



Home Rule Charter

City of Lucas, Texas

**An election on the adoption of this Home Rule Charter was held on
Saturday, May 10, 2008
at the Lucas City Annex
185 Country Club Road, Lucas, TX 75002
972-727-8999 (p), 972-727-0091 (f), <http://www.lucastexas.us>**

Ordinance # 2008-05-00612

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**HOME RULE CHARTER
FOR
THE CITY OF LUCAS, TEXAS**

PREAMBLE

We, the citizens of Lucas, Texas, in order to establish a Home Rule municipal government, provide for the progress of our City, secure fully the benefits of local self-government, promote economic and cultural prosperity, provide for the common welfare, insure health and safety, support municipal cooperation, and encourage all citizens to participate in the process of self-governing, hereby adopt this Home Rule Charter, as an expression of our city's purpose and in accordance with the statutes of the State of Texas; and we declare the City of Lucas (hereinafter referred to as "City"), in Collin County, to be a political subdivision of the State of Texas with all powers, rights, privileges, authorities, duties and immunities of local self-government as are provided and limited in this Charter.

ARTICLE I

Form of Government and Boundaries

SECTION 1.01 Form of Government

- (1) The municipal government provided by this Charter shall be known as the "Council - Manager" form of government. Pursuant to its provisions and subject only to the limitations imposed by the Constitution of the United States, the Texas Constitution, the statutes of the State of Texas, and this Charter, all powers of the City of Lucas shall be vested in an elected City Council which shall enact local legislation, adopt budgets, determine policies, and provide for the adoption and execution of the laws of the City as provided in this Charter.
- (2) The City Council shall appoint a City Manager who shall be responsible to the City Council for the management and administration of the offices of the City, except as otherwise provided by this Charter.

SECTION 1.02 Boundaries

The boundaries of the City of Lucas shall be the same as have been heretofore established and now exist as recorded on the official City map as provided by this Charter. The citizens of the City of Lucas residing within its corporate limits, as heretofore or hereafter established, are hereby constituted and shall continue to be a municipal body politic and corporate, in perpetuity, under the name of the "City of Lucas", in the State of Texas, hereinafter referred to as the "State", with such powers, privileges, rights, duties, authorities, and immunities, as are herein provided.

SECTION 1.03 Extension and Alteration of Boundaries

- (1) The boundaries of the City of Lucas may be enlarged and extended by the annexation of additional territory or decreased by disannexation in any manner and by any procedure now or hereafter provided by law. The City shall, hereafter, by ordinance, amend the official map of the boundaries to include such properties so annexed or disannexed.
- (2) Upon completion of the annexation procedure, the annexed territory shall become a part of the City, and said land and its residents shall be entitled to all the rights and privileges provided by the City for its citizens and shall be bound by the acts, ordinances, resolutions and regulations of the City.
- (3) If, after the date of annexation, there exists land within and adjacent to the corporate limits of the City of Lucas not receiving governmental or proprietary services of the city within the time required by the service plan or Chapter 43 of Texas Local Government Code, or its successor statute, then a majority of the qualified voters residing within this particular area may petition the city council to disannex the area as provided in Chapter 43 of Texas Local Government Code, or its successor statute.

ARTICLE II

Powers of the City

SECTION 2.01 Powers of the City

- (1) The City is made a body politic and corporate by the legal adoption of this Charter. The City shall have all the powers vested in home rule municipal corporations except as may be limited by the Constitution of the United States, the Texas Constitution, and the statutes of the State.
- (2) The enumeration of particular powers by the Charter shall not be held or deemed to be exclusive, but, in addition to the powers enumerated therein or implied thereby, or appropriate to exercise of such powers, it is intended that the City shall have, and may exercise all powers except as limited by this Charter. All powers of the City, whether expressed or implied, shall be exercised as prescribed by this Charter or, if not prescribed therein, then as provided by ordinance or resolution of the City Council.

SECTION 2.02 Legislative Authority

The City by and through its City Council shall have the power to enact and enforce all ordinances and resolutions necessary to protect health, life and property; and to prevent and summarily abate and remove all nuisances; and preserve and enforce good government and order and security of the City and its inhabitants; and to enact and enforce all ordinances and resolutions on any and all subjects which shall be consistent with the provisions of this Charter.

SECTION 2.03 Municipal Court

- (1) Establishment -- The City shall have the power to create and establish a municipal court to be known as the Municipal Court of the City of Lucas, Texas. The Municipal Court shall have jurisdiction of all criminal cases arising under the ordinances of the City and concurrent jurisdiction with the Justice of the Peace of the precinct of which the City is or may be situated of all criminal cases arising under State law, where such offenses are committed either within the territorial limits of the City or in an area lying outside the corporate limits of the City in which area the City is authorized to exercise its police powers as set forth but not necessarily limited to the areas provided by State law and where the punishment is by fine only and the maximum of said fine does not exceed the maximum fine authorized to be imposed by municipal courts under State law or any amendments thereto. The Municipal Court shall have all the powers and duties as are now, or as may be prescribed by the laws of the State of Texas.
- (2) Additional Courts -- The City shall have the power to create and establish additional municipal courts, and to appoint one or more judges of each municipal court, whether one or more, each of whom shall be a magistrate and each judge of a municipal court, now existing or hereinafter created, shall be appointed by the City Council, for a term of 2 years; and the City shall have the power to create and establish additional courts as may from time to time be authorized by the legislature of the State.
- (3) Rules -- All complaints, prosecutions, the service of process, commitment of those convicted of offenses, the collection and payment of fines, the attendance and service of witnesses and juries, punishment for contempt, bail and the taking of bonds shall be governed by the provisions of the rules established by the Supreme Court of Texas applicable to municipal courts.
- (4) Appeals -- Appeals from convictions in the Municipal Court shall lie to the county criminal court, and such appeals shall be governed by the same rules of practice and procedure as are provided by State law in cases of appeals from the justice court to said county criminal court, as far as said rules are applicable.
- (5) Clerk -- The Clerk of Municipal Court and such deputies as shall be appointed by the City Manager, shall have the power to administer oaths and affidavits, make certificates, affix the seal of the Municipal Court thereto; and generally do and perform any and all acts usual and necessary by clerks of courts in issuing processes of courts and conducting the business thereof.
- (6) Expense and Fines -- All special expense and fines imposed by the Municipal Court(s) shall be paid into the City general fund for the use and benefit of the City, as may be consistent with present and future laws.

