

HOME RULE

CHARTER

HOME RULE CHARTER^{*}

Article I. Form of Government & Boundaries

1.01 Incorporation, Corporate Name

All citizens of the Town of Trophy Club, in Denton and Tarrant Counties, Texas, within the boundaries of said Town now established or as hereinafter established in the manner provided by law shall continue to be a municipal body politic and corporate in perpetuity under the name "Town of Trophy Club" hereinafter referred to as the "Town" with such powers, rights, authority, privileges, obligations and immunities as are herein provided and as otherwise provided by law.

1.02 Form of Government

The municipal government provided by this Charter shall be known as the "council-manager government". Pursuant to its provisions and subject only to the limitations imposed by the Texas Constitution, and the laws of the State of Texas, and by this Charter, all powers of the Town shall be vested in an elective council, hereinafter referred to as the "Council" which shall enact legislation, adopt budgets, determine policies, and appoint the Town Manager, who shall execute the laws and administer the government of the Town. All powers of the Town shall be exercised in the manner prescribed by this Charter, or if the manner be not prescribed, then in such manner as may be prescribed by ordinance or State law.

State law reference—Form of government, V.T.C.A., Local Government Code, sec. 26.021.

1.03 Boundaries

The boundaries of the Town shall be as they have been established previously, now exist, and as hereinafter amended by the Council in accordance with the law and a map of such boundaries shall be on file with the Town Secretary.

State law references—Municipal boundaries and annexation, V.T.C.A., Local Government Code, ch. 41 et seq.; map of municipal boundaries and extraterritorial jurisdiction, V.T.C.A., Local Government Code, sec. 41.001.

1.04 Annexation

(a) The Council shall have the power by ordinance to fix boundaries of the Town and to provide for the alteration or the extension of said boundaries, pursuant to any laws of the State of Texas now or hereinafter enacted, with or without the consent of the owners or inhabitants of such territory.

(b) The annexation ordinance shall describe the territory to be annexed. Notice shall be published and public hearings held as required by State law. Amendments not enlarging or extending the boundaries set forth in the proposed ordinance may be incorporated into the proposed ordinance without the necessity of republication of said notice. The additional territory annexed shall be a part of the Town and the property situated therein shall bear its pro rata part of the taxes levied by the Town as provided by State law. The inhabitants thereof shall be entitled to all the rights and privileges of other citizens and shall be bound by the acts, ordinances, resolutions and regulations of the Town.

State law reference—Municipal annexation, V.T.C.A., Local Government Code, ch. 43.

1.05 Disannexation

The Council may, by ordinance, disannex any territory within the corporate boundaries of the Town, if the Council determines the territory is not necessary or suitable for Town purposes or if it is determined that disannexation is required as a result of a valid municipal purpose, and may exchange territory with other municipalities. When the disannexation ordinance is passed, the disannexed territory shall cease to be a part of the Town. The disannexed territory shall remain liable for its pro rata share of any indebtedness incurred while the area was a part of the Town and the Town shall continue to levy, assess and collect taxes on the property in the disannexed territory until such

indebtedness has been paid.

State law reference—Disannexation, V.T.C.A., Local Government Code, sec. 43.141 et seq.

Article II. Powers of the Town^{*}

2.01 Enumerated Powers Not Exclusive

The Town shall have the powers which are herein expressly provided as well as all powers that are now or which hereafter may be granted to municipalities by the Constitution or laws of the State of Texas, together with all the implied powers necessary to execute such granted powers. The enumeration of particular powers in the Charter shall not be held or deemed to be exclusive of those powers not expressly enumerated but shall be cumulative and shall not be interpreted as limiting the Town's power in any way.

2.02 Eminent Domain

The Town shall have full right, power and authority to exercise the power of eminent domain when necessary or desirable to carry out any of the powers conferred upon it by this Charter, or by the Constitution, by the laws of the State of Texas or by Town ordinance. The power of eminent domain hereby conferred shall include the right of the Town to take the fee, easement and other interest in the lands so condemned, and such power and authority shall include the right to condemn public and private property for such purposes. The Town shall have and possess this power of condemnation of property within or without the corporate limits for any municipal or public purposes, even though not specifically enumerated herein or in this Charter.

State law references—Eminent domain, V.T.C.A., Property Code, ch. 21; municipal right of eminent domain, V.T.C.A., Local Government Code, ch. 251.

2.03 Power to Acquire Property Inside and Outside the Town for Any Lawful Purposes

The Town shall have the power to sell and to acquire by purchase either private or public property located inside or outside of the corporate limits for any lawful purposes.

State law reference—Authority relating to property, V.T.C.A., Local Government Code, sec. 51.076.

Article III. The Council

3.01 Number, Selection, Term

The Council shall consist of seven (7) members, a Mayor and six (6) Councilmembers, elected from the Town at-large-by-place in the manner provided in [Article V](#), for a term of three (3) years or until their successors have been elected and take office as provided in [Article V](#). Each Councilmember shall be elected to and occupy a place on the Council, such Places being numbered (e.g., Place 1, Place 2, Place 3, etc.).

(Section 3.01 amended by May 9, 2009 election, effected by Ordinance 2009-12, prop. 4, adopted 5/18/09 and May 11, 2013 election, effected by Ordinance 2013-15, prop. 18, adopted 5/21/13)

3.02 Qualifications

(a) Each person who becomes a candidate for Mayor or Councilmember shall meet the following qualifications:

- (1) be at least eighteen (18) years of age on the first day of the term to be filed;
- (2) be a citizen of the United States;
- (3) be a qualified voter of the Town;
- (4) reside and have resided for at least twelve (12) months preceding the election within the corporate limits of the Town;
- (5) no candidate may file for more than one office or position number per election;
- (6) no employee of the Town shall continue in such position after becoming a candidate for a Town elective office; and,
- (7) If any sitting Council member files to become a candidate for another public office, he shall resign

his current seat upon filing for the new office.

(b) The Council shall be the judge of the qualifications of candidates for office in accordance with [Section 3.04](#)(b) and for these purposes shall have the power to subpoena witnesses and require the production of records.

(Subsection (a)(1) amended by May 9, 2009 election, effected by Ordinance 2009-12, prop. 4, adopted 5/18/09 and May 11, 2013 election, effected by Ordinance 2013-15, prop. 3, adopted 5/21/13. Subsection (a)(7) added by May 9, 2009 election, effected by Ordinance 2009-12, prop. 5, adopted 5/18/09 Subsection (b) amended by May 11, 2013 election, effected by Ordinance 2013-15, prop. 4, adopted 5/21/13.)

State law reference—Age and residence requirements for home-rule city office, V.T.C.A., Election Code, sec. 141.003.

3.03 Number, Selection, Term[,] Council Judge of Election of Members

The Council shall be the judge of the election and qualifications of its own members, subject to review of the courts in case of contest. The Council shall after each regular or special election, canvass the return and declare the results of each election as required by law.

3.04 Vacancies, Forfeiture of Office, Filling of Vacancies

(a) The office of the Mayor or a Councilmember shall become vacant upon the Mayor or Councilmember's death, resignation, removal from office (in any manner authorized by law), or forfeiture of office.

(b) The Mayor or a Councilmember shall forfeit his office if during a term of office, the Mayor or Councilmember:

- (1) lacks any qualification for the office prescribed by this Charter or by other law;
- (2) violates any express prohibition of this Charter;
- (3) is convicted of a felony crime or is convicted of a crime involving moral turpitude; or,
- (4) fails to attend three consecutive regular meetings of the Council without being excused by the Council.

The Council shall, by an affirmative 3/4 vote of the entire membership, be the judge in matters involving forfeiture of office by a Councilmember or the Mayor; provided however, that if any member is convicted of a felony or a crime of moral turpitude while in office, the office shall immediately and automatically become vacant without any requirement for action by the Council. Forfeiture of office pursuant to this section may be appealed to an appropriate court as provided by law.

(c) If there is a vacancy in the office of Mayor, a new Mayor shall be elected by special election within one hundred twenty (120) days after such vacancy occurs, in accordance with the Texas Constitution and the Texas Election Code.

(d) A vacancy in the office of a Councilmember shall be filled by special election within one hundred twenty (120) days after such vacancy occurs, in accordance with the Texas Constitution and the Texas Election Code. If the vacated office is that of Mayor Pro-Tem, the Town Council shall elect a new Mayor Pro-Tem at the next regular meeting.

(e) Vacancies filled by special election shall be for the remainder of the term that was vacated.

(Subsection (b)(2) added and former subsections (b)(2) and (b)(3) renumbered to (b)(3) and (b)(4) by May 9, 2009 election, effected by Ordinance 2009-12, prop. 6, adopted 5/18/09. The closing paragraph of subsection (b) amended by May 11, 2013 election, effected by Ordinance 2013-15, prop. 4, adopted 5/21/13. Subsection (c) amended and Subsection (d) and (e) added by May 9, 2009 election, effected by Ordinance 2009-12, props. 4, 7,

adopted 5/18/09)

State law reference—Special election to fill vacancy generally, V.T.C.A., Election Code, sec. 201.051 et seq.

3.05 Compensation

The Mayor and Councilmembers shall serve without pay or compensation; provided, however, that they shall be entitled to reimbursement of any necessary expenses incurred in the performance of their official duties, when approved by Council or their designee.

State law reference—Compensation of officers in home-rule municipality, V.T.C.A., Local Government Code, sec. 141.004.

3.06 Mayor

The Mayor shall preside over the meetings of the Council, and perform such other duties consistent with the office as may be imposed upon him by this Charter and by ordinances and resolutions passed in pursuance thereof. He may participate in the discussion of all matters coming before the Council and he shall have a vote on all matters before the Council. He shall sign after authorization by the Council, all contracts, conveyances made or entered into by the Town, all bonds, warrants and any other obligations issued under the provisions of this Charter, in the manner prescribed in the ordinance authorizing the signing of any such obligation. He shall present an annual state of the Town message, which shall include setting out needs and goals for the Town. He shall be recognized as the official head of the Town by the courts for the purpose of serving civil process, by the Governor for the purpose of enforcing military law and for all ceremonial purposes.

(Section 3.06 amended by May 9, 2009 election, effected by Ordinance 2009-12, prop. 9, adopted 5/18/09 and May 11, 2013 election, effected by Ordinance 2013-15, prop. 5, adopted 5/21/13)

Editor's note—Former section 3.06A pertaining to the mayor and amended by May 9, 2009 election effected by Ordinance 2009-12, prop. 19, adopted 3/9/09 and renumbered by Ordinance 2009-21 adopted 8/24/09 was repealed by May 11, 2013 election, effected by Ordinance 2013-15, prop. 5, adopted 5/21/13)

3.07 Mayor Pro-Tem

The Council, at its first meeting after election of Councilmembers, shall elect one of its number as Mayor Pro Tem. He shall perform all the duties of the Mayor in the absence or disability of the Mayor.

