

HOME RULE CHARTER



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ARTICLE I

INCORPORATION, FORM OF GOVERNMENT AND POWERS

SECTION 1.01. - INCORPORATION.

The people of the City of Lampasas, Lampasas County, Texas, residing within its corporate limits as are now or after established, are constituted and shall continue to be a municipal body politic and corporate in perpetuity under the name of the "City of Lampasas" referred to in this Charter as the "City" with such powers, privileges, rights, duties, and immunities as are provided by this Charter.

SECTION 1.02. - GENERAL POWERS.

The City shall have all the powers granted to cities by the Constitution and Laws of the State of Texas together with all of the implied powers necessary to carry into execution such granted powers. The City may use a corporate seal; may sue and be sued; may contract and be contracted with; may cooperate with the government of the State of Texas or any agency or any political subdivision thereof, to accomplish any lawful purpose for the advancement of the interest, welfare, health, morals, comfort, safety, and convenience of the City and its inhabitants; may acquire property within or without its corporate limits for any municipal purpose in fee simple, or in any lesser interest or estate, by purchase, gift, devise, lease or condemnation, and, subject to the provisions of this Charter, may sell, lease, mortgage, hold, manage, improve, and control such property as may now or after be owned by it; may pass ordinances and enact regulations as may be expedient for the maintenance of good government, order and peace of the City and the welfare, health, morals, comfort, safety, and convenience of its inhabitants. The enumeration of the particular powers in this Charter shall not be held or deemed to be exclusive but in addition to the powers enumerated herein or implied hereby or appropriate to the exercise of such powers. The City shall have and may exercise all power of local self-government and all other powers which, under the Constitution and Laws of the State of Texas, it would be competent for this Charter specifically to enumerate. The City of Lampasas shall have and exercise all the powers enumerated in Chapter 13, Title 28, Article 1175 of the Revised Civil Statutes of the State of Texas of 1925 and amendments thereto as hereafter enacted.

All powers, whether expressed or implied, shall be exercised and enforced in the manner prescribed in this Charter; or when not prescribed in this Charter, in such manner as shall be prescribed by ordinance of the City Council.

SECTION 1.03. - FORM OF GOVERNMENT.

The municipal government provided by this Charter shall be known as "Council-Manager Government." Pursuant to the provisions of and subject only to the limitations imposed by the State Constitution, the State Laws, and this Charter, all powers of the City shall be vested in and exercised by an elective Council, now referred to as the "City Council/Council," which shall enact legislation, adopt budgets, determine policies, and appoint the City Manager who shall execute the laws and administer the government of the City.

SECTION 1.04. - STREETS, PUBLIC PROPERTY, DEVELOPMENT AND IMPROVEMENTS.

The City shall have exclusive dominion, control and jurisdiction in, upon, over and under the public streets, sidewalks, alleys, highways, public areas and public ways within the corporate limits of the City, and in, upon, over and under all public property of the City. With respect to each and every public street, sidewalk, alley, highway, public area, public park or other public way within the corporate limits of the City, the City shall have the power to establish, maintain, improve, alter, abandon, or vacate the same; to regulate the use thereof including but not limited to the right to erect traffic signals, lights and signs thereon; and to abate and remove in a summary manner any encroachment thereon.

The cost of such development and improvement may be paid partly or entirely by assessments levied as a lien against the property abutting thereon and against the owners thereof, and such assessments may be levied in any amounts and under any procedure not prohibited by State Law.

As an alternate and cumulative method of developing, improving and paving any and all public streets, sidewalks, alleys, highways, and other public ways within its corporate limits, the City shall have the power and authority to proceed in accordance with Chapter 106, Page 489, Acts 1927, Fortieth Legislature, First Called Session, as now or hereafter amended, the same being Article 1105 b of the Vernon's Annotated Civil Statutes of Texas.

SECTION 1.05. - ANNEXATION AND DISANNEXATION OF TERRITORY.

The City Council by annexation may fix boundary limits of the City by any of the following methods:

- a. Upon the introduction and passage of the ordinance in compliance with all requirements of the laws of the State of Texas and the Charter, with or without the consent of the voters and/or landowners in the area to be annexed; or
- b. Upon the request by written petition of a majority of qualified voters and landowners in the area requesting annexation subject to procedural rules as provided by the laws of the State of Texas, and the passage of an annexation ordinance in response to the petition procedure.

The inhabitants of annexed territory are entitled to all the rights and privileges of city citizenship, and are bound by all such duties of citizenship. The inhabitants of any annexed territory are bound by all the acts, resolutions, ordinances, and regulations of the City.

The City Council may detach and disannex any territory within the city limits by any of the following methods:

- a. Upon compliance with all requirements of the laws of the State of Texas, with or without the consent of the voters and/or landowners in the area disannexed;
- b. Upon the request by written petition of a majority of qualified voters and landowners in the area proposed for disannexation in compliance with the laws of the State of Texas and this Charter, and the passage of an ordinance in response to the petition procedure.

SECTION 1.06. - PLATS AND BLOCKS.

An owner of any property within the city limits or within the extraterritorial jurisdiction of the City which is platted into blocks and lots shall comply with all requirements of Chapter 231, Page 342, Acts of the 40th Legislature, 1927, as amended (Article 974A, Vernon's Annotated Civil Statutes) and all other applicable laws, ordinances, and charter provisions as amended.

SECTION 1.07. - URBAN DEVELOPMENT, REDEVELOPMENT AND RENEWAL.

The City shall have the power to carry out slum clearance, public housing, and urban redevelopment and renewal projects. For these purposes it may acquire land by eminent domain, may contract or cooperate with the State or Federal governments or any agency thereof, may invest its funds, and borrow or accept money.

ARTICLE II

THE COUNCIL

SECTION 2.01. - NUMBER, SELECTION, AND TERM OF OFFICE.