SECTION 2.04 Enumerated Governmental Powers

- (1) Real Estate -- The City has full authority as a home rule municipal corporation and as such it has authority to acquire and own real estate in fee simple title, or held by lease, sufferance, easement or otherwise, all public buildings and improvements, and structure or whatever type and character, and any and all property, whether real or personal, of whatever kind, character or description now owned or controlled by the City shall vest in, inure to, remain and be the property of said City under this Charter. In the event that the City shall grant a lease for any real property in excess of twenty (20) years, the City Council shall hold a public hearing.
- (2) Public Rights-Of-Way -- The City shall have the power to lay out, establish, open, alter, widen, lower, extend, grade, construct, abandon and improve streets, alleys, sidewalks, squares, parks, public places, bridges and public thoroughfares or rights-of-way; and to otherwise regulate and control the use thereof for any and all public purposes all obstructions, telegraph, telephone or other poles, carrying electric wires or signs, and all showcases and encroachments of every nature and character upon any said street, right-of-way and sidewalk and to vacate and close public ways; and the City shall have the power to make any improvements as provided by State law.
- (3) Regulation of Vehicles -- The City Council shall have the power by ordinance or otherwise to license and control the operation of any vehicle using public streets or rights-of-way.
- (4) Regulation of Public Utilities -- The City shall have the power to buy, own, sell, construct, lease, maintain, operate and regulate public services and utilities; and to manufacture, distribute and sell the output of such services and utility operations. The City shall not supply any utilities service outside the City limits, except by written contract. The City shall have such regulatory and other powers as may or hereafter be granted under State law; and, by ordinance, to determine, fix and regulate the charges, fares or rates of compensation to be charged by any person, firm or corporation enjoying a franchise for utilities in the City.
- (5) Operation of Public Services or Utilities by City -- The City shall have the power to build, construct, purchase, own, lease, maintain and operate, inside or outside the City limits, light and power systems, water systems, sanitary wastewater disposal, natural gas, parks, drainage, municipal solid waste disposal and any other public service or utility in this section, as deemed in the public interest. The City shall not enter into an agreement for the construction, purchase, lease or operation of a sanitary wastewater disposal system until after two separate public hearings being held on two separate dates with such approval requiring five (5) affirmative votes of the City Council prior to the May 2009 election. Effective after the May 2009 election and thereafter, an affirmative vote by five (5) members of the City Council shall be required for such approval. Such notice for said public hearings shall state with specificity the type of sanitary wastewater disposal system (ex: sanitary wastewater disposal system) and the proposed location (common address) of the proposed sanitary wastewater disposal system.

- (6) Purchase Utility Services -- The City shall have the power to purchase electricity, gas, oil or any other article or service essential to protect the health, safety and welfare of its inhabitants on such terms as the City Council may deem proper.
- (7) Transportation Facilities -- The City may acquire, maintain, operate and regulate any and all modes of transportation facilities or services; and, use public funds for such purposes, and issue such debt or funds as permitted by this Charter.
- (8) Parks and Recreation -- The City may acquire, maintain, operate and regulate within its exclusive control all City parks and recreation facilities whether inside or outside the City limits.
- (9) Underground Utilities -- The City may require the placing under the surface of the ground all wires or any above ground construction of any public utilities inside the limits of the City under such regulation as may be prescribed by the City Council from time to time.
- (10) Fire Prevention -- The City shall provide by ordinance for the establishment and designation of fire limits and prescribe the kind and character of buildings or structures or improvements to be erected therein; provide for the erection of fire resistant buildings within certain limits; and provide for the condemnation of dangerous structures of buildings or dilapidated buildings or buildings calculated to increase the fire hazard, and the manner of their removal or destruction.
- (11) Public Safety -- The City has the power and may by ordinance establish and maintain a police and fire department(s) by whatever name known and to prescribe the duties of the members of each such department(s) and regulate their conduct and their salary ranges. The head of the police department of the City shall be known and designated as "Chief of Police", and the head of the fire department of the City shall be known and designated as "Fire Chief". The City Council shall provide by ordinance staff requirements for each such department.
- (12) Contracts -- The City shall have the power to enter into contracts for goods and services. Such authority is subject to the limitation regarding competitive bidding as provided by State law or as may otherwise be limited by this Charter. The City hereby adopts the requirements and exceptions concerning the provisions of State law regarding goods and acquisition.
- (13) Land Use -- The City shall have full power and authority to zone and regulate the subdivision of land in the City and to pass all necessary ordinances, rules and regulations governing the same under and by virtue of the authority given to cities and legislative bodies in accordance with State law. The City will maintain an official city map describing the official city limits as required by State law.

- (14) Franchises -- The City shall have full power and authority to franchise as provided by this Charter.
- (15) Occupations -- The City shall have the authority to license or register such occupations or business as may be established by ordinance, except as may be in conflict with State law.

SECTION 2.05 Health Regulations

- (1) Regulations -- The City shall have the power to provide for the health, safety and welfare of its inhabitants by establishing all necessary rules and regulations protecting the health, safety and welfare of the City.
 - (A) The City Council shall have the power by ordinance or otherwise to regulate, license and inspect public or private persons, firms, institutions, corporations, common carriers, or associations operating, managing, or conducting any activities including, but not limited to, any of the following:
 - 1. place of public accommodation, hotel or any other public sleeping or eating place;
 - 2. place or vehicle where food or drink of any kind is manufactured, prepared, stored, packed, served, sold or otherwise handled within the City or limits of said City;
 - 3. any and all health conditions; and
 - 4. sanitary wastewater disposal systems.
 - (B) The City shall have the power to define all nuisances and prohibit the same within the City and outside the City limits for a distance in accordance with State law; to have power to police in all parks or grounds, street right-of-way owned by the City or under lease to the City and lying both outside and inside said City; to prohibit the pollution of air or waterways, walkways of any kind, water deposit and reservoir, whether above or below the ground, which may constitute the source of storage of water supply, and to provide for policing the same, as well as to provide for the protection of any watersheds and the policing of the same.
- (2) Penalties or Fines -- The City shall have the power to provide for the fixing of penalties for failure of any person, firm, corporation or association to comply with any such rules and regulations so prescribed by the City Council under the provisions of this section; it being the intention to vest in the City Council not only the powers expressly enumerated in this section but all other powers reasonably necessary for the protection of the health of the City and its citizens.

ARTICLE III

City Council

SECTION 3.01 Governing Body

The governing body of the City shall be known as the "City Council" and shall consist of a Mayor and six (6) Councilmembers.

SECTION 3.02 Elected Officers

- (1) Members -- The members of the City Council of the City, which include the Mayor and six (6) Councilmembers, shall be the only elected officers of the City, and they shall be elected and hold office and be compensated as provided herein.
- (2) Terms -- The Mayor and Councilmembers shall be elected by the qualified voters of the entire City for a term of three (3) years, or until a successor has been duly elected and qualified, but each Councilmember shall be elected to and occupy an at-large, non-geographical seat on the Council, such seats being numbered 1, 2, 3, 4, 5 and 6, respectively. The seats of the Councilmembers shall be designated on the official ballot as Councilmember Seats 1, 2, 3, 4, 5 and 6.
- (3) Transition Provisions -- To establish staggered terms for the Mayor and Councilmembers, the following transition provisions shall be applied:
 - (a) Beginning with the May 2009 election, the Mayor and Councilmember for Seat 3 will be elected for a three (3) year term. Councilmember for Seat 1 and Seat 2 will be elected for a two (2) year term.
 - (b) In May 2010, Councilmember for Seat 5 and Seat 6 will be elected for a three (3) year term. Councilmember for Seat 4 will be elected for a two (2) year term.
 - (c) In May 2011, Councilmember for Seat 1 and Seat 2 will be elected for a three (3) year term.
 - (d) In May 2012, the Mayor and Councilmember for Seat 3 and Seat 4 will be elected for a three (3) year term.
 - (e) In May 2013, Councilmember for Seat 5 and Seat 6 will be elected for a three year term.
- (4) Current Terms -- The current terms of Councilmembers in office when this Section takes effect shall not be shortened by the transition provision in (3) above.

