land use and development regulations, and urban renewal, where such ordinance refers to a matter covered by the comprehensive plan, the city manager shall refer the proposal to the city planning and zoning board, which shall, within a time specified by the city manager, report its recommendations thereon to the city council. After receipt of the recommendations, the council shall hold a public hearing on the proposed ordinance and shall vote to accept, modify or deny it. Upon adopting any such ordinance, the council shall make findings and report on the relationship between the ordinance and the comprehensive plan and, in the event that the ordinance does not accord with the comprehensive plan, the plan shall be deemed to be amended in accordance with such findings and report. The city council may, by a majority vote of the members present and voting, put in abeyance for a reasonable time all land use applications related to matters already under consideration for revision or amendment by the planning and zoning board until the board's recommendations may be considered by the city council and final action taken.

(Ordinance 4745, sec. 2, adopted 3/8/99; Subsec. (d)(3) amnd. by 5/7/05 election, proposition no. 9)

## ARTICLE VIII. FRANCHISE AND PUBLIC UTILITIES

## § 1. Powers of the city.

In addition to the city's power to buy, construct, lease, maintain, operate and regulate public utilities and to manufacture, distribute and sell the output of such utility operations, the city shall have such further powers as may now or hereafter be granted under the Constitution and Laws of the State of Texas.

## § 2. 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, including all that above and below, is hereby declared to be inalienable by the city except by ordinances not in conflict with the provisions of this charter. 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 consent of the franchise holder, to amend the same. No franchise shall be granted for an indeterminate term and no franchise shall be granted after the effective date hereof for a term of more than twenty-five (25) years. No public utility franchise shall be transferred by the holder thereof except with the approval of the city council expressed by ordinance. No act or omission by the council or any 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 said public streets, highways, sidewalks, alleys, parks, public squares, public places and other real property, except as provided in this charter.

The right to use the public streets, highways, alleys and thoroughfares of this city, which necessitates the digging up or displacement thereof, for the installation of equipment, appliances or appurtenances, either on, above or below the surface of same, to make the intended use thereof practicable, shall be deemed and considered "a franchise", granting of which shall be governed and controlled in the manner herein provided.

The use of the said public streets, highways, alleys or highways for the installation of equipment, appliances or appurtenances, to make the intended use possible, shall be treated and considered as "a privilege" subject to the control and disposition of the city council, and such privilege over and under the said public streets, alleys, highways, and thoroughfares of the city shall not be granted to any person or corporation excepting when public necessity and convenience may require such use and when given by ordinance passed by a majority vote of the city council present and voting.

All franchises for the use and occupancy of public streets, highways, alleys and thoroughfares of the city shall, in the event public necessity and convenience so require, be subject to cancellation by the city council; and the City of Sherman reserves the right to require all public utilities holding franchises from the City of Sherman to conform to street grades, and alter or lower their existing structures to meet changing conditions.

## § 3. Ordinances granting franchise.

The City of Sherman shall have the power by ordinance to grant any franchise or right mentioned in the preceding sections hereof, which ordinance shall not be passed and adopted until its second and final reading and shall be at two (2) separate regular meetings of the city council of the City of Sherman, the last of which shall take place not less than thirty (30) days from the first. No ordinance granting a franchise shall pass any reading except by a majority vote of the city councilmembers present and voting and such ordinance shall take effect immediately upon signature of the mayor, the deputy mayor, or automatically seven (7) days after its adoption; provided, however, that if at any time before such ordinance shall finally take effect a petition shall be presented to the city council signed by not less than five hundred (500) of the bona fide qualified voters of the City of Sherman, the city council shall submit the question of the granting of said franchise to a vote of the qualified voters of the City of Sherman at the next succeeding general election to be held in said city, provided that notice thereof shall be published at least twenty (20) days successively in the official newspaper of the City of Sherman prior to the holding of said election. Ballots shall be used briefly describing the franchise to be voted on and the

terms thereof and containing the words, "For the granting of a franchise," and "Against granting a franchise." The vote shall be canvassed by the governing body and, should it result in a majority of those voting thereon casting their votes "For the granting of a franchise," then, by order entered in its minutes, the city council shall so declare and said franchise shall at once take effect. But should a majority of such votes be cast "Against granting a franchise," as ascertained by the city council, then said city council by order entered in its minutes shall so declare and such franchise shall not take effect. In case a franchise is refused by the city council, then the matter may be submitted to the qualified voters by petition, as hereinabove provided, and a failure to finally pass on an application within six (6) months after the filing of such application shall be construed as a refusal. The city council, in passing an ordinance granting a franchise, may provide therein that it shall not take effect until the same shall have been submitted to and approved by a majority of the qualified voters voting therein at a general election. The franchise shall be published prior to the second reading by the city council, and all expenses of publication shall be borne by the applicant for the franchise, who shall make a deposit in advance to cover the estimated cost of publication, to be determined by the city manager.