The Council shall be composed of the Mayor and six (6) Councilmembers. The Mayor and all Councilmembers shall be elected from the City at large, and each Councilmember shall occupy a position on the Council, such positions being numbered 1 through 6 consecutively. The Mayor and Councilmembers shall be elected in the manner provided in Article III of this Charter to serve for two (2) year terms.

At the first general election held under this Charter, and each odd-numbered year thereafter, the Mayor and three (3) Councilmembers shall be elected, with the Councilmembers filling positions 1, 2, and 6. The following year, and each even-numbered year thereafter, three (3) Councilmembers shall be elected to fill positions 3, 4, and 5.

In the interim period, until the first general election the Mayor shall serve out the rest of the complete term with no veto power and may vote only in case of a tie; and, until the additional member of the Council shall assume office, a simple majority of the council, present and voting, shall be required for any Council action.

SECTION 2.02. - QUALIFICATIONS.

At the time of election to office each Councilmember and the Mayor shall be at least twenty-one years of age, and shall be a citizen and qualified voter of the State of Texas and the City of Lampasas and shall have resided in the City for a period of twelve consecutive months immediately preceding the date of the election. Members of the Council shall hold no employment under the City Government for a period of two years following their Council service. A member of the Council ceasing to reside in the City shall immediately forfeit his office.

SECTION 2.03. - COMPENSATION.

Compensation to the Mayor and Councilmembers shall be the sum of one dollar (\$1.00) per year, and they also shall be reimbursed for all expenses incurred in the performance of their duty.

SECTION 2.04. - VACANCIES.

Vacancies in the Council, or in the office of Mayor, arising from any cause shall be filled by a majority vote of the remaining members for the unexpired term or until the next City General Election. The successor shall possess all qualifications required for the office. In all cases the vacancy shall be filled by election at the next succeeding City General Election for the remaining year of the unexpired term, as the case may be.

SECTION 2.05. - POWERS OF THE COUNCIL.

All powers and authority which are expressly or impliedly conferred on or possessed by the City shall be vested in and exercised by the Council. The Council shall have no authority to exercise those powers expressly conferred upon City Officers by this Charter. The compensation of all appointive officers and employees shall be fixed by the City Council who may increase, decrease, or abolish such compensation. The City Council may create or abolish any appointive office at any time except those required by this Charter or State Law.

SECTION 2.06. - INVESTIGATIVE BODY.

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

SECTION 2.07. - MAYOR AND MAYOR PRO TEM.

The Mayor shall preside at Council meetings and be recognized as head of the City Government for all ceremonial purposes, for the purpose of receiving services of civil process, for emergency purposes, and for military purposes.

The Mayor shall have no regular administrative duties. The Mayor, as a member of the Council, shall be entitled to vote upon all affairs considered by the Council and shall have no veto power. At its first meeting following each regular election of Councilmembers, the Council shall elect one of its number as Mayor Pro Tem who shall serve in such capacity at the pleasure of the Council. The Mayor Pro Tem shall act as Mayor during the absence or disability of the Mayor, and shall have the power to perform every act the Mayor could perform if present.

SECTION 2.08. - CITY SECRETARY.

The Council shall appoint the City Secretary, who shall serve at the pleasure of the Council. The City Secretary shall keep the records of the Council, and shall have such other duties and responsibilities as may be assigned by this Charter and the Council. The City Secretary shall appoint such assistants as authorized and approved by the Council.

SECTION 2.09. - MEETINGS OF THE COUNCIL.

There shall be regular meetings of the City Council which shall be held at such times and places as shall be prescribed by ordinance or resolution. Special Meetings may be called at any time by the City Secretary upon the request of the Mayor, City Manager, or four Councilmembers. Notice of Special Meetings as required by law shall be given to all members of the Council who are not absent from the City; however, any member of the Council who did not receive notice of a Special Meeting may, either before or after such Special Meeting is held, waive such notice. It shall not be necessary for such absent Councilmember to waive such notice.

SECTION 2.10. - RULES OF PROCEDURE.

The Council shall by ordinance determine its own rules and order of business. Four members of the council, qualified and serving, shall constitute a quorum for meetings for the transaction of business, but no action of the Council shall be of any force or effect unless it is adopted by the favorable votes of not less than four members of the Council qualified and serving, unless otherwise provided by this Charter. The Council may adopt such rules, and prescribe such penalties as it may see fit to enforce the attendance of its members at regular and called meetings of the Council or its committees. Minutes of the Council shall be taken and recorded, and such minutes shall constitute a public record.

SECTION 2.11. - PROCEDURE TO ENACT LEGISLATION.

The Council shall legislate by ordinance, and the enacting clause of every ordinance shall be: "Be it ordained by the City Council of the City of Lampasas." Evidence of approval of an ordinance by the City Attorney may be by notation on the ordinance itself, or by separate paper or instrument. Every ordinance enacted by the Council shall be signed by the Mayor, or the Mayor Pro Tem, or by two Councilmembers and shall be filed with and recorded by the City Secretary. All ordinances shall be read by caption only, at two open meetings of the Council on two separate days. All ordinances, unless otherwise provided by law or by the terms of such ordinance, shall take effect immediately upon final passage. The requirements for reading ordinances on two separate days may be dispensed with where an ordinance relating to the immediate preservation of the public peace, health, safety, or welfare is adopted by the favorable vote of not less than four of all the Councilmembers qualified and serving, and which contains a statement of the nature of the emergency.

SECTION 2.12. - PUBLICATION OF ORDINANCE.

Except as otherwise provided by law or this Charter, the City Secretary shall give notice of the enactment of every ordinance imposing any penalty, fine, or forfeiture for any violation of any of its provisions, and of every other ordinance required by law or this Charter to be published. The said ordinance, or its caption and penalty, shall be published at least one time within ten days after final passage or as soon thereafter as possible in a newspaper of general circulation within the City. The affidavit of publication by the publisher of such newspaper,

taken before any officer authorized to take oaths and filed with the City Secretary, shall be conclusive proof in all courts of the legal publication of such ordinance. Any ordinance shall take effect ten days after the date of publication, provided that any penal ordinance passed as an emergency measure under Section 2.10 of this Article shall take effect immediately on its publication.