- (5) Pattern – Beginning in 2012, a pattern of electing the Mayor and a number of Councilmembers on a “3-2-2” annual rotation basis shall be in effect and continue thereafter.

SECTION 3.03 Candidacy of the Mayor and Councilmembers

- (1) Qualification -- No person shall be a candidate for the office of Mayor or Councilmember unless such candidate is a qualified voter of the City and shall have resided in the City for not less than one (1) year preceding the day of election and should not be in arrears in the payment of any City taxes.
- (2) Declaration -- Candidates of the office of Mayor or Councilmember may have their names printed upon the official ballot being nominated for such office by written application. The order of the names of the candidates on the ballot shall be determined by lot in a public drawing to be held under the supervision of the City Secretary in accordance with the Texas Election Code.
- (3) Filing -- An application stating a declaration of candidacy shall be filed with the City Secretary or a duly appointed designee, who shall affix the date and time stamp on the ballot application, during regular office hours not earlier than the 75th day before the day of the election as provided by State law. The candidate’s ballot application must be filed not later than 5 p.m. on the date provided in accordance with State law. The City Hall shall not remain open to the general public after such time to accept ballot applications.

SECTION 3.04 Election

- (1) All candidates running for Mayor or Councilmember seat, respectively, shall be elected by a majority vote of all votes cast in the regular municipal election for the office which the candidate seeks election.
- (2) In the event that a candidate does not receive a majority of votes, it shall be the duty of the City Council to order a runoff election for every Councilmember seat or Mayor to which no one was elected. Such runoff election shall be held in accordance with State law.
- (3) Should any person who was a candidate at the regular municipal election and who is entitled to become a candidate at the runoff election die, refuse or otherwise be unable to appear on the runoff election ballot, the candidate for such office standing next highest in the computation of vote for that office shall succeed to the rights of such candidate who failed to appear on the ballot at said runoff election. This method for selecting alternate runoff candidates shall be employed until there are two (2) candidates for each office in each runoff election and should there be only one candidate for office after the conclusion of this process, that candidate shall be declared the winner. However, if at the date of the election, there is no runoff candidate left from those who sought to be elected to that seat or Mayor in the regular election, the City Council shall declare no one elected to such seat or Mayor and shall call a Special Election on such date provided by State law to elect a person

to such seat or Mayor; and said Special Election shall be conducted pursuant to State law prescribing special elections to fill vacancies in municipal offices.

SECTION 3.05 Judge of Election

- (1) The City Council shall be the judge of the qualifications of its own members and of the Mayor, subject to review of the courts in case of an election contest. The City Council shall, in accordance with State law, canvass the returns for any election and declare the results of such election. Should a runoff election be necessary, such election shall be held in accordance with the Texas Election Code and other applicable statutes.
- (2) In the event of a tie vote between candidates, the respective candidates so tied may agree to cast lots to determine who shall be the duly elected officer. In the event such tied candidates do not agree to determine the results of the election by casting lots, a run-off election shall be called and the respective candidates so tied shall cast lots to determine the order their names shall appear on the ballot for such run-off elections. The candidate receiving the highest number of votes of the entire City cast at said run-off election shall be elected to such office.

SECTION 3.06 Date and Conduct of Election

The regular municipal election of the City Council shall be held on the uniform election day in May, in accordance with this Charter, and the same shall be conducted and the results canvassed and announced in accordance with the laws of the State regulating all municipal elections and in accordance with the ordinances adopted by the City Council for the conduct of elections.

SECTION 3.07 Qualifying of Officers

The Mayor, Councilmembers, and other officers appointed under this Charter shall qualify by taking the oath prescribed by the Texas Constitution and by executing such bond as may be required under the provisions of this Charter and the ordinances and resolutions of the City at the first meeting following the canvass.

SECTION 3.08 Candidates Holding Special Positions with the City

- (1) In the event any Councilmember shall become a candidate for office of Mayor or in the event the Mayor or any Councilmember shall become a candidate for election to any seat on the City Council other than the office the Mayor or Councilmember is presently holding, such candidate shall tender and attach to their ballot application a resignation from said office, which shall be effective as of the date of such election without any further act of acceptance.
- (2) In the event any member of any body appointed by the City Council shall become a candidate for the office of Mayor or Councilmember, such position on such board shall be considered vacated upon election and qualification.

- (3) Any City employee who shall become a candidate for the office of Mayor or Councilmember shall immediately forfeit such position of employment and such ballot application shall be accompanied by said employee's written resignation, the acceptance of which shall require no further act.

SECTION 3.09 City Council Vacancies and Attendance

- (1) In the event of a vacancy existing in the office of Mayor or any Councilmember from any cause whatsoever, the vacancy or vacancies occurring shall be filled by the qualified voters at an election within one hundred twenty (120) days after such occurs, as prescribed by State law. If the term of office or offices is or are unexpired, the number of members elected at such election shall serve in such office or offices for the remainder of the unexpired term of such office or offices following the date of the election.
- (2) Any member of the City Council remaining absent for three (3) consecutive regular meetings of the City Council, without first having obtained a leave of absence through City Council action at a regular meeting, such office may be declared vacated by a majority vote of all the remaining members of the City Council. Any member of the City Council remaining absent for six (6) consecutive regular meetings of the City Council shall be deemed to have forfeited such office through City Council action.
- (3) Any person elected to serve on the City Council, who, subsequent to taking office is convicted of a felony or a crime of moral turpitude shall automatically be deemed to have forfeited such office.
- (4) In case of disaster when a legal quorum of the City Council cannot be assembled due to multiple deaths or injuries, the surviving members of the City Council, or the highest surviving City official if no elected official remains, must, within twenty-four (24) hours of such disaster, or as soon as practicable, take such action as to ensure the basic health, safety and welfare of the citizens and undertake whatever action is necessary under the laws of the State to call for a special election. Until such election is held and the City Council qualified, the remaining members or highest ranking officer, if no elected official remains, shall only undertake those actions necessary to protect the basic health, safety and welfare of the citizens which such action may be subsequently ratified by the full City Council.

SECTION 3.10 Mayor Pro-Tem

- (1) At the first regular meeting after each regular election of the city council members and/or mayor, City Council shall select from among the Councilmembers a Mayor Pro-Tem to serve at the pleasure of the City Council.
- (2) The Mayor Pro-Tem shall act as Mayor during the disability or absence of the Mayor, and in this capacity shall have the rights conferred upon the Mayor.

- (3) During the disability or absence of the Mayor and the Mayor Pro-Tem, any Councilmember may be appointed by the remaining five (5) Council members to act as Mayor and in this capacity shall have the rights conferred upon the Mayor.

