

Chapter CHA. Home Rule Charter

Editor's note—Printed herein is the charter of the City of Anna, Texas, previously published as part I of the 2008 Code. Amendments to the charter are indicated by a history note following the amended section. The absence of a history note indicates the material is unchanged from the consolidated charter as published in the 2008 Code. Apart from minor nonsubstantive changes in style and formatting, the charter is reproduced as published in the 2008 Code. Capitalization, punctuation and grammar have been retained. Obviously misspelled words have been corrected without notation. Material enclosed in brackets has been added for clarification.

Originally adopted by vote of the people of the City of Anna, Texas on May 7, 2005

Amended on November 4, 2008 and May 12, 2012

PREAMBLE

We, the citizens of Anna, Texas, in order to establish a home-rule municipal government, provide for the future progress of our City, obtain more fully the benefits of local self-government, and provide for the public welfare, adopt this Charter in accordance with the Constitution and statutes of the State of Texas; we further declare the residents of the City of Anna, in Collin County, Texas living within its legally established boundaries, to be a political subdivision of the State of Texas, incorporated forever under the name and style of the "City of Anna" with such powers, rights, privileges, authorities, duties, and immunities, as are provided in this Charter.

ARTICLE 1. FORM OF GOVERNMENT AND BOUNDARIES

§ 1.01. Form of Government.

The municipal government provided by this Charter is the "Council-Manager Government". Under its provisions, and subject only to the limitations imposed by the State Constitution, the statutes of this State, and by this Charter, all powers of the City are vested in an elective council, referred to as the "City Council." The City Council may enact local legislation, adopt budgets, determine policies, and appoint the City Manager, who is responsible to the City Council for the execution of the laws and the administration of the City government. All City powers must be exercised in accordance with this Charter, or if the manner is not prescribed in this Charter, then in accordance with City ordinances and state and federal law.

§ 1.02. Boundaries.

The citizens of the City of Anna, Collin County, Texas, residing within its corporate limits as those limits may exist at any given time, have been constituted and will continue to be a municipal body politic and corporate, in perpetuity, under the name of the "City of Anna" with such powers, privileges, rights, duties, authorities, and immunities, as are provided in this Charter.

§ 1.03. Extension of Boundaries.

- (a) The boundaries of the City may be enlarged and extended by the annexation of additional territory, irrespective of size and configuration, except as restricted by state and federal law.
- (b) The City Council may by ordinance fix the boundary limits of the City and provide for the alteration and extension of said boundary limits, including the annexation of additional territory lying adjacent to the City, in any manner provided by law.
- (c) The City Council may exchange area with other governmental entities.
- (d) When any area is annexed, it is a part of the City and the area will bear taxes levied by the City. The citizens of the area are entitled to the rights and privileges of the other citizens to the extent required by state and federal law, and are bound by the acts, ordinances, resolutions, and regulations of the City.
- (e) To the extent permitted by law, the City's ordinances and resolutions apply both within the City's corporate boundaries and within its extraterritorial jurisdiction.

ARTICLE 2. POWERS OF THE CITY

§ 2.01. General Powers of the City.

The City has all powers, privileges, rights, duties, authorities, and immunities of self-government and home rule that exist now or may be granted to municipalities by the Constitution and laws of the State of Texas, unless such power, privilege, right, duty, authority or immunity is expressly prohibited or restricted by this Charter.

§ 2.02. Public Improvements.

The City has the power to, among others, construct and maintain, within or outside its corporate limits, streets, flood control and sanitary facilities, water and storm drainage facilities in, over, under or upon all public property or easements granted for that purpose and to levy assessments for all associated costs. The City has the power to collect attorney fees for the collection of paving assessment in foreclosure cases as allowed under state law. It further has the power to establish liens to secure payment of such levies and has the power to compel the use of improvements by the citizens of the City.

§ 2.03. Other Powers.

The City has the power to, among others, establish and maintain ordinances and regulations governing the use of lands within the City and to enforce by all lawful means these ordinances and regulations, within and outside its corporate limits. The City has the power to authorize, regulate and inspect all construction and existing structures within or without its limits, consistent with state statutes, and to establish and enforce ordinances and regulations concerning their use, construction and reconstruction. The City has the power to license and regulate persons, corporations and associations engaged in any business, occupation, profession or trade when authorized by state law. The City has all powers granted by any section of this Charter and all other powers not expressly restricted by state or federal law.

ARTICLE 3. THE CITY COUNCIL

§ 3.01. Composition.

- (a) The City Council includes a “Mayor” and six “Council Members” elected under the Place System, with there being Places 1, 2, 3, 4, 5 and 6. The Mayor and each Council Member are elected at large, and unless sooner removed under the provisions of this Charter, serve for a term of no longer than three years. All of the City Council holding office at the time of passage of this Charter or any amendments to this Charter may continue to hold their respective office until the respective term for which they were elected expires.
- (b) Terms of the Council Members and the Mayor are staggered and the staggering of terms will be initiated as follows:
 - (1) in the May 2013 election, voters will elect Council Members for Places 2, 4, and 6, each for three-year terms;
 - (2) in the May 2014 election, voters will elect Council Members for Places 3 and 5, each for three-year terms;
 - (3) in the May 2015 election, voters will elect a Council Member for Place 1 and the Mayor, each for three-year terms; and
 - (4) all subsequent regular City Council and Mayoral elections will be for three-year terms.

§ 3.02. Qualifications of City Council.

In addition to any other qualifications prescribed by law, the Mayor and each Council Member must meet the qualifications set forth in Article 5 of this Charter while in office.

§ 3.03. Compensation.

Compensation of the City Council may be determined by the City Council by ordinance, but no increase in compensation may take effect until commencement of the terms of Mayor and/or Council Members elected at the next regular election. The City Council is entitled to reimbursement for actual expenses incurred in the performance of official duties with the approval of the City Council at a public meeting.

§ 3.04. Mayor, Mayor Pro-Tem and Deputy Mayor Pro-Tem.

- (a) The person elected Mayor is the presiding officer of all Council meetings, is the official head of the City government, and is entitled to vote on all items before the City Council, except as otherwise restricted by this Charter.
- (b) The Mayor Pro-Tem is a Council Member elected by the City Council at the first regular meeting after each election of Council Members and/or Mayor. The Mayor Pro-Tem must act as Mayor during the disability or absence of the Mayor, and in this capacity has the rights conferred upon the Mayor.
- (c) The Deputy Mayor Pro-Tem is a Council Member elected by the City Council at the first regular meeting after each election of Council Members and/or Mayor. The Deputy Mayor Pro-Tem must act as Mayor during the disability or absence of the Mayor and Mayor Pro-Tem, and in this capacity has the rights conferred upon the Mayor.

§ 3.05. Vacancies, Forfeiture and Filling of Vacancies.

- (a) The office of a Council Member or the Mayor becomes vacant upon death, resignation, forfeiture of, or removal from office by any manner authorized by law.

- (b) If any Member of the City Council is absent from three consecutive regular meetings, without explanation acceptable to a majority of the remaining Council Members, his or her office becomes vacant at the next regular meeting of the City Council by resolution.
- (c) Any person on the City Council who ceases to possess the required qualifications for office or who is convicted of a felony or of a misdemeanor involving moral turpitude or is convicted of violating any state laws regulating conflicts of interest of municipal officers must forfeit his or her office. Every forfeiture must be declared and enforced by the City Council.
- (d) If for any reason a single vacancy or multiple vacancies exist on the City Council, the vacancy must be filled by majority vote of the qualified voters at a special election called for such purpose within 120 days after such vacancy occurs as required by article XI, section 11 of the Texas Constitution; provided, however, that the Council may opt to fill by appointment any such vacancy occurring for an unexpired term of 12 months or less. The person elected or appointed to fill the vacancy must meet the qualifications referenced in section 3.02 of this Charter. The person elected or appointed to fill the vacancy serves until the next regular municipal election for that Place on the City Council. If the position of Mayor becomes vacant, then the City Council must—as soon as is practicable after a Mayor is elected or appointed to fill the vacancy—elect the positions of Mayor Pro-Tem and Deputy Mayor Pro-Tem.

(Ordinance 764-2018, sec. 2.3 (prop. B), adopted 2/13/18, approved at election of 5/5/18)

§ 3.06. Powers of the City Council.