SECTION 2.13. - CODE OF ORDINANCES.

The Council shall have the power to cause all general ordinances of the City to be compiled and printed in code form. Every general ordinance enacted subsequent to such codification shall be enacted as an amendment to this code. The Council shall cause all general ordinances to be codified, recodified, and reprinted whenever in its discretion it is deemed desirable, or when such codification or recodification is required by law. When adopted by the council, the printed codes of general ordinances contemplated by this section shall be in full force and effect without the necessity of such code or any part thereof being published in any newspaper. The caption, descriptive clause, and other formal parts of the ordinances of the City may be omitted without affecting the validity of such ordinances when they are published as a code.

SECTION 2.14. - EMERGENCY POWERS OF MAYOR.

The Mayor of the City of Lampasas shall have such emergency powers as are provided by Laws of the State of Texas.

ARTICLE III

ELECTIONS

SECTION 3.01. - REGULAR AND SPECIAL ELECTIONS.

Regular City Elections shall be held on dates in accord with State law or as otherwise required by the Texas Election Code, at which time members of the Council, including the Mayor, shall be elected to fill those positions which become vacant in that year. Elections shall be ordered by the Council, and in case of its failure to order the same, the Mayor of the City shall make such order. In the case of the inability of the Council and the Mayor to act, the election may be called by the City Secretary. The Council may, by resolution, order special elections. The Mayor of the City shall give notice of such election in the manner required by law.

SECTION 3.02. - REGULATION OF ELECTIONS.

All elections shall be held in accordance with the Laws of the State of Texas regulating the holding of municipal elections and/or in accordance with the ordinances 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 election officials in the City Elections and for other expenses of holding such elections.

SECTION 3.03. - FILING OF CANDIDATES.

Any qualified person who desires to become a candidate for election to city office shall file an application to appear on the ballot, with the City Secretary, at a time set by State law and providing information in accordance with the Texas Election Code. Such application shall contain a sworn statement by the candidate that he or she is fully qualified to hold the office under the laws of the State of Texas and the provisions of this Charter.

SECTION 3.04. - CANVASSING ELECTIONS AND DECLARING RESULTS.

The returns of every municipal election shall be delivered promptly by the Election Judges to the City Secretary, and the Mayor. The Council shall canvass the returns, investigate the qualifications of the candidates, and declare the official results of the election not later than the first regular meeting following the delivery of the returns to the City Secretary. The returns of every municipal election shall be recorded in the minutes of the Council. The qualified person or persons receiving the highest number of votes cast for office shall thereupon be declared elected. The decision of the Council as to qualification of candidates shall be conclusive and final.

SECTION 3.05. - NOTIFICATION AND QUALIFICATION OF CITY OFFICERS.

It shall be the duty of the City Secretary to notify persons elected or appointed to office, and at that time the newly elected or appointed officers may enter upon their duties. Any officer elected or appointed must qualify by taking and subscribing the oath of office within thirty (30) days; otherwise the office shall be deemed vacant.

SECTION 3.06. - SPECIAL ELECTIONS.

The Council may by ordinance or resolution call such special elections as are authorized by State Law and this Charter, fix the day and place of holding same, and provide all means for holding such special elections. Every special election shall be called and held as nearly as practicable according to the provisions governing general election.

ARTICLE IV

INITIATIVE, REFERENDUM AND RECALL

SECTION 4.01. - POWER OF INITIATIVE.

The people of the City reserve the power of direct legislation by initiative, and in the exercise of such power may propose any ordinance, except ordinances appropriating money or levying taxes, or ordinances repealing ordinances appropriating money or levying taxes, not in conflict with this Charter, the State Constitution, or State Laws. Any initiated ordinance may be submitted to the Council by a petition signed by qualified voters of the City, equal in number to at least fifteen percent of the voters qualified to vote in the last municipal election, but not less than 350 qualified voters of the City.

SECTION 4.02. - POWER OF REFERENDUM.

The people reserve the power to approve or reject at the polls any legislation enacted by the Council which is subject to the initiative process under this Charter, except those ordinances authorizing the issuance of bonds (either tax bonds or revenue bonds), whether original or refunding bonds, shall not be subject to such referendum. Prior to, or within, thirty (30) days after the effective date of any ordinance which is subject to referendum, a petition signed by qualified voters of the City equal in number to at least fifteen percent of the voters qualified to vote in the last municipal election, but not less than 350 qualified voters of the City, may be filed with the City Secretary requesting that any such ordinance be either repealed or submitted to the vote of the people. When such a petition has been certified as sufficient by the City Secretary, the ordinance specified in the petition shall not go into effect, or further action thereunder shall be suspended if it shall have gone into effect, until and unless it is approved by the voters as herein provided.

SECTION 4.03. - FORM OF PETITIONS.

Initiative petition papers shall contain the full text of the proposed legislation in the form of an ordinance, including a descriptive caption. Referendum petition papers shall contain a sufficient description of the ordinance sought to be referred to identify it, or if the ordinance has been passed by the Council, the full text of the ordinance sought to be referred shall be included in such papers. The signatures to the appended to one paper, but each signer shall sign his name in ink or indelible pencil, together with a notation showing his residence address and day, month, and year of signing. No signature shall be counted where there is reason to believe it is not the actual signature of the purported signer or that it is a duplication either of name or of handwriting used in any other signature on the petition. No signature shall be counted unless the residence address of the signer is shown, or unless it is signed exactly as the name of the voter appears on the official copy of the current qualified voter list. Before the signatures on any petition paper may be counted, one of the signers of such petition paper who shall be a qualified voter, shall make oath before the City Secretary, or any other officer competent to administer oaths, that the statements made therein are true, that each signature to the paper is the genuine signature of the person whose name purports to be signed thereto, and that such signatures were placed thereon in that person's presence.