Provisions governing the granting of a franchise shall be as follows:

- (a) No exclusive franchise or privilege shall ever be granted, nor a franchise nor a privilege to commence at any time after six (6) months subsequent to the effective date of the ordinance granting the same.
- (b) No franchise shall be directly or indirectly extended beyond the term originally fixed by the ordinance granting the same, except as provided by the terms of the city charter.
- (c) No franchise shall be granted to any person, firm or corporation, their associates, assigns or successors, to acquire the physical property, rights, or franchise of another person, firm or corporation to whom or which a franchise has already been granted by the City of Sherman extending beyond the time of the expiration of the franchise of the person, firm or corporation selling such physical properties, rights or franchise unless the public welfare will be promoted by permitting or requiring the properties of two (2) or more companies doing the same character of business to be under one common ownership. The City of Sherman may grant a franchise for such properties, allowing or requiring the ownership of such properties to become vested in one ownership or one corporation, provided that no debts or obligations of any of the said companies so consolidated shall be assumed by the corporation, person or association of persons acquiring the ownership of such properties, except such debts and obligations of said companies or either of them which could, at the time of the creation of such indebtedness, lawfully be created under the Constitution and Laws of the State of Texas, and only to the extent that the assumption of such indebtedness is permitted under the provisions of the ordinance granting such franchise, and the amount of such indebtedness shall be fixed or limited in such ordinance, and the same shall not thereafter be increased except by such actual moneys as may hereafter be expended pursuant to the rules and regulations to be formulated by the city council from time to time.
- (d) No franchise shall be renewed before one year prior to its expiration.

(Ordinance 3048, sec. 2(29), adopted 4/5/75; Ordinance 4745, sec. 2, adopted 3/8/99; Ordinance 4927, sec. 4(6), adopted 5/5/01; Sec. 2 amnd. by amendment 2 approved at an election held November 2, 2010 and certified by Resolution 5535 adopted 11/15/10)

## § 4. Regulation of franchise.

No determinate or fixed term franchise shall ever be granted for a longer term than twenty-five (25) years, nor shall any right, privilege or franchise now in existence be extended beyond the period now fixed for its termination, directly or indirectly, or through any means whatsoever, and any ordinance in violation or evasion of this prohibition shall be absolutely void; provided, however, that any corporation, person or association of persons now holding any franchise under any charter or charters or ordinances of the City of Sherman, may, with the consent of the City Council of the City of Sherman, surrender such franchise or franchises, subject to the provisions of the city charter then in force, and take a new franchise under such charter, or a new franchise may be granted to a new company or another person

with the privilege of acquiring the properties of such franchise holder upon the surrender of the franchise rights then held. No subsidiary franchise or franchises of any character appertaining or relating to any other franchise holder or to any person, firm or corporation acting directly or indirectly for such franchise holder, shall be granted, and such grant in violation of this prohibition shall be absolutely void to the extent of the excess in time beyond the life of such main franchise. No franchise, privilege or easement shall ever be used or operated so as to extend or enlarge any other franchise or privilege granted by said city except upon surrender of such original franchise as herein provided, and any violation of this prohibition shall operate as a forfeiture of each and all such franchise privileges or easements. No holder of a franchise heretofore or hereafter granted shall have a right (unless such right is granted in the franchise) to transfer or assign its properties and franchise to any other person, firm or corporation without the consent of the city, and such consent when given shall not operate as the granting of a franchise or as a new franchise.

The city council shall have the power to compel all persons, firms or corporations operating any public utilities in this city, whether operating under existing franchise or franchises that may be hereafter granted, to extend their service, lines, pipes, etc., if the person to be benefited by such extension will pay the costs hereof, or if it can be shown that the revenue resulting from such extension will, within a reasonable time after same is made, pay a reasonable return on the investment, after making the customary allowance for depreciation.