All powers of the City and the determination of all matters of policy are vested in the City Council. Except where in conflict with and otherwise expressly provided by this Charter, the City Council has all powers authorized to be exercised by the Constitution and laws of the United States and the State of Texas as amended. Without limiting the broad powers vested in the City Council—and only to provide more certainty with respect to certain other powers—the City Council may also:

- (1) appoint and remove the City Manager, Municipal Judge, City Attorney, and City Secretary;
- (2) establish administrative departments;
- (3) adopt the City budget;
- (4) collectively inquire into the conduct of any office, department or agency of the City and make investigations as to municipal affairs;
- (5) provide for a Planning & Zoning Commission and a Board of Adjustment and other boards as deemed necessary, and appoint the members of all such boards and commissions. (Such boards and commissions retain all powers possessed before the adoption of this Charter and those conferred and created by this Charter, by City ordinance or by other law);
- (6) adopt and modify the official map of the City;
- (7) adopt, modify and carry out plans in cooperation with the Planning & Zoning Commission for the replanning, improvement and redevelopment of specific areas of the City;
- (8) adopt, modify and carry out plans in cooperation with the Planning & Zoning Commission for the replanning, reconstruction or redevelopment of any area or district which may have been destroyed in whole or part by disaster;
- (9) regulate, license and fix the charges or fares made by any person owning, operating or controlling any vehicle of any character used for the carrying of passengers for hire on the public streets and alleys of the City;

- (10) provide for the establishment and designation of fire limits and prescribe the kind and character of structures or improvements to be erected; provide for the erection of fire-resistant structures within certain limits; and provide for the abatement of dangerous or dilapidated structures;
- (11) fix and regulate rates and charges of all utilities and public services; and
- (12) adopt plats, unless the City Council votes to give this authority exclusively to the Planning & Zoning Commission.

§ 3.07. Prohibitions.

- (a) Except where authorized by law or by this Charter, no Mayor or Council Member may hold any other City office or City employment during his or her term as Mayor or Council Member. No former Mayor or Council Member may hold any compensated appointive office or City employment until one year after the expiration of the term for which they were elected or appointed to the City Council.
- (b) Members of the City Council may not in any way dictate the appointment or removal of the City administrative officers or employees whom the City Manager or any of the City Manager's subordinates are empowered to appoint. The City Council, at a meeting called for that purpose, may express its views and fully and freely discuss with the City Manager anything pertaining to appointment and removal of such officers and employees.
- (c) Except for the purpose of inquiries and investigations as provided by this Charter, the City Council must deal with City officers and employees who are subject to the direction and supervision of the City Manager solely through the City Manager. The City Council may not give orders to any such officer or employee either publicly or privately except as otherwise provided in this Charter.

§ 3.08. Meetings of the City Council.

- (a) The City Council must schedule at least two regular meetings each month and as many additional meetings as it deems necessary to transact the business of the City. The City Council may fix by ordinance the date and time of the regular meetings.
- (b) Special meetings of the City Council must be held at the call of the Mayor or a majority of the Council Members upon provision of public notice in accordance with state law.
- (c) Except as otherwise permitted by state law, all City Council meetings must be open to the public and must be held and notice given in accordance with the Texas Open Meetings Act.

§ 3.09. Quorum.

- (a) There must be a quorum present for the City Council to take action or transact business. Except as specifically provided by Section **3.10** or another Section of this Charter, four Council Members constitute a quorum for the purpose of transaction of business. The Mayor shall be counted towards a quorum. No action of the City Council, except as specifically provided in this Charter, is valid or binding unless adopted by the affirmative vote of a majority of the City Council present at a meeting and having the authority to vote.
- (b) Solely for the purpose of canvassing an election, two Council Members constitute a quorum.

§ 3.10. Conflict of Interest.

- (a) Should any person on the City Council have a conflict of interest—under any state laws or City ordinances regulating conflicts of interest of municipal officers—regarding an agenda item then before the City Council, he or she lacks authority to vote, and must:
 - (1) openly declare the conflict before discussion proceeds;
 - (2) not participate in the discussion of that item; and,
 - (3) not vote on that item.
- (b) Solely for an agenda item over which one or more Council Members have a conflict of interest, the number of Council Members required to be present to constitute a quorum for the purpose of transacting business is reduced by the number of Council Members who are present but lack authority to vote on that item because of a conflict of interest.

§ 3.11. Abstention.

Should any person on the City Council choose—for any reason other than a conflict of interest—to abstain from voting on any question before the City Council, that person’s vote is counted and recorded as a negative vote in the official minutes of the meeting.

§ 3.12. Rules of Procedure.

The City Council may determine its own rules of order and business. The City Council must provide that the citizens of the City have a reasonable opportunity to clearly hear and be heard at public hearings with regard to specific matters under consideration. The City Council must provide for minutes to be taken and recorded for all public meetings as required by law. Once approved by the Council, such minutes are a public record and must be kept and maintained by the person performing the duties of the City Secretary. Minutes must be approved no later than the third regularly-scheduled Council meeting after the meeting for which the minutes are under consideration for approval, however the failure to abide by this time period does not invalidate actions taken at a meeting.

§ 3.13. Passage of Ordinances in General.

- (a) The City Council may legislate only by ordinance, and the enacting clause of every ordinance must be “Be it ordained by the City Council of the City of Anna, Texas...”. Each proposed ordinance must be introduced in the written or printed form required for adoption. No ordinance may contain more than one general subject which must be clearly expressed in its title, except that general appropriation ordinances may contain various subjects and accounts for which monies are to be appropriated. After adoption, an ordinance may not be amended or repealed except by the adoption of another ordinance amending or repealing the original ordinance. Copies of any proposed ordinance, in the form required for adoption, must be furnished to the City Council. Copies of the proposed ordinance, in the form required for adoption, must be available at the City offices and must be furnished to citizens upon request to the City Secretary from and after the date on which such proposed ordinance is posted as an agenda item for a City Council meeting and, if amended, must be available and furnished in amended form for as long as the proposed ordinance is before the City Council.
- (b) Every ordinance is effective upon adoption or at any later time(s) specified in the ordinance, except that every ordinance imposing any penalty, fine or forfeiture is effective only after having been published twice in its entirety or summary form after adoption, in a newspaper designated as the official newspaper of the City. Notwithstanding the foregoing and to the extent state law provides for an applicable alternate method for publication, the City may

forgo newspaper publication and publish the ordinance or its caption in accordance with the applicable state law.

- (c) If a majority of the City Council present requests that the ordinance title and caption or its entirety be read, it must be read.

(Ordinance 764-2018, sec. 2.6 (prop. E), adopted 2/13/18, approved at election of 5/5/18)

§ 3.14. Emergency Ordinances.

- (a) The City Council may adopt emergency ordinances only to meet public emergencies affecting life, health, property or the public peace. In particular, such ordinances may not levy taxes, grant or renew or extend a franchise, or regulate the rate charged by any public utility for its services. Neither may they authorize the borrowing of money except as provided elsewhere in this Charter.
- (b) An emergency ordinance may be introduced in the form and manner generally prescribed for ordinances, except that they must be plainly designated in the title as an emergency ordinance and must contain—after the enacting clause—a declaration stating that an emergency exists and describing the emergency in clear and specific terms.
- (c) An emergency ordinance may be introduced at any City Council meeting and may be adopted with or without amendment or rejected at the meeting at which it is introduced.
- (d) Emergency ordinances are effective upon adoption and must be published as soon as practicable. Every emergency ordinance so adopted, except one authorizing the borrowing of money as described in this Charter, is automatically repealed as of the 61st day following the day on which it became effective. The ordinance may be re-enacted if the emergency still exists.

§ 3.15. Authentication, Recording, Codification, Printing and Distribution.

- (a) All ordinances and resolutions adopted by the City Council must be authenticated by seal and signature of the person performing the duties of the City Secretary and numbered consecutively as adopted. They must be properly indexed and placed in a book kept open for public inspection.
- (b) The City Council may maintain the codification of ordinances of the City. This codification must be known and cited as “The Anna City Code of Ordinances” and is in full force and effect without the necessity of such code or any part of it being published in any newspaper. The caption, descriptive clause and other formal parts of the ordinances of the City may be omitted without affecting the validity of such ordinances when codified. Every general ordinance enacted after codification must be enacted as an amendment to the code. For the purpose of this section, general ordinances are deemed to be those ordinances of a permanent or continuing nature which affect the residents of the City at large. Copies of the code must be furnished to City Officers, placed in City offices and made available for purchase by the public at a reasonable price to be fixed by the City Council.
- (c) The City Council must cause all ordinances and amendments to this Charter to be printed promptly following their adoption. A copy of each ordinance and amendment must be placed in appropriate City offices for public reference. Printed ordinances and Charter amendments may be sold to the public at a reasonable price to be fixed by the City Council.

