

# CITY CHARTER



City of Roanoke, Texas

As Prepared by the  
CITY CHARTER COMMISSION

Approved by the voters on May 10, 2008



Mayor Carl E. Gierisch, Jr.  
108 S. Oak Street  
Roanoke, Texas 76262

Dear Mayor Gierisch:

Attached is the proposed Home Rule Charter for the City of Roanoke. The Charter Commission, which was appointed by the City Council has completed its work and submits this Charter for approval by the voters.

The Charter shall be submitted to the qualified voters of the City of Roanoke for adoption or rejection at a City election, to be held on May 10, 2008, at which election if a majority of the qualified voters voting in such election shall vote in favor of the adoption of this Charter and the City Council enters an order in the records of the City declaring the Charter is adopted, it shall then immediately become the Charter and governing law of the City of Roanoke until amended or rejected. Submission of this Charter by sections being impractical, it is hereby prescribed that the form of ballot to be used in such election shall be as follows:

ADOPTION OF THE CHARTER

\_\_\_\_\_ FOR  
\_\_\_\_\_ AGAINST

The City Secretary shall mail a copy of the Charter to each registered voter of the City of Roanoke not less than thirty (30) days prior to the date of the election.

We, the duly elected and undersigned members of the Home Rule Charter Commission of the City of Roanoke, wish to express publicly our deep appreciation to you and the other officers and employees of the City and to the citizens of Roanoke for the support, encouragement, and the trust given our efforts in the preparation of this document. We submit to you and them our work, our interest, and our effort for implementation.

Respectfully submitted,

**HOME RULE CHARTER COMMISSION**

  
\_\_\_\_\_  
Holly Gray-McPherson, Chairman

  
\_\_\_\_\_  
Jesse Terrell, Secretary

  
\_\_\_\_\_  
Brian Darby

  
\_\_\_\_\_  
Angie Grimm

  
\_\_\_\_\_  
Priscilla Holland

  
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Regina Molaschi

  
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Kirby Smith

  
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J. Melvin Smith, Vice-Chairman

  
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Sherri Danklefs

  
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Dave Deweirdt

  
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Steve Heath

  
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Ron Lynch

  
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Victor Molaschi

  
\_\_\_\_\_  
Kevin Stillwell

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

To be submitted to a vote of the people on  
May 10, 2008



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

**PREAMBLE**

We, the citizens of Roanoke, Texas, in order to establish a Home Rule municipal government, provide for the future progress of our City, obtain the benefits of local self-government, and provide for the public welfare, hereby adopt this Home Rule Charter, in accordance with the statutes of the State of Texas; and do hereby declare the residents of the City of Roanoke, in Denton County, Texas, living within the legally established boundaries of the said City, to be a political subdivision of the State of Texas, incorporated forever under the name and style of the "City of Roanoke" with such powers, rights, privileges, authorities, duties, and immunities, as are herein provided.

**ARTICLE I**

**Form of Government and Boundaries**

**SECTION 1.01 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 State Constitution, state statutes, and by this Charter, all powers of the City shall be vested in an elective council, hereinafter referred to as the "City Council", which shall enact local legislation, adopt budgets, determine policies, and appoint the City officials as noted in this Charter, including the City Manager, who in turn, shall be held responsible to the City Council for the execution of the laws and the administration of the government of the City. All powers of the City shall be exercised in the manner prescribed by this Charter, or if the manner not be prescribed, then in such manner as may be prescribed by ordinance, the State Constitution, or by state statutes.

**SECTION 1.02 The Boundaries**

The citizens of the City of Roanoke, Denton County, Texas, residing within its corporate limits, as heretofore or hereafter established, are hereby constituted and shall continue to be a municipal body politic and corporate, in perpetuity, under the name of the "City of Roanoke," with such powers, privileges, rights, duties, authorities, and immunities, as are herein provided. The City shall maintain an official map of its boundaries in accordance with state law.