3.08 Powers of the Council

All powers of the Town, and the determination of all matters of policy, shall be vested in the Council. Without limitation of the foregoing, and among the other powers that may be exercised by the Council, the following are hereby enumerated for greater certainty:

- (a) Appoint and remove a Town Manager as hereinafter provided;
- (b) Adopt the budget of the Town, and remain fully advised as to the financial condition and future needs of the Town;
- (c) Authorize the issuance and sale of bonds by a bond ordinance;
- (d) Develop long term goals for the Town and strategies to implement goals;
- (e) Inquire into the conduct of any office, department or agency of the Town and authorize investigations as to municipal affairs;
- (f) Provide for such additional boards, commissions and corporations not otherwise provided for in this Charter, as may be deemed necessary, and appoint the members of all such boards, commissions and corporations. Such boards, commissions and corporations shall have all powers and duties now or hereafter conferred and created by this Charter, by Town ordinance or by State law;
- (g) Adopt and modify the zoning plan, and a building code, including electrical and plumbing codes, of and for the Town; and to require building permits;
- (h) Adopt and modify the official map of the boundaries of the Town and its extraterritorial jurisdiction;
- (i) Adopt, modify and carry out plans proposed by the Town Planning and Zoning Commission for the

clearance of slum districts and rehabilitation of blighted areas;

(j) Adopt, modify and carry out plans proposed by the Town Planning and Zoning Commission for the replanning, improvement and redevelopment of any area or district which may have been destroyed in whole or in part by disaster;

(k) Regulate, license and fix the charges or fares made by any person, firm or corporation owning, operating or controlling any vehicle of any character used for the carrying of passengers for hire or the transportation of freight for hire on the public streets and alleys of the Town;

(l) Provide 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 fireproof buildings within said limits; provide for the condemnation of dangerous structures, buildings, dilapidated buildings or buildings calculated to increase the fire hazard, and prescribe the manner of their removal or destruction, within said limits;

(m) Provide for a sanitary sewer and water system, and require property owners to connect their premises with sewer system and provide the penalties for failure to make sanitary sewer connections;

(n) Provide for sanitary garbage disposal, and set fees and charges therefor, and provide penalties for failure to pay such fees and charges; define nuisances and to prohibit same, and provide penalties for violations;

(o) Provide for all necessary public utilities and set fees and charges therefor and provide penalties for misuses of same;

(p) Exercise exclusive dominion, control and jurisdiction (including the right to close and abandon streets and alleys) in, upon, over and under the public streets, avenues, sidewalks, alleys, highways, boulevards and public grounds of the Town; provide for the improvement of same as set forth in State law or as determined appropriate by the Council in order to meet a municipal purpose;

(q) Compromise and settle any and all claims, demands and lawsuits, of every kind and character, in favor of, or against, the Town;

(r) Require bonds, both special and general, of such contractors and others constructing or building for the Town as Council determines appropriate, and to set up standards, rules and regulations therefor;

(s) Pass ordinances defining and prohibiting misdemeanors and provide penalties for violations;

(t) Provide and/or arrange for any and all "civil defense measures" and "public shelter measures" for the Town and for the citizens thereof, deemed necessary for the public welfare;

(u) Exercise, or delegate to the Mayor, extraordinary and total executive powers (on a temporary basis) during the existence and duration of any major public disaster, for the public welfare; and,

(v) Name and designate an "Official Newspaper" for the Town and cause only the caption of duly enacted ordinances to be published except as provided otherwise by law.

(Subsection (b) amended, Subsection (d) added, and subsections (a)– (v) renumbered accordingly by May 9, 2009

election, effected by Ordinance 2009-12, prop. 19, adopted 5/18/09)

3.09 Meetings of the Council

The Council shall hold at least two (2) regular meetings a month for at least seven (7) months and a minimum of one meeting during each of the other five (5) months at a time to be fixed by Council for such regular meetings. Council may hold as many other meetings as may be necessary for the transaction of the business of the Town. All regular meetings shall be held at the Municipal Building or at such other places within town limits as will permit the attendance of the general public. All meetings will be held in accordance with open meeting laws of the State of Texas.

State law reference—Open meetings, V.T.C.A., Government Code, ch. 551.

3.10 Special Meetings

The Mayor or any three (3) members of the Council may call special meetings by giving notice to the Town Secretary of the nature of the meeting, the items for consideration, and the proposed date and time of the meeting. The Town Secretary shall notify each member of the Council of the time of such meeting and purpose thereof. Only matters mentioned in the call shall be considered.

3.11 Rules of the Council

(a) The Council shall determine its own rules of procedure and may compel the attendance of its members. Minutes of the proceedings of the Council shall be kept, to which any citizen may have access at all reasonable times and which shall constitute one of the archives of the Town.

(b) Any item requested by two (2) Councilmembers, or the Mayor, or by the Town Manager shall be placed on the agenda by the Town Secretary. The Mayor will establish the order of the agenda for each Council meeting. The Town Secretary shall prepare the agenda, which shall be publicly posted in accordance with the Texas Open Meetings Act.

(c) The rules shall provide that citizens of the Town shall have a reasonable opportunity to be heard at any meeting.

(Subsection (b) amended by May 9, 2009 election, effected by Ordinance 2009-12, prop. 10, adopted 5/18/09)

3.12 Quorum

A majority of the Council shall constitute a quorum to do business. A number less than a quorum may adjourn from time to time and compel the attendance of absent members. Except as otherwise specifically provided herein or as provided by law, four (4) members of Council shall constitute a quorum for the purpose of transaction of business and no action of the Council shall be valid or binding unless adopted by the affirmative vote of four (4) or more members of the Council, or as required by State law or this Charter. If the Council is reduced to less than four (4) members on account of vacancies, the remaining members shall constitute a quorum for the sole purpose of calling an election.

(Section 3.12 amended by May 9, 2009 election, effected by Ordinance 2009-12, prop. 9, adopted 5/18/09)

3.13 Interference in Town Manager Appointments and Removals or Duties

Neither the Council nor any of its members shall direct or request the appointment of any person to or his removal from office by the Town Manager or by any of his subordinates. However, the Council may consult and advise with the Town Manager, make inquiry regarding the appointments or removals and may express their opinion in regard thereto. In regard to administrative and executive duties under the Town Manager, the Council and its members shall deal solely through the Town Manager, either publicly or privately.

3.14 Action Requiring an Ordinance

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

(a) Adopt or amend an administrative code;

(b) Provide for a fine or other penalty or establish a rule or regulation for violation of which a fine or other penalty is imposed;

- (c) Levy taxes;
- (d) Grant, renew or extend a franchise;
- (e) Regulate the rate charged for its services by a public utility;
- (f) Authorize the borrowing of money that cannot be repaid within the current fiscal year;
- (g) Convey, lease or authorize the conveyance or lease of any lands of the Town;
- (h) Regulate land use and development;
- (i) Amend or repeal any ordinance previously adopted; and,
- (j) Adopt an annual budget.

Acts other than those referred to in the preceding sentence may be done either by ordinance or by resolution provided that such action is in compliance with applicable law.

State law reference—Ordinance, rule or regulation necessary to carry out other powers, V.T.C.A., Local Government Code, sec. 51.001.

3.15 Form of Ordinances

Every proposed ordinance shall be introduced in writing and in substantially the form required for final adoption. The subject of the ordinance shall be clearly expressed in its title. The enacting clause of every ordinance shall be in accordance with State law. Any ordinance which repeals or amends an existing ordinance or part of the Town code shall clearly set forth the provision or provisions being repealed or amended and, if amended, shall further clearly set forth the amendment being made.

3.16 Procedure for Enacting Ordinances and Resolutions; Publications

- (a) Ordinances and resolutions may be passed at any regular meeting or special meeting called for that purpose provided notice has been given in accordance with the Texas Open Meetings Act.
- (b) All ordinances, exclusive of emergency ordinances defined by [Section 3.17](#) of this Charter, shall be considered and passed in open meeting of the Council. All persons interested shall have the opportunity to be heard. The Town Attorney shall opine as to legality all ordinances prior to final adoption. Every ordinance, resolution or motion shall require on passage the affirmative vote of four (4) or more members of Council present unless more is required by State law.
- (c) The descriptive caption or title of an ordinance that imposes a penalty, fine or forfeiture, and the penalty for violating the ordinance, shall be published at least once in the official newspaper of the Town.
- (d) An ordinance required to be published takes effect when the publication requirement is satisfied, unless the ordinance provides otherwise. An ordinance that is not required to be published takes effect when adopted unless the ordinance provides otherwise.
- (e) All ordinances and resolutions may be admitted and received in all courts, subject to the rules of evidence and laws of jurisdictions where proof of such ordinances and resolutions are tendered, without further proof.

(Subsection (b) amended by May 9, 2009 election, effected by Ordinance 2009-12, prop. 9, adopted 5/18/09)

State law reference—Publication of ordinances, V.T.C.A., Local Government Code, sec. 52.013.

3.17 Emergency Ordinances

The Council may adopt emergency ordinances only to meet public emergencies affecting the life, health, property

or the public peace in accordance with State law. In particular, such ordinances shall not levy taxes, grant or renew or extend a franchise or regulate the rate charged by any public utility for its services, and shall be adopted as authorized by applicable state or federal law. After adoption the ordinance shall be published as required by law, but may become effective immediately upon enactment.

(Section 3.17 amended by May 9, 2009 election, effected by Ordinance 2009-12, prop. 9, adopted 5/18/09 and May 11, 2013 election, effected by Ordinance 2013-15, prop. 6, adopted 5/21/13)

3.18 Bonds for Employees

The Town Manager and the Town Secretary and such other Town officers and employees as the Council may require, shall, before entering upon the duties of their office, enter into a good and sufficient fidelity bond in a sum to be determined by the Council payable to the Town, and conditioned upon the faithful discharge of the duties of such persons, and upon the faithful accounting for all monies, credits and things of value coming into the hands of such persons, and such bonds shall be signed as surety by some company authorized to do business under the laws of the State of Texas. Premium of such bonds shall be paid by the Town, and such bonds must be acceptable to the Council.

State law reference—Official bonds, V.T.C.A., Government Code, ch. 604.

3.19 Investigative Powers of the Council

The Council, by the affirmative vote of a quorum, shall have the power to authorize an inquiry or investigation into the official conduct of any office, department, or agency of the Town.

(Section 3.19 amended by May 11, 2013 election, effected by Ordinance 2013-15, prop. 7, adopted 5/21/13)

3.20 Conflict of Interest and Abstention

(a) Conflict of Interest. Should any person on the Town Council have a conflict of interest, pursuant to any State laws and/or Town ordinances regulating conflicts of interest of municipal officers, with an agenda item then before the Town Council, he shall openly declare same before discussion proceeds, and he is thereby prohibited from discussing the item or voting on the question, and is not considered as present and voting for the purposes of the tally. (Section 3.20 amended by May 9, 2009 election, effected by Ordinance 2009-12, prop. 11, adopted 5/18/09; Section 3.20 amended by November 3, 2020 election, effected by Ordinance 2020-21, prop. A, adopted 11/17/20)

Editor's note—The election held May 9, 2009 amended Article III to add a section entitled "Conflict of Interest and Abstention" numbered as Section 3.20 and replacing the current Section 3.20 of Article III which was amended, renumbered and moved to Article IX, Section 9.09 effected by Ordinance 2009-12, prop. 19, adopted May 18, 2009.