§ 3.16. Investigations by the City Council.

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

§ 3.17. Bond.

The City Council may require bonds of all municipal officers and employees who receive or pay out any monies of the City. The amount of the bonds may be determined by the City Council and the cost must be borne by the City.

ARTICLE 4. CITY ADMINISTRATION

§ 4.01. City Manager.

- (a) The City Council must appoint, upon the affirmative vote of a majority of the full membership of the City Council, a City Manager to serve as Chief Administrative Officer of the City. The City Manager is responsible to the City Council for administration of all the affairs of the City, with only those exceptions that are named in this Charter. The City Manager must be appointed based upon the applicant's educational qualifications and executive or administrative experience. The City Manager need not be a resident of the City when appointed, but must, within one year after such appointment, reside within the City during the balance of the tenure of his or her appointment, with up to a six-month extension granted by the City Council upon a showing of good cause.
- (b) Only the City Council may fix the compensation of the City Manager, and the City Manager's compensation may be amended, from time to time, in accordance with the City Manager's experience, qualifications and performance.
- (c) The City Manager may be appointed for an indefinite term, and may be removed at the discretion of the City Council by the affirmative vote of a majority of the full membership of the City Council. Upon decision to remove the City Manager, notice, in writing, of such decision must be immediately furnished to the City Manager and the City Council may then suspend him or her from duty and the following procedures will apply.
 - (1) If, within five days after being notified of termination and removal, the City Manager files a written request to the City Council requesting that the termination be reconsidered, the City Council must, as soon as practical, meet with the City Manager in accordance with the Texas Open Meetings Act to review its decision to terminate.
 - (2) After such review, and after affording the City Manager an opportunity to respond to such initial decision to terminate, a new vote must be taken with regard to termination of the City Manager.
 - (3) The City Manager is entitled, from the date of suspension, to continue to receive his or her salary pending the final decision of the City Council.
- (d) This procedure for a review meeting with the City Manager does not alter the fact that the City Manager serves at the pleasure of the City Council and the City Manager does not have, nor should this procedure be construed to grant to the City Manager, any right to continued employment.

- (e) Acting City Manager: The City Manager, within 60 days after taking office, must designate by letter filed with the City Secretary, a qualified administrative officer of the City to perform the duties of the City Manager in his or her absence or disability. Such designation is subject to approval by the City Council. No member of the Council may serve as Acting City Manager. From time to time the City Manager may remove and/or appoint another Acting City Manager.
- (f) The City Manager's duties are to:
 - (1) appoint, suspend and remove all City employees and appointive administrative officers provided for in this Charter, except as otherwise provided by this Charter or personnel rules adopted by the City Council in accordance with this Charter;
 - (2) direct and supervise the administration of all departments, offices and agencies of the City, except as otherwise provided by law or this Charter;
 - (3) see that all state laws and city ordinances are effectively enforced;
 - (4) if at all practicable, attend all City Council meetings—or if absent designate another City employee to attend—with the right to take part in discussion, but the City Manager may not vote;
 - (5) prepare and accept, or designate an appropriate department head or City employee to prepare and accept, items for inclusion in the official agenda of all City Council meetings and meetings of all boards and commissions;
 - (6) prepare and recommend to the City Council the annual budget and capital program, and administer the budget as adopted by the City Council;
 - (7) keep the City Council fully advised at least quarterly as to the financial conditions and future needs of the City, and make such recommendations concerning the affairs of the City, as the City Manager or the City Council deems desirable or necessary;
 - (8) make reports as the City Manager or the City Council may require concerning the operations of the City departments, offices, or agencies subject to the City Manager's direction or supervision; and
 - (9) perform such other duties as are specified in this Charter or may be required by the City Council, and are consistent with this Charter or state and federal law.

§ 4.02. City Secretary.

- (a) The City Council may appoint or remove, without cause, the City Secretary, upon the affirmative vote of a majority of the full membership of the City Council.
- (b) Only the City Council may fix the compensation of the City Secretary, and the City Secretary's compensation may be amended, from time to time, in accordance with the City Secretary's experience, qualifications and performance.
- (c) The City Secretary is responsible for verifying that proper notice—under state laws and this Charter—has been given for all meetings of the City Council and other municipal Boards, Commissions and Corporations.
- (d) The City Secretary must also:
 - (1) if at all practicable, attend all public meetings and hearings of the City Council or if absent designate another City employee to attend;
 - (2) keep the minutes of the proceedings of all public official meetings and hearings of the City Council in a manner prescribed by the City Council consistent with applicable law;

- (3) act as custodian of all official records of the City Council;
- (4) hold and maintain the seal of the City and affix this seal to all appropriate documents;
- (5) authenticate by signature and seal and record all ordinances, resolutions and proclamations of the City; and
- (6) perform such other duties as may be required by the City Council consistent with this Charter and state and federal law.

§ 4.03. Municipal Court.

- (a) The City Council must establish and cause to be maintained a Municipal Court. The Court has all the powers and duties as are now, or as may be, prescribed by state law.
- (b) Upon the City Manager's recommendation, the City Council may appoint or reject by the affirmative vote of a majority of the full membership of the City Council a Municipal Judge(s) of the Municipal Court as may be necessary, who must be a competent, duly qualified attorney licensed and practicing for at least two years in the State of Texas. In the event a duly qualified attorney is not available, the City Council may then select a qualified person to be the Municipal Judge(s). The Municipal Judge(s) of the Municipal Court(s) must be appointed to a term of two years and may be appointed to additional consecutive terms upon completing a term of office. The appointment of the Municipal Judge(s) may be terminated, without cause, at any time by the affirmative vote of a majority of the full membership of the City Council. The Municipal Judge(s) may receive compensation as determined by the City Council.
- (c) In the event of failure of any Municipal Judge to perform his or her duties, the Mayor may act in the Municipal Judge's place and stead (and in the event of a vacancy, until a Municipal Judge is appointed by the City Council to fill the vacancy). If the Mayor acts as Municipal Judge, the Mayor may be compensated at the same salary, if any, as the Municipal Judge for whom the Mayor is acting.
- (d) The Clerk and Deputy Clerks of the Municipal Court(s) have the power to administer oaths, certify affidavits, make certificates, affix the seal of the Court, and perform all usual and necessary clerical acts in conducting the business of the Court(s) including but not limited to, the keeping of records and accounts of the Municipal Court(s).
- (e) All special expenses and fines imposed by the Municipal Court(s) must be paid into the City Treasury for the use and benefit of the City, as may be consistent with present and future laws.

§ 4.04. City Attorney.

- (a) The City Council must appoint by the affirmative vote of a majority of the full membership of the City Council a competent, duly qualified licensed and practicing attorney in the State of Texas to serve as the City Attorney.
- (b) The City Attorney must:
 - (1) Serve as the legal advisor to the City Council and City Manager, except when there is a conflict of interest, in which case the City Attorney's duty is strictly to the City Council.
 - (2) Represent the City in litigation and legal proceedings as directed by the City Council and the City Manager; and
 - (3) Review and provide opinions as requested by the City Council or City Manager on contracts, legal instruments, ordinances of the City and other City business.

- (c) The City Council has the right to retain special counsel at any time that it may deem necessary and appropriate.
- (d) The City Attorney and Special Counsel may receive compensation as may be determined by the City Council.
- (e) The City Attorney, with approval of the City Council, may select an additional attorney(s) to assist in representing the City in any matter. However, under no circumstances may the City Attorney receive a referral fee or other remuneration solely for referring any part of the City's legal work to an attorney outside the office of the City Attorney.
- (f) The City Attorney may be removed, without cause, by the affirmative vote of a majority of the full membership of the City Council.

§ 4.05. Administrative Departments, Offices and Agencies.

- (a) The City Council may, after hearing recommendations of the City Manager, establish, abolish, redesignate and/or combine departments, offices or agencies in addition to those provided for by this Charter, and may prescribe the functions and duties of such departments, offices and agencies.
- (b) Except as provided elsewhere in this Charter, all departments, offices and agencies of the City are under the direction and supervision of the City Manager, and are administered by officers appointed by and subject to the direction and supervision of the City Manager. The City Manager may, with the consent of the City Council, serve as the head of one or more City departments, offices or agencies or appoint one person as head of two or more of them.
- (c) The City Manager may appoint a City Tax Collector, whose duties and functions are those usual to the office and consistent with existing or future laws of the State of Texas as they may apply to City or County Tax Collectors. The City Manager may recommend that the City Council enter into an outside contract for such services.