**SECTION 1.03 Extension and Reduction of Boundaries**

The boundaries of the City may be enlarged and extended by the annexation of additional territory, or reduced by the disannexation of territory, irrespective of size and configuration, by the method hereinafter set forth:

- (1) The City Council shall have the power by ordinance to fix the boundary limits of the City, to exchange area with other municipalities, and to provide for the alteration, and extension of said boundary limits, and the annexation of additional

territory lying adjacent to the City, with or without the consent of the inhabitants of the territory annexed, in any manner provided by state law.

- (2) When any additional territory has been so annexed, same shall be a part of the City and the property situated therein shall bear taxes levied by the City, and the citizens thereof shall be entitled to all the rights and privileges of the other citizens of said City, and shall be bound by the acts, ordinances, resolutions, and regulations of the City.
- (3) Whenever, in the opinion of the City Council, there exists within the corporate limits of the City any territory, either inhabited or uninhabited, not suitable or necessary for City purposes, or upon a petition signed by a majority of the qualified voters residing in said inhabited territory, the Council may, upon a public hearing and by ordinance duly passed, discontinue said territory as part of the City. The City shall comply with all applicable procedural rules and notice requirements set forth in state law.

## **ARTICLE II**

### **Powers of the City**

#### **SECTION 2.01      General Powers of the City**

The City shall have all powers and rights of self-government and home rule that exist now or may be granted to municipalities by the Constitution and laws of the State of Texas, together with all of the implied powers necessary to carry into execution such granted powers, unless such power or right is expressly prohibited or restricted by this Charter.

#### **SECTION 2.02      Public Improvements**

The City shall have the power to, among others, construct and maintain, within or without its corporate limits, streets, flood control, sanitary facilities, water and storm drainage facilities, in, over, under or upon all public property or easements granted for that purpose and to levy assessments for the costs of such improvements. The City shall have the power to collect attorney's fees for the collection of assessments as allowed under state law. It shall have the power to cause liens to be established for the purpose of securing the payment of such levies and shall have the power to compel the use of such improvements by the citizens of the City.

#### **SECTION 2.03      Eminent Domain**

The City shall have the full power and right to exercise the power of eminent domain, within or without its corporate limits, when necessary or desirable to carry out any of the powers conferred upon it by this Charter or by the Constitution and laws of the State of Texas. The City may exercise the power of eminent domain in any manner authorized or permitted by the Constitution and state law. The power of eminent domain hereby conferred shall include the right of the City to take the fee in land so condemned and such power and authority shall include the right to condemn public property for such purposes. The City shall have and possess the power of condemnation for any municipal or public purposes even though not specifically enumerated in this Charter.

**SECTION 2.04      Miscellaneous Powers**

The City shall have the power to, among others, establish, enact and maintain ordinances and promulgate regulations governing the use of lands within the City and to enforce by all lawful means these ordinances and regulations, within and without its corporate limits. The City shall have the power to authorize, regulate and inspect all construction and existing structures within or without its limits, consistent with state statutes, and to establish, enact and enforce ordinances and regulations concerning their use, construction and reconstruction. The City shall have the power to contract and be contracted with, to buy, sell, lease, lease-purchase, mortgage and/or manage property, to acquire property by donation or condemnation, and to control such property as its interests require. The City shall have the power to license and regulate persons, corporations and associations engaged in any business, occupation, profession or trade, when authorized by state law. The City shall have all powers granted by any section of this Charter, together with all of the implied powers necessary to carry into execution such granted powers.

**ARTICLE III**

**The City Council**

**SECTION 3.01      Composition**

- (1) The City Council shall be composed of a Mayor and six (6) Council Members. The Mayor shall be elected at large, and each Council Member shall be elected by Ward. All of the City Council holding office at the time of passage of this Charter or any amendments to this Charter shall continue to hold their respective offices until the respective term for which they were elected expires.
- (2) The City shall be divided into three (3) Wards, and two (2) Council Members shall be elected by the resident voters of each Ward. Each Council Member representing a City Council Ward must at the time of his or her election and during the term of office reside in the Ward which he or she represents. The three (3) City Council Wards shall be defined by ordinance, and the boundaries thereof shall be subject to periodic review by the City Council to insure equal voting rights for all citizens under state and federal law. City Council Ward boundaries shall be redefined by ordinance to compensate for any significant change in population within a given Ward.
- (3) There shall be held in the City on the uniform election day in the month of May 2008, and every three (3) years thereafter, or on such other date or dates as may be prescribed by the laws of the State of Texas, as amended, a City election for the election of one Council member to City Council from Wards 1, 2, and 3. The City Council members elected upon and after the May 2008, election shall serve a three-year term. In addition, on the first Saturday in May 2008, an election shall be held in Ward 2 for the election of one (1) Council member to City Council from Ward 2, the result of filling a vacancy. The City Council member elected shall serve the remainder of the unexpired two-year term.