State law references—Conflicts of interest of officers, V.T.C.A., Local Government Code, ch. 171; public disclosure, V.T.C.A., Government Code, ch. 553.

3.21 Indemnification of Officers

The Council may, by appropriate ordinance, provide for the indemnification and defense of the officers and employees of the Town, including members of the Council, or any board, commission, or committee, including volunteers, against any loss, cost, or expense arising out of or related to the discharge of official duties, to the extent such indemnification is allowed by law and to the extent such actions or inactions are covered under the terms of the Town's general liability insurance coverage. Under no circumstances shall indemnification be provided for any act arising out of the intentional or knowing violation of any penal statute or for any personal or private business of such officer, employee, member or volunteer, or for any criminal misconduct.

(Section 3.21 amended by May 11, 2013 election, effected by Ordinance 2013-15, prop. 8, adopted 5/21/13)

3.22 Term Limits

No person shall serve as Mayor for successive elected full terms totaling more than six years, and no person shall serve as Councilmember for successive elected full terms totaling more than six years. A term of office shall be defined as an elected period of two (2) years or an elected period of three (3) years. A portion of a term does not count as a term of office for purposes of a limit. Term limits shall apply to the May of 2010 election and all subsequent elections. Election terms previously served or being served at the May of 2010 election are not counted in the application of term limits.

(Section 3.22 amended by May 9, 2009 election, effected by Ordinance 2009-12, prop. 23, adopted 5/18/09)

4.01 Administrative Departments

Administrative departments shall be established by the Town Manager. The head of each department shall be appointed by the Town Manager and shall be subject to the direction and supervision of the Town Manager.

4.02 Town Manager - Appointment and Qualifications

- (a) The Council shall appoint a Town Manager, who shall be the chief administrative officer of the Town.
- (b) The method of selection shall be left to the discretion of the Council so long as the method insures orderly, non-partisan action toward securing a competent and qualified person to fill the position. The Town Manager shall be chosen upon the basis of administrative training, experience, ability, character and other such professional qualifications as determined appropriate by Council.
- (c) Neither the Mayor nor any Councilmember may be appointed Town Manager or acting Town Manager while holding office or for a period of two (2) years thereafter.
- (d) The Town Manager shall establish residency in the Town unless excused by Council.

(Subsection (a) amended by May 9, 2009 election, effected by Ordinance 2009-12, prop. 12, adopted 5/18/09)

4.03 Compensation

The Town Manager shall receive compensation as may be fixed by the Council.

State law reference—Compensation of officers in home-rule municipality, V.T.C.A., Local Government Code, sec. 141.004.

4.04 Term and Removal

The Town Manager shall not be appointed for a definite term but may be removed at the discretion of the Council by majority vote of the Council. Such action taken by Council shall be done in accordance with the personnel policies of the Town applicable to at-will employees. The action of the Council in suspending or removing the Town Manager shall be final. It is the intention of this Charter to vest all authority and fix all responsibilities of such suspension or removal in the Council.

4.05 Powers and Duties

The Town Manager shall be the chief administrative officer and head of the administrative branch of the Town. He shall be responsible to the Council for the proper administration of all the affairs of the Town and to that end shall have the power and be required to:

- (a) Oversee the effective enforcement of all applicable laws and ordinances, implement the directives and policies established by Council and oversee the administration of contracts and franchises to ensure compliance with the terms approved by Council;
- (b) Appoint, suspend and/or remove all or any one of the heads of departments and all subordinate officers and employees of the Town in accordance with applicable laws and policies. The Town Manager may authorize any administrative officer subject to the Manager's direction and supervision to exercise these powers with respect to subordinates in that officer's department, office or agency;
- (c) Direct and supervise the administration of all departments;
- (d) Attend all meetings of the Council, except when excused by the Council. The Town Manager shall have the right to take part in discussion but shall not vote;
- (e) Prepare and submit the annual budget and capital program to the Town Council, and implement the final budget approved by Council to achieve the goals of the Town;
- (f) On an annual basis, submit to the Town Council and make available to the public a complete

report on the finances and administrative activities of the Town's prior fiscal year;

- (g) Keep the Town Council fully advised as to the financial condition and future needs of the Town;
- (h) Make recommendations to the Council concerning affairs of the Town and facilitate the work of the Council in developing policy;
- (i) Provide staff support services for the Mayor and Councilmembers;
- (j) Assist the Council in developing goals and strategies for the next fiscal period;
- (k) Assist the Council to develop long term goals for the Town and develop strategies to implement those goals;
- (l) Encourage and provide staff support for regional and intergovernmental cooperation;
- (m) Promote partnerships among Council, Staff and citizens in developing public policy and building a sense of community;
- (n) Perform such other duties as may be prescribed by Council, by this Charter, by ordinance or other law; and,
- (o) Recommend to the Council rules and regulations to be adopted by ordinances to protect the safety and security of the municipal records.

(Subsections (f), (g), (j) and (k) added and subsections (f), (g), (h), (i), (j) and (k) renumbered to (h), (i), (l), (m) (n) and (o) by May 9, 2009 election, effected by Ordinance 2009-12, prop. 19, adopted 5/18/09. Subsection (f) amended by May 11, 2013 election, effected by Ordinance 2013-15, prop. 9, adopted 5/21/13. Subsection (o) amended by May 11, 2013 election, effected by Ordinance 2013-15, prop. 10, adopted 5/21/13)

4.06 Acting Town Manager

- (a) The Town Manager, within thirty (30) days after taking office, shall designate, by letter filed with the Town Secretary, a qualified administrative officer of the Town to perform the duties of the Town Manager in his absence or disability. Such designation shall be subject to approval of the Council. No member of the Council shall serve as Acting Town Manager. Upon resignation or termination of the Town Manager, the Acting Town Manager shall perform the duties of the Town Manager until a new Town Manager or Acting Town Manager is appointed by the Council.
- (b) Should the need for an Acting Town Manager occur prior to the Town Manager submitting a designee or prior to the Council's approval of the Town Manager's designee, the Council shall appoint an Acting Town Manager.
- (c) The Town Manager may select a different Acting Town Manager by repeating the letter of designation and obtaining the Council's approval for designation of a new Acting Town Manager.

4.07 Town Secretary

The Council shall appoint a Town Secretary who shall act as the Secretary to the Council and shall hold office at the pleasure of the Council. He shall be entitled to a seat at the Council table at all official meetings.

(Section 4.07 amended by May 9, 2009 election, effected by Ordinance 2009-12, prop. 12, adopted 5/18/09)

4.08 Duties of the Town Secretary

The Town Secretary shall:

- (a) Record the minutes of all official meetings of the Council; provided, however, only the captions of duly enacted ordinances and resolutions shall be recorded in the minutes;
- (b) Hold and maintain the Town Seal and affix to all instruments requiring such seal;
- (c) Verify the sufficiency of any petition for recall, initiative, or referendum based upon the requirements of this Charter and all applicable laws; and,
- (d) Be the custodian of all municipal records of the Town; and
- (e) Perform such other duties as may be required by the Council, the Town Manager, this Charter or the laws of the State of Texas.

(Subsection (e) (renumbered to subsection (d)) added by May 11, 2013 election, effected by Ordinance 2013-15, prop. 10, adopted 5/21/13; subsections (d) and (e) renumbered by Ordinance 2015-43, sec. 2.01, adopted 12/8/15)

4.09 Compensation

The Council shall set the compensation of the Town Secretary. The authority to set compensation may be delegated at the discretion of Council.

4.10 Municipal Court

There shall be a court designated to serve the Town as the Municipal Court for the trial of misdemeanor offenses, with all such powers and duties as are now, or may hereafter be, prescribed by laws of the State of Texas relative to Municipal Courts.

(Section 4.10 amended by May 11, 2013 election, effected by Ordinance 2013-15, prop. 11, adopted 5/21/13)

4.11 Judge of Court

The Council shall by ordinance appoint one or more Judges of the Municipal Court. A Judge shall be a resident of this state, be a citizen of the United States, a licensed attorney in good standing, licensed to practice in the State of Texas and must have two (2) or more years of experience in practicing law in this state.

(Section 4.11 amended by May 9, 2009 election, effected by Ordinance 2009-12, prop. 12, adopted 5/18/09)

4.12 Clerk of the Court

The Council shall by ordinance provide for the appointment and oversight of a Clerk, Deputy Clerk and such other personnel that the Council determines appropriate to serve the Municipal Court of the Town. The duties and authority of all Court personnel shall be in accordance with state law and Town ordinance.

(Section 4.12 amended by May 9, 2009 election, effected by Ordinance 2009-12, prop. 12, adopted 5/18/09 and May 11, 2013 election, effected by Ordinance 2013-15, prop. 12, adopted 5/21/13)

4.13 Fines

All costs and fines imposed by the Municipal Court shall be paid to the Town general fund for the use and benefit of the Town, unless otherwise required by State law.

4.14 Town Attorney - Appointment & Qualifications

The Council shall appoint an attorney licensed and in good standing to practice in the State of Texas as the Town Attorney. He shall serve at the discretion of the Council and he shall receive for his services such compensation as may be fixed by the Council. The authority to set compensation may be delegated at the discretion of Council.

(Section 4.14 amended by May 9, 2009 election, effected by Ordinance 2009-12, prop. 12, adopted 5/18/09)

4.15 Professional Services

The Council may employ such professional consultants, including engineers, planners, architects or others whom it finds appropriate and in the best interest of the Town to engage. The Council may fix the compensation of such professionals and work directly with them or direct that they work with the Town Manager or his designee. The authority to set compensation may be delegated at the discretion of Council.

4.16 Town Boards, Commissions and Corporations

- (a) Members of boards, commissions and corporations appointed by the Town shall serve without compensation, provided, however, that they shall be entitled to reimbursement of any necessary

expenses incurred in the performance of their official duties, when approved by Council or their designee.

(b) A person who holds a paid or elected position with the Town is not eligible to serve on a board, commission or corporation.

(c) All boards, commissions and corporations shall maintain minutes of their meetings which shall be public records and which indicate, at a minimum, the members present, the subject of matters considered and the result of any vote taken. The minutes shall also indicate how each member voted on each matter.

4.17 Personal Financial Interest

Any officer or employee who has any substantial financial interest, direct or indirect, or by reason of ownership of stock or shares of a business entity, or in any contract with the Town, or in the sale of any land, material, supplies or services to the Town or to a contractor supplying the Town shall make known that interest and shall refrain from voting upon or otherwise participating in his capacity as a Town officer or employee in the making of such sale or in the making or performing of such contract.