§ 4.06. Personnel System.

- (a) Personnel rules must be prepared by the City Manager and presented to the City Council, who may adopt them by resolution, with or without amendment. The adopted rules must establish the City as an Equal Opportunity Employer and must govern the equitable administration of the Personnel System of the City.
- (b) The adopted rules must provide for the following requirements:
 - (1) a pay and benefit plan for all City employment positions;
 - (2) a plan for working hours, attendance policy and regulation and provision for sick and vacation leave;
 - (3) procedure for the hearing and adjudication of grievances;
 - (4) additional practices and procedures necessary to the beneficial and equitable administration of the City's personnel system; and
 - (5) a plan for annual oral and written evaluation based on a job description for all City employees by their immediate supervisor, including evaluation of the City Manager, City Secretary, Municipal Judge, and City Attorney by the City Council.

(Ordinance 764-2018, sec. 2.2 (prop. A), adopted 2/13/18, approved at election of 5/5/18)

ARTICLE 5. NOMINATIONS AND ELECTIONS

§ 5.01. City Elections.

All City elections must be conducted in accordance with the Texas Election Code.

§ 5.02. Filing for Office.

- (a) Candidates for elective City offices must file for office in accordance with the Texas Election Code.
- (b) Candidates for elective City offices must:
 - (1) be at least 21 years of age at the time of the election for which they are filing;
 - (2) be a qualified voter;
 - (3) have resided exclusively within the corporate limits of the City, or recently annexed territory, for at least 12 months before the filing date;
 - (4) at the time of filing or while in office, be current in payment of taxes or other liabilities due the City after notice of any delinquency;
 - (5) not file in a single election for more than one office or position as provided by this Charter; and
 - (6) comply with all other City ordinances or resolutions that may be applicable.
- (c) If an incumbent elected City official elected to serve a three-year term shall announce their candidacy, or shall in fact become a candidate, in any General, Special or Primary Election, for any office of profit or trust under the laws of this State or the United States other than the office then held, at any time when the unexpired term of the office then held shall exceed one year, such announcement or such candidacy shall constitute an automatic resignation of the office then held, and the vacancy thereby created shall be filled under this Charter in the same manner as other vacancies for such office are filled.
- (d) A City employee or officer may not continue in such employment or office after filing for an elective office provided for in this Charter.

§ 5.03. Official Ballots.

- (a) The name of each candidate seeking elective office, except those who have withdrawn, died, or become ineligible, must be printed on the official ballot in the form designated by the candidate in accordance with the Texas Election Code. If two or more candidates have the same surname, their residence addresses must be printed with their names on the ballot.
- (b) The order of the names of the candidates on the ballot must be determined by lot in a public drawing to be held under the supervision of the person performing the duties of the City Secretary in accordance with the Texas Election Code.
- (c) Procedures for voting by absentee ballot must be consistent with the Texas Election Code.
- (d) An ordinance, bond issue, or Charter amendment to be voted on by the voters of the City must be presented for voting by ballot title. The ballot title of a measure may be different

from its legal title and must be a clear, concise statement, approved by the City Council, describing the substance of the measure without argument or prejudice.

- (e) Procedures for write-in votes must be consistent with the Texas Election Code.

§ 5.04. Official Results.

- (a) A candidate for elective office receiving a majority of the votes cast is the winner. If no candidate receives a majority of the votes, there shall be a runoff election conducted in accordance with the Texas Election Code.
- (b) The returns of every municipal election must be handled in accordance with the Texas Election Code.

§ 5.05. Taking of Office.

- (a) Each newly-elected person to the City Council is entitled to be inducted into office at the first regular City Council meeting following the election that the newly-elected member attends.
- (b) At such meeting the oath must be in accordance with the City Charter.

ARTICLE 6. RECALL, INITIATIVE, AND REFERENDUM

§ 6.01. Scope of Recall.

Any elected City official, whether elected to office by qualified voters or appointed by the City Council to fill a vacancy, must be subject to recall and removal from office by the qualified voters of the City on grounds of incompetence, misconduct, or malfeasance in office.

§ 6.02. Petitions for Recall.

- (a) Before the question of recall of such officer may be submitted to the qualified voters of the City, a petition demanding such question to be so submitted must first be filed with the person performing duties of City Secretary, which said petition must be signed by 30% of the number of registered voters recorded at the last regular City election.
- (b) Each signer of such recall petition must personally sign his or her name in ink or indelible pencil, and must write after his or her name his or her place of residence, giving the name of the street and number, or place of residence, and must also write the day, the month, and the year his or her signature was affixed.

§ 6.03. Form of Recall Petition.

The recall petition mentioned above must be addressed to the City Council of the City, must be distinctly and specifically pointed to the grounds upon which such petition for removal is predicated, and, if there be more than one ground, said petition must specifically state each ground with such certainty as to give the officer sought to be removed notice of the matters and things with which the officer is charged. The signature must be verified by oath in the following form.

I, _____ (printed name), being first duly sworn, on oath depose and say that I am one of the signers of the above petition, and that the statements made therein are true, and that each signature appearing thereto was made in my presence on the day and date it purports to have been made, and I solemnly swear that the same is the genuine signature of the person it purports to be.

Signature

Sworn and subscribed before me on _____ (date).

Notary Public in and for the State of Texas

§ 6.04. Various Papers Constituting Petition.

- (a) The petition may consist of one or more copies, or subscription lists, circulated separately, and the signatures thereto may be upon the paper or papers containing the form of petition, or upon other paper attached thereto.
- (b) Verifications provided for in the next preceding section of this Article may be made by one or more petitioners, and the several parts of copies of the petition may be filed separately and by different persons, but no signatures to such petition remain effective, nor may they be counted, if affixed more than 45 days before the filing of such petition or petitions with the person performing the duties of City Secretary.
- (c) All papers comprising a recall petition must be filed with the person performing the duties of City Secretary on the same day, and the said person performing the duties of City Secretary must immediately notify, in writing, the officer so sought to be removed, by mailing such notice to the officer's City address.

§ 6.05. Presentation of Petition to the City Council.

Within 21 days after the date of the filing of the papers constituting the recall petition, the person performing the duties of City Secretary must present such petition to the City Council of the City.

§ 6.06. Public Hearing to be Held.

The officer whose removal is sought may, within seven 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 the facts pertinent to the charges specified in the recall petition. In this event, the City Council must order such public hearing to be held, not less than five days nor more than 15 days after receiving such request for a public hearing.

§ 6.07. Calling of Recall Election.

If the officer whose removal is sought does not resign, then the City Council must order an election and set the date for holding such recall election. The date selected for the recall election must be in accordance with the Texas Election Code. If after the recall election date is established, the officer vacates his or her position, the election must be canceled.

§ 6.08. Ballots in Recall Election.

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

- (1) With respect to each person whose removal is sought, the question must be submitted: “Do you vote to remove _____ (name of official) from the office of _____ (name of office) by recall?”
- (2) Immediately below each such question there must be printed the following words and characters, one above the other, in the order indicated:

“Yes _____”

“No _____”

§ 6.09. Result of Recall Election.

- (a) If a majority of the votes cast at a recall election are “No” votes—that is against the recall of the person named on the ballot—the officer may continue in office for the remainder of the unexpired term, subject to recall as before.
- (b) If a majority of the votes cast at such election are “Yes” votes—that is, vote in favor of recalling the person named on the ballot—the officer is, regardless of any technical defects in the recall petition, deemed removed from office and the vacancy must be filled as provided in this Charter.

§ 6.10. Recall Restrictions.

No recall petition may be filed against any officer of the City within three months after the officer’s election, nor within three months after an election for such officer’s recall.

§ 6.11. Failure of the City Council to Call an Election—Recall.

In the case that all of the requirements of this Article of the Charter have been met and the City Council fails or refuses to receive the recall petition, or order such recall election, or discharge any other duties imposed on the City Council by the provisions of this Charter with reference to such recall, then a District Judge of Collin County, Texas, may order by mandamus any duties required by law or this Charter to be discharged by the person performing the duties of City Secretary or by the City Council.

§ 6.12. General Power of Initiative and Referendum.

The qualified voters of the City have the power of direct legislation by initiative and referendum.

§ 6.13. Initiative.