All public utility franchises in the City of Sherman shall be held, whether expressed in the ordinance or not, subject to the right of the city (each of the following being a condition), after public hearing and reasonable notice:

- (a) To repeal the same by ordinance at any time for failure to begin construction or operation within the time prescribed or otherwise to comply with the terms of the franchise, such power to be exercised only after due notice and hearing.
- (b) To require an adequate extension of plant and service, and the maintenance of the plant and fixtures at the highest reasonable standard of efficiency.
- (c) To establish reasonable standards of service and quality of products and prevent unjust discrimination in service or rates.
- (d) To prescribe the form of the accounts kept by each utility and to require reports on the operations of the utility including such form and containing such information as the council may by order prescribe, which shall include accurate information in every particular of all additions or replacement of any and every kind made during the preceding year.
- (e) At any time to examine and audit the accounts and other records of any such utility and to require annual and other reports, including reports of local operations by each such public utility.
- (f) To impose such reasonable regulations and restrictions as may be deemed desirable or conducive to the safety, welfare and accommodation of the public.
- (g) To fix and regulate the price and rates for the service to be performed under the franchise.
- (h) To require such compensation, rental and tax as may be permitted by the Laws of the State of Texas.
- (i) To declare, after a hearing, a forfeiture of any such franchise by ordinance for failure of the holder thereof to comply with the terms of this 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.
- (j) To require every franchise holder to furnish to the city, without costs 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 property of the city, and to regulate and control the location, relocation and removal of such facilities.
- (k) To collect from every public utility operating in the city such proportion of the expense of repairing and maintaining public places of the city as represents the increased cost of such public places

resulting from the occupancy of such public places by such public utility and such proportion of such operations as result from the damage to or disturbance of such public places caused by such public utility.

- (l) 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 council such use shall be in the public interest; provided that in such event a reasonable rental shall be paid such owner of facilities for such use and further provided:
  - (1) That no franchise owner shall be required, under the purview of this subsection, to permit a public utility engaged in direct competitive business to use the facilities of such franchise holder.
  - (2) That the city shall not, under the purview of this subsection, impair the validity of existing contract between public utilities concerning the use of their respective facilities.
  - (3) That the city shall not, under the purview of this subsection, impair the enforcement by any such franchise holder of the usual accepted industry standards of safety regulations with respect to the use of facilities.

Every public utility franchise hereafter granted shall be subject to the terms and conditions of this charter, whether such terms and conditions are specifically mentioned in the franchise or not.

## § 5. Regulation of rates.

The city council shall have the power by ordinance to fix and regulate, after public hearing and reasonable notice, the price of water, gas, and electric power, and to regulate and fix the fares, tolls, and charges of local telephone service and charge of all public vehicles used for hire, whether transporting passengers, freight or baggage, and generally to fix and regulate the rates, tolls, and charges of all public utilities of every kind operating within the corporate limits of the City of Sherman.

## § 6. No public utility purchase without voter approval.

Prior to the purchase of any existing franchised public utility system, either according to the terms of the franchise or by eminent domain, the city council must submit the question of the purchase to the qualified voters of the City of Sherman, and the same must be approved by a majority of those voting in the election.

## § 7. Franchises—Charter does not affect pre-existing franchises.

The adoption of this charter shall not affect franchises heretofore granted by the city.

## § 8. Mandatory utility connections.

The director of public works shall have authority to compel the making of sewer, water, gas and other connections whenever, in view of contemplated street improvements or as a sanitary regulation, sewer, water, gas and other connections should in his or her judgment be constructed. He or she shall cause written notice of his or her determination thereof to be given to the owner of each lot or parcel of land to which such connections are to be made, which notice shall state the number and character of connections required. Such notice shall be served by a person designated by the director of public works, in the manner provided for the service of process in civil actions in state courts. Nonresidents of the city, or persons who cannot be found, may be served by one publication of such notice on the City's official website. The notice shall state the time within which connections shall be constructed; and, if they be not constructed within the said time, the work may be done by the city, and the cost thereof,



together with a penalty of five percent (5%), assessed against the lots and lands for which such connections are made. Said assessments shall be certified and collected as other assessments for street improvements.

(Ordinance 6247 adopted 9/3/19)

## § 9. Private licenses.

The city council shall have the power by ordinance to grant to any owner of property abutting upon the streets or other property of the city, the use thereof, or to go over or under the same in any manner which may be necessary or proper to the enjoyment of said abutting property by the owner; provided, however, that such use be not inconsistent with, and does not unreasonably impair, the public use to which said street or other public property may be dedicated, or the use being made of the same by a public service franchise holder from the city. The city council shall fix the terms, conditions, and fees of any such grant, and the time for which it shall exist. Whether expressed or not, the right is expressly reserved to the city, acting through the city council, to terminate such license when deemed inconsistent with the public use of the property of the city, and when the same may become a nuisance.

## § 10. Revocable license.

The city council shall have the power to grant minor or temporary privileges in the streets, public ways, and public places of the city by ordinance or resolution. Such permit shall be unconditionally revocable at the will of the city council, and shall not be deemed to be a franchise as used in this charter.