- (4) There shall be held in the City on the uniform election day in the month of May 2009, and every three (3) years thereafter, or on such other date or dates as may be prescribed by the laws of the State of Texas, as amended, a City election for the election of the Mayor, and one Council member to City Council from Wards 1, 2, and 3. The City Council members elected upon and after the May 2009, election shall serve a three-year term.

**SECTION 3.02 Qualifications of City Council**

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

**SECTION 3.03 Compensation**

Compensation of the City Council shall be \$75.00 per council meeting for which the Council member is present, not to exceed \$150.00 per month. The compensation of the Mayor shall be \$125.00 per council meeting for which the Mayor is present, not to exceed \$250.00 per month. For council meetings during which the Mayor Pro-Tem acts as Mayor, that person shall receive \$125.00. The Mayor and City Council shall be entitled to receive for the conduct of City business the same technological devices which are provided to the City Manager, City Secretary, and/or City department heads. In addition, the City Council shall also be entitled to reimbursement for actual expenses incurred in the performance of official duties, and other compensation, as may be authorized by the City Council at a regular council meeting.

**SECTION 3.04 Mayor and Mayor Pro-Tem**

- (1) The Mayor shall attend and preside at meetings of the City Council. The Mayor shall participate in the discussion of all matters coming before the City Council and shall only vote in cases of a tie vote on matters before the City Council. The Mayor shall also represent the City in intergovernmental relationships, present an annual state of the City message, and perform other duties specified by the City Council and/or imposed by this Charter and by ordinances and resolutions passed in pursuance thereof. Additionally, the Mayor may sign, after authorization by the City Council, all contracts and conveyances made or entered into by the City and all bonds, warrants and any other obligation issued under the provisions of this Charter, in the manner prescribed in the ordinance or resolution authorizing the signing of any such obligation. The Mayor shall be recognized as head of the City government for all ceremonial purposes, and by the Governor for purposes of military law, but shall have no regular administrative duties.
- (2) The Mayor Pro-Tem shall be a Council Member elected annually by the City Council at the first regular meeting after each election of Council Members and/or Mayor, or at the first regular meeting in June, in the event there is no election for Council Members and/or Mayor. The Mayor Pro-Tem shall act as Mayor during the disability or absence of the Mayor, and in this capacity shall have the rights conferred upon the Mayor.

**SECTION 3.05 Vacancies, Forfeiture and Filling of Vacancies**

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

- (2) If any member of the City Council is absent from three (3) consecutive regular meetings, without explanation acceptable to a majority of the remaining members of the City Council, his or her office shall be declared vacant, by resolution, at the next regular meeting of the City Council.
- (3) Any person on the City Council who ceases to possess the required qualifications for office or who is convicted of any felony, or of a misdemeanor involving moral turpitude or is convicted of violating any state laws regulating conflicts of interest of municipal officers shall immediately forfeit his or her office.
- (4) 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, as amended.
- (5) A vacancy in the office of a Council Member, 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, as amended. If the vacated office is that of Mayor Pro-Tem the City Council shall elect a new Mayor Pro-Tem at the next regular meeting.
- (6) Vacancies filled by special election shall be for the remainder of the term that was vacated.