SECTION 4.04. - FILING, EXAMINATION AND CERTIFICATION OF PETITIONS.

Within thirty (30) days after an initiative or referendum petition is filed, the City Secretary shall determine whether the same is properly signed by the required number of qualified voters. The City Secretary shall declare void any petition which does not have an affidavit attached as required in Section 4.03 of this Article.

In examining the petition, the City Secretary shall write the letters "D.V." in red ink opposite the names of signers found not qualified. After completing examination of the petition, the Secretary shall certify the result to the Council at its next regular meeting. If the certificate of the City Secretary shall show an initiative or referendum petition to be insufficient, the Secretary shall notify the person filing the petition, and it may be amended within ten (10) days from the date of such notice by filing a supplementary petition upon additional papers signed and filed as provided for in the original petition. Within thirty (30) days after such amendment is filed, the Secretary shall examine the amended petition and certify as to its sufficiency. If the amended petition is then found to be insufficient, no further proceedings shall be held with regard to it.

SECTION 4.05. - COUNCIL CONSIDERATION AND SUBMISSION TO VOTERS.

When the Council receives an authorized initiative petition certified by the City Secretary to be sufficient, the Council shall either: (a) pass the initiated ordinance without amendment within thirty (30) days after the date of the certification to the Council; or (b) submit said initiated ordinance without amendments to a vote of the qualified voters of the City at a regular or special election to be held within ninety (90) days after the date of the certification to the Council; or (c) at such election submit to a vote of the qualified voters of the City the initiated ordinance without amendment, and an alternative ordinance on the same subject proposed by the Council. When the Council receives an authorized referendum petition certified by the City Secretary to be sufficient, the Council shall reconsider the referred ordinance, and if upon such reconsideration such ordinance is not repealed within thirty (30) days, it shall be submitted to the qualified voters of the City at a regular or special election to be held not more than ninety (90) days after the date of the certification to the Council. Special elections on initiated or referred ordinances shall not be held more frequently than once each year and no ordinance on the same subject as an initiated ordinance which has been defeated or on the same subject as a referred ordinance which has been approved at any election may be initiated by the voters within two (2) years from the date of such election.

SECTION 4.06. - RESULTS OF REFERENDUM ELECTIONS.

Any number of ordinances may be voted on at the same election in accordance with the provisions of this Article. If a majority of the legal votes cast is in favor of an initiated ordinance, it shall thereupon be effective as an ordinance of the City. An ordinance so adopted may be repealed or amended at any time after the expiration of two (2) years by vote of not less than four of the Councilmembers qualified and serving. A referred ordinance rejected by a majority of the legal votes cast in a referendum election shall be deemed repealed.

SECTION 4.07. - POWER OF RECALL.

The people of the City reserve the power to recall any elected officer of the City of Lampasas and may exercise such power by filing with the City Secretary a petition, signed by qualified voters of the City equal in number to at least thirty percent (30%) of the number of votes cast at the last regular municipal election of the City but in no event less than 350 qualified voters, demanding the removal of such elected officer. The petition shall be signed and verified in the manner required for an initiative petition.

SECTION 4.08. - RECALL ELECTION.

The provisions regulating examination, certification, and amendment of initiative petitions shall apply to recall petitions. If the petition is certified by the City Secretary to be sufficient, the Council shall order and hold an election as soon as State Law allows to determine if the officer be recalled.

SECTION 4.09. - RESULTS OF RECALL ELECTION.

If the majority of the legal votes cast at a recall election be for the recall of the officer named on the ballot, the Council shall immediately declare the office vacant and a special election for the filling of such vacancy shall be called and held as soon as State Law allows, and in

accordance with the provisions of this Charter on elections. An officer thus removed shall not be eligible to hold office again in the City of Lampasas for a period of four (4) years from the date of recall.

SECTION 4.10. - LIMITATION ON RECALL.

No recall petition shall be filed against an officer within six months after taking office, and no officer shall be subjected to more than one recall election during a term of office.

SECTION 4.11. - PUBLIC HEARING TO BE HELD.

The officer whose removal is sought may, within five days after the recall petition has been presented to the City Council, request that a Public Hearing be held to permit the presentation of facts pertinent to the charges specified in the recall petition. In this event, the City Council shall order such a public hearing to be held, not less than five days nor more than fifteen days after receiving a request for a public hearing.

SECTION 4.12. - FAILURE OF CITY COUNCIL TO CALL AN ELECTION.

In case all of the requirements of this Charter shall have been met and the City Council shall fail or refuse to receive the recall petition, or order such recall election, or discharge any other duties imposed upon the City Council by the provision of this Charter with reference to recall, then the County Judge of Lampasas County, Texas, shall discharge any such duties herein provided to be discharged by the person performing the duties of City Secretary or by the City Council. In addition to the above remedy any qualified voter in the City may seek judicial relief in the District Court of Lampasas County, Texas, to have any of the provisions of this Charter pertaining to recall carried out by the proper official.

ARTICLE V

ADMINISTRATIVE ORGANIZATION

SECTION 5.01. - THE CITY MANAGER.

The Council shall appoint a City Manager who shall be the chief administrative and executive officer of the City. This person shall be chosen by the Council solely on the basis of executive and administrative training, experience and ability, and need not, when appointed, be a resident of the City of Lampasas; however, during the tenure of office, the City Manager shall reside within the City.

The City Manager shall not be appointed for a definite term, but may be removed at the will and pleasure of the Council by the vote of a majority of all Councilmembers qualified and serving. The action of the Council in removing the City Manager shall be final, it being the intention of this Charter to vest all authority and fix all responsibility for such removal in the Council. The City Manager shall receive such compensation as may be fixed by the Council.

No Mayor or member of the Council shall, during the time for which he is elected or for two (2) years thereafter, be chosen as City Manager.

SECTION 5.02. - POWERS AND DUTIES OF THE CITY MANAGER.