SECTION 3.11 Compensation for the Mayor and Councilmembers

- (1) The Mayor and Councilmembers may by ordinance establish reasonable compensation, but no increase in such compensation shall take effect until commencement of the terms of mayor and/or councilmember elected at the next regular election.
- (2) The City Council shall establish by ordinance the standards and policies concerning reimbursement of reasonable expenses incurred by the Mayor and Councilmembers in the performance of their official duties.

SECTION 3.12 Duties of Mayor

- (1) The Mayor shall preside at all meetings of the City Council and shall have full voting rights.
- (2) The Mayor shall perform such other duties consistent with the office as may be imposed by this Charter or the ordinances and resolutions of the City.
- (3) The Mayor shall sign all ordinances, resolutions, capital improvement contracts, conveyances made or entered into by the City, all bonds issued under the provisions of this Charter, and such other documents as authorized by the City Council.
- (4) The Mayor shall be recognized as the official head of the City for all ceremonial purposes.
- (5) The Mayor shall be recognized by the governor for the purpose of enforcing martial law. In time of danger or emergency, the Mayor may, in accordance with State law and with the consent of the Councilmembers, take command of the police and govern the City by proclamation and maintain order and enforce all laws.

SECTION 3.13 Duties of City Council

Except as otherwise provided by this Charter, all powers of the City and the determination of all matters of policy shall be vested in the City Council. Without limitation of the foregoing powers of the City Council, the City Council shall have the power to:

- (1) Fix the compensation of all appointive officers and employees.
- (2) Adopt the budget of the City.
- (3) Authorize the issuance of bonds by a bond ordinance.

- (4) By majority vote, inquire into the conduct of any office, department or agency of the City and make investigations as to municipal affairs. Nothing contained herein shall be construed to prohibit an inquiry into an operational issue.
- (5) Enact resolutions and ordinances.
- (6) The City Council shall adopt a periodic fiscal reporting policy, with such policy not providing for less than quarterly reporting.
- (7) To appoint members of the planning and zoning commission, the zoning board of adjustments and other such boards, committees, commissions and directors to corporations as may be authorized by State law. Any member appointed to such board, committee, commission or corporation shall have been a resident of the City of Lucas for a minimum of 6 (six) months at the time of their appointment.
- (8) Govern the affairs of the City in conformance with this Charter and the state and federal constitutions and laws, and to determine by majority vote the best and most appropriate method and manner of efficiently performing the functions and providing the services of the City, consistent with the council-city manager form of government; and, except as provided in this Charter with respect to certain departments that must be maintained in effect, the City Council may after considering the recommendation of the City Manager, create, change, merge, or abolish offices, departments or agencies of the City, and may contract for services by interlocal agreement or otherwise as it deems advisable to improve the services of the efficiency of government.

SECTION 3.14 Meetings of City Council

- (1) The City Council shall hold at least one (1) regular meeting each month and as many additional meetings as the City Council deems necessary to transact the business of the City. The City Council shall fix by ordinance the date and time of the regular meetings.
- (2) Special meetings of the City Council shall be held at the call of the Mayor or a majority of the Councilmembers upon provision of public notice in accordance with State law.
- (3) All meetings of the City Council, except those authorized by law to be closed to the public, shall be open to the public.

SECTION 3.15 Quorum of City Council and Minutes of City Council Meetings

- (1) A majority of the City Council shall constitute a quorum to do business, and, unless otherwise provided by law, the affirmative vote of a majority of a quorum shall be necessary to adopt any ordinance or resolution.
- (2) Minutes of all proceedings shall be kept, to which any citizen may have access at all reasonable times and which shall constitute one of the archives of the City. The vote on all ordinances and resolutions shall be recorded and entered in the minutes; and, every

ordinance or resolution, upon its final passage, shall be recorded in a book kept for that purpose and shall be authenticated by the signature of the presiding officer. The minutes of all meetings shall record the attendance of all members of the City Council present and those absent.

SECTION 3.16 Ordinances and Resolutions

- (1) Enactment -- Each proposed ordinance and resolution shall be introduced in written or printed form. Ordinances or resolutions may be passed at any regular or special meeting called in accordance with State law.
- (2) Captions -- Each ordinance and resolution shall contain a brief caption of the subject matter of the ordinance or resolution.
- (3) Publication -- A descriptive title or caption stating in summary the purpose of the ordinance and the penalty for violation thereof, of each ordinance imposing a penalty, fine or forfeiture, shall after passage be published in one issue of the official newspaper of the City and proof of such publication shall be made by the printer or publisher of such paper making affidavit before some officer authorized to administer oaths. Such affidavit shall be filed with the City Secretary and shall be prima facie evidence of such publication and promulgation of such ordinance so published; said ordinances shall take effect and be in full force and effect from and after the date of publication, unless otherwise expressly provided. Ordinances not required to be published shall take effect and be in force from and after the date of passage thereof unless otherwise provided.
- (4) Savings -- All ordinances and resolutions of the City now in existence and not inconsistent with provisions of this Charter shall remain in full force and effect until altered, amended or repealed by the City Council.
- (5) Pleading -- It shall be sufficient in all judicial proceedings to plead any ordinances of the City by caption without embodying the entire ordinance in the pleadings, and all pleaded ordinance(s) or codes shall be admitted as evidence in any suit and shall have the same force and effect as the original ordinances. Certified copies of the ordinances may also be used in evidence in lieu of original ordinances.
- (6) Codification -- The Code of Ordinances of the City shall be codified and shall be revised at least annually and kept up-to-date by causing any amendments to be published in the form of supplemental pages. An official copy of the Code shall be maintained in the office of the City Secretary for public examination.
- (7) Emergency -- The City Council shall have the authority to pass such emergency ordinances and resolutions as necessary to protect the health, safety and welfare of the City in accordance with State law.
- (7) Miscellaneous -- The City Council may adopt such other procedures that do not conflict with this Charter or State law.

SECTION 3.17 Official Newspaper

The City Council shall designate by resolution a newspaper of general circulation in the City as the official newspaper of the City as provided by State law.

SECTION 3.18 Influence of Appointments

Neither the City Council nor any of its members shall direct or request the appointment of any person to or such person's removal from any office under the control of the City Manager. In regard to administrative and executive duties under the City Manager, the City Council shall deal solely through the City Manager and neither the City Council nor any of its members thereof shall give orders to any subordinate of the City Manager, either publicly or privately. Any knowing violation of the foregoing provisions of this Charter by any member of the City Council shall constitute official misconduct and shall authorize the City Council by a vote of a majority of its membership to expel such offending member from the City Council if found guilty after a public hearing, and thereby create a vacancy in the seat held by such member.

SECTION 3.19 Public Comment

The opportunity for citizens of the City to provide public comment on any and all subjects regardless of the agenda shall be provided at each regular meeting. This opportunity shall be called "Citizens' Input" and shall begin prior to any vote at a regular meeting of the City Council. The City Council may provide reasonable regulations to implement this provision.

SECTION 3.20 Code of Ethics

The City Council by ordinance shall establish a Code of Ethics governing the City Council and all city employees which shall include at least the following: wrongful influence, wrongful interference, employees' political activities, penalties, conflict of interest, and acceptance of gifts.