### **SECTION 3.06 Powers of the City Council**

All powers of the City and the determination of all matters of policy shall be vested in the City Council. Except where in conflict with and otherwise expressly provided by this Charter, the City Council shall have all powers authorized to be exercised by the Constitution and laws of the United States and the State of Texas. Without limitation of the foregoing and among the other powers that may be exercised by the City Council, the following are hereby enumerated for greater certainty:

- (1) Appoint and remove the City Manager;
- (2) Appoint and remove the Municipal Judge(s) of the Municipal Court;
- (3) Appoint and remove the City Attorney;
- (4) Designate items to appear on a future agenda of a City Council meeting for consideration and/or discussion;
- (5) Establish administrative departments;
- (6) Adopt the budget of the City;
- (7) Collectively inquire into the conduct of any office, department or agency of the City and make investigations as to municipal affairs;

- (8) Provide for a Planning and Zoning Commission, a Board of Adjustment and other boards and commissions as deemed necessary, and appoint the members of all such boards and commissions. Such boards and commissions shall have all powers and duties now or hereafter conferred and created by this Charter, by City ordinance or by law;
- (9) Adopt and modify the official map of the City;
- (10) Adopt, modify and carry out plans in cooperation with the Planning and Zoning Commission for the replanning, improvement and redevelopment of specific areas of the City;
- (11) Adopt, modify and carry out plans in cooperation with the Planning and Zoning Commission for the replanning, reconstruction or redevelopment of any area or district which may have been destroyed in whole or part by disaster;
- (12) Regulate, license and fix the charges or fares made by any person owning, operating or controlling any vehicle of any character used for the carrying of passengers for hire on the public streets and alleys of the City;
- (13) 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 certain limits; and provide for the condemnation of dangerous structures, dangerous buildings or dilapidated buildings or buildings determined to increase the risk of fire hazard, and the manner of their removal or destruction;
- (14) Fix and regulate rates and charges of all utilities and public services; and
- (15) Approve plats, unless the City Council votes to vest this authority to the Planning and Zoning Commission or City Staff.

**SECTION 3.07 Prohibitions**

- (1) Except where authorized by law or by this Charter, no Mayor or Council Member shall hold any other City office or City employment during his or her term as Mayor or Council Member. No former Mayor or Council Member shall hold any compensated appointive office or City employment until one (1) year after the expiration of the term for which they were elected or appointed to the City Council.
- (2) Members of the City Council shall not in any way dictate the appointment or removal of the City administrative officers or employees appointed by the City Manager or any of the City Manager's subordinates. The City Council, at a meeting called for that purpose, may express its views and fully and freely discuss with the City Manager anything pertaining to appointment and removal of such officers and employees.
- (3) Except for the purpose of inquiries and investigations as provided by this Charter, the City Council shall deal with City officers and employees who are subject to the direction and supervision of the City Manager solely through the City Manager. The City Council

shall not give orders to any such officer or employee, either publicly or privately, except as otherwise provided in this Charter.

**SECTION 3.08 Meetings of the City Council**

- (1) The City Council shall hold at least one (1) regular meeting each month, and as many additional meetings as it deems necessary to transact the business of the City. The City Council may set the date and time of the meetings by ordinance.
- (2) Special meetings of the City Council shall be held at the call of the Mayor or a majority of the Council Members upon provision of public notice in accordance with state law.
- (3) Except as provided by state law, all City Council meetings shall be open to the public and shall be held and notice given in accordance with state law.

**SECTION 3.09 Quorum**

Four (4) members of the City Council shall constitute a quorum for the purpose of transaction of business. No action of the City Council, except as specifically provided in this Charter, shall be valid or binding unless adopted by the affirmative vote of a majority of the City Council present, and qualified to act. Should any number of members of City Council be recalled pursuant to Article VI of this Charter, and are no longer qualified to act, a majority of the remaining members of City Council shall constitute a quorum for the purpose of transaction of business.

**SECTION 3.10 Conflict of Interest**

Should any person on the City Council have a conflict of interest, pursuant to any state laws and/or City ordinances regulating conflicts of interest of municipal officers, with an agenda item then before the City Council, he or she shall openly declare same before discussion proceeds, and he or she is thereby prohibited from discussing the item or voting on the question.

**SECTION 3.11 Abstention**

Should any person on the City Council choose to abstain from voting on any question before the City Council, where no conflict of interest exists, the person's vote shall be recorded as a negative vote in the official minutes of the meeting.