# ARTICLE IX. INITIATIVE, REFERENDUM AND RECALL

## § 1. Power of initiative.

The electors shall have power to propose any ordinance except an ordinance, in whole or in part, that pertains to appropriating money, the levy of taxes, bonds, State designated municipal governmental functions, or in conflict with Texas or United States law or this Charter, and to adopt or reject the same at the polls, such power being known as the initiative. Any initiative ordinance may be submitted to the council by a petition signed by qualified electors of the city equal in number to at least ten percent (10%) of the then registered voters residing in the city.

(Ordinance 3565, sec. 2, adopted 2/8/82; Amnd. by 5/7/05 election, proposition no. 1)

## § 2. Power of referendum.

The electors shall have power to approve or reject at the polls any ordinance passed by the council, or submitted by the council to a vote of the electors, such power being known as the referendum, except ordinances, in whole or in part, that pertain to appropriating money, bonds, the levy of taxes, State designated governmental functions, or in conflict with Texas or United States law or this Charter. Ordinances submitted to the council by initiative petition and passed by the council without change shall be subject to a referendum. A petition signed by qualified electors of the city equal in number to at least ten percent (10%) of the then registered voters residing in the city may be filed with the director of public records requesting that any such ordinance be either enacted or submitted to a vote of the electors.

(Ordinance 3565, sec. 2, adopted 2/8/82; Amnd. by 5/7/05 election, proposition no. 2)

## § 3. Frequency of election.

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

(Ordinance 3048, sec. 2(30), adopted 4/5/75; Ordinance 4745, sec. 2, adopted 3/8/99; Amnd. by 5/7/05 election, proposition no. 6; Sec. 3 amnd. by amendment 1 approved at an election held November 2, 2010 and certified by Resolution 5535 adopted 11/15/10)

## § 4. Form of petition.

Initiative petition papers shall contain the full text of the proposed ordinance. The signatures to initiative or referendum petitions 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. 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 or number, or other description sufficient to identify the place. There shall appear on each petition the names and addresses of five (5) electors who, as a committee of the petitioners, shall be regarded as responsible for the circulation and filing of the petition. Attached to each separate petition paper there shall be an affidavit of the circulator thereof that 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.

## § 5. Filing, examination and certification.

All petition papers comprising an initiative or referendum petition shall be assembled and filed with the director of public records as one instrument. Within ten (10) days after the petition is filed, the director of public records 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 electors. The director of public records shall declare any petition paper entirely invalid which does not have attached thereto an affidavit signed by the circulator thereof. 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 not 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. After completing his or her examination of the petition, if the director of public records certifies that the petition is insufficient, the director shall set forth in his or her certificate the particulars in which it is defective, and shall at once notify the petitioners of his or her findings. The director of public records shall then notify the council of the results of his or her examination at its next regular meeting.

An initiative or referendum petition may be amended at any time within ten (10) days after the notification of insufficiency has been sent by the director of public records, by filing of supplementary petition upon additional papers signed and filed as provided in case of an original petition. The director of public records shall, within five (5) days after such an amendment is filed, make examination of the amended petition, and, if the petition be still insufficient, he or she shall file his or her certificate to that effect in his or her office, and shall notify the committee of petitioners of his or her findings, and no further action shall be had on such insufficient petition. The finding of the insufficiency of a petition shall not prejudice the filing of a new petition for the same purpose.

When a referendum petition or amended petition as defined above has been certified as sufficient by the director of public records, the ordinance specified in the petition shall not go into effect, or further action thereunder shall be suspended if it shall have gone into effect, until and unless approved by the electors, as hereinafter provided.

## § 6. Council consideration and submission to voters.

Whenever the city council receives a certified initiative or referendum petition from the director of public records, it shall proceed at once to consider such petition. A proposed initiative ordinance shall be read, and provisions shall be made for a public hearing upon the proposed ordinance. The council shall take final action on the ordinance not later than sixty (60) days after the date on which such ordinance was submitted to the council by the director of public records. 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?"

If the city council shall fail to pass an ordinance proposed by the initiative petition, or shall pass it in a form different from that set forth in the petition therefor, or if the council fails to repeal a referred ordinance, the proposed or referred ordinance shall be submitted to the electors not less than thirty (30) days nor more than sixty (60) days from the date the council takes its final vote thereon. The council may, in its discretion, and if no regular election is to be held within such period, provide for a special election.

Ordinances submitted to a vote of the electors 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. 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, it shall have below the ballot title the following propositions, one above the other in the order indicated: "For the Ordinance," and "Against the Ordinance". Any number of ordinances may be voted on at the same election, and may be submitted on the same ballot, but any paper ballot used for voting shall be for that purpose only. If voting machines are used, the ballot title of any ordinance shall have below it the same two (2) propositions, one above the other, or one preceding the other in the order indicated, and the elector shall be given an opportunity to vote for either of the two (2) propositions and thereby to vote for or against the ordinance.