ARTICLE IV

City Manager

SECTION 4.01 Appointment

The City Council by five (5) affirmative votes shall appoint a City Manager who shall be the chief executive officer of the City and shall be responsible to the City Council for the proper administration of the offices of the City, except as otherwise provided by this Charter. The City Manager shall be chosen by the City Council on the basis of executive and administrative training, experience and ability. Prior to the 2009 election, four (4) affirmative votes of the City Council are required to appoint a City Manager.

SECTION 4.02 Compensation

The City Manager shall receive a salary, benefits and compensation as set by the City Council.

SECTION 4.03 Duties

The duties of the City Manager shall include the following:

- (1) Provide that all laws and ordinances of the City are enforced.
- (2) Appoint or hire all employees of the City, except as otherwise provided in this Charter.
- (3) Suspend and remove, at will, employees, except as otherwise provided in this Charter.
- (4) Provide for the efficient administration and operation of all departments, under the City Manager's control including the maintenance of and public information request for all records thereof, except as otherwise provided in this Charter.
- (5) Prepare and recommend to the City Council an annual operating budget and capital improvement program, as provided by this Charter, and administer and execute the budget as adopted by the City Council.
- (6) Provide supervision and control over all departments and offices that are created by the City Council and employees appointed by the City Manager, except as otherwise provided in this Charter.
- (7) Attend all meetings of the City Council with the right to take part in the discussion.
- (8) Make recommendations to the City Council as the City Manager may deem necessary and expedient.
- (9) Provide written reports no less than quarterly of the current financial conditions and future needs of the City to be presented orally at an open meeting of the City Council, and make such recommendations concerning the affairs of the City, as the City Manager or the City Council deems desirable or necessary.
- (10) Perform such other duties as may be prescribed by the Charter or which may be required by ordinance or resolution of the City Council.

SECTION 4.04 Absence of City Manager

The City Manager may, by letter filed with the City Secretary, designate a qualified city employee to exercise the powers and perform the duties of City Manager during the City Manager's temporary absence. To perform the duties of the City Manager during the absence or disability exceeding thirty (30) days, the City Council may by resolution appoint an officer of the City to perform the duties of the City Manager until the City Manager shall return or such disability shall cease. In case of absence, disability, or illness exceeding thirty (30) days, where the duties of the City Manager could not be performed properly, the City Manager's salary may be continued at the discretion of the City Council.

SECTION 4.05 Removal

The City Manager shall be removed, with or without cause, by five (5) affirmative votes of the City Council. Prior to the 2009 election, four (4) affirmative votes of the City Council are required to remove the City Manager.

ARTICLE V

City Officers

SECTION 5.01 City Secretary

- (1) Appointment -- The City Council shall appoint the City Secretary, by at least five (5) affirmative votes of the City Council. The City Council shall consider the City Manager's recommendations regarding the appointment of the City Secretary. Prior to the 2009 election, four (4) affirmative votes of the City Council are required to appoint the City Secretary.
- (2) Duties -- The City Secretary shall:
 - (A) Give notice of all official public meetings of the City Council as consistent with this Charter and State law;
 - (B) Attend all public meetings and hearings of the City Council;
 - (C) Keep the minutes of the proceedings of all public meetings and hearings of the City Council as prescribed by the City Council consistent with applicable law;
 - (D) Act as custodian of all official records of the City Council;
 - (E) Hold and maintain the seal of the City and affix this seal to all appropriate documents;
 - (F) Authenticate and record all ordinances, resolutions and proclamations of the City by signature and seal;
 - (G) Perform other duties as may be required by the City Council;
 - (H) Shall conduct all municipal elections;
 - (I) Act as agent for the purposes of serving civil process;
 - (J) Assist the City Manger with the maintenance and public information request of all records as directed by the City Council;
 - (K) Prepare and recommend to the City Council the annual budget for the office and staff of the City Secretary; and
 - (L) Work with the City Manager in performing additional duties, as may be necessary, to assist in carrying out the day to day functions of the City.

- (3) Compensation -- The City Council shall fix the compensation, salary and benefits of the City Secretary in accordance with the City Secretary's experience, qualifications and performance.
- (4) Removal -- The City Secretary may be removed, with or without cause, by five (5) affirmative votes of the City Council. Prior to the 2009 election, four (4) affirmative votes of the City Council are required to remove the City Secretary.

SECTION 5.02 Municipal Judge

- (1) Appointment -- The City Council shall appoint by five (5) affirmative votes of the City Council such Municipal Judges of the Municipal Court as may be necessary, all of whom shall be competent, duly qualified attorneys licensed and practicing for at least two (2) years in the State. The Municipal Judge(s) shall be appointed by ordinance of the City Council and their salary may be fixed by ordinance or resolution. The Municipal Judge(s) shall be appointed for a term of two (2) years and may be appointed to additional consecutive terms. Prior to the 2009 election, four (4) affirmative votes of the City Council are required to appoint the Municipal Judge.
- (2) Duties -- The Municipal Judge shall:
 - (A) The Chief Judge of said Municipal Court shall have the power to punish for contempt to the same extent and under the same circumstances as the Justice of the Peace may punish for contempt of criminal cases.
 - (B) The Municipal Judge shall preside over any associate judge(s) who shall be a licensed attorney(s) in the State.
- (3) Compensation -- The Municipal Judge(s) shall receive compensation as may be determined by the City Council.
- (4) Removal -- The Municipal Judge shall be removed, with or without cause, by five (5) affirmative votes of the City Council. Prior to the 2009 election, four (4) affirmative votes of the City Council are required to remove the Municipal Judge.

SECTION 5.03 City Attorney

- (1) Appointment -- The City Council shall appoint by five (5) affirmative votes of the City Council a competent, duly qualified licensed and practicing attorney in the State who shall serve as the City Attorney. Prior to the 2009 election, four (4) affirmative votes of the City Council are required to appoint the City Attorney.
- (2) Duties --The City Attorney shall:
 - (A) Serve as the legal advisor to the City Council;
 - (B) Represent the City in litigation and legal proceedings as directed by the City Council;

- (C) Review and provide opinions as requested by the City Council on contracts, legal instruments, and ordinances of the City and other City business; and
 - (D) Serve as the legal advisor to the officers and their departments, as directed by the City Council.
- (3) Special Counsel -- The City Council shall have the right to retain special counsel at any time that it may deem necessary and appropriate to collect delinquent and ad valorem taxes and liens or for such purposes the City Council deems appropriate.
- (4) Compensation -- The City Attorney and Special Counsel shall receive compensation as may be determined by the City Council.
- (5) Additional Counsel --The City Attorney, with the approval of the City Council, may select additional attorneys to act for said City Attorney and the City in its representation and/or litigation.
- (6) Removal -- The City Attorney may be removed, with or without cause, by five (5) affirmative votes of the City Council. Prior to the 2009 election, four (4) affirmative votes of the City Council are required to remove the City Attorney.