**SECTION 3.12 Rules of Procedure**

The City Council shall determine, which may be done by ordinance, resolution or otherwise, its own rules of order and business. The City Council shall provide that the citizens of the City shall have a reasonable opportunity to clearly hear and be heard at public hearings with regard to specific matters under consideration. The City Council shall provide for minutes to be taken and recorded for all public meetings as required by law. Such minutes shall be a public record and shall be kept and maintained by the City Secretary.

**SECTION 3.13 Passage of Ordinances in General**

- (1) The City Council shall legislate by ordinance only, and the enacting clause of every ordinance shall read "Be it ordained by the City Council of the City of Roanoke, Texas . . . ." Each proposed ordinance shall be introduced in the written or printed form required for adoption. All ordinances shall contain a title or caption that fairly and accurately

identifies the subject(s) addressed in the ordinance. General appropriation ordinances may contain various subjects and accounts for which monies are to be appropriated. After adoption, an ordinance shall not be amended or repealed except by the adoption of another ordinance amending or repealing the original ordinance. Copies of any proposed ordinance, in the form required for adoption, shall be furnished to the City Council. Copies of the proposed ordinance, in the form required for adoption, shall be available at the City offices and shall be furnished citizens upon request to the City Secretary from and after the date on which such proposed ordinance is posted as an agenda item for a City Council meeting and, if amended, shall be available and furnished in amended form for as long as the proposed ordinance is before the City Council.

- (2) Unless otherwise required by law, every ordinance shall become effective upon adoption or at any later time(s) specified in the ordinance, except that every penal ordinance imposing any penalty, fine or forfeiture shall become effective only after having the descriptive title or caption of the same published at least one time after final passage in a newspaper designated as the official newspaper of the City.
- (3) If a majority of the City Council present at a City Council meeting request that the ordinance title and caption or its entirety be read, it must be read.

#### **SECTION 3.14      Emergency Ordinances**

- (1) The City Council may adopt emergency ordinances only to meet public emergencies affecting life, health, property or the public peace. 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. Neither shall they authorize the borrowing of money except as provided elsewhere in this Charter, including Section 7.15 of this Charter.
- (2) An emergency ordinance shall be introduced in the form and manner generally prescribed for ordinances, except that they shall be plainly designated in the title as an emergency ordinance and shall contain after the enacting clause a declaration stating that an emergency exists and describing the emergency in clear and specific terms.
- (3) An emergency ordinance may be introduced at any City Council meeting and can be adopted with or without amendment or rejected at the meeting at which it is introduced.
- (4) Emergency ordinances shall become effective upon adoption and shall be published as soon thereafter as practicable. Every emergency ordinance so adopted, except one authorizing the borrowing of money as described herein, including Section 7.15 of this Charter, is automatically repealed as of the sixty-first (61<sup>st</sup>) day following the day on which it became effective. The ordinance may be re-enacted if the emergency still exists.

#### **SECTION 3.15      Authentication, Recording, Codification, Printing and Distribution**

- (1) All ordinances and resolutions adopted by the City Council shall be authenticated by seal and signature of the person performing the duties of the City Secretary and numbered consecutively as adopted. They shall be properly indexed and placed in a book kept open for public inspection.

- (2) The City Council may codify the ordinances of the City. If adopted, the codification shall be known and cited as “The Roanoke City Code” and 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 codified. Every general ordinance enacted subsequent to such codification shall be enacted as an amendment to the code. For the purpose of this section, general ordinances shall be deemed to be those ordinances of a permanent or continuing nature which affect the residents of the City at large. Copies of the code shall be furnished to City Officers, placed in City offices and made available for purchase by the public at a reasonable price to be determined by the City Council, not to exceed the costs permitted by state law.
- (3) The City Council shall cause all ordinances and amendments to this Charter to be printed promptly following their adoption. A copy of each ordinance and Charter amendment shall be placed in appropriate City offices for public reference. Printed ordinances and Charter amendments shall be sold to the public at a reasonable price to be determined by the City Council, not to exceed the costs permitted by state law.