## § 7. Referendum petitions—Suspension of effect of ordinances.

When a referendum petition is filed with the director of public records, the ordinance sought to be reconsidered shall be suspended from taking effect. Such suspension shall terminate when:

- (a) There is a final determination of insufficiency of the petition, or
- (b) The petitioners' committee withdraws the petition, or
- (c) The council repeals the ordinance, or
- (d) Thirty (30) days have elapsed after a vote of the city on the ordinance.

## § 8. Results of initiative and referendum elections.

If a majority of the electors voting on a proposed initiative or referendum ordinance shall vote in favor thereof, it shall thereupon be an ordinance of the city. An initiative or referendum ordinance which is not approved by a majority of the electors voting thereon shall thereupon be deemed repealed. If conflicting ordinances are approved by the electors at the same election, the one receiving the greater number of affirmative votes shall prevail.

Initiative and referendum ordinances adopted or approved by the electors shall be published in the manner prescribed for other ordinances and may be amended or repealed only in the same manner in which passed.

(Ordinance 3048, sec. 2(30), adopted 4/5/75; Ordinance 4745, sec. 2, adopted 3/8/99)

## § 9. Power of recall.

- (a) The people of the city reserve the power to recall any elected officer of the city and may exercise such power by filing with the director of public records a petition signed by qualified voters of the city equal in number to at least ten percent (10%) of the then registered voters residing in the city demanding the removal of such elected officer. If the petition is certified by the director of public records to be sufficient, the council shall order and hold an election to determine whether such officer shall be recalled and, if the majority of the legal votes are cast for a recall of the officer named on the ballot, the council shall immediately declare his or her office vacant, and such vacancy shall be filled forthwith in accordance with the provisions of this charter. An officer thus removed shall not be eligible to hold a city office again within a period of four (4) years from the date of his or her recall.

Any member of the city council, including the mayor, may be removed from office by recall.

- (b) A citizen or citizens group seeking to recall any elected officer of the city shall obtain a recall petition from the director of public records, who shall number and date the same and note to whom the petition has been issued. A separate petition shall be required for each elected officer sought to be removed from office by recall.

The signatures to a recall petition need not all be appended to one paper, but to each page there shall be attached an affidavit of the circulator thereof that states that 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, that the signers were fully apprised [apprised] of the purpose for which their signatures were being sought, and that he or she believes them to be genuine signatures of the persons whose names they purport to be.

Each signer of any recall petition paper shall sign his or her name in ink or indelible pencil as his or her name appears on the voter registration card. Each signer shall, after his or her name, list his or her precinct number and voter registration number after listing the place of residence and shall then place the date of signing thereon.

- (c) All papers comprising a recall petition shall be assembled and filed with the director of public records as one instrument by the citizen or citizens' group to whom the petition has been issued as provided herein. The director of public records shall not receive any petition sought to be filed more than thirty (30) days from the date of issuance.

In the event any petition seeking the recall of any elected official be damaged, misplaced or destroyed, the director of public records shall, upon notification by the circulator thereof, issue a duplicate petition which shall bear the same date as the original.

- (d) A signature to a recall petition may be withdrawn at the request of the signer. The withdrawal request must be in writing, signed, and acknowledged by the signer of the petition and filed with the director of public records. Such request to withdraw must be received by the director of public records before the petition for recall is filed.

(Ordinance 3048, sec. 2(31), adopted 4/5/75; Ordinance 3565, sec. 2, adopted 2/8/82)

## § 10. Public hearing to be held.

The officer whose removal is sought may, within five (5) days after such recall petition has been presented to the city council, request that a public hearing be held to permit him or her to present pertinent facts. In this event, the city council shall order such public hearing to be held not less than five (5) days nor more than fifteen (15) days after receiving such request for a public hearing.

## § 11. Recall election.

The director of public records 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 (5) days submit it to the council with his or her certificate to that effect, and shall notify the officer sought to be

recalled of such action. If the officer whose removal is sought does not resign within five (5) days after such notice, the city council shall thereupon order and fix a date for holding a recall election. Any such election shall be held at the earliest date authorized by the state election code after timely passage of an ordinance calling for such recall election. Ballots used at recall elections shall conform to the following requirements:

- (a) With respect to each person whose removal is sought, the questions shall be submitted "Shall (name of person) be removed from the office of (Councilman or Mayor) by recall?"
- (b) Immediately below each such question there shall be printed the two (2) following propositions, one above the other, in the order indicated:
  - "For the recall of (name of person)"
  - "Against the recall of (name of person)"

(Ordinance 3565, sec. 2, adopted 2/8/82)

## § 12. Results of recall election.

If a majority of the votes cast at a recall election shall be against the recall of the officer named in the ballot, he or she shall continue in office for the remainder of his or her unexpired term, subject to recall. 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 immediately removed from office, and the remaining city council members, regardless of their number, shall constitute a quorum until a full quorum of the city council exists. Any vacancies shall be filled by the city council as in other vacancies.