The City Manager shall be responsible to the Council for the proper administration of all the affairs of the City. The powers conferred upon the City Manager shall include, but shall not be limited by, the following:

- a. To appoint and remove any officer or employee of the City except those officers and employees whose appointment or election is otherwise provided for by law or this Charter;
- b. To perform such other duties as may be prescribed by this Charter or required by the Council, not inconsistent with the provisions of this Charter;
- c. The City Manager shall prepare and submit to the Council a 5-year Capital Improvement Program at least three (3) months prior to the final date for submission of the budget;
- d. The City Manager, within sixty (60) days after taking office shall designate, by letter filed with the City Secretary, qualified administrative officers of the City to perform the duties of the City Manager in case of absence or disability. Such designations shall be subject to approval by Council. No member of the Council shall serve as Acting City Manager.

SECTION 5.03. - ADMINISTRATIVE DEPARTMENTS.

There shall be such administrative departments with functions as are established by this Charter and as may be established by ordinance, all of which shall be under the control and direction of the City Manager. The Council may abolish or combine one or more departments created by it, and may assign or transfer duties of any departments of the City from one department to another by ordinance.

SECTION 5.04. - SUPERVISORS OF DEPARTMENTS.

At the head of each department there shall be a Supervisor who shall be appointed, and who may be removed, by the City Manager. Such Supervisors shall have supervision and control over their respective departments. Two or more departments may be headed by the same individual, and the City Manager may head one or more departments.

SECTION 5.05. - CITY ATTORNEY.

The City Council shall appoint a competent attorney as the City Attorney and may appoint assistant City Attorney(s), as deemed to be in the best interest of the City by the Council. All such appointed Attorneys shall be qualified and licensed to practice law in the State of Texas. City Attorneys shall be the legal advisors of, and attorneys for, all of the offices and departments of the City, and shall represent the City in litigation and legal proceedings, as directed by the Council and City Manager.

The City Council may, at its discretion, appoint qualified and licensed attorney(s) to act as City Prosecutor(s) on behalf of the City.

SECTION 5.06. - MUNICIPAL COURT.

There shall be a court known as the Municipal Court of the City of Lampasas, which shall be open for the trial of causes, with such jurisdiction, powers and duties as are given and prescribed by the Laws of the State of Texas.

SECTION 5.07. - JUDGE OF THE MUNICIPAL COURT.

The Municipal Court shall be presided over by a magistrate who shall be known as the Judge of the Municipal Court. The Judge shall be appointed by the Council for a term of two (2) years. Except as herein provided, the Judge shall be a competent attorney who at the time of appointment has practiced law for at least two years and who is a resident of the City of Lampasas or its extraterritorial jurisdiction. In the event an attorney with the above qualifications is not available, a citizen of this City considered qualified shall be appointed by the Council as the Judge of the Municipal Court. The Judge of the Municipal Court may be removed in accordance with State Law.

In the event the Judge of the Municipal Court is temporarily unable to act for any reason, the City Council shall appoint a qualified person to temporarily act in the Judge's place. The Judge, or anyone acting in the Judge's place, shall receive such compensation as may be set by the Council.

SECTION 5.08. - CLERK OF THE COURT.

The Municipal Judge shall appoint, with the approval of the City Manager, a city employee to serve as Clerk of the Municipal Court. The Clerk of the Municipal Court shall have the power to administer oaths, make certificates, affix the seal of the Court thereto and do any acts usual and necessary by Clerks of Courts in issuing processes and conducting the Court's business.

SECTION 5.09. - OFFICIAL BONDS FOR CITY EMPLOYEES.

The City Manager and the City Secretary and such other officers and employees as the City Council may require, shall, before entering upon the duties of their offices, enter into a good and sufficient fidelity bond in a sum to be determined by the City Council. Such bond shall be payable to the City of Lampasas 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. Such bonds shall be signed as surety by some company authorized to do business under the laws of the State of Texas. The premium on such bonds shall be paid by the City of Lampasas, and such bonds must be acceptable to the City Council.

ARTICLE VI

FINANCE

SECTION 6.01. - FISCAL YEAR.

Beginning in October 1987, the fiscal year of the City shall begin on the first day of each October and end on the last day of September of the succeeding year. All funds collected by the City during any fiscal year, including both current and delinquent revenues, shall belong to such fiscal year and, except for funds designated to pay interest and create a sinking fund on the bonded indebtedness of the City, may be applied to the payment of expenses incurred during such fiscal year, except as provided in this Charter. Any revenues uncollected at the end of any fiscal year, and any unencumbered funds actually on hand, shall become resources of the next succeeding fiscal year.

SECTION 6.02. - BUDGET PREPARATION AND ADOPTION.

At least sixty (60) days prior to the end of each fiscal year, the City Manager shall submit to the Council a proposed budget presenting a complete financial plan for the ensuing fiscal year. The budget shall be finally adopted not later than the fifteenth (15) day of the last month of the fiscal year. Should the Council take no final action on or prior to that day, the budget, as submitted, shall be deemed to have been finally adopted by the Council. No budget shall be adopted or appropriations made unless the total of estimated revenues, income and funds available shall be equal to or in excess of proposed expenditures as otherwise provided in this Article.

SECTION 6.03. – APPROPRIATIONS AND AMENDMENT OF FUNDS.

From the effective date of the budget, the amounts stated therein as proposed expenditures shall be appropriated to the objects and purposes named. Except as provided in this Article, no funds of the City shall be expended nor shall any obligation for the expenditure of money be incurred, except pursuant to the annual budget as adopted and as provided by this Article, unless otherwise amended pursuant to Section 6.04. At the close of each fiscal year, any balance of an appropriation shall revert to the fund from which appropriated and become available for re-appropriation for the next fiscal year. The Council may transfer any funds or fund balances or portion thereof from one department, or fund, at any time in accordance with State law and this Charter. The City manager shall have authority, without Council approval, to transfer fund balances and appropriation balances from one fund or expenditure account to another within a single department of the City.