SECTION 5.04 Official Bond of City Employees

The directors of all administrative departments whose duties include the handling of monies, and all employees whose duties include the handling of monies belonging to the City shall, before entering upon the duties of their office or employment, make bond in a responsible surety company, acceptable to the City Council for such amount as the City Council may prescribe, the premium of such bond shall be paid by the City; the City Council may also require any such surety bond to be further conditioned that the principal thereon will faithfully perform and/or discharge the duties of said person's office and if there are provisions of State law bearing upon the functions of said person's office under which the execution of a surety bond is required, it shall be further conditioned to comply therewith.

ARTICLE VI

Financial

SECTION 6.01 Audit and Examination of City Books and Accounts

At the close of each fiscal year, and at such other times as may be necessary, the City Council shall call for an independent audit of all accounts of the City by a certified public accountant. The same firm or certified public accountant shall complete no more than five (5) consecutive annual audits. The certified public accountant selected shall have no personal interest, directly or indirectly, in the financial affairs of the City or any of its officers. The written report of audit will be presented to and discussed by the City Council at a regular meeting. The auditor's recommendations will be read into the record of the meeting. Copies of the audit shall be placed on file as a public record with the City Secretary.

SECTION 6.02 Budget

The fiscal year of the City shall begin on the first day of October and end on the last day of September of each calendar year. Each year and in sufficient time to provide for all necessary hearings, the City Manager shall prepare and submit to the City Council a budget to cover all proposed expenditures of the City for the succeeding fiscal year. Such budgets shall be prepared and administered pursuant to the applicable general laws of this state. In the event that the budget is not enacted prior to October 1st, the preceding fiscal year budget shall be deemed adopted, which may be amended or supplemented, as the City Council deems appropriate.

SECTION 6.03 Taxes and Taxation

(1) Powers --

- (A) The City Council may levy, assess and collect taxes of any type or character not prohibited by state law. The maximum ad valorem tax rate shall be as provided in the Texas Constitution.
- (B) The procedure, limitations and requirements for the levy, assessment and collection of any tax or lien thereof shall be as established by State law; provided that, if not established by State law, such procedures, limitations and requirements shall be established by ordinance.

(2) Office of Tax Collection – The finance director shall have the responsibility and duty for assessing and collecting taxes and the City Manager may appoint an officer in such department to perform such duties; provided that the City may contract for such services at the discretion of the City Council.

(3) Taxes; When Due and Payable --

- (A) All taxes due to the City shall be 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 shall be paid before February 1st of the next succeeding year, and all such taxes not paid prior to that date shall be deemed delinquent, and shall be subject to penalty and interest as the City Council shall provide by ordinance. The City Council may provide discounts for the payment of taxes prior to January 1st in amounts not to exceed those established by the laws of the State of Texas.
- (B) Failure to levy and assess taxes through omission in preparing the appraisal rolls shall not relieve the person, firm or corporation so omitted from obligation to pay such current or past due taxes as shown to be payable by recheck of the rolls and receipts for the years in question, omitting penalty and interest.

(4) Tax Liens, Liabilities and Suits --

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

SECTION 6.04 Designation of Depository for City Funds

The City Council shall select a depository for City funds in accordance with State law, and to follow all the terms and provisions of State law.

ARTICLE VII

Bonds, Warrants and Other Evidence of Indebtedness

SECTION 7.01 Authority to Issue

The City shall have the right and power to borrow money for public purposes by whatever method it may deem to be in the public interest. The City shall have the right and power to issue tax bonds, revenue bonds, and any other evidences of indebtedness for permanent public improvements or for any other public purpose not prohibited by law or this Charter and to issue refunding bonds to refund outstanding evidences of indebtedness previously issued. All such bonds or other evidences of indebtedness shall be issued in conformity with the laws of the State applicable at the time of issuance of such obligations.

SECTION 7.02 Manner of Issuance

Bonds and warrants of the City shall be issued as provided by the General Laws of Texas applicable to cities and towns.

ARTICLE VIII

Recall

SECTION 8.01 Procedure

The Mayor or any Councilmember may be removed from office in the following manner:

- (1) Any qualified voter of the City may make and file with the City Secretary an affidavit containing the name of any member of the City Council whose removal is sought, which said affidavit shall distinctly and specifically state the ground or grounds upon which removal is predicated. The City Attorney shall review the affidavit for legal sufficiency and determine the validity of the allegations.
- (2) The City Secretary shall deliver a copy of such affidavit to the party so charged and also to the other members of the City Council. The City Secretary shall then place the matter on the agenda of the next regular City Council meeting for the purpose of giving the affiant an opportunity to present such charges to the City Council and to give the Mayor or Councilmember so charged an opportunity to answer such charge or charges. Such matter may be considered by the City Council in an executive session which is closed to the public, unless such officer requests a public hearing. If, after such meeting, such officer has not tendered such resignation or such affiant has not withdrawn such charges, the City Secretary shall deliver to the affiant making such charges, copies of petition blanks for demanding such removal, printed on forms which shall be kept on hand. Such blanks shall be issued by the City Secretary with the City Secretary's signature thereto attached, and they shall be dated and addressed to the City Council, indicate the person to whom issued, state the name of the member whose removal is sought, and such petition must distinctly and specifically point out the ground or grounds upon which such petition for removal is predicated, and, if there be more than one ground, such as for incompetency, misconduct or malfeasance in office, shall specifically state each ground with certainty, as was required in the initial affidavit, so as to give the officer sought to be removed and those signing the petition, notice of the matters and things with which such officer is charged. A copy of the petition shall be recorded in a record book for that purpose to be kept in the office of the City Secretary.
- (3) For a recall petition to be effective, the petition must be returned and filed with the City Secretary within thirty (30) days after its issuance. Such petition must bear the signatures of qualified voters of the City equal in number to at least fifty-one percent (51%) of the total number of voters casting votes for such office at the last regular election or the signatures of two hundred fifty (250) qualified voters of the City, whichever is the greatest.
- (4) Signatures to a recall petition need not be appended to one paper, but to each such petition paper there shall be attached an affidavit of the circulator thereof, stating that each signature thereto was made in the circulator's presence and is the genuine signature of the person whose name it purports to be. Each signer of a recall petition shall sign in ink or indelible pencil and shall place after such signature, said name printed, the date when said signature was made, signer's residence by street and number, or other description to identify signer's place of residence, and if available, signer's voter registration certificate

number. Inclusion of the voter registration number is not required and may be placed on the petition by the signer or added to the petition by the person circulating the petition. It shall serve only as an aid to assist the City Secretary in the task of determining whether or not the signer is a qualified voter. Provided, however, nothing in regard to the inclusion of such registration number shall affect the validity of the petition including, but not limited to, errors in regard to the number supplied or its total omission. Recall petition papers provided by the City Secretary shall be in form that substantially complies with the form in Appendix A.