- (a) Following a review by the City Attorney for enforceability and legality, qualified voters of the City may initiate legislation—other than legislation relating to annexation, disannexation and other matters related to city boundaries and extraterritorial jurisdiction; regulation of land or improvements; zoning; personnel; utility rates and utility service; budgeting; appropriating money or levying taxes; and any other matters where initiative is in conflict with state or federal law—by submitting a petition addressed to the City Council which requests the submission of a proposed ordinance or resolution to a vote of the qualified voters of the City.

- (b) Said petition must be signed by ten percent of the number of registered voters recorded at the last regular City election. Each copy of the petition must have attached to it a copy of the proposed legislation.
- (c) The petition must be signed in the same manner as recall petitions are signed, as provided in this Article, and must be verified by oath in the manner and form provided for recall petitions in this Article.
- (d) The petition may consist of one or more copies as permitted for recall petitions. Such petition must be filed with the person performing the duties of City Secretary.
- (e) Within 21 days after the filing of such petition, the person performing the duties of City Secretary must present said petition and proposed ordinance or resolution to the City Council.
- (f) Within two regularly-scheduled City Council meetings after its presentation to and receipt by the City Council, it is the duty of the City Council to pass and adopt such ordinance or resolution without alteration as to meaning or effect in the opinion of the persons filing the petition, or to call a special election—to be held within 30 days if allowed under the Texas Election Code, or at the next date allowed under the Texas Election Code—at which the qualified voters of the City must vote on the question of adopting or rejecting the proposed legislation.
- (g) However, if any other municipal election is to be held within 60 days after the filing of the petition, the question may be voted on at such election. Any election order so issued must comply fully with the Texas Election Code.
- (h) Unless otherwise provided by law, any election for an initiative under this Charter must be held on the first authorized uniform election date that occurs after the 65th day after the petition was presented to the City Council.

§ 6.14. Referendum.

- (a) Qualified voters of the City may require that any ordinance or resolution—other than legislation relating to annexation, disannexation and other matters related to city boundaries and extraterritorial jurisdiction; regulation of land or improvements; zoning; personnel; utility rates and utility service; budgeting; appropriating money or levying taxes; and any other matters where initiative is in conflict with state or federal law—passed by the City Council be submitted to the voters of the City for approval or disapproval, by submitting a petition for this purpose within 30 days after final passage of said ordinance or resolution, or within 30 days after its publication.
- (b) Said petition must be signed by 20% of the number of registered voters recorded at the last regular City election. Each copy of the petition must have attached to it a copy of the legislation in question.
- (c) Said petition must be addressed, signed, and verified as required for recall petitions in this Article and must be submitted to the person performing the duties of City Secretary.
- (d) Immediately upon the filing of such petition, the person performing the duties of City Secretary must present said petition to the City Council.
- (e) Thereupon the City Council must immediately reconsider such ordinance or resolution and, if the City Council does not entirely repeal the same, must submit it to popular vote as provided in Section 6.13 of this Charter.
- (f) Pending the holding of such election, each ordinance or resolution is suspended from taking effect and will not later take effect unless a majority of the qualified voters voting thereon at such election so vote.

- (g) Unless otherwise provided by law, any election for a referendum under this Charter must be held on the first authorized uniform election date that occurs after the 65th day after the petition was presented to the City Council.

§ 6.15. Voluntary Submission of Legislation by the City Council.

The City Council, upon its own motion and by the affirmative vote of a majority of the full membership of the City Council, may submit to popular vote at any election for adoption or rejection any proposed ordinance or resolution or measure, or may submit for repeal any existing ordinance, or resolution, or measure, in the same manner and with the same force and effect as provided in this Article for submission of petition, and may at its discretion call a special election for this purpose.

§ 6.16. Form of Ballots.

The ballots used when voting upon such proposed or referred ordinance or resolution must set forth their nature sufficiently to identify them and must also set forth upon separate lines the words:

“For the Ordinance” or “Against the Ordinance” or
“For the Resolution” or “Against the Resolution”

§ 6.17. Publication of Proposed and Referred Ordinances.

The person performing the duties of City Secretary of the City must publish at least twice in the official newspaper of the City the proposed or referred ordinance or resolution within 15 days before the date of the election, and must give such other notices and do such other things relative to such election as are required by law in municipal elections and by the ordinance or resolution calling said election. Notwithstanding the foregoing and to the extent state law provides for an applicable alternate method for publication, the City may forgo newspaper publication and publish the ordinance or resolution in accordance with the applicable state law.

(Ordinance 764-2018, sec. 2.7 (prop. E), adopted 2/13/18, approved at election of 5/5/18)

§ 6.18. Adoption of Ordinances.

If a majority of the qualified voters vote in favor of any proposed ordinance, resolution or measure, it is effective immediately unless expressly stated otherwise in the ordinance, resolution or measure.

§ 6.19. Inconsistent Ordinances.

If the provisions of two or more proposed ordinances or resolutions approved at the same election are inconsistent, the ordinance or resolution receiving the highest number of votes prevails.

§ 6.20. Ordinances Passed by Popular Vote, Repeal or Amendment.

No ordinance or resolution that may have been passed by the City Council upon a petition or adopted by popular vote under the provisions of this Article may be repealed or amended except: (1) in response to a referendum petition or by submission as provided by Section 6.15 of this Charter; or (2) by the City Council, but only after the expiration of two years after the passage of the ordinance or resolution by popular vote.

§ 6.21. Further Regulations by the City Council.

The City Council may pass ordinances or resolutions providing other and further regulations for carrying out the provisions of this Article consistent herewith.

§ 6.22. Franchise Ordinances.

Nothing contained in this Article may be construed to be in conflict with any of the provisions of this Charter, pertaining to ordinances granting franchises once valuable rights have accrued.

§ 6.23. Failure of the City Council to Call an Election—Initiative or Referendum.

In the case that all of the requirements of this Charter have been met and the City Council fails or refuses to receive the initiative or referendum petition, or order such initiative or referendum election, or discharge any other duties imposed on the City Council by the provisions of this Charter with reference to such initiative or referendum, then a District Judge of Collin County, Texas, may order by mandamus any duties required by law or this Charter to be discharged by the person performing the duties of City Secretary or by the City Council.

ARTICLE 7. FINANCIAL PROCEDURES

§ 7.01. Fiscal Year.

The fiscal year of the City begins on the first day of October and ends on the last day of September on the next succeeding year. Such fiscal year also constitutes the budget and accounting year.

§ 7.02. Submission of Budget and Budget Message.

On or before the 15th day of August of the fiscal year, the City Manager must submit to the City Council a budget for the ensuing fiscal year and an accompanying budget message.

§ 7.03. Budget Message.

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

§ 7.04. Budget a Public Record.

The budget and all supporting schedules must be filed with the person performing the duties of City Secretary when submitted to the City Council and must be open to public inspection by anyone interested.

§ 7.05. Public Hearing on Budget.

At the City Council meeting when the budget is submitted, the City Council must name the date and place of a public hearing and have published in the official newspaper of the City, at least twice, the time and place, which will be not less than ten days nor more than 30 days after the date of notice. At this hearing, interested citizens may express their opinions concerning items of expenditures, giving their reasons for wishing to increase or decrease any items of expense. Notwithstanding the foregoing and to the extent state law provides for an applicable alternate method for publication, the City may forgo newspaper publication and publish the time and place of the hearing in accordance with the applicable state law.

(Ordinance 764-2018, sec. 2.8 (prop. E), adopted 2/13/18, approved at election of 5/5/18)

§ 7.06. Proceeding on Adoption of Budget.

After public hearing, the City Council must analyze the budget, making any additions or deletions which they feel appropriate, and must, at least ten days before the beginning of the next fiscal year, adopt the budget by the affirmative vote of a majority of the full membership of the City Council. Should the City Council take no final action on or before such day, the current budget will continue to be in force on a month-to-month basis until a new budget is adopted.

§ 7.07. Budget, Appropriation and Amount to be Raised by Taxation.

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

§ 7.08. Contingent Appropriation.

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

§ 7.09. Amending the Budget.

Under conditions which may arise and which could not reasonably have been foreseen in the normal process of planning the budget, the City Council may, by the affirmative vote of a majority of the full membership of the City Council, amend or change the budget to provide for any additional expense in which the general welfare of the citizenry is involved. These amendments must be by ordinance, and must become an attachment to the annual budget.

§ 7.10. Certification; Copies Made Available.

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

§ 7.11. Capital Program.

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

- (1) a clear summary of its contents;
- (2) a list of all capital improvements which are proposed to be undertaken during the five fiscal years succeeding the budget year, with appropriate supporting information as to the necessity for such improvements;
- (3) cost estimates, method of financing, and recommended time schedules for each improvement; and
- (4) the estimated annual cost of operating and maintaining the facilities to be constructed or acquired. The above information may be revised and extended each year with regard to capital improvements still pending or in the process of construction or acquisition.