(Amnd. by 5/7/05 election, proposition no. 7)

## § 13. Failure of council to call election.

Should the city council fail or refuse to order any of the elections as provided for in this article, when all the requirements for such election have been complied with by the petitioning electors in conformity with this article of the charter, then the city shall be responsible for all court costs and attorney's fees of the one who institutes suit to cause a writ of mandamus, mandatory injunction order, or other court order to be issued requiring the calling of the election.

# ARTICLE X. GENERAL PROVISIONS

## § 1. Personal financial interests.

- (a) In this section, a "substantial business interest" exists if a "substantial interest in business entity" exists for purposes of Section 171.002 of the Texas Local Government Code, as amended.
- (b) No officer or employee of the city shall have a financial interest, direct or indirect, in any contract with the city, to the extent prohibited by state law, or shall be financially interested, directly or indirectly, in the sale to the city of any land, materials, supplies, or service where such financial interest is prohibited by state law.
- (c) *Restrictions relating to city business.* An officer or employee may not, while in the service or employment of the city, either individually or as the officer or principal of a business entity:
  - (1) Enter into any business relationship with the city in which the officer or employee has a substantial business interest and where the monetary amount of such relationship is in excess of five hundred dollars (\$500.00), whether or not the relationship is required by state law to be

competitively bid, unless such relationship is authorized in advance by a majority vote of the council present and voting, and duly recorded.

(2) *Exceptions.* This restriction does not apply:

(A) To a member of:

- (1) A board that functions only in an advisory or study capacity and that does not have the power to make findings as to the rights of specific parties; or
- (2) A board of a nonprofit development corporation that acts as an instrumentality of the city;

(B) To any transactions by the officer or employee related to their official duties for the city or any reimbursements received by the officer or employee as a result of their official duties for the city.

(d) Any willful violation of this section shall constitute malfeasance in office, and any officer or employee guilty thereof shall thereby forfeit his or her office or position. Any violation of this section, with the knowledge, express or implied, of the person or corporation contracting with the city, shall render the contract involved voidable by the city manager or the council.

(Ordinance 4267, sec. 2, adopted 1/16/93; Sec. 1 amnd. by amendment 7 approved at an election held 5/12/07 and certified by Resolution 5017 adopted 5/22/07)

## § 2. Prohibitions.

### Activities prohibited:

- (a) No person shall be appointed to or removed from, or in any way favored or discriminated against, with respect to any city position or appointive city administrative office because of race, sex, political or religious opinions, or affiliations.
- (b) No person shall wilfully make any false statement, certificate, mark, rating, or report in regard to any test, certification, or appointment under the personnel provisions of this charter, or the rules and regulations made thereunder, or in any manner commit or attempt to commit any fraud preventing the impartial execution of such provisions, rules, and regulations.
- (c) No person who seeks appointment or promotion with respect to any city position or appointive city administrative office shall directly or indirectly give, render, or pay any money, service, or other valuable thing to any person for or in connection with his or her test, appointment, proposed appointment, promotion, or proposed promotion.
- (d) No elected official of the City of Sherman, or city employee, shall solicit or assist in soliciting any assessment, subscription, or contribution for any political party or political purpose whatever from any person holding any compensated appointive city position.
- (e) Any disbursement to or on behalf of any elected official in excess of two thousand five hundred dollars (\$2,500.00), or the creation of any financial obligation in excess of two thousand five hundred dollars (\$2,500.00) by any elected official must be authorized in advance by a majority vote of the council present and voting, and duly recorded.
- (f) No person shall be qualified to serve the city in any capacity, except as an elected official, who is, or may become while in service, in arrears in the payment of taxes or other liabilities due the city other than credit union obligations.
- (g) No elected official of the City of Sherman, city employee or city staff shall use, in any form or manner, the city's logo or city stationary [stationery] for any purpose other than that related to city matters. No other entities or individuals shall use the city logo for any purposes whatsoever without first obtaining the express written consent from the city.

Penalties. Any person who by himself or herself or with others wilfully violates any of the provisions of paragraphs (a) through (g) shall be guilty of a misdemeanor and, upon conviction thereof, shall be punishable as fixed by ordinance. Any person convicted under this section shall be ineligible for a period of five (5) years thereafter to hold any city office or position and shall immediately forfeit his or her office or position.