**SECTION 3.16      Investigations by the City Council**

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

**SECTION 3.17      Bond**

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

**ARTICLE IV**

**City Administration**

**SECTION 4.01      City Manager**

- (1) The City Council shall appoint, upon the affirmative vote of a majority of the full membership of the City Council, a City Manager who shall serve as Chief Administrative Officer of the City. The City Manager shall be responsible to the City Council for administration of all the affairs of the City, with only those exceptions that are named in this Charter. The City Manager shall be appointed solely upon the City Manager’s executive, administrative and educational qualifications. The City Manager need not be a resident of the City when appointed, but shall within a reasonable time after such

appointment not to exceed six (6) months, reside within the City during the balance of the tenure of his or her appointment.

- (2) The City Council shall fix the compensation of the City Manager, and the City Manager's compensation may be amended, from time to time, in accordance with the City Manager's experience, qualifications and performance.
- (3) The City Manager shall be appointed for an indefinite term, and may be removed, with or without cause (subject to any contractual arrangements that may exist between the City and the City Manager), at the discretion of the City Council by the affirmative vote of a majority of the full membership of the City Council. Upon decision to remove the City Manager, written notice of such decision shall be furnished to him or her.
- (4) In case of the absence, disability or suspension of the City Manager, the City Council may designate a qualified administrative officer of the City to perform the duties of the office.
- (5) The City Manager shall:
  - (A) Appoint, suspend and remove all City employees and appointive administrative officers provided for in this Charter, except as otherwise provided by law, this Charter or personnel rules adopted pursuant thereto. City Manager shall have the authority to delegate the appointment, suspension, and or removal of City employees and appointive administrative officers to department heads;
  - (B) Direct and supervise the administration of all departments, offices and agencies of the City, except as otherwise provided by law or this Charter;
  - (C) See that all state laws and City ordinances are effectively enforced;
  - (D) Attend all City Council meetings, with the right to take part in discussion, but the City Manager shall not vote;
  - (E) Prepare and accept, or designate an appropriate department head or City employee to prepare and accept, items for inclusion in the official agenda of all City Council meetings and meetings of all boards and commissions;
  - (F) Prepare and recommend to the City Council the annual budget and capital program, and administer the budget as adopted by the City Council;
  - (G) Keep the City Council fully advised at least quarterly as to the financial conditions and future needs of the City, and make such recommendations concerning the affairs of the City, as the City Manager or the City Council deems desirable or necessary;

- (H) Make reports as the City Manager or the City Council may require concerning the operations of the City departments, offices, or agencies subject to the City Manager's direction or supervision; and
- (I) Perform such other duties as are specified in this Charter or may be required by the City Council, and are consistent with this Charter or state or federal law.

**SECTION 4.02 City Secretary**

- (1) The City Manager shall appoint or remove, with or without cause, the City Secretary.
- (2) The City Manager shall fix the compensation of the City Secretary, and the City Secretary's compensation may be amended, from time to time, in accordance with the City Secretary's experience, qualifications and performance.
- (3) The City Secretary shall:
  - (A) Give notice of all official public meetings of the City Council in a manner consistent with this Charter and state laws;
  - (B) Attend all public meetings and hearings of the City Council;
  - (C) Keep the minutes of the proceedings of all public official meetings and hearings of the City Council in a manner prescribed by the City Council consistent with applicable law;
  - (D) Act as custodian of all official records of the City Council;
  - (E) Hold and maintain the seal of the City and affix this seal to all appropriate documents;
  - (F) Authenticate by signature and seal and record all ordinances, resolutions and proclamations of the City; and
  - (G) Perform such other duties as may be required by the City Manager consistent with this Charter and the laws of the State of Texas.

**SECTION 4.03 Municipal Court**

- (1) The City Council shall establish and cause to be maintained a Municipal Court. The Court shall have all the powers and duties as are now, or as may be, prescribed by the laws of the State of Texas.
- (2) The City Council shall appoint by the affirmative vote of a majority of the full membership of the City Council such Municipal Judge(s) and Alternate Municipal Court Judge(s) of the Municipal Court as may be necessary, all of whom shall be competent, duly qualified attorneys licensed and practicing for at least two (2) years in the State of Texas. The Municipal Judge(s) of the Municipal Court(s) shall be

appointed to a term of two (2) years and may be appointed to additional consecutive terms upon completion of his/her/their term(s) of office. The appointment of the Municipal Judge(s) may be terminated, with or without cause, at any time by the affirmative vote of a majority of the full membership of the City Council. The Municipal Judge(s) shall receive compensation as may be determined by the City Council.