§ 7.12. Defect Does Not Invalidate the Tax Levy.

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

§ 7.13. Lapse of Appropriations.

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

§ 7.14. Borrowing.

- (a) The City has the right and power, except as prohibited by law or this Charter, to borrow money by whatever method it may deem to be in the public interest.
- (b) General Obligation Bonds.

- (1) The City has the power to borrow money on the credit of the City and to issue general obligation bonds for permanent public improvements or any other public purpose not prohibited by law and this Charter, and to issue refunding bonds to refund outstanding bonds previously issued. All such bonds must be issued in conformity with state and federal law and must be used only for purposes for which they were issued.
 - (2) Any bonds issued under the provisions of this Section may not be issued without an election. The City Council must prescribe the procedure for calling and holding such elections, must define the voting precincts and must provide for the return and canvass of the ballots cast at such elections.
 - (3) If at such elections a majority of the vote is in favor of creating such a debt or refunding outstanding valid bonds of the City, it will be lawful for the City Council to issue bonds as proposed in the ordinance submitting same. However, if a majority of the votes are against the creation of such debt or refunding such bonds, the City Council is without authority to issue the bonds. In all cases when the City Council orders an election for the issuance of bonds of the City, it must at the same time submit the question of whether or not a tax may be levied upon the property within the City for the purpose of paying the interest on the bonds and to create a sinking fund for their redemption.
- (c) Revenue Bonds.
- (1) The City has the power to borrow money for the purpose of constructing, purchasing, improving, extending or repairing of public utilities, or any other self-liquidating municipal function not prohibited by state or federal law.
 - (2) With an affirmative vote of at least two-thirds of the Council Members present and having authority to vote, the City has the power to issue revenue bonds and to evidence the obligation created thereby.
 - (3) Such bonds are a charge upon and payable from all or any part of the properties pledged or from the income gained from the properties, or both. The holders of the revenue bonds are not entitled to demand payment on the bonds out of monies raised or to be raised by taxation.
 - (4) All such bonds must be issued in conformity with state and federal law and must be used only for the purpose for which they were issued.
- (d) Emergency Funding. In any budget year, the City Council may, by affirmative vote of at least two-thirds of the Council Members present and having authority to vote, authorize the borrowing of money. Notes may be issued which are repayable not later than the end of the current fiscal year.

§ 7.15. Purchasing.

- (a) The City Council may by ordinance, give the City Manager general authority to contract for expenditure without further approval of the City Council for all budgeted items not exceeding limits set by the City Council within the ordinance.
- (b) All contracts for expenditures or purchases involving more than the limits must be expressly approved in advance by the City Council. All contracts or purchases involving more than the limits set by the City Council must be awarded by the City Council in accordance with state and federal law.
- (c) Emergency contracts as authorized by law and this Charter may be negotiated by the City Council or City Manager if given authority by the City Council, without competitive bidding, and in accordance with state and federal law. Such emergency may be declared by the City Manager if approved by the City Council, or may be declared by the City Council.

§ 7.16. Administration of Budget.

- (a) No payment may be made or obligation incurred against any allotment or appropriation except in accordance with appropriations duly made, unless the City Manager, or the City Manager's designee, first certifies that there is a sufficient unencumbered balance in the budget and that sufficient budget funds are or will be available to cover the claim or meet the obligation when it becomes due and payable.
- (b) Any authorization of payment or incurring of obligation in violation of Subsection (a) of this Section is void and any payment so made illegal.
- (c) This prohibition does not prevent the making or authorizing of payments, or making of contracts for capital improvements to be financed wholly or partly by the issuance of bonds, time warrants, certificates of indebtedness, or certificates of obligation, or to prevent the making of any contract or lease providing for payments beyond the end of the fiscal year, providing that such action is made or approved by ordinance.
- (d) The City Manager must submit to the City Council each month a report covering the revenues and expenditures of the City in such form as requested by the City Council.

§ 7.17. Depository.

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

§ 7.18. Independent Audit.

When deemed necessary by the City Council, it may call—and at the close of each fiscal year—must call for an independent audit of all accounts of the City by a certified public accountant. No more than five consecutive annual audits may be completed by the same firm. The certified public accountant selected may have no personal interest, directly or indirectly, in the financial affairs of the City or any of its officers. The report of audit, with the auditor's recommendations, will be made to the City Council. Upon completion of the audit, the summary must be published immediately in the official newspaper of the City and copies of the audit placed on file in the office of the person performing the duties of City Secretary, as a public record. Notwithstanding the foregoing and to the extent state law provides for an applicable alternate method for publication, the City may forgo newspaper publication and publish the summary in accordance with the applicable state law.

(Ordinance 764-2018, sec. 2.9 (prop. E), adopted 2/13/18, approved at election of 5/5/18)

§ 7.19. Power to Tax.

- (a) The City has the power to levy, assess and collect taxes of every character and type for any municipal purpose not prohibited by state or federal law.
- (b) The City has the power to grant tax exemptions in accordance with the laws of the State of Texas.

§ 7.20. Office of Tax Collector.

There must be an office of taxation to collect taxes, the head of which is the City Tax Collector. The City Council may contract for such services.

§ 7.21. Taxes; When Due and Payable.

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

§ 7.22. Tax Liens, Liabilities and Suits.

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

ARTICLE 8. BOARDS AND COMMISSIONS

§ 8.01. Authority, Composition and Procedures.

- (a) The City Council may create, establish or appoint, as may be required by state law or this Charter, or deemed desirable by the City Council, such boards, commissions and committees as it deems necessary to carry out the functions and obligations of the City. The City Council may, by ordinance or resolution, prescribe the purpose, composition, function, duties, accountability and tenure of each board, commission and committee where such are not prescribed by law or this Charter.
- (b) Individuals who are qualified voters in the City may be appointed by the City Council to serve on one or more boards, commissions or committees. Such appointees serve at the pleasure of the City Council and may be removed at the discretion of the City Council. Except as otherwise provided in this Charter, members of any such board, commission or committee serve without compensation but may be reimbursed for actual expenses as approved by the City Council.

- (c) All boards, commissions or committees of the City must keep and maintain minutes of any proceedings held and must submit a written report of such proceedings to the City Council no more than three weeks following each meeting.
- (d) No City officer or employee nor any person who holds a compensated appointive position with the City may be appointed to any board, commission or committee created or established by this Charter other than in an advisory capacity.
- (e) Any member of a board, commission or committee who is absent from three consecutive regular meetings, or 25% of regularly scheduled meetings during the 12-month period immediately preceding and including the absence in question, without explanation acceptable to a majority of the other members, must forfeit his or her position on the board, commission, or committee.

ARTICLE 9. PLANNING & ZONING COMMISSION

§ 9.01. Organization.

- (a) There is hereby established a Planning & Zoning Commission consisting of seven members appointed by the City Council to staggered terms of two years.
- (b) The Commission members must be qualified City voters.
- (c) No member may serve on the Commission for more than three completed consecutive terms, exclusive of any unexpired term to which the member may have been appointed to fill due to a vacancy on the Commission. Any vacancy occurring during the unexpired term of a member may be filled by the City Council for the remainder of the unexpired term. In July of each year, or during the Commission's next meeting after July if the Commission does not meet in July, the Commission must elect from its members a Chairman, Vice Chairman, and Secretary to serve for one year beginning in that month. Members of the Commission may be removed, without cause, by an affirmative vote of a majority of the full membership of the City Council.
- (d) The Commission must meet at least once a month. If, however, there is no required business before the Commission during a given month, then the Commission may cancel or refrain from scheduling a meeting during that month. The Commission must keep minutes of its proceedings which must be of public record. Minutes will be recorded by the Commission Secretary. The Commission serves without compensation.
- (e) Four voting Commission members constitute a quorum for the purpose of transaction of business. No action or recommendation of the Commission, except as specifically provided in this Charter, is valid or binding unless adopted by the affirmative vote of a majority of the Commission members present.

§ 9.02. Duties and Powers.