Any Town officer or employee who knowingly or intentionally conceals such a financial interest or knowingly or intentionally violates the requirements of this section shall be guilty of malfeasance in office or position and shall forfeit his office or position.

Violation of this section with the knowledge, express or implied, of the person or corporation contracting with or making a sale to the Town shall render the contract or sale voidable by the Town Manager or the Council.

4.18 Accepting Gifts, Etc.

No officer or employee of the Town shall ever solicit, agree to accept or accept, directly or indirectly, any gift, favor or privilege from any public utility corporation, or other corporation, person or persons, enjoying a grant, contract, franchise, privilege or easement from or with said Town, during the term of office of such officer, or during such employment of such employee, except as may be authorized by law, resolution or ordinance. Any officer or employee of the Town who shall violate a provision of this section shall forfeit his office.

In addition to the penalties imposed by State law for a violation of this section, any person convicted of a violation of this Section shall be ineligible for a period of five (5) years following such conviction to hold any Town office or position and, if an officer or employee of the Town, shall immediately forfeit his office or position. The Council may establish by ordinance such further penalties as it may deem appropriate.

Article V. Nominations and Elections^{*}

5.01 Elections

The general Town election shall be held annually on a date in accordance with the laws of the State of Texas and as established by Town ordinance, commencing in the year 2009 at which time officers will be elected to fill those offices which become vacant that year. The Council may, by ordinance, order a special election, fix the time and place for holding same and provide all means for holding such special election.

The Mayor and six (6) Councilmembers shall be elected and serve in the following manner:

(a) The Mayor shall have a three-year term beginning with the May 2011 election.

(b) Councilmembers elected at the May 2009 election shall draw lots to determine Places 1 and 2. Places 1 and 2 shall receive a two-year term at the May 2009 election; thereafter, Places 1 and 2 shall have three year terms.

(c) Councilmembers elected at the May 2008 election shall draw lots to determine Places 3, 4, and 5. At the May 2010 election, Places 3 and 4 shall receive two year terms and Place 5 shall receive a three year term; thereafter, Places 3, 4, and 5 shall have three-year terms.

(d) A Councilmember shall be elected to Place 6 at the November 2013 election for an initial term of office expiring at the May, 2016 election; thereafter Place 6 shall have three year terms.

(e) The candidate for Mayor who receives a majority of all votes cast for all the candidates for such office at the election shall be declared elected.

(f) The candidate for election to each Place on the Council, who receives a majority of all votes cast for all the candidates for such Place at the election, shall be declared elected.

(g) In the event any candidate for an office fails to receive a majority of all votes cast for all the candidates for such office at such election, the Town Council shall, upon completion of the official canvass of the ballots, issue a call for a runoff election to be held within thirty (30) days following the issuance of such call, or in accordance with the Texas Election Code. The two (2) candidates receiving the highest number of votes (or three (3) persons in case of tie for second place) for any such office in the first election shall be placed upon the ballot to be voted on in such runoff election; and, in case of a tie vote in the runoff election or in the first election if there are only two (2) candidates, as to the two (2) candidates, the Council shall order subsequent elections in the same manner as the runoff election until the tie vote between the two (2) candidates has been resolved. *(See Editor's note 1 below)*

(h) Except as specifically provided in this section, in the case of a tie vote as between two (2) or more candidates, a special election shall be called by the Council in accordance with the Texas Election Code. If the tie does not prevent the filling of the vacancies then the special election shall not be required. *(See Editor's note 2 below)*

(Subsections (a)–(e) amended, subsections (f) and (g) added by May 9, 2009 election, effected by Ordinance 2009-12, prop. 4, adopted 5/18/09. Subsection 5.01(e) added by May 9, 2009 election, effected by Ordinance 2009-12, prop. 13, adopted 5/18/09 and renumbered to subsection (h) by Ordinance 2009-21 adopted 8/24/09. First two paragraphs and subsection (d) amended by May 11, 2013 election, effected by Ordinance 2013-15, prop. 18, adopted 5/21/13)

Editor's note 1–Ref 5.01(e) and 5.01(h). The 2009 election ballot language did not allow for the integration of two propositions into one section. For clarification, proposition #4 made the following changes: Deleted the original 5.01(e) which read “Except as specifically provided in this section, in the case of a tie vote as between two (2) or more candidates, a special election shall be called by Council. The Council shall order a special election not less than thirty (30) days nor more than forty (40) days after the regular election to resolve the tie vote as between such candidates. If the tie does not prevent the filling of the vacancies then the special election shall not be required.” Added subsections “(e) The candidate for Mayor who receives a majority of all votes cast for all the candidates for such office at the election shall be declared elected. (f) The candidate for election to each Place on the Council, who receives a majority of all votes cast for all the candidates for such Place at the election, shall be declared elected. (g) In the event any candidate for an office fails to receive a majority of all votes cast for all the candidates for such office at such election, the Town Council shall, upon completion of the official canvass of the ballots, issue a call for a runoff election to be held within thirty (30) days following the issuance of such call, or in accordance with the Texas Election Code. The two (2) candidates receiving the highest number of votes (or three (3) persons in case of tie for second place) for any such office in the first election shall be placed upon the ballot to be voted on in such runoff election; and, in case of a tie vote in the runoff election or in the first election if there are only two (2) candidates, as to the two (2) candidates, the Council shall order subsequent elections in the same manner as the runoff election until the tie vote between the two (2) candidates has been resolved.”

Editor's note 2–Ref 5.01(e) and 5.01(h). The 2009 election ballot language did not allow for the integration of two propositions into one section. For clarification, proposition #13 made the following changes: First sentence, following the word “by” deleted the word “Council” at the end of the sentence and following the word “by” added “the Council in accordance with the Texas Election Code.” Deleted a second sentence which read “The Council shall order a special election not less than thirty (30) days nor more than forty (40) days after the regular election to resolve the tie vote as between such candidates.”

State law reference–Date for election of officers, V.T.C.A., Local Government Code, sec. 26.042.

5.02 Regulation of Elections

All general and special elections shall be held in accordance with the laws of the State of Texas regulating the

holding of municipal elections and in accordance with this Charter and ordinances or resolutions adopted by the Council for the conduct of elections. The Council shall appoint the Election Judges and other election officials and shall provide for the compensation of all election officials in the Town elections and for all other expenses in holding said elections.

State law reference—Appointment of election judges, V.T.C.A., Election Code, sec. 32.005.

5.03 Special Elections

The Council may call such special elections as are authorized by the State law, this Charter or for any other reason the Council deems necessary. The Council shall fix the time and place of holding same, and provide all means for holding such special elections in accordance with State law.

5.04 Filing for Office

- (a) Each candidate for an elective office shall meet the qualifications set forth in [Section 3.02](#) of this Charter.
- (b) Any person so qualified who desires to become a candidate for election shall file an application with the Town Secretary, in accordance with the Texas Election Code, as amended, and all other applicable laws.
- (c) Within five (5) days after the filing of an application, the Town Secretary shall notify the candidate whether or not the application satisfied the requirements prescribed by this Charter. If an application is found insufficient, the Town Secretary shall return it immediately to the candidate with a statement certifying wherein it is insufficient. Within the regular time for filing applications, a new application may be filed by the same candidate. The Town Secretary shall keep on file all applications found sufficient at least until the expiration of the term of which the candidates are nominated in those applications.
- (d) If any member of a board, commission or corporation appointed by the Council shall become a candidate for election to any public office of the Town, he shall immediately upon his being elected, forfeit his place as a member of such board, commission or corporation.
- (e) If any employee of the Town becomes a candidate for election to any public office of the Town they shall, immediately upon becoming a candidate, forfeit the employment held with the Town.
- (f) If any sitting Council member files to become a candidate for another public office, he shall resign his current seat upon filing for the new office.

(Subsection (f) added by May 9, 2009 election, effected by Ordinance 2009-12, prop. 5, adopted 5/18/09)

State law references—Eligibility for public office, V.T.C.A., Election Code, sec. 141.001 et seq.; candidates for city office, V.T.C.A., Election Code, ch. 143.

5.05 The Official Ballot

- (a) **Candidates Names on Ballots:** The names of all candidates who have filed for office shall be printed on the official ballots without party designation. The order on the ballot of the names of the candidates for each office or position shall be determined by lot in a drawing to be held under the supervision of the Town Secretary, or as otherwise required by State law.
- (b) Early voting shall be governed by the Texas Election Code.

State law reference—Ballot form, content and preparation, V.T.C.A., Election Code, ch. 52.

5.06 Canvassing and Election Results

Returns of every municipal election shall be delivered forthwith by the Election Judges to the Town Secretary with a copy of the returns sent to the Mayor. The Council shall canvass the returns, investigate the qualifications of the

candidates and declare the official results of the election in accordance with the Texas Election Code, including without limitation, any provision that alters the requirements of this Charter. The results of every municipal election shall be recorded in the minutes of the Council. The qualified person receiving a majority of the votes cast for any office shall thereupon be declared elected by said Council. The decision of the Council, as to qualifications of candidates, shall be conclusive and final for all purposes.

(Section 5.06 amended by May 9, 2009 election, effected by Ordinance 2009-12, prop. 4, adopted 5/18/09 and May 11, 2013 election, effected by Ordinance 2013-15, prop. 13, adopted 5/21/13)

State law reference—Canvassing elections, V.T.C.A., Election Code, ch. 67.

5.07 Notification of Town Officers

The Town Secretary, with the concurrence of the Council, shall promptly notify all persons elected to office. A candidate who is elected in a regular or special Town election shall, after taking the oath of office as prescribed herein, take office, and enter upon his duties at the next Council meeting at which he is legally eligible to participate.

5.08 Oath of Office

Every officer of the Town, whether elected or appointed, shall take the oath of office as prescribed by the Texas Constitution or other applicable law prior to assuming office.

State constitution reference—Oath of office, Texas Constitution, art. 16, sec. 1.

Article VI. Recall

6.01A Scope of Recall

Any elected Town official shall be subject to recall and removal from office by the qualified voters of the Town on any one or more of the following grounds: incompetency, misconduct, malfeasance in office or who knowingly or intentionally violates any express prohibition of the Charter.

In this section:

(a) “Incompetency” means (a) gross ignorance of official duties; or (b) gross carelessness in the discharge of official duties; or (c) inability or unfitness to promptly and properly discharge official duties because of a serious mental or physical defect that did not exist at the time of the officer’s election. The term is used in a sense that the Town official has exceeded his or her authority by defying or overruling lawful actions done by the Town Council.

(b) “Official misconduct” means intentional unlawful behavior relating to official duties by a Town Official entrusted with the administration of justice or the execution of the law. The term includes an intentional or corrupt failure, refusal, or neglect of a Town Official to perform a duty imposed on the officer by law.

(c) “Malfeasance” means the doing of an act by a Town Official through ignorance, inattention, or malice, which act the official had no legal right or authority to do, or which act exceeds or abuses the official’s rightful authority or powers; or the failure to do an act which the Town Official had a legal duty to do.