- (5) All papers and affidavits comprising a recall petition shall be assembled and filed with the City Secretary as one instrument, with a notarized statement attached thereto giving the names and addresses of three (3) qualified voters, who as a committee of the petitioners, shall be officially regarded as filing the petition. Within twenty (20) business days of the date of filing a recall petition, the City Secretary shall determine the sufficiency thereof and attach thereto a certificate showing the result of the examination. If the City Secretary shall certify that the petition is insufficient, the City Secretary shall set forth in the certificate the particulars in which it is defective and shall within three (3) business days notify the committee of petitioners of such finding.
- (6) A recall petition may be amended at any time within twenty (20) business days after the making of the certificate of insufficiency by the City Secretary by filing a supplementary petition upon additional papers issued, signed and filed as provided herein for an original petition. The City Secretary shall within five (5) business days after such amendment is filed, make examination of the amended petition and, if the City Secretary certificate shall show the petition still to be insufficient, the City Secretary shall file the petition in the office of the City Secretary and notify the committee of petitioners of such findings. The finding of insufficiency of a recall petition shall not prejudice the filing of a new petition for the same purpose.
- (7) If a recall petition, or amended petition shall be certified by the City Secretary to be sufficient, the City Secretary shall within three (3) business days submit it to the City Council with the City Secretary certificate to that effect and shall notify the member whose removal is sought on such action. The officer whose removal is sought may, within five (5) days after such recall petition has been presented to the City Council, request that a public hearing be held to permit the officer whose removal is sought to present facts pertinent to the charges specified in the recall petition. In this event, the City Council shall order such public hearing to be held, not less than five (5) nor more than fifteen (15) business days after receiving such request for public hearing. If the officer whose removal is sought does not resign within five (5) business days after such public hearing, or if no public hearing is requested, within five (5) business days after the deadline for requesting such public hearing, the City Council shall thereupon order and fix the date for holding a recall election which shall be held at the next date authorized for City elections by State law, but not less than forty (40) days after the date of said public hearing, if requested, or if a public hearing has not been requested, not less than forty (40) days after the deadline for requesting such public hearing.

- (8) The question of recalling any number of members of the City Council may be submitted at the same election, but as to each member whose removal is sought a separate affidavit and a separate petition shall be filed and there shall be an entirely separate ballot. Candidates to succeed any members of the City Council whose removal is sought shall be placed in nomination in compliance with this Charter.
- (9) The ballot to be used in a recall election shall submit the proposition in substantial compliance with the form in Appendix B. Except as provided in this section, ballots used in recall elections shall comply with the provisions of this Charter regarding ballots for regular municipal elections.
- (10) If a majority of the votes cast on the question of recalling the Mayor or a Councilmember be against recall, such Mayor or Councilmember shall continue in office for the remainder of the unexpired term, but subject to recall as before. If a majority of such votes be for recall of the officer on the ballot, such officer shall, regardless of any technical defect in the recall petition, be deemed removed from office. When the Mayor or a Councilmember is removed from office by recall, the candidate to succeed such officer who receives the highest vote shall be declared elected to fill the unexpired term.
- (11) If a Mayor or Councilmember in regard to whom sufficient recall petition is submitted shall resign, the seat shall be declared vacant by the City Council and shall be filled by the qualified voters at an election called for the next available uniform election date prescribed by State law, as amended. If the term of office or offices is or are unexpired, the member or members elected at such election shall serve in such office or offices for the remainder of the unexpired term of such office or offices following the date of the election.
- (12) No recall shall be filed against the Mayor or a Councilmember within three (3) months after such Mayor or Councilmember takes office. In the case of a Mayor or Councilmember subjected to a recall petition and not removed thereby no recall shall be filed against the Mayor or Councilmember until at least six (6) months after the recall election. In the case of a Mayor or Councilmember subjected to an ineffective recall petition that is not returned to the City Secretary within thirty (30) days after its issuance no recall shall be filed against the Mayor or Councilmember until at least six (6) months after the expiration of the thirty (30) days.

ARTICLE IX

Legislation by Initiative and Referendum

SECTION 9.01 Initiative

- (1) Qualified voters of the City shall, on at least two (2) separate regular meetings of the City Council within a sixty (60) day period, request adoption of an ordinance (except one appropriating money, levying a tax, issuing bonds, or zoning). In the event the City Council fails to enact such an ordinance, such voters may submit a petition to the City

Council which, after approval as to legal form by the City Attorney, requests that the ordinance be passed by the City Council, or, if not passed, it be submitted to a vote of the qualified voters of the City. Said petition must be signed by qualified voters of the City equal in number to twenty percent (20%) of the number of votes cast at the last regular municipal election, or 250, whichever is greater, and each copy of the petition shall have attached to it a copy of the proposed ordinance.

- (A) The petition must state the residence of each signer and bear the oath of one of the Petitioners that each signature thereon is the genuine signature of each person whose name it purports to be subscribed thereon.
 - (B) The petition shall be filed with the City Secretary and within twenty (20) business days after such filing the City Secretary shall check the signatures on the petition against the county voter registration lists and attach thereto the City Secretary certificate showing the results of such examination.
- (2) Any person who has filed an insufficient petition shall be notified within three (3) business days upon discovery of such insufficiency and may present additional signatures within ten (10) business days after such notice or may file a new petition at any time.
 - (3) Within twenty (20) business days after the City Secretary finds such a petition to be sufficient, the City Council shall either pass the ordinance as submitted or order an election to submit the proposed ordinance to a vote of the qualified voters of the City who shall vote on the question: "For the Ordinance" or "Against the Ordinance." If a majority of the qualified voters at such election vote for the ordinance, it shall thereupon be an ordinance of the City.

SECTION 9.02 Referendum

Qualified voters of the City may require that any ordinance, with the exception of ordinances appropriating money or levying taxes, passed by the Council be submitted to the voters of the City for approval or disapproval, by submitting a petition for this purpose within thirty (30) days after final passage of said ordinance, or within thirty (30) days after its publication. The petition shall be signed in the same manner as recall petitions are signed, as provided in this article, and shall be verified by oath in the manner and form provided for recall petitions in this article and shall be submitted to the City Secretary. Immediately upon the filing of such petition, the City Secretary shall present to the Council. Thereupon the Council shall immediately reconsider such ordinance and, if the Council does not entirely repeal the same, shall submit it to the popular vote as provided in this charter. Pending the holding of such election, each ordinance shall be suspended from taking effect and shall not later take effect unless a majority of the qualified voters voting thereon at such election shall vote in favor thereof.

SECTION 9.03 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 may submit for repeal any existing ordinance, 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.

SECTION 9.04 Form of Ballots

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

“For the Ordinance” or
“Against the Ordinance”

SECTION 9.05 Publication of Proposed or Referred Ordinances

Prior to the date early voting shall begin in any election on an initiative or referendum, the City Secretary shall cause the caption of the particular ordinance to be published in at least one issue of the official newspaper of the City or a printed copy thereof mailed to each qualified voter of the City as appears on the tax roll of the City on the 1st day of January of the year the petition was presented and the City Secretary shall do such other things relative to such election as are required in general municipal elections or by the order calling said election.

SECTION 9.06 Adoption of Ordinances

If a majority of the qualified voters voting on any proposed ordinance shall vote in favor thereof, it shall thereupon or at any time fixed therein, become effective as a law or as a mandatory order of the Council.

SECTION 9.07 Inconsistent Ordinances

If the provisions of two (2) or more proposed ordinances approved at the same election are inconsistent, the ordinance receiving the highest number of votes shall prevail.