- (a) The Commission is responsible to and acts as an advisory board to the City Council. The Commission has the duty to:
 - (1) review all current and proposed ordinances and amendments pertaining to planning and zoning and make recommendations to the City Council for action to be taken;
 - (2) make proposals to the City Council to amend, extend and add to the Comprehensive Plan for the physical development of the City;
 - (3) keep public records of its resolutions, findings and determinations; and

- (4) review plats and zoning requests and make recommendations to the City Council for approval or disapproval of same.
- (b) The Commission has full power to:
 - (1) exercise the authority of the Commission as provided by state law, this Charter and City ordinances;
 - (2) make reports and recommendations relating to the Comprehensive Plan and development of the City; and
 - (3) approve plats, if it has been given that authority by the City Council.
 - (c) A vote of three-fourths of the Council Members present, or four votes, whichever is greater, is required to overrule a recommendation of the Commission that a proposed zoning amendment, supplement, or change be denied.

§ 9.03. Procedure.

- (a) Each August, all rules and regulations adopted by the Commission must be forwarded in writing to the City Manager who must submit them to the City Council with the City Manager's recommendations. The City Council may amend, adopt or reject any such rules or regulations. If any rules or regulations should be rejected, the Commission may modify them and submit such modified rules and recommendations to the City Council.
- (b) Should any person on the Commission have a conflict of interest, under any state law or City ordinances regulating conflicts of interest of municipal officers, with an agenda item then before the Commission, he or she must openly declare same before discussion proceeds, and is then prohibited from discussing or voting on, and is not considered as present and voting for the purposes of the tally.
- (c) Should any person on the Commission choose to abstain from voting on any question before the Commission, where no conflict of interest exists, the person's vote must be recorded as a negative vote in the official minutes of the meeting.

§ 9.04. The Comprehensive Plan: Procedure and Legal Effect.

- (a) The Comprehensive Plan must include, but not be limited to, the Future Land Use Plan, Thoroughfare Use Plan, and Parks and Open Space Plan. The existing Comprehensive Plan for the physical development of the City contains recommendations for the growth, development and beautification of the City and its extraterritorial jurisdiction. Additions to and amendments of the Comprehensive Plan must be by ordinance or resolution, but before any such revision, the Commission must hold at least one public hearing on the proposed action.
- (b) A copy of the proposed revisions to the Comprehensive Plan must be forwarded to the City Manager who must submit the proposal to the City Council, together with the City Manager's recommendations, if any. The City Council, after a public hearing, may adopt or reject such proposed revision or any part of it as submitted within 60 days following its submission by the City Manager. If all or part of the proposed revisions are rejected by the City Council, the City Council may request the Commission to make other modifications and again forward it to the City Manager for submission to the City Council.
- (c) Following the adoption by the City Council of the Comprehensive Plan, and any revisions thereto, it must serve as a guide to all future City Council action concerning land use and development regulations and expenditures for capital improvements. Any proposal which deviates from the Comprehensive Plan is not authorized until and unless the location and

extent of the deviation has been submitted to and approved by the Commission. In case of denial, the Commission must communicate its reasons to the City Council, which has the power to overrule such denial with a vote of the majority of the Council Members present, and upon such overruling, the City Council or the appropriate office, department or agency has authority to proceed.

§ 9.05. Board of Adjustment.

The City Council must create and establish or maintain a board of adjustment. The City Council must, by ordinance, provide standards and procedures for such board to hear and determine appeals of administrative decisions, petition for variances in the case of peculiar and unusual circumstances which would prevent the reasonable use of land and such other matters as may be required by the City Council or by law. Appointment and removal of members of the board of adjustment must be in accordance with the provisions of Article 8, Sec. 8.01(b) of this Charter and state law.

ARTICLE 10. UTILITY AND PUBLIC SERVICE FRANCHISES AND LICENSES

§ 10.01. Authority.

The City has the power to buy, own, sell, construct, lease, maintain, operate or regulate public services and utilities and to manufacture, distribute and sell the output of such services and utility operations. The City may not supply any utilities service outside the City limits, except by a written contract. The City has such regulatory and other power granted under state law.

§ 10.02. Ordinance Granting Franchise.

No franchise may be granted for a term of more than 20 years from the date of the grant, renewal or extension of any franchise.

§ 10.03. Transfer of Franchise.

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

§ 10.04. Franchise Value Not to be Allowed.

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

§ 10.05. Right of Regulation.

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

- (1) repeal the franchise by ordinance for failure to begin construction or operation within the time prescribed, or for failure to comply with terms of the franchise;
- (2) require all extensions of service within the City limits to become part of the aggregate property of the service and operate subject to all obligations and reserved rights contained in this Charter, with any such extension being considered part of the original grant and terminable at the same time and under the same conditions as the original grant;
- (3) require expansion and extension of facilities and services and require maintenance of existing facilities to provide adequate service at the highest level of efficiency;
- (4) require reasonable standards of service and quality of product and prevent rate discrimination;
- (5) impose reasonable regulations and restrictions to insure the safety and welfare of the public;
- (6) examine and audit accounts and records and require annual reports on local operations of the public service or utility;
- (7) require the franchisee to restore, at franchisee's expense, all public or private property to a condition as good as or better than before disturbed by the franchisee for construction, repair or removal;
- (8) require the franchisee to furnish to the City, from time to time within a reasonable time following request of the City, at franchisee's expense a general map outlining current location, character, size, length, depth, height and terminal of all facilities over and under property within the City and its extraterritorial jurisdiction; and
- (9) require compensation, rent or franchise fees to be paid to the City as may be permitted by state law.

§ 10.06. Regulation of Rates.

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

§ 10.07. Licenses.

The City has the power to license, levy and collect fees in order to license any lawful business, occupation or calling subject to control under the police powers of the State of Texas or for any other purpose not contrary to state or federal law.

ARTICLE 11. GENERAL PROVISIONS

§ 11.01. Public Records.

All records of the City are open to inspection to the extent required by law.

§ 11.02. Official Newspaper.

The City Council must declare an official newspaper of general circulation in the City. All ordinances, captions, notices, and other matters required by this Charter, City ordinance, or state or federal law to be published must be published in the official newspaper. Notwithstanding the foregoing and to the extent that state law provides for an applicable alternate method for publication, the City may forgo newspaper publication and publish the ordinance, caption, notice, or other matter in accordance with the applicable state law.

(Ordinance 764-2018, sec. 2.10 (prop. E), adopted 2/13/18, approved at election of 5/5/18)

§ 11.03. Oaths.

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

§ 11.04. Severability.

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

§ 11.05. Wording Interpretation.

The gender of the wording throughout this Charter is meant to encompass both male and female. All singular words include the plural and all plural words include the singular. Use of the term “state law” means the common law, statutes and Constitution of the State of Texas, and any state-agency regulations having the force of law, all as enacted including any amendments. Use of the term “federal law” means the common law, statutes and Constitution of the United States and any federal-agency regulations having the force of law, all as enacted including any amendments. Whenever the use of the terms “state law” or “federal law” could be interpreted to have a limiting effect on any municipal home-rule power—or any power conferred by this Charter—those terms mean exclusively state law or federal law that clearly preempt municipal home-rule powers. The use of the word “City” in this Charter means the City of Anna, Texas, and the use of the word “Charter” means this Home-Rule Charter.

§ 11.06. Amendment of Charter.

Amendments to this Charter may be framed and submitted to the qualified voters of the City in the manner provided by the Constitution and the laws of the State of Texas, and also upon petition by five percent of the qualified voters or 20,000 qualified voters, whichever is less; but, no more often than once every two years, as provided by state law.

§ 11.07. Charter Review Commission.

- (a) The City Council must appoint a Charter Review Commission at least once every six years. The Charter Review Commission must consist of at least ten citizens of the City who must:
 - (1) inquire into the operation of the City government under the Charter and determine whether any provisions require revision (to this end, public hearings may be held and the Commission may compel the attendance of any officer or employee of the City and require submission of any City records);
 - (2) propose any recommendations it deems desirable to insure compliance with the Charter of the City government; and
 - (3) report its findings and present its recommendations to the City Council.
- (b) The City Council must receive and have published in the official newspaper of the City a comprehensive summary of the report presented by the Commission, must consider any recommendations made, and may order any amendments suggested to be submitted to the voters of the City in the manner provided by state law as now written or amended. Notwithstanding the foregoing and to the extent state law provides for an applicable alternate method for publication, the City may forgo newspaper publication and publish the comprehensive summary in accordance with the applicable state law.
- (c) The term of office of the Commission must be for not more than six months, at the end of which time a report must be presented to the City Council and all records of proceedings of the Commission must be filed with the City Secretary and become a public record.

(Ordinance 764-2018, sec. 2.11 (prop. E), adopted 2/13/18, approved at election of 5/5/18)

§ 11.08. Potential Alternative Method of Publication.