(Section 6.01 amended by May 9, 2009 election, effected by Ordinance 2009-12, prop. 14, adopted 5/18/09 and renumbered to 6.01A by Ordinance 2009-21 adopted 8/24/09. Introductory paragraph amended by May 11, 2013 election, effected by Ordinance 2013-15, prop. 14, adopted 5/21/13)

Editor’s note—Former Section 6.01 pertaining to scope of recall and amended by May 9, 2009 election, effected by Ordinance 2009-12, prop. 4, adopted 5/18/09 was repealed by May 11, 2013 election, effected by Ordinance 2013-15, prop. 14, adopted 5/21/13.

6.02 Petition for Recall

Before the question of recall of such officer shall be submitted to the qualified voters of the Town, a petition demanding such question to be so submitted shall first be filed with the person performing the duties of the Town Secretary, which petition shall be signed by a number equal to at least twenty percent (20%) of those who were qualified voters on the date of the last regular municipal election as determined from the list of qualified voters

maintained by the County Election Administrator. All signatures must be in compliance with the requirements set out in the Texas Election Code.

(Section 6.02 amended by May 9, 2009 election, effected by Ordinance 2009-12, prop. 13, adopted 5/18/09)

6.03 Form of Recall and Oath

The recall petition must be addressed to the Council, 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 (1) ground, such as for incompetency, misconduct, or malfeasance in office shall specifically state each ground with such certainty as to give the Officer sought to be removed notice of the matters and things with which he is charged on each ground. The signature shall be verified by oath in the following form:

STATE OF TEXAS §

COUNTY OF _____ §

I, _____, being first duly sworn, on oath depose and say that I am one of the signers of the above petition 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 whose name it purports to be.

Subscribed and sworn to before me this _____ day of _____, ____.

Notary Public, _____ County, Texas

(Section 6.03 amended by May 9, 2009 election, effected by Ordinance 2009-12, prop. 14, adopted 5/18/09)

6.04 Procedure After Filing Petition for Recall

(a) Upon the filing of a petition, the Town Secretary shall review the petition to determine the existence of the requisite number of signatures of qualified voters and whether the form of the petition complies with the provisions of this Charter. The Town Attorney shall review the petition for legal sufficiency.

(b) Within ten (10) business days after the petition is filed, the Town Secretary shall complete a certificate as to its sufficiency, specifying, if it is insufficient, the particulars wherein it is defective and shall promptly send a copy of the certificate to the person(s) who filed the petition by registered mail.

(c) A petition certified insufficient for lack of the required number of valid signatures or due to inadequate form or content may be amended once if each of the following requirements are met:

(1) the person(s) who filed the petition with the Town Secretary files a notice of intention to amend it with the Town Secretary within five (5) business days after receiving the copy of this certificate via registered mail; and,

(2) such person(s) also file a supplementary petition upon additional papers within ten (10) business days after receiving the copy of such certificate. Such supplementary petition shall comply with the requirements of [section 6.02](#). Within five (5) business days after the supplementary petition is filed, the Town Secretary shall complete a certificate as to the sufficiency of the petition as amended and promptly send a copy of such certificate to the person(s) who filed the petition for recall via registered mail as in the case of an original petition.

(d) If a petition or amended petition is certified sufficient and in compliance with the terms of this Article of the Charter, the Town Secretary shall present this certificate to the Council at its next regular Council meeting or special meeting called for this purpose and immediately shall notify the Councilmember whose removal is sought and provide him with a copy of his petition by registered or certified mail.

(e) No signature to a recall petition shall remain effective or be counted if it was placed upon the petition more than forty-five (45) days prior to filing of the recall petition with the Town Secretary.

(f) If the Councilmember whose removal is sought does not resign within seven (7) days after the certified petition is presented to the Council, the Council, at its next regular meeting or at a specially called meeting, shall order a recall election. The date selected for the recall election shall be the earliest available date in accordance with the Texas Election Code for which all legal requirements to verify the petition and call the election may be met.

(Subsection (g) deleted by May 9, 2009 election, effected by Ordinance 2009-12, prop. 4, adopted 5/18/09 and subsection (f) amended by May 9, 2009 election, effected by 2009-12, prop. 13, adopted 5/18/09)

6.05 Public Notice

The Council shall make or cause to be made publication or notice and provide for holding such election for the successor Councilmember, and the same shall be conducted, and the result thereof declared in all respects as other Town elections.

6.06 Official Ballot

Any Officer so elected shall hold office only during the unexpired term of his predecessor. Any person sought to be removed may be a candidate to succeed himself and, unless he requests otherwise in writing, the Town Secretary shall place his name on the official ballot without nomination. The names of other candidates for such position shall be placed on the official ballot in the same manner as provided in [Article V](#) of this Charter. At such election, the candidate receiving a majority of all votes cast for such office, according to the rules regulating the election of Councilmembers as set forth in this Charter, shall be declared elected. At such election, if some person other than the incumbent receives a majority of all votes cast for such office, the incumbent shall thereupon be deemed removed from the office upon the qualification of his successor. In case the party who receives a majority of all votes cast at said election should fail to qualify within the (10) days after receiving notification of his election, the office shall then become vacant. If the incumbent receives a majority of all votes cast at such election, he shall continue in office and shall not be subject to any other recall for any grounds existing prior to said election. In the event that a runoff election is required, the procedure set forth shall be followed.

(Section 6.06 amended by May 9, 2009 election, effected by Ordinance 2009-12, prop. 4, adopted 5/18/09)

6.07 Recall Petition Prohibited

No recall petition shall be filed against any Officer of the Town within six (6) months after his election, nor within six (6) months after an election for such Officer's recall[.]

6.08 Refusal of Recall Petition

In case all of the requirements of this Charter shall have been met and the Council shall fail or refuse to receive the recall petition, or order such recall election, or discharge any other duties imposed upon said Council by the provisions of this Charter with reference to such recall, then the County Judge of Denton County, Texas, shall discharge any of such duties herein provided to be discharged by the person performing the duties of Town Secretary, or by the Council.

Article VII. Legislation By The People, Initiative and Referendum

7.01 Initiative Generally

The people of the Town reserve the power of direct legislation by initiative, and in the exercise of such power, may propose any ordinance not in conflict with this Charter, the State Constitution or the State laws, except an ordinance appropriating money or authorizing the levy of taxes or an ordinance repealing an ordinance appropriating money or levying taxes.

7.02 Petition

Qualified voters of the Town may initiate legislation by submitting a petition addressed to the Council which requests the submission of a proposed ordinance or resolution to a vote of the qualified voters of the Town. Said petition must be signed by qualified voters of the Town equal in number to twenty (20) percent of the number of qualified voters at the last regular municipal election of the Town, and each copy of the petition shall have attached to it a copy of the proposed legislation. The petition shall be signed in the same manner as recall petitions are signed, as provided in [Section 6.02](#) of this Charter, and shall be verified by oath in the manner and form provided for recall petitions in [Section 6.03](#) of this Charter. The petition may consist of one or more copies as permitted for recall petitions in [Section 6.04](#) of this Charter. Such petitions shall be filed with the person performing the duties of Town Secretary, who after verification of the petition as provided in [Section 6.04](#) of this Charter, shall present the petition and proposed ordinance or resolution to the Council at its next regular or special meeting called for this purpose. Upon presentation to the Council of the petition and draft of the proposal, ordinance or resolution, it shall become the duty of the Council, within the twenty (20) days from the date of presentation to determine whether the proposed ordinance complies with [Section 7.01](#) and to either vote to adopt such ordinance or resolution without alteration as to meaning or effect or to call a special election. A special election shall be held on the earliest available date in accordance with the Texas Election Code for which all legal requirements to verify the petition and call the election may be met. At the election, the qualified voters of the Town shall be allowed the opportunity to vote on the question of adopting or rejecting the proposed legislation. However, if any other municipal election is to be held within sixty (60) days after the filing of the petition, the question may be voted on at such election.

(Section 7.02 amended by May 9, 2009 election, effected by Ordinance 2009-12, prop. 13, adopted 5/18/09)

7.03 Referendum

Qualified voters of the Town may require that any ordinance or resolution passed by the Council be submitted to the voters of the Town for approval or disapproval by submitting a petition for this purpose within forty-five (45) days after the ordinance or resolution becomes effective. Said petition shall be addressed, prepared, signed and verified as required for petitions initiating legislation as provided in [Section 7.02](#) of this Charter and shall be submitted to the person performing the duties of Town Secretary. The Town Secretary shall present the petition to the Council at its next regular or special meeting called for this purpose. Upon presentation of the petition to the Council, it shall become the duty of the Council, within twenty (20) days from the date of presentation to reconsider such ordinance or resolution. If Council does not repeal the ordinance or resolution either in its entirety or as specified in the petition, Council shall call a special election. Pending the holding of such election, such ordinance or resolution shall be suspended and shall not later take effect unless a majority of the qualified voters voting thereon at such election shall vote in favor thereon. A special election shall be held on the earliest available date in accordance with the Texas Election Code for which all legal requirements to verify the petition and call the election may be met. At the election, the qualified voters of the Town shall be allowed the opportunity to vote on the question of approving or disapproving the ordinance or resolution. However, if any other municipal election is to be held within sixty (60) days after the filing of the petition, the question may be voted on at such election.

(Section 7.03 amended by May 9, 2009 election, effected by Ordinance 2009-12, prop. 13, adopted 5/18/09)

7.04 Voluntary Submission of Legislation by the Council

The Council, upon its own motion and by a majority vote of its members, 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, resolution or measure, in the same manner and with the same force and effect as provided in this Article for submission on petition, and may in its discretion call a special election for this purpose.

7.05 Form of Ballots

The ballots used when voting upon such proposed and referred ordinances, resolutions or measures, shall set forth their nature sufficiently to identify them and shall also set forth upon separate lines the words: "FOR the ORDINANCE," and "AGAINST the ORDINANCE," or "FOR the RESOLUTION," and "AGAINST the RESOLUTION".

7.06 Publication of Proposed and Referred Ordinances

The person performing the duties of Town Secretary shall publish the proposed or referred ordinance or resolution in accordance with State law, and shall give such other notices and do such other things relative to such election as are required in general municipal elections or by the ordinance or resolution calling said election.

7.07 Adoption of Ordinances

If a majority of the qualified voters voting on any proposed ordinance or resolution or measure 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.

7.08 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 shall prevail.

7.09 Ordinances Passed by Popular Vote: Repeal or Amendment

No ordinance or resolution 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 in [Section 7.04](#) of this Charter.

7.10 Further Regulations by Council

The Council may pass ordinances or resolutions providing other and further regulations for carrying out the provisions of this Article not inconsistent herewith.

Article VIII. Municipal Planning and Zoning^{*}

8.01 State Law Adopted - Zoning

The Council shall have the power and authority to zone the Town and to pass all necessary ordinances, rules and regulations governing same, under and by virtue of the authority given to cities and the legislative bodies thereof by the Texas Local Government Code, together with all amendments which may hereafter be made thereto, and all other applicable law.