SECTION 6.04. - BUDGET AMENDMENTS AND EMERGENCY APPROPRIATIONS.

At any time in any fiscal year, the Council may, in accordance with State Law, make budget amendments to meet the needs of the City and the citizens, or may make emergency appropriations to protect the public health, safety or welfare. All such budget amendments and emergency appropriations shall be done in accord with applicable State Laws, and only as approved by the City Council.

SECTION 6.05. - BORROWING TO MEET EMERGENCY APPROPRIATIONS.

In the absence of unappropriated available revenues or other funds to meet emergency appropriations under the provisions of the next preceding Section, the Council may, by resolution, authorize the borrowing of money to meet such deficit by the issuance of notes, each of which shall be designated "Emergency Note" and may be renewed from time to time. All such notes of any fiscal year and any renewals thereof shall mature and be payable not later than the

last day of the fiscal year in which the emergency appropriation was made, as provided in the last preceding section.

SECTION 6.06. - BORROWING IN ANTICIPATION OF PROPERTY TAXES.

In any fiscal year, in anticipation of the collection of the ad valorem property tax for that year, whether levied or to be levied in that year, the Council may by resolution authorize the borrowing of money, not to exceed in any fiscal year an amount equal to twenty-five percent (25%) of the tax levy for the current year. Such borrowing shall be by the issuance of negotiable notes of the City, each of which shall be designated, "Tax Anticipation Note for the Year _____" (stating the tax year). Such notes shall mature and be payable not later than the end of the fiscal year in which issued.

SECTION 6.07. - DEPOSITORY.

All monies received by any person, department or agency of the City for or in connection with City affairs shall be deposited promptly in the City Depository within the boundaries of the City. The Depository shall be designated by the Council in accordance with regulations and subject to requirements as to security for deposits and interest as may be established by ordinance. All checks, vouchers, or warrants for the withdrawal of money from the City Depository shall be signed by the mayor or Mayor Pro Tem and countersigned by the City Manager or the City Secretary. Provided, that the Council, under such regulations and limitations as it may prescribe, may by ordinance authorize the use of machine imprinted facsimile signatures of the Mayor and City Manager on such checks, vouchers and warrants.

SECTION 6.08. - GENERAL OBLIGATION BONDS.

The City shall have the power to borrow money on its credit and to issue general obligation bonds for permanent public improvements or for any other public purpose not prohibited by the Constitution and Laws of the State of Texas, and to issue refunding bonds to refund outstanding bonds of the City previously issued. All such bonds shall be issued in conformity with the Laws of the State of Texas.

SECTION 6.09. - REVENUE BONDS.

The City shall have power to borrow money to construct, purchase, improve, extend or repair public utilities, recreational facilities or any other self-liquidating municipal function not prohibited by the Constitution and Laws of the State of Texas, and to issue revenue bonds to evidence the obligation created. These bonds shall be a charge upon and payable solely from the properties, or interest therein, pledged, or the income therefrom or both, and shall never be a debt of the City. All such debt shall be issued in conformity with the Laws of the State of Texas.

SECTION 6.10. - SALE OF BONDS.

No bond (other than refunding bonds issued to refund and in exchange for previously issued outstanding bonds) issued by the Council shall be sold for less than par value and accrued interest.

All bonds of the City having been delivered to the purchasers shall thereafter be incontestable, and all bonds issued to refund and in exchange for outstanding bonds previously issued shall, after the exchange, be incontestable.

SECTION 6.11. - PURCHASE PROCEDURE.

All purchases made and contracts executed by the City shall be in accordance with City Policy that has been formally adopted by the City Council, and as provided by applicable State laws.

SECTION 6.12. - INDEPENDENT AUDIT.

At the close of each fiscal year, and at other times as necessary, the Council shall cause an independent audit to be made of all accounts of the City by a Certified Public Accountant. The Certified Public Accountant so selected shall have no personal interest, directly or indirectly, in the financial affairs of the City or any of its officers. Upon completion of the audit, the results shall be published immediately in a newspaper of general circulation in the City of Lampasas and copies placed on file in the City Secretary's office as public record.

ARTICLE VII

TAXATION

SECTION 7.01. – POWERS OF TAXATION.

The Council shall have the power under the provisions of State Law to levy, assess and collect an annual tax upon taxable property within the City not to exceed the maximum limits set by the Constitution and general laws of the State of Texas. The Council shall have the further power to levy, assess and collect all other types of taxes as provided by State law.

SECTION 7.02. – TAX LIEN AND LIABILITY.

A special lien in favor of the City is hereby created on all real, personal and mixed property located in the City, for all unpaid taxes. The priority of said lien shall be determined in accordance with State law.

ARTICLE VIII

FRANCHISE AND PUBLIC UTILITY

SECTION 8.01. - POWERS OF THE CITY.

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

SECTION 8.02. - INALIENABILITY OF CONTROL OF PUBLIC PROPERTY.

The right to the control and use of public streets, highways, sidewalks, alleys, parks, public squares, and public places of the City is hereby declared to be inalienable by the City, except by ordinances not in conflict with the provisions of this Charter. No act or omission by the Council, or any officer or agent of the City, shall be construed to grant, renew, extend, or amend, expressly or by estoppel or implication, any right, franchise, or easement affecting those public streets, highways, sidewalks, alleys, parks, public squares, public places and other real property, except as provided in this Charter.

SECTION 8.03. - FRANCHISE; POWER OF THE CITY COUNCIL.

The City Council shall have the power by ordinance to grant, amend, assess and collect fees for, renew and extend, all franchises of all public utilities of every character operating within the City of Lampasas. All ordinances granting, amending, renewing, or extending franchises for public utilities shall be read at two separate regular meetings of the City Council, and shall not be finally passed until thirty days after the first reading; and no such ordinance shall take effect until thirty days after its final passage; and pending such time, the full text of such ordinances shall be published once each week for four consecutive weeks in a newspaper of general circulation published in the City of Lampasas, and the expense of such publication shall be borne by the proponent of the franchise. No public utility franchise shall be granted for a term of more than 20 years. No public utility franchise shall be transferable except with the approval of the City Council expressed by ordinance.