Notwithstanding any other provision of this Charter and to the extent state law provides for an applicable alternate method for publication that applies to anything required under this Charter to be published in a newspaper, the City may forgo newspaper publication and publish in accordance with the applicable state law.

(Ordinance 764-2018, sec. 2.12 (prop. E), adopted 2/13/18, approved at election of 5/5/18)

ARTICLE 12. LEGAL PROVISIONS

§ 12.01. Assignment, Execution and Garnishment.

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

- (b) The City is not obligated to recognize any assignment of wages or funds by its employees, agents or contractors, except as provided by state or federal law.

§ 12.02. Notice of Claim.

- (a) The City is entitled to receive written notice of any claim against it under the Texas Tort Claims Act not later than 90 days after the day that the incident giving rise to the claim occurred.
- (b) The notice must be a written, signed statement made under oath and filed with the City Secretary. The notice must describe:
 - (1) the damage or injury claimed;
 - (2) the condition(s) causing the injury;
 - (3) the time and place of the incident;
 - (4) a detailed description of the incident; and
 - (5) a list of witnesses to the incident.

§ 12.03. Power to Settle Claims.

The City Council has the power to compromise and settle any and all claims and lawsuits of every kind and character, in favor of, or against, the City, including but not limited to suits by the City to recover delinquent taxes.

§ 12.04. Service of Process Against the City.

All legal process against the City must be served only upon either the City Secretary or the City Manager.

§ 12.05. Judicial Notice.

This Charter is a public act, may be read or received into evidence without pleading or proof, and judicial notice of its contents must be taken in all courts and places.

§ 12.06. Pending Matters.

All ordinances, resolutions, rights, claims, actions, orders, contracts and legal or administrative proceedings remain in effect except as modified under this Charter and in each case are to be maintained, carried on or dealt with by the City department, office or agency appropriate under this Charter.

§ 12.07. Property Not Exempt From Special Assessments.

No property of any kind—except property of the City—is exempt in any way from any of the special taxes, charges, levies and assessments that are authorized or permitted by this Charter, for local improvements or for the public welfare.

§ 12.08. City Council May Require Bonds.

In addition to any provisions in this Charter, the City Council may require any City official, department director, or City employee, before entering upon his or her duties, to execute a good and sufficient bond with a surety company doing business in the State of Texas and approved by the City Council. The premium of such bond must be paid by the City.

§ 12.09. Disaster Clause.

In case of disaster when a legal quorum of the City Council cannot otherwise be assembled due to multiple disaster-related absences, deaths, or injuries, the surviving persons of the City Council, or highest surviving City official if no elected official remains, must within 24 hours of such disaster, request the highest surviving officers of the local Chamber of Commerce and the Board of Trustees of the local school district, and the County Judge of Collin County to appoint a commission to act during the emergency and call a City election within 15 days of such disaster, or as provided in the Texas Election Code, for election of a required quorum, if for good reasons it is known a quorum of the present City Council will never again meet.

§ 12.10. No Waiver of Immunities.

No provision of this Charter is a waiver of sovereign immunity from suit or liability, and no provision of this Charter is a waiver of any public-official or public-employee immunity. The City expressly retains all immunities provided to municipalities and their officials, employees and volunteers as those immunities now exist or may exist in accordance with state and federal law.

ARTICLE 13. TRANSITIONAL PROVISIONS

§ 13.01. Effective Date.

This Charter and any amendments are effective immediately following adoption by the voters, as prescribed by state law.

§ 13.02. Continuation of Elective Offices.

Upon adoption of this Charter, the present persons filling elective offices on the City Council will continue to fill those offices for the terms for which they were elected. Persons who, on the date this Charter is adopted, are filling appointive positions with the City that are retained under this Charter, may continue to fill these positions for the term for which they were appointed, unless removed by the City Council or by other means provided in this Charter.

§ 13.03. Continuation of Operation.

With the exception of City ordinances or resolutions that directly conflict with this Charter, all City ordinances, bonds resolutions, rules and regulations in force on the effective date of this Charter remain in force until altered, amended, or repealed by the City Council, and all rights of the City under existing franchises and contracts are preserved in full force and effect.

§ 13.04. Officers and Employees.

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

ARTICLE 14. NEPOTISM, PROHIBITIONS AND PENALTIES

§ 14.01. Nepotism.

No person related within the second degree by affinity or within the third degree by consanguinity to the Mayor or any Council Member or the City Manager may be employed by or contracted with for the City. This does not apply to:

- (a) any person employed by the City before the person related in the above degree files to run for elective office or is nominated for an appointment, or
- (b) any person who is a seasonal employee or intern of the City.

§ 14.02. Equality of Rights.

Equality of rights under state and federal law must not be denied or abridged with respect to appointment to or removal from any position.

§ 14.03. Wrongful Influence.

No person who seeks appointment or promotion with respect to any City position may, 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 or promotion.

§ 14.04. Wrongful Interference.

No person may willfully make any false statement, certificate, mark, rating or report in regard to any test, certification or appointment or attempt to commit any fraud preventing the impartial execution of the personnel provisions, rules and regulations of this Charter.

§ 14.05. Employee's Political Activities.

No person who holds any compensated non-elective City position may make, solicit or receive any contribution for any candidate for public office in the City, or take part in the management, affairs or political campaign of such candidate. Such person may exercise his or her rights as a citizen to express his or her opinion and cast his or her vote.

§ 14.06. Penalties.

Any person who willfully engages in and is found in violation of any of the activities prohibited in Sections **14.01**, **14.02**, **14.03**, **14.04** or **14.05** of this Article is ineligible for appointment or election to a position in the City for a period of ten years from that time. If the person is an officer or employee of the City at the time of the violation, he or she must immediately forfeit his or her office or position, if found in violation.

(Ordinance 764-2018, sec. 2.4 (prop. C), sec. 2.5 (prop. D), adopted 2/13/18, approved at election of 5/5/18)

§ 14.07. Indebtedness to City.

No person who, after notice of any delinquency, is in arrears in the payment of taxes or any other liabilities due the City, is qualified to hold an appointive or compensative position with the City.

§ 14.08. Conflict of Interest.

- (a) No officer, whether elected or appointed, or any employee, whether full or part-time, of the City may have a substantial financial interest, direct or indirect, in any contract, other than employment contracts, with the City; or have a substantial financial interest, direct or indirect, in the sale to the City of any land, materials, supplies or services, except on behalf of the City as an officer or employee, except as allowed by state law.
- (b) Any willful violation of this Section constitutes malfeasance in office and any officer or employee found guilty of malfeasance in office must immediately forfeit his or her office or position. Any violation of this Section with the knowledge, express or implied, of the person or the corporation contracting with the governing body of the City renders the contract involved voidable by the City Manager or the City Council.

§ 14.09. No Officer or Employee to Accept Gifts, Etc.

- (a) No officer or employee of the City may:
 - (1) accept or solicit any gift, favor, or service that might reasonably tend to influence the officer or employee in the discharge of official duties or that the officer or employee knows or should know is being offered with the intent to influence the officer's or employee's official conduct;
 - (2) accept other employment or engage in a business or professional activity that the officer or employee might reasonably expect would require or induce the officer or employee to disclose confidential information acquired by reason of the official position;
 - (3) accept other employment or compensation that could reasonably be expected to impair the officer's or employee's independence of judgment in the performance of the officer's or employee's official duties;
 - (4) make personal investments that could reasonably be expected to create a substantial conflict between the officer's or employee's private interest and the public interest; or
 - (5) intentionally or knowingly solicit, accept, or agree to accept any benefit for having exercised the officer's or employee's official powers or performed the officer's or employee's official duties in favor of another.
- (b) Except as prohibited in this Section, no officer or employee is prohibited from:
 - (1) attending social functions, ground breakings, or civic events pertinent to the public relations and operations of the City;
 - (2) exchanging gifts with his or her family and relatives;
 - (3) receiving campaign contributions as provided for in the Texas Election Code;

- (4) exchanging gifts at church functions or City parties or functions where only City officers and employees and their families are invited or attend; or
 - (5) exchanging gifts or receiving a bonus from his or her place of full-time employment.
- (c) Any officer or employee of the City who violates the provisions of this Section is guilty of a misdemeanor and may be punished by any fine that may be prescribed by ordinance for this offense, and may immediately be removed from office or employment.

§ 14.10. No Sales of Liquor or Beer in Residential Areas.

- (a) No person, entity or organization may sell liquor in any residential section of the City.
- (b) No person, entity or organization may sell beer in any residential area of the City.