SECTION 9.08 Ordinances Passed by Popular Vote, Repeal or Amendment

No ordinance which may have been passed by the Council upon a petition or adopted by popular vote under the provisions of this article shall be repealed or amended except by the Council in response to a referendum petition or by submission as provided by this charter.

SECTION 9.09 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.

SECTION 9.10 Franchise Ordinances

Nothing contained in this Article shall be construed to be in conflict with any provisions of this charter pertaining to ordinances granting franchises when valuable rights shall have accrued thereunder.

ARTICLE X

Franchises

SECTION 10.01 Ordinance Granting Franchise

No grant to use the public right-of-way or property under ownership of the City shall be granted for a term of more than twenty (20) years from the date of the grant, renewal or extension of such franchise unless approved by citizens in accordance with this article. The City Council may, by a majority vote, seek approval from the voters by submitting all applications exceeding twenty (20) years to an election in accordance with State law. The prospective franchisee, not the City, shall fund the cost of said election.

SECTION 10.02 Right of Regulation

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

- (1) To 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) To require all extensions of service within the City limits to become part of the aggregate property of the service and operate subject to all obligations and reserved rights contained in this Charter. Any such extension is considered part of the original grant and terminable at the same time and under the same conditions as the original grant;
- (3) To require expansion and extension of facilities and services and to require maintenance of existing facilities to provide adequate service at the highest level of efficiency and effectiveness;
- (4) To require reasonable standards of service and quality of product and prevent rate discrimination;
- (5) To impose reasonable regulations and restrictions to insure the safety and welfare of the public;

- (6) To examine and audit accounts and records and to require annual reports on local operations of the public service or utility;
- (7) To 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) To 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) To require compensation, rent or franchise fees to be paid to the City as may be permitted by the laws of the State.

SECTION 10.03 Regulation of Rates

- (1) The City Council has the power to fix and regulate the rates and charges of all utilities and public services, consistent with State law.
- (2) 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 shall call a public hearing for consideration of the change.
- (3) The City, public service or utility must show the necessity for the change by any evidence required by the City Council, including but not limited to, the following:
 - (A) Cost of its investment for service to the City;
 - (B) Amount and character of expenses and revenues connected with rendering the service;
 - (C) Copies of any reports or returns filed with any state or federal regulatory agency within the last three (3) years; or
 - (D) Demonstration that the return on investment, if any, is within the state and federal limitations.
- (4) If not satisfied with the sufficiency of evidence, the City Council may hire rate consultants, auditors and attorneys to investigate and, if necessary, litigate requests for rate changes, the expense of which shall be reimbursed to the City by the franchisee.

SECTION 10.04 Transfer of Franchise

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

SECTION 10.05 Franchise Value Not to be Allowed

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

ARTICLE XI

Legal Provisions

SECTION 11.01 Notice of Claim

The City shall not be held liable on account of any claim for the death of any person or injuries to any person or damage to any property unless the person making such complaint or claiming such damages shall, within ninety (90) days after the time at which it is claimed such damages were inflicted upon such person or property, file with the City a written statement, under oath, stating the nature and character of such damages or injuries, the extent of the same, the place where same happened, the circumstances under which the same happened and the condition causing same, with a detailed statement of each item of damages and the amount thereof, giving a list of any witnesses known by affiant to have seen the accident.

SECTION 11.02 Service of Process Against the City

All legal process against the City shall be served upon the City Secretary.

SECTION 11.03 Nepotism

No person within the second degree by affinity or within the third degree by consanguinity to a Councilmembers or the City Manager shall be employed by or contracted with the City. This shall not apply to the following:

- (1) Any person employed by the City prior to the person related in the above degree filing to run for elective office or being nominated for an appointment; or
- (2) Any person who is a seasonal employee or intern of the City.

SECTION 11.04 Construction of Terms

The construction of the provisions of this Charter shall comply with State law as amended.

SECTION 11.05 Charter Deemed Public Act

This Charter must be deemed a public act and judicial notice shall be taken thereof in all courts.

SECTION 11.06 Severability of Portions of Charter

If any provision of this Charter violates the Constitution of the United States, the Texas Constitution or any statutes of the State, or if any court holds such provisions for naught for any reason, the remaining provisions shall not be affected thereby and shall continue in effect.

ARTICLE XII

Adoption of Charter

SECTION 12.01 Procedure

- (1) This Charter shall be submitted to the qualified voters of the City for adoption or rejection on May 10, 2008, at which election, if a majority of the qualified voters voting in such election shall vote in favor of the adoption of this Charter, it shall then immediately become the governing law of the City until amended or repealed.
- (2) It being impractical to submit this Charter by sections, it is hereby prescribed that the form of ballot to be used in such election shall be as follows, to-wit:

FOR THE ADOPTION OF THE CHARTER
AGAINST THE ADOPTION OF THE CHARTER

- (3) The present City Council of the City shall call an election in accordance with the provisions of the general laws of the State governing such elections, and the same shall be conducted and the returns made and results declared as provided by the laws of the State governing municipal elections, and in case a majority of the votes cast at such election shall be in favor of the adoption of such Charter, then an official order shall be entered upon the records of said City by the City Council of Lucas declaring the same adopted, and the City Secretary shall record at length upon the records of the City, in a separate book to be kept in the City Secretary office for such purpose, such Charter as adopted, and such City Secretary shall furnish to the Mayor a copy of the Charter which copy of the Charter shall be forwarded by the Mayor as soon as practicable, to the Secretary of State under the seal of the City together with a certificate showing the approval of the qualified voters of such Charter.

SECTION 12.02 Amendment of Charter

Amendments to this Charter may be framed and submitted to the qualified voters of the City as provided by the Texas Constitution and the laws of the State as presently enacted or hereafter amended; but no more often than once every two (2) years, as provided by the laws of the State.

SECTION 12.03 Council Review of Charter

The City Council shall review the Charter at least once every five (5) years to determine whether any amendments are necessary.

Appendix "A" RECALL PETITION

We, the undersigned qualified voters of the City of Lucas, Texas, hereby demand that the question of removing _____ from the City Council be submitted to a vote of the qualified voters of the City of Lucas based upon the following grounds:

		* VOTER REGISTRATION		
SIGNATURE	NAME PRINTED	ADDRESS	DATE	NUMBER
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____

* Voter Registration Number is not required, may be placed on or added to the petition by the signer or person circulating the petition and neither its omission nor any error in regard thereto shall affect the validity of its petition.

STATE OF TEXAS

COUNTY OF

BEFORE ME, the undersigned authority, personally appeared who, after being duly sworn, deposes and says that he/she is the circulator of the foregoing petition paper and that the signatures appended thereto were made in his/her presence and are genuine signatures of the persons whose names they purport to be.

SUBSCRIBED AND SWORN TO BEFORE ME, this the _____ day of _____, 2008.

Notary Public in and for
_____ County, Texas

Appendix "B" BALLOT

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

1. With respect to each person whose removal is sought, the question shall be submitted:

“Shall _____ be removed from the Office of
_____ by recall?”

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

“Yes”

“No”