SECTION 8.04. - REGULATION OF FRANCHISE.

Every grant, renewal, extension, or amendment of a public utility franchise, whether so provided in the ordinance or not, shall be subject to the right of the Council:

- a. To forfeit any franchise by ordinance at any time for failure of the holder to comply with the terms of the franchise. This power shall be exercised only after written notice to the franchise holder stating that the franchise holder has failed to comply with the terms of the franchise and setting a reasonable time for the correction of the failure, and shall be exercised only after hearing and after a reasonable time has expired.
- b. To impose reasonable regulations to insure safe, efficient and continuous service to the public.
- c. To require such expansion, enlargement and improvements of plants and facilities as are necessary to provide adequate service to the public.
- d. To require every franchise holder to furnish to the City, without cost to the City, full information regarding the location, character, size, length, and terminals of all facilities of the franchise holder, in, over and under the streets, alleys, and other public property of the City and to regulate and control the location, relocation, and removal of the facilities.
- e. To collect from every public utility operating in the City a proportion of the expense of excavating, grading, paving, repaving, constructing, reconstructing, draining, repairing, maintaining, lighting, sweeping, and sprinkling the streets, alleys, bridges, culverts,

viaducts, and other public places of the City as represents the increased cost of such operations resulting from the occupancy of such public places by such public utilities; and to collect a proportion of the costs of operations as results from the damage to or disturbance of public places caused by the public utility; and to compel the public utility to perform at its own expense, those operations as above listed which are made necessary by the occupancy of public places by the utility of by damage to or disturbance of public places caused by the utility.

- f. To require every franchise holder to allow other public utilities to use its poles and other facilities, including bridges and viaducts, whenever in the judgment of the Council that use shall be in the public interest, provided that in such event a reasonable rental shall be paid the owner of the facilities for their use. The inability of public utilities to agree upon rentals for their facilities shall not be an excuse for failure to comply with such requirements by the Council.
- g. To require the keeping of accounts in those forms as accurately reflect the value of the property of each franchise holder which is used in rendering its service to the public and the expenses, receipts and profits of all kinds of each franchise holder.
- h. To examine and audit at any time during business hours the accounts and other records of any franchise holder.
- i. To require reports on the operations of the utility, which shall be in such form and content as the Council prescribes.

SECTION 8.05. - REGULATION OF RATES.

The Council shall have full power, except where prohibited by law and after notice and hearing, to regulate by ordinance the rates, charges and fares of every public utility franchise holder operating in the City, provided that no such ordinance shall be passed as an emergency measure. Every franchise holder who shall request an increase in rates, charges, or fares, shall have (at the hearing of the Council called to consider such request) the burden of establishing by clear, competent and convincing evidence, the value of its investments properly allocable to service in the City, and the amount and character of its expenses and revenues connected with the rendering of its service. If, upon such hearing, the Council is not satisfied with the sufficiency of the evidence furnished, it shall be entitled to call upon that public utility for the furnishing of additional evidence at a subsequent date, to which the hearing may be adjourned. If at the conclusion of the hearing, the Council is not satisfied with the sufficiency of the evidence furnished by the utility, the Council shall have the right to select and employ, then and later, rate consultants, auditors and attorneys to conduct investigations, present evidence, advise the Council, and conduct litigation on the requested increase in rates, charges or fares; and the utility shall reimburse the City for its reasonable and necessary expense. All rate consultants, auditors and attorneys shall be qualified, competent, and of good standing in their professions. No public utility franchise holder shall institute any legal action to contest any rate, charge or fare fixed by the Council until the franchise holder has filed a motion for rehearing with the Council specifically setting out each ground of its complaint against the rate, charge or fare fixed by the Council, and until the Council shall have acted upon the motion. The motion shall be deemed overruled unless acted upon by the Council within a reasonable time, not to exceed ninety days from the filing of the motion for rehearing; however, the Council may, by resolution, extend the

time limit for acting on the motion for rehearing from ninety days to one hundred and eighty days.

SECTION 8.06. - GRANT NOT TO BE EXCLUSIVE.

No grant or franchise to construct, maintain or operate a public utility and no renewal or extension of such grant shall be exclusive.

ARTICLE IX

GENERAL PROVISIONS

SECTION 9.01. - NEPOTISM.

No person related, within the second degree by affinity or within the third degree by consanguinity, to the Mayor or any member of the City Council or City Manager shall be employed or appointed to any office, position or clerkship of the City. This prohibition shall not apply, however, to any person who shall have been employed by the City at least one (1) year prior to, and at the time of, the Election of the Mayor or Councilmembers, or the appointment of the City Manager.

SECTION 9.02. - PUBLICITY OF RECORDS.

All records and accounts of every office, division, department, or agency of the City shall be open to inspection by any citizen or by any representative of the media at all reasonable times and under the reasonable regulations as established by the City Council or Mayor; however, this section does not apply to exceptions to disclosure allowed by State and Federal Law.

SECTION 9.03. - PROPER ACTS.

Any person employed by the City or appointed to a City office may contribute to and participate in City elections to the extent allowed by State and Federal Law.

SECTION 9.04. - POLITICAL ACTIVITY.

No person seeking appointment to or promotion in the service of the City shall either directly or indirectly give, render or pay any money, service or other valuable thing to any person, or on account of, or in connection with appointment or promotion or any examinations conducted therefor.

SECTION 9.05. - OFFICERS, EMPLOYEES, AND PENALTIES.

Any person who either alone or with others willfully violates any provision of the foregoing Sections 9.03 and 9.04 shall be ineligible for appointment or election to a position in the City for a period of four years. If that person is an officer or employee of the City at the time of such violation, that person shall immediately forfeit the office or position held.