State law reference—Municipal zoning authority, V.T.C.A., Local Government Code, ch. 211.

8.02 State Law Adopted - Subdivision Regulation

The Council shall have the power and authority to regulate the layout, development and platting of the subdivisions of land within the Town and its extraterritorial jurisdiction and to pass all necessary ordinances, rules and regulations governing same, under and by virtue of the authority given to cities and the legislative bodies thereof by the Texas Local Government Code, together with all amendments which may hereafter be made thereto, and all other applicable law.

State law reference—Regulation of subdivision and property development, V.T.C.A., Local Government Code, ch. 212.

8.03 The Planning and Zoning Commission

There shall be established a Planning and Zoning Commission which shall consist of seven (7) citizens from the Town. The members of said Commission shall be appointed by the Council for a term of two (2) years. Four (4) members of the Planning and Zoning Commission shall be so appointed each odd-numbered year and three (3) members shall be so appointed each even-numbered year. The Council shall appoint a chairman from among the Commission's membership. Vacancies and unexpired terms shall be filled by the Council for the remainder of the term. A majority of the members shall constitute a quorum.

A member of the Commission may be removed by a majority vote of the Council. If a vacancy occurs upon the Planning and Zoning Commission, by either resignation or otherwise, the Council shall appoint a commissioner to fill such a vacancy for the unexpired term. The Commission shall keep minutes of its proceedings which shall be a public record. No member of the Planning and Zoning Commission shall hold another salaried or elected Town office.

State law reference—Authority of municipality to establish planning and zoning commission, V.T.C.A., Local Government Code, sec. 211.007.

8.04 Purpose, Objective, Power and Duties

The Planning and Zoning Commission is created to act as an advisory board to the Council in matters relating to the physical development of the Town. The Commission is expected to advise the Council on matters relating to the zoning and planning of land and related public improvements, civic improvements, opening, widening, and changing of streets, routing of public utilities, development of regulatory ordinances, annexation proposals/plans and such other matters related to Town improvements as the Commission and Council may deem beneficial to the Town. In addition to the other duties and authority that the Commission may have under state law or under Town ordinance, the specifically delegated duties of the Commission shall be as follows:

- (a) Recommend a comprehensive master plan for the physical development of the Town together with its related components;
- (b) Conduct periodic reviews of the Town's comprehensive master plan and its component elements to recommend modifications, changes, revisions or updates to ensure that the comprehensive master plan adequately and accurately reflects the policy, goals and objectives of the Town;

- (c) Hold required public hearings on any proposed changes to the zoning plan, map, and ordinances of the Town for the purpose of making recommendations to the Council on the reasonableness of these proposals;
- (d) Recommend any change to the zoning plan, map or ordinances of the Town where the Commission deems it necessary in the furtherance of the Town's comprehensive master plan;
- (e) Conduct appropriate hearings on any proposals for the subdivision/platting of land within the corporate limits of the Town and its extraterritorial jurisdiction pursuant to the provisions of State law and requirements of the Town's subdivision regulation ordinances. The Commission shall take action on those proposals as it deems appropriate and conforming to the requirements of the Town's comprehensive master plan. The Commission shall ensure that proposals for subdivision or development of land are consistent with the Town's plan components as an element of the review process. As an element of this Charter, the Town has determined that it is a reasonable legislative enactment to require subdivision plats to conform to the Town's comprehensive master plan and failure to achieve conformance shall be a legitimate ground for the denial of a development proposal; and,
- (f) The Commission shall hold such hearings and meetings as are mandated by the Council on any matter determined appropriate by Council to secure information for the purpose of making recommendations to the Council.

8.05 Board of Adjustment

The Council shall appoint a Board of Adjustment which shall have all of the powers and authority as set forth by State law, as amended, and other applicable laws, and such additional powers and privileges as may be duly assigned to it by the ordinances of the Town.

State law reference—Establishment and authority of zoning board of adjustment, V.T.C.A., Local Government Code, sec. 211.008 et seq.

8.06 Comprehensive Master Plan

No later than two (2) years after the adoption of this Charter, the Council shall adopt a comprehensive master plan projecting for at least five (5) years the growth and physical development of the Town pursuant to the provisions of State law. The Council shall establish and adopt by ordinance a procedure for periodic review and/or revision of the comprehensive master plan. The Town may adopt the comprehensive master plan by resolution or by ordinance following a public hearing upon which public input is received. The purpose of the comprehensive master plan is to guide the growth and development of the Town and to establish the standards that the Town will seek to attain through the adoption of its development regulations to include its zoning regulations, subdivision regulations, building and construction regulations, landscaping regulations, signage regulations and other related police power enactments. The comprehensive master plan shall identify the goals and objectives of the community for growth and development and shall serve as the basis of the Town's capital improvement program for the development and construction of public works infrastructure.

Article IX. Budget, Finance and Taxation^{*}

9.01 Fiscal Year

The fiscal year of the Town shall begin on the first (1st) day of October and end on the last (30th) day of September of each calendar year. Such fiscal year shall also constitute the budget and accounting year.

State law references—General fiscal power to establish fiscal year, V.T.C.A., Local Government Code, sec. 101.022; city fiscal year, V.T.C.A., Tax Code, sec. 1.05.

9.02 Submission

The Town Manager shall submit to the Council a proposed budget and accompanying message each year in accordance with the requirements of State law.

(Section 9.02 added and former Section 9.02 renumbered to 9.04 by May 9, 2009 election, effected by Ordinance 2009-12, prop. 19, adopted 5/18/09; amended by November 3, 2015 election, effected by Ordinance 2015-41 adopted 11/13/15)

State law reference—Annual budget required, V.T.C.A., Local Government Code, sec. 102.002.

9.03 Budget Message

The Town Manager's message shall explain the budget both in fiscal terms and in terms of the work programs, linking those programs to organizational goals and community priorities. It shall outline the proposed financial policies of the Town for the ensuing fiscal year and the impact of those policies on future years. It shall 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 Town's debt position, including factors affecting the ability to raise resources through debt issues, and include such other material as the Town Manager deems desirable.

(Section 9.03 repealed and replaced by May 9, 2009 election, effected by Ordinance 2009-12, prop. 19, adopted 5/18/09)

9.04 Budget

The budget shall provide a complete financial plan of all Town funds and activities for the ensuing fiscal year and, except as required by law or this charter, shall be in such form as the Town Manager deems desirable or the Council may require for effective management and an understanding of the relationship between the budget and the Town's strategic goals. The budget shall begin with a clear general summary of its contents; shall show in detail all estimated income citing the source or basis of the estimates, indicating the proposed property tax levy, and all proposed expenditures, including debt service, for the ensuing fiscal year; and shall be so arranged as to show comparative figures for actual and estimated income and expenditures of the current fiscal year and actual income and expenditures of the three prior fiscal years and the projected budgets for the next three fiscal years; the total of the proposed expenditures shall not exceed the total estimated income and the balance of available funds. The budget shall indicate in separate sections:

- (a) The proposed goals and expenditures for current operations during the ensuing fiscal year, detailed for each fund by department or by other organization unit, and program, purpose or activity, method of financing such expenditures, and methods to measure outcomes and performance related to the goals;
- (b) Proposed longer term goals and capital expenditures during the ensuing fiscal year, detailed for each fund by department or by other organization unit when practicable, the proposed method of financing each such capital expenditure, and methods to measure outcomes and performance related to the goals; and
- (c) The proposed goals, anticipated income and expense, profit and loss for the ensuing year for each utility or other enterprise fund or internal service fund operated by the Town, and methods to measure outcomes and performance related to the goals. For any fund, the total of proposed expenditures shall not exceed the total of estimated income plus carried forward fund balance exclusive of reserves.

(Section 9.04 repealed and replaced by May 9, 2009 election, effected by Ordinance 2009-12, prop. 19, adopted 5/18/09; subsections (1)–(3) renumbered to (a)–(c) by Ordinance 2015-43, sec. 2.02, adopted 12/8/15)

State law reference—Itemized budget and contents, V.T.C.A., Local Government Code, sec. 102.003.

9.05 Council Action on Budget

- (a) **Budget Preparation.** The Council shall provide to the Town Manager goals for the next fiscal period, by the end of January of the current fiscal year.
- (b) **Notice and Hearing.** The Council shall review the proposed budget and revise it as deemed appropriate prior to general circulation for public hearing. The Council shall publish the general

summary of the budget and a notice stating:

- (1) The times and places where copies of the message and budget are available for inspection by the public, and
 - (2) The time and place, not less than two weeks after such publication, for public hearings on the budget.
- (c) **Amendment Before Adoption.** After the public hearing, the Council may adopt the budget with or without amendment. In amending the budget, it may add or increase programs or amounts and may delete or decrease any programs or amounts, except expenditures required by law or for debt service or for an estimated cash deficit, provided that no amendment to the budget shall increase the authorized expenditures to an amount greater than total estimated income plus the balance of available funds.
- (d) **Adoption.** The Council shall adopt the budget by ordinance not later than the 30th day of September. Adoption of the budget shall constitute appropriations of the amount specified as expenditures from the fund indicated.
- (e) **Failure to Adopt a Budget.** If the Council fails to adopt the budget by the beginning of the fiscal year, the amounts appropriated for the current fiscal year shall be deemed adopted for the ensuing fiscal year until the Council adopts a budget for the ensuing fiscal year.
- (f) **“Publish” defined.** As used in this article, the term “publish” means to print in the contemporary means of information sharing, which includes but is not limited to, one or more newspapers of general circulation in the Town, and, if available, in a web site.

(Section 9.05 repealed and replaced by May 9, 2009 election, effected by Ordinance 2009-12, prop. 19, adopted 5/18/09)

State law references—Public hearing on proposed budget, V.T.C.A., Local Government Code, sec. 102.006; special notice by publication for budget hearing, V.T.C.A., Local Government Code, sec. 102.0065; adoption of budget, V.T.C.A., Local Government Code, sec. 102.007.

9.06 Amendment after Adoption

- (a) **Supplemental Appropriations.** If during or before the fiscal year the Town Manager certifies that there are available for appropriation revenues in excess of those estimated in the budget, the Council by ordinance may make supplemental appropriations for the year up to the amount of such excess[.]
- (b) **Emergency Appropriations.** To address a public emergency affecting life, health, property or the public peace, the Council may make emergency appropriations. Such appropriations may be made by emergency ordinance. To the extent that there are no available unappropriated revenues or a sufficient fund balance to meet such appropriations, the Council may by such emergency ordinance authorize the issuance of emergency notes, which may be renewed from time to time, but the emergency notes and renewals of any fiscal year shall be paid or refinanced as long term debt not later than the last day of the fiscal year next succeeding that in which the emergency appropriation was made.
- (c) **Reduction of Appropriations.** If at any time during the fiscal year it appears probable to the Town Manager that the revenues or fund balances available will be insufficient to finance the expenditures for

which appropriations have been authorized, the Town Manager shall report to the Council without delay, indicating the estimated amount of the deficit, any remedial action taken by the Town Manager and recommendations as to any other steps to be taken. The Council shall then take such further action as it deems necessary to prevent or reduce any deficit and for that purpose it may by ordinance reduce or eliminate one or more appropriations.