(Ordinance 4745, sec. 2, adopted 3/8/99; Subsec. (f) amnd. by 5/7/05 election, proposition no. 5)

### § 3. Effect of new charter on existing law and budget; continuation of officers.

All ordinances, resolutions, rules and regulations now in force under the city government of Sherman, 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 of the City of Sherman under existing franchises and contracts are preserved in full force and effect to the City of Sherman. Upon adoption of this charter, it shall constitute the Charter of the City of Sherman.

- (a) All property, real and personal, belonging to the City of Sherman, is hereby vested in the corporation created by the adoption of this charter. The officers of said city now in office shall continue in same until superseded in conformity to the provisions hereof.
- (b) All contracts entered into by the city, or for its benefit, prior to the taking effect of this charter, shall continue in full force and effect. Public improvements for which legislative steps have been taken under laws or ordinances existing at the time this charter takes effect may be carried to completion in accordance with the provisions of such existing laws or ordinances.
- (c) 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 Sherman, shall belong to and be vested in and shall be prosecuted by and for the use and benefits of the corporation hereby created, and shall not in anyway be diminished, affected, or prejudiced by the adoption and taking effect of this charter.

### § 4. Official oath.

All officers of the city shall, before entering upon the duties of their respective offices, take and subscribe to the official oath prescribed by the Constitution of the State of Texas. The oath of office shall be administered by the mayor, deputy mayor, director of public records, or any other person authorized by law to administer oaths.

### § 5. Public records.

Publicity of Records. In Accordance with the Texas Public Information Act, all records and accounts of every office, department, or agency of the city shall be open to inspection by any citizen, any representative of a citizen's organization, or any representative of the press at all reasonable times, subject to all lawful exceptions. Nothing shall preclude the city from charging reasonable fees for furnishing public records.

(Resolution 4442 adopted 5/6/03)

### § 6. Reserved.

**Editor's note**—Former section 6, pertaining to the official newspaper was deleted in its entirety by Ordinance 6248 adopted 9/3/19.

## § 7. Notice of claim.

The city shall not be held liable on account of any claim for damages to any person or property unless the person making such complaint of claiming such damage shall, within one hundred eighty (180) days after the time at which it is claimed such damages were inflicted upon such person or property, file with the director of public records a written statement under oath, stating the nature and character of such damages or injuries, the extent of the same, the place where same happened, the circumstances under which same happened, and the conditions causing same, with a detailed statement of each item of damages, and the amount thereof, and if it be for personal injuries, giving a list of any witnesses known to affiant to have seen the accident.

(Resolution 4442 adopted 5/6/03)

## § 8. 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 hand 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 or agents shall be required to answer any such writ of garnishment on any account whatever. The city shall not be obligated to recognize any assignment of wages or funds by its employees, agents, or contractors.

## § 9. Security or bond not required.

It shall not be necessary in any action, suit, or proceedings 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, suits, proceedings and appeals shall be conducted in the same manner as if such bond, undertaking, or security had been given. The city shall have all remedies of appeal provided by law to all courts without bond or security of any kind. For the purposes of all such actions, suits, proceedings and appeals, the city shall be liable in the same manner, and to the same extent as if the bond, undertaking, or security had been executed and given.

## § 10. Nepotism.

No person related within the second degree by affinity, or the third degree by consanguinity to the mayor, or any member of the city council, or the city manager shall be appointed to any paid office, position, clerkship, or other position of service of the city. This prohibition shall not apply to part-time or seasonal employment. This prohibition shall not apply to any person who shall have been employed by the city prior to and at the time of the election of the mayor, members of the city council, or the appointment of the city manager so related to him or her.

(Resolution 6300 adopted 11/20/17)

## § 11. Unauthorized gifts.

No member of the city council or employee of the city shall intentionally or knowingly solicit, accept or agree to accept from another any meaningful gain in consideration for the recipient's decision, opinion, recommendation, vote or other exercise of discretion, and any employee of the City of Sherman who shall violate this section shall forfeit such employment, and any member of the council who shall violate this section shall forfeit their position as a member of the council.

(Ordinance 4745, sec. 2, adopted 3/8/99)



## § 12. Boundaries—Change and annexation.

- (a) Annexation generally. The city council may by ordinance annex additional territory lying adjacent to the city, with or without the consent of the inhabitants or property owners of the territory annexed.