SECTION 9.06. - OATH OF OFFICE.

Every person elected or appointed by the City Council to any office in the City shall, before entering upon the duties of office, take and subscribe to the oath of office prescribed in Article XVI, Section 1 of the State Constitution. All officers of the City shall, before entering upon the duties of their respective offices, take and subscribe the official oath prescribed in the Constitution of the State of Texas. The oath of office shall be administered by the Mayor, Mayor Pro Tem, City Secretary or any other person authorized by law to administer oaths.

SECTION 9.07. - NOTICE OF CLAIMS.

Before the City of Lampasas shall be liable for damages for the death or personal injuries of any kind, which does not constitute a taking or damaging of property under Article I, Section 17, Constitution of Texas, the person injured, if living, or, if dead, the person's representative, or the owner of the property damaged or destroyed, shall give the City Council or City Manager notice in writing of such death, injury, damage or destruction. This written notice shall be duly verified by affidavit, within forty-five days after the incident has been sustained, stating specifically when, where and how the death, injury, damage or destruction occurred, and the apparent extent of any such injury, the amount of damage sustained, the actual residence of the claimant by street and number at the date the claim is presented, the actual residence of such claimant six months immediately preceding the incident, and the names and addresses of all witnesses upon whom it is relied to establish the claim for damages. The failure to notify the Council or City Manager within the time and manner specified herein shall exonerate, excuse and exempt the City from requiring compliance with the provisions of this section as to notice. Provisions may be waived by resolution of the Council, made and passed before the expiration of the forty-five (45)-day period herein provided, and evidenced by Minutes of the Council.

SECTION 9.08. - ASSIGNMENT, EXECUTION AND GARNISHMENT.

The property, real and personal, belonging to the City shall not be liable for sale or appropriation under any writ of execution. The funds belonging to the City, in the hands of any person, firm or corporation, shall not be liable to garnishment, attachment or sequestration; nor shall the City be liable to garnishment on account of any debt it may owe or funds or property it may have on hand or owing to any person. Neither the City nor any of its officers or agents shall be required to answer any such writ of garnishment on any account whatever. The City shall not be obligated to recognize any assignment of wages or funds by its employees, agents or contractors, except as required by law.

SECTION 9.09. - EFFECT OF CHARTER ON EXISTING LAW.

All ordinances, resolutions, rules and regulations now in force under the City government and not in conflict with the provisions of this Charter, shall remain in force until altered,

amended or repealed by the Council after this Charter takes effect. All rights of the City under existing franchises and contracts and all existing authority for the issuance of bonds, shall be preserved in full force and effect.

SECTION 9.10. - CONSTRUCTION OF CHARTER.

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

SECTION 9.11. - APPLICABILITY OF GENERAL LAWS.

The Constitution of the State of Texas, the statutes of the State applicable to Home Ruled Municipal Corporations, as now or after enacted, this Charter and ordinances enacted under it shall, in the order mentioned, be applicable to the City of Lampasas. The City shall have the power to exercise all powers conferred by the laws of the State of Texas upon any other kind of city, town or village, not contrary to the provisions of Texas home-rule statutes or this Charter and ordinances. The exercise of any such powers by the City of Lampasas shall be optional with it, and the City shall not be required to conform to it, and the City shall not be required to conform to the law governing any other cities, towns or villages unless the City Council adopts that law by ordinance.

SECTION 9.12. - JUDICIAL NOTICE.

This Charter is a public act, and may be read in evidence without pleading or proof; and judicial notice shall be taken of it in all courts and places.

SECTION 9.13. - SEVERABILITY CLAUSE.

If any section or part of a section of this Charter is held to be invalid or unconstitutional by a court of competent jurisdiction, that holding shall not invalidate or impair the validity, force or effect of any other section or part of a section of this Charter.

SECTION 9.14. - AMENDING THE CHARTER.

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

SECTION 9.15. - INTERIM MUNICIPAL GOVERNMENT.

From and after the date of the adoption of this Charter, the persons then filling elective offices which are retained under this Charter will continue to fill those offices for the terms for which they were elected. At the first regular City Election after the adoption of this Charter, three Councilmembers and the Mayor shall be elected and shall serve terms of two years; thereafter,

the City Council shall be elected as provided in section 3.01 of this Charter. Persons who on the date this Charter is adopted are filling appointive positions with the City of Lampasas which are retained under this Charter may continue to fill these positions for the terms for which they were appointed.

SECTION 9.16. - REARRANGEMENT AND RENUMBERING.

The Council shall have the power, by ordinance, to renumber and rearrange all articles, sections and paragraphs of this Charter or any amendments thereto, as it shall deem appropriate. Upon the passage of such ordinance, a copy certified by the City Secretary shall be forwarded to the Secretary of State for filing.

SECTION 9.17. - SUBMISSION OF CHARTER TO VOTERS.

The Charter Commission in preparing this Charter finds and decides that it is impracticable to segregate each subject so as to permit a vote of "yes" or "no" on each subject; the Charter is so constructed that in order to enable it to work and function it is necessary that it should be voted upon as a whole and that the Charter should be adopted in its entirety. For these reasons, the Charter Commission directs that the Charter be voted upon as a whole and that it be submitted to the qualified voters of the City of Lampasas at an election to be held for that purpose on Saturday, August 9, 1986. Not less than thirty days prior to the election, the City Council shall direct the City Secretary to mail a copy of this Charter to all qualified voters of the City of Lampasas. If a majority of the qualified voters voting in such election shall vote in favor of the adoption of this Charter, it shall become the Charter of the City of Lampasas; and, after the returns have been canvassed, it shall be declared adopted, and the City Secretary shall file an official copy of the Charter with the records of the City. The City Secretary shall furnish the Mayor a copy of the Charter, which copy (so adopted, authenticated and certified by signature and the seal of the City) shall be forwarded by the Mayor to the Secretary of State of the State of Texas and shall show the approval of such Charter by a majority vote of the qualified voters.