(d) **Transfer of Appropriations.** At any time during or before the fiscal year, the Council may by resolution transfer part or all of the unencumbered appropriation balance from one department, fund, service, strategy or organizational unit to the appropriation for other departments or organizational units or a new appropriation. The Town Manager may transfer funds among programs within a department, fund, service, strategy or organizational unit and shall report such transfers to the Council in writing in a timely manner.

(e) **Limitation.** No appropriation for debt service may be reduced or transferred, except to the extent that the debt is refinanced and less debt service is required, and no appropriation may be reduced below any amount required by law to be appropriated or by more than the amount of the unencumbered balance thereof.

(f) **Effective Date.** The supplemental and emergency appropriations and reduction or transfer of appropriations authorized by this section may be made effective immediately upon adoption.

(Section 9.06 repealed and replaced by May 9, 2009 election, effected by Ordinance 2009-12, prop. 19, adopted 5/18/09)

State law references—Levy of taxes and expenditure of funds under budget, emergency expenditure, V.T.C.A., Local Government Code, sec. 102.009; changes in budget for municipal purposes, V.T.C.A., Local Government Code, sec. 102.010.

9.07 Administration and Fiduciary Oversight of the Budget

The Council shall provide by ordinance the procedures for administration and fiduciary oversight of the budget.

(Section 9.07 repealed and replaced by May 9, 2009 election, effected by Ordinance 2009-12, prop. 19, adopted 5/18/09)

9.08 Capital Program

(a) **Submission to Council.** The Town Manager shall prepare and submit to the Council a five (5) year capital program before the first day of August of each year. The capital program shall be revised and extended each year with regard to capital improvements still pending or in process of construction or acquisition.

(b) **Contents.** The capital program shall include:

(1) A clear general summary of its contents;

(2) Identification of the long-term goals of the community as identified by the Council;

(3) A list of all capital improvements (facilities and property) and other capital expenditures which are proposed to be undertaken during the five (5) fiscal years next ensuing, with appropriate supporting information as to the necessity for each;

(4) Cost estimates and recommended time schedules for each improvement or other capital expenditure;

- (5) Method of financing upon which each capital expenditure is to be reliant;
- (6) The estimated annual cost of operating and maintaining the facilities to be constructed or acquired;
- (7) A commentary on how the plan addresses the sustainability of the community and the region of which it is a part; and
- (8) Methods to measure outcomes and performance of the capital plan related to the long-term goals of the community.

(Section 9.08 added and former Section 9.08 renumbered to 9.10 by May 9, 2009 election, effected by Ordinance 2009-12, prop. 19, adopted 5/18/09. Subsection (a) amended by May 11, 2013 election, effected by Ordinance 2013-15, prop. 15, adopted 5/21/13)

State law reference—Financing capital improvements required by new development, V.T.C.A., Local Government Code, ch. 395.

9.09 Audit and Examination of Town Books and Accounts

The Council shall cause an independent annual audit to be made of the books and accounts of every department of the Town and may provide for more frequent audits as it deems necessary. Such audit shall be made by a Certified Public Accountant who shall be selected by the Council and who shall have no interest, direct or indirect, in the financial affairs of the Town government or in any of its officers. The Council may designate such accountant or firm annually or for a period not exceeding two (2) years, provided that the designation for any particular year shall be made no later than thirty (30) days after the beginning of such fiscal year. Nothing herein shall prevent the Council from redesignating the same accountant or firm which has previously been designated to prepare an audit. No Certified Public Accountant shall serve more than six (6) consecutive years.

(Section 9.09 repealed and Section 3.20 renumbered to become the new Section 9.09 by May 9, 2009 election, effected by Ordinance 2009-12, prop. 19, adopted 5/18/09)

State law reference—Audit of municipal finances, V.T.C.A., Local Government Code, ch. 103.

9.10 Defect Shall Not Invalidate Tax Levy

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

(Former Section 9.08 renumbered to 9.10 by May 9, 2009 election, effected by Ordinance 2009-12, prop. 19, adopted 5/18/09)

9.11 Public Records

Copies of the approved operation budget, capital facilities and property budget and supporting papers shall be filed with the Town Secretary and shall be public records available to the public for inspection upon request[.]

(Former Section 9.10 renumbered to 9.11 by May 9, 2009 election, effected by Ordinance 2009-12, prop. 19, adopted 5/18/09)

9.12 Specified Reserve Fund

Specified reserve funds may be created for specific purposes, and may be used only for such purposes.

(Former Section 9.14 renumbered to 9.12 by May 9, 2009 election, effected by Ordinance 2009-12, prop. 19, adopted 5/18/09)

9.13 Changes in Budget

The Council may make changes in the budget for any municipal purpose or as otherwise permitted by law.

(Former Section 9.12 renumbered to 9.13 by May 9, 2009 election, effected by Ordinance 2009-12, prop. 19, adopted 5/18/09)

State law reference—Changes in budget for municipal purposes, V.T.C.A., Local Government Code, sec. 102.010.

9.14 Authority to Incur Indebtedness

The Council shall have the power to incur, create, refund and refinance indebtedness and borrow money for public purposes, to issue special or general obligation bonds, revenue bonds, funding and refunding bonds, time warrants, certificates of obligation and other evidences of indebtedness and to secure and pay the same in the manner and in accordance with the procedures provided and required by State law.

(Former Section 9.18 renumbered to 9.14 by May 9, 2009 election, effected by Ordinance 2009-12, prop. 19, adopted 5/18/09)

State law reference—Municipal bonds, V.T.C.A., Government Code, ch. 1331.

9.15 Bonds Incontestable

All bonds of the Town having been issued and sold and having been delivered to the purchaser thereof, shall thereafter be incontestable and all bonds issued to refund in exchange for outstanding bonds previously issued shall and after said exchange be incontestable.

(Former Section 9.19 renumbered to 9.15 by May 9, 2009 election, effected by Ordinance 2009-12, prop. 19, adopted 5/18/09)

9.16 Borrowing in Anticipation of Property Tax

In any budget year, the Council may, by resolution, authorize the borrowing of money in anticipation of the collection of the property tax for the same year whether levied or to be levied. Notes may be issued for periods not exceeding one (1) year and must be retired by the end of the budget year in which issued.

(Former Section 9.20 renumbered to 9.16 by May 9, 2009 election, effected by Ordinance 2009-12, prop. 19, adopted 5/18/09)

9.17 Use of Bond Funds

Any and all bond funds approved by a vote of the qualified voter[s] of the Town will be expended only for the purposes stated in the bond issue and as otherwise authorized by law.

(Former Section 9.21 renumbered to 9.17 amended by May 9, 2009 election, effected by Ordinance 2009-12, prop. 19, adopted 5/18/09)

9.18 Power to Tax

The Council shall have the power to levy, assess and collect taxes within the jurisdiction of the Town for any municipal purpose.

(Former Section 9.22 renumbered to 9.18 by May 9, 2009 election, effected by Ordinance 2009-12, prop. 19, adopted 5/18/09)

State law references—Local taxation, V.T.C.A., Tax Code, ch. 301 et seq.; property taxes authorized, V.T.C.A., Tax Code, sec. 302.001; occupation taxes, V.T.C.A., Tax Code, sec. 302.101; tax collection powers, V.T.C.A., Tax Code, sec. 302.102.

9.19 Tax Rate

The tax rate shall be calculated, publicized and adopted in accordance with State law.

(Former Section 9.23 renumbered to 9.19 by May 9, 2009 election, effected by Ordinance 2009-12, prop. 19, adopted 5/18/09)

9.20 Other Rules and Regulations

Except as otherwise provided by law or this Charter, the Council shall have the power to provide by ordinance or resolution such rules, regulations and mode of procedure to enforce and facilitate the collection by and payment to the Tax Assessor and Collector of all taxes due the Town as it may deem expedient, and may provide such penalty and interest as prescribed by State law for the failure to pay such taxes.

(Former Section 9.24 renumbered to 9.20 by May 9, 2009 election, effected by Ordinance 2009-12, prop. 19, adopted 5/18/09)

Article X. Franchises and Public Utilities^{*}

10.01 Inalienability of Control of Public Property

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

10.02 Powers of the Town

The Town shall have the power, right and authority, to buy, construct, lease, maintain, operate and regulate public utilities, and to manufacture, distribute and sell the output of such utilities' operations. Additionally, the Town shall have all further rights, authorities, and powers as may now, or hereafter, be granted under the Constitution and laws of the State of Texas.

10.03 Power to Grant Franchise

The Council shall have the power by ordinance, after public hearing, to grant, renew, and extend all franchises of every character operating within the Town and to amend the same, provided, however, that no franchise shall be granted for an indeterminate term. No grant or franchise to construct, maintain, or operate and no renewal or extension of such grant shall be exclusive. All required publication costs shall be paid by the franchisee.

(Section 10.03 amended by May 9, 2009 election, effected by Ordinance 2009-12, prop. 24, adopted 5/18/09)

10.04 Franchise Value Not to be Allowed

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

10.05 Right of Regulation

All grants, removals, extensions, or amendments of public utility franchises approved after the effective date of this Charter, whether or not it be specifically provided in the ordinance approving a franchise or in a franchise agreement, shall be subject to right and power of the Council:

- (a) To repeal the franchise ordinance at any time upon the failure of the grantee to comply with any provision of the franchise ordinance, the Charter of the Town, an applicable statute of the State of Texas, or the rules of any applicable governing body;
 - (b) To require proper and adequate extension of plant and service, and the maintenance of the plant and fixtures at the highest reasonable standard of efficiency;
 - (c) To establish reasonable standards of service and quality of products and prevent unjust discrimination in service or rates;
 - (d) At any time, to examine and audit the accounts and other records of any such utility, and to require annual, and other reports, including reports on operations within the Town;
 - (e) To require at any time compensation and rental for use of public streets, sidewalks, highways, bridges, alleys, and public places;
 - (f) To require the franchisee to restore at the franchisee's expense, all public or private property to a condition equally as good as or better than before disturbed by construction, repair or removal. The franchise holder in opening and refilling of all earth openings shall repair the pavement and do all other work necessary to complete restoration of streets, sidewalks or grounds to a condition equally as good or better as when disturbed;
 - (g) To require every franchisee to furnish within a reasonable time to the Town, without cost to the Town, a general map, with updates outlining the location, character, size, length, and terminals of all facilities of such franchisee in, over, and under ground of property in the Town and to provide detailed information on request in a format as specified by the Town;
 - (h) To impose other regulations, requirements, and conditions as may be deemed necessary to promote the health, safety, welfare, or accommodation of the public and to insure safe, efficient and continuous service to the public;
 - (i) To require such compensation and rental as may be permitted by the laws of the State of Texas;
- and,

(j) To require the franchisee to remove, at its sole expense, infrastructure that has not been used for a period of six months or to require a franchisee whose franchise has terminated for any reason to remove, at its sole expense, such infrastructure as the Council may in its discretion require.