(Ordinance 3048, sec. 2(32), adopted 4/5/75)

## § 13. Advisory boards and commissions.

- (a) The city council may, upon its own motion or upon application of the city manager, appoint advisory boards or commissions as it may deem necessary, i.e., library board, charity board, etc. Any board or commission so appointed shall consist of such number as the city council may determine. The citizens, in the exercise of their power of initiation in the manner provided by this charter for the initiation of ordinances, may create such advisory board or boards, commission or commissions. The members of such boards and commissions shall serve without compensation. The duties of such boards and commissions shall be prescribed by ordinance.
- (b) A Citizens Comprehensive Plan Committee shall be created with nomination by each member of the council and the mayor and confirmed by the council. This committee shall consist of seven (7) members whose terms shall be six (6) years, and the first members draw for three (3) and six (6) year terms. This committee shall advise the city council regarding any deviation from the city's comprehensive plan. The subsequent members will be nominated and confirmed by the city council.

This committee may also cooperate and work with the directors of civic minded nonprofit foundations created for the sole purpose of promotion and advancement of any civic activity, both material and cultural, of the City of Sherman.

## § 14. Separability and validity.

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.

Validity: All contracts, agreements, or other obligations entered into and all ordinances and resolutions passed and orders adopted by the city contrary to the substantive and procedural provisions of this charter shall be voidable at the sole election of the city council.

(Ordinance 4745, sec. 2, adopted 3/8/99)

## § 15. Charter amendment.

- (a) Proposal of amendment. Amendments to this charter may be framed and proposed:

- (1) In the manner provided by law,
- (2) By ordinance of the council containing the full text of the proposed amendment and effective upon adoption, or
- (3) By the voters of the city, or
- (4) By report of a charter commission created by ordinance.

Proposal of an amendment by the voters of the city shall be by petition containing the full text of the proposed amendment, and shall be governed by the same procedures and requirements pre-

scribed in Article **IX** for initiative petitions until such time as a final determination as to the sufficiency of the petition is made, except that there shall be no limitation as to subject matter and that the petition must be signed by qualified voters of the city equal in number to at least ten percent (10%) of the total number of qualified electors registered to vote at the last regular city election. The petitioners' committee may withdraw the petition at any time before the 15th day immediately preceding the day scheduled for the city vote on the amendment.

- (b) Election for amendments. Upon delivery to the city election authorities of the report of a charter commission or committee, or delivery by the city attorney of an adopted ordinance or a petition finally determined sufficient, proposing an amendment pursuant to subsection (a), the election authorities shall submit the proposed amendment(s) to the voters of the city at an election. Such election shall be announced by a notice containing a substantial copy of the proposed amendment(s) and shall be published on the same day in each of two (2) successive weeks on the City's official website, with the first publication occurring before the 14th day before the date of the election. Each amendment will not contain more than one subject. The election shall be held on the first authorized uniform election date prescribed by the Election Code and that occurs on or after the 30th day after the date the ordinance is adopted. If no regular election is to be held within that period, the council shall provide for a special election on the proposed amendment(s); otherwise the holding of a special election shall be within the discretion of the council. The form of ballot shall be as specified in Article III, Section 5.
- (c) Adoption of amendment. If a majority of the qualified voters of the city voting upon a proposed charter amendment vote in favor of it, the amendment shall become effective upon entry of an order by the municipality declaring that the charter amendment is adopted.
- (d) Adoption of a new charter. A new charter may be framed pursuant to the procedures as prescribed by state law.

(Ordinance 4267, sec. 2, adopted 1/16/93; Ordinance 6248 adopted 9/3/19)

## § 16. Construction of charter.

This charter shall not be construed as a mere grant of enumerated powers, but shall be construed as a general grant of power, and as a limitation of power on the government of the City of Sherman in the same manner as the Constitution of Texas is construed as a limitation on the powers of the legislature. Except where expressly prohibited by this charter, each and every power under Article XI, Section 5 of the Constitution of Texas, which it would be competent for the people of the City of Sherman to expressly grant to the city, shall be construed to be granted to the city by this charter.

## § 17. Judicial notice.

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

All ordinances of the city published in book or pamphlet form by authority of the city council shall be admitted in evidence in all courts and places without further proof.

## § 18. Reserved.

**Editor's note**—Former section 18 pertaining to the apportionment of costs of street improvements and deriving from Ordinance 3048, sec. 2(33), adopted 4/5/75, was deleted in its entirety by Resolution 6300 adopted 11/20/17.

## § 19. Taxing entities subject to city regulation.

The County of Grayson, the public free schools of the City of Sherman, and all other entities authorized by the State of Texas to levy and collect taxes shall be separate and free from the control, direction, and maintenance of the City of Sherman to the extent authorized by State or Federal statute or common law.

(Sec. 19 amnd. by amendment 5 approved at an election held November 2, 2010 and certified by Resolution 5535 adopted 11/15/10)

## § 20. Sale of alcoholic beverages.

No alcoholic beverages shall be sold in an area zoned residential.

(Ordinance 4745, sec. 2, adopted 3/8/99)