10.06 Consent of Property Owner

The consent of abutting and adjacent property owners shall not be required for the construction, extension, maintenance or operation of any public utility; but, nothing in this Charter, or in any franchise granted hereunder, shall ever be construed to deprive any such property owner of any right of action for damage or injury to this property as now or hereafter provided by law.

10.07 Extensions

All extensions of public utilities within the town limits shall become a part of the aggregate property of the public utility, shall be operated as such, and shall be subject to all the obligations and reserved rights contained in this Charter and in any franchise grant made to such public utility. The right to use and maintain any extensions shall terminate with the termination of the original franchise grant, and shall be terminable as provided in [Section 10.04](#) of this Charter. In case of an extension of a public utility operated under a franchise hereafter granted, such right shall be terminable at the same time and under the same conditions as the original grant.

10.08 Other Conditions

All franchises heretofore granted are recognized as contracts between the Town and the franchisee, and the contractual rights, as contained in any such franchise shall not be impaired by the provisions of this Charter, except that the power of the Town to exercise the right of eminent domain in the acquisition of utility property is in all things reserved, and except the general power of the Town, to regulate the rates and services of a grantee, which shall include the right to require proper and adequate extension of plant and service and the maintenance of the franchise hereafter granted shall be held subject to all the terms and conditions contained in the various sections of this article whether or not such terms are specifically mentioned in the franchise. Nothing in this Charter shall operate to limit in any way, as specifically stated, the discretion of the Council, or voters of the Town, in imposing terms and conditions as may be reasonable in connection with any franchise granted.

10.09 Accounts of Municipally Owned Utilities

Accounts shall be kept for each public utility owned or operated by the Town, in such manner as to show the true and complete financial results of such ownership and operation, including all assets and all liabilities, appropriately subdivided by classes, depreciation reserve, other reserves and surplus; also revenues, operating expenses including depreciation interest payments, rental and other disposition of annual income. The accounts shall show actual capital cost to the Town of each public utility owned, also the cost of all extensions, additions and improvements and the source of funds expended for such capital purposes. They shall show as nearly as possible the cost of any service to or rendered by any such utility to any Town department. The Council shall cause an annual report to be made by a Certified Public Accountant and shall publish such report, showing the financial results of such Town ownership and operation, giving the information specified in this section and such other data as the Council shall deem expedient.

10.10 Sales of Electricity, Water and Sewer Service

(a) The Council shall have the right, power and authority to sell and distribute electricity and water, and to sell and provide for sewer services, and any other utilities, to any person, firm or corporation inside or outside the limits of the Town, and to permit them to connect with said system under contract with the Town, under such terms and conditions as may appear to be for the best interest of the Town.

(b) The Council shall have the right, power and authority to prescribe the kind of materials used inside or outside the limits of the Town in the construction of electric, water and sewer utilities, where it furnishes the service, and to inspect the same and require them to keep in good order and condition at all times and to make such rules and regulations as shall be necessary and proper, and prescribe penalties for noncompliance with same.

10.11 Regulation of Rates and Service

The Council shall have the absolute right, authority and power after due notice and hearing, to regulate by ordinance, the rates and services of every franchise operating in the Town; and shall have the power to employ, at

the expense of the franchisee, expert assistance and advice in determining a reasonable rate and equitable profit to the franchisee. The Council shall also have the right, authority, and power to require at any time or times, detailed reports and financial statements on the operations of any franchise, which reports and statements shall be in such form, and contain such information, as the Council shall prescribe.

Article XI. General Provisions

11.01 Charter Authority

This Charter shall not be construed as a mere grant of enumerated powers, but shall be construed as a general grant of power, and not as a limitation of power on the government of the Town. Except where expressly prohibited by this Charter, each and every power under the Constitution of Texas, which it would be competent for the people of the Town to grant expressly to the Town, shall be construed to be granted to the Town by this Charter.

11.02 Public Records

Access to the records of every office, department or agency of the Town shall be subject to public inspection as provided by law. This section shall not be construed to require any action or measure beyond that required by state law.

State law references—Public access to records, V.T.C.A., Local Government Code, sec. 201.009; public information, V.T.C.A., Government Code, ch. 552.

11.03 Property Not Subject to Execution

No property owned or held by the Town shall be subject to any execution of any kind or nature. No lien of any kind or character can be created, and none shall ever exist or be established, on or against the public buildings, property, public halls, parks, or public works or any other asset of the Town.

State law reference—Authority relating to property, V.T.C.A., Local Government Code, sec. 51.076.

11.04 Town Not Required to Give Security or Execute Bond

It shall not be necessary in any action, suit or proceeding in which the Town is a party, for any bond, undertaking, or security to be demanded or executed by or on behalf of the Town in any of the State courts, but in all such actions, suits, appeals or proceedings, same shall be conducted in the same manner as if such bond, undertaking or security had been given as required by law.

State law reference—Cities exempt from security for court costs, V.T.C.A., Civil Practice and Remedies Code, sec. 6.002.

11.05 Notice of Injury or Damage

(a) Before the Town shall be liable for any claim for damages for the death or personal injuries of any person or for damages to property, the complainant or his authorized representative shall notify the Town Secretary in accordance with this Section. The notification shall be in writing and shall state specifically how, when and where the death, injury or damage occurred; the amount of loss claimed; and the identity of any witnesses upon whom it is relied to establish the claim. The notification shall be filed within sixty (60) days of the date of injury or damage or in the case of death, within sixty (60) days of the date of death.

(b) No provision of this section shall ever be so construed as to expand the ordinary liability of the Town; and provided, that nothing herein contained shall be construed to mean that the Town, waives any rights, privileges, defenses or immunities in tort actions which are provided under the common law, the Constitution, and general laws of the State of Texas.

State law references—Texas Tort Claims Act, V.T.C.A., Civil Practice and Remedies Code, ch. 101; notice procedures, V.T.C.A., Civil Practice and Remedies Code, sec. 101.101

11.06 Powers to Remit Penalties

The governing body shall have the right to remit, in whole or in part, any civil fine or penalty belonging to the Town, which may be imposed under any ordinance passed pursuant to this Charter.

11.07 Property Not Exempt from Special Assessments

No property of any kind regardless of the ownership of the property, (except property of the Town), shall be exempt

in any way from any of the special taxes, charges, levies and assessments, authorized or permitted by this Charter, for local improvement, for the public welfare except where such exemption is required by law or where Council has the discretion to authorize such exemption and a majority of Council votes to approve such exemption.

11.08 Town Depository

The provisions of the State laws governing the selection and designation of a Town depository are hereby adopted as the law governing the selection and designation of a depository of and for the Town.

State law reference—Depositories for municipal funds, V.T.C.A., Local Government Code, ch. 105.

11.09 Judicial Notice

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

11.10 Severability Clause

If any section or part of this Charter shall be held invalid by a Court of competent jurisdiction, such holding shall not affect the remainder of this Charter, nor the context in which such section or part of section so held invalid may appear, except to the extent that any entire section, or part of section, may be inseparably connected in meaning and effect, with the section or part of [the] section to which such holding shall directly apply. The Charter is translated in Spanish. For purposes of interpretation and enforcement, in the event of conflict, the English version of the Charter shall prevail.

11.11 Construction of Charter

The provisions of this Charter shall be construed for the purpose of effecting the objects and ends thereof. All references to state law or laws of the State of Texas, however expressed, shall mean “as presently enacted or hereinafter enacted.” All gender references shall be interpreted to include both masculine and feminine.

11.12 Renumber, Rename, Rearrange, Clerical, Typographical and Grammatical Error Correction

The Council shall have the power, by ordinance, to renumber, rename and rearrange all articles, sections and paragraphs of this Charter, or any amendments thereto, and to correct clerical, typographical or grammatical errors within the Charter, as it shall deem appropriate, provided that such action does not change the meaning or effect of any part hereof, and, upon the passage of any such ordinance, a copy thereof, certified by the Town Secretary, shall be forwarded to the Secretary of State of the State of Texas for filing.

(Section 11.12 amended by May 11, 2013 election, effected by Ordinance 2013-15, prop. 16, adopted 5/21/13)

11.13 Amendment to Charter

Amendments to this Charter may be framed and submitted to the voters of the Town in the manner provided by State law.

State constitution reference—Adoption or amendment of charter, Texas Constitution, art. 11, sec. 5.

State law reference—Adoption or amendment of charter, V.T.C.A., Local Government Code, sec. 9.001 et seq.

11.14 Code of Ethics and Conduct; Ethics Commission

(a) The Town Council shall adopt by ordinance a code of ethics and conduct that is consistent with the provisions of this Charter and applicable to elected officers, appointed board, commission, and committee members, and employees of the Town.

(b) The Town Council shall establish by ordinance an independent Ethics Commission to administer and enforce the Code of Ethics and Conduct ordinance. No member of the Commission may hold elective or appointed office under the Town or any other government or hold any political party office.

The Town Council shall appropriate sufficient funds to the Ethics Commission to enable it to perform the duties assigned.

(Section 11.14 added by May 9, 2009 election, effected by Ordinance 2009-12, prop. 21, adopted 5/18/09)

11.15 Charter Review Commission

The Council shall appoint a Charter Review Commission at intervals of not more than ten (10) years. The Commission shall consist of nine (9) qualified voters of the Town. Each councilmember shall appoint one member to serve on the Charter Review Commission, and remaining members shall be appointed by vote of the Council. The Commission shall review the Town Charter and make Charter amendment recommendations, where

appropriate, that will help protect or enhance the rights, powers and benefits of all Trophy Club residents. It shall be the duty of the Charter Review Commission to:

- (a) Inquire into the operation of the Town government under the Charter and determine whether any provisions require revision. To this end, public hearings may be held;
- (b) Propose any recommendations it deems desirable to ensure compliance with this Charter;
- (c) Propose amendments to this Charter to improve its effective application to current conditions; and
- (d) Report its findings and present its proposed amendments to the Town Council.

The Council shall receive and have published in the Town's official newspaper the Charter Review Commission's final report. It shall consider any recommendations and, if any amendments are presented, may order the amendment or amendments submitted to the voters of the Town.

The term of office of the Commission shall be six (6) months or longer if extended by the Council and, at the completion of such term, a report of the proceedings of the Commission shall be filed with the Town Secretary and shall become public record.

(Section 11.15 added by May 9, 2009 election, effected by Ordinance 2009-12, prop. 22, adopted 5/18/09; First paragraph amended by May 11, 2013 election, effected by Ordinance 2013-15, prop. 17, adopted 5/21/13; Grammatical error corrected by Ordinance 2015-43, sec. 2.03, adopted 12/8/15; Section 11.15 added by November 3, 2020 election, effected by Ordinance 2020-21, prop. B, adopted 11/17/20)

Article XII. Reserved*