- (3) The Court Administrator and Deputy Clerks of the Municipal Court(s) shall have the power to administer oaths, certify affidavits, make certificates, affix the seal of the Court, and perform all usual and necessary clerical acts in conducting the business of the Court(s), including but not limited to, the keeping of records and accounts of the Municipal Court(s).
- (4) All special expenses and fines imposed by the Municipal Court(s) shall be paid into the City Treasury for the use and benefit of the City, as may be consistent with present and future laws.

#### **SECTION 4.04 City Attorney**

- (1) The City Council shall appoint by the affirmative vote of a majority of the full membership of the City Council a competent, duly qualified licensed and practicing attorney in the State of Texas who shall serve as the City Attorney.
- (2) The City Attorney shall:
  - (A) Serve as the legal advisor to the City Council and City Manager;
  - (B) Represent the City in litigation and legal proceedings as directed by the City Council and the City Manager; and
  - (C) Review and provide opinions as requested by the City Council or City Manager on contracts, legal instruments, ordinances of the City and other City business.
- (3) The City Council shall have the right to retain special counsel at any time that it may deem necessary and appropriate.
- (4) The City Attorney and Special Counsel shall receive compensation as may be determined by the City Council.
- (5) The City Attorney, with approval of the City Council, may select additional attorneys to act for him or her and the City in its representation and/or litigation.
- (6) The City Attorney may be removed, with or without cause, by the affirmative vote of a majority of the full membership of the City Council.

**SECTION 4.05 Administrative Departments, Offices and Agencies**

- (1) The City Council may, after hearing recommendations of the City Manager, establish, abolish, redesignate and/or combine departments, offices or agencies in addition to those provided for by this Charter, and may prescribe the functions and duties of such departments, offices, and agencies.
- (2) Except as provided elsewhere in this Charter, all departments, offices, and agencies of the City shall be under the direction and supervision of the City Manager, and shall be administered by officers appointed by and subject to the direction and supervision of the City Manager. The City Manager may, with the consent of the City Council, serve as the head of one (1) or more City departments, offices or agencies or appoint one (1) person as head of two (2) or more of them.
- (3) The City Manager may appoint a City Tax Collector, whose duties and functions shall be those usual to the office and consistent with existing or future laws of the State of Texas as they may apply to City or County Tax Collectors. The City Manager may recommend that the City Council enter into an outside contract for such services.

**SECTION 4.06 Personnel System**

- (1) Personnel rules shall be prepared by the City Manager and presented to the City Council, who may adopt them by ordinance, with or without amendment. The adopted rules shall establish the City as an Equal Opportunity Employer and shall govern the equitable administration of the Personnel System of the City.
- (2) The adopted rules shall provide for the following requirements:
  - (A) A pay and benefit plan for all City employment positions;
  - (B) A plan for working hours, attendance policy and regulation and provision for sick and vacation leave;
  - (C) Procedure for the hearing and adjudication of grievances;
  - (D) Additional practices and procedures necessary to the beneficial and equitable administration of the City's personnel system;
  - (E) A plan for annual oral and written evaluation based on a job description for all City employees by their immediate supervisor, including evaluation of the City Manager, Municipal Judge, and City Attorney by the City Council; and
  - (F) A clear and concise statement that all City employees are at-will employees.
- (3) The only City employee who may have an employment agreement with the City, subject to the discretion of the City Council, is the City Manager.

## **ARTICLE V**

### **Nominations and Elections**

#### **SECTION 5.01 City Elections**

- (1) All City elections shall be conducted in accordance with the Texas Election Code, as amended.
- (2) The regular City election shall be held annually on the May uniform election date or such other date as required by the Texas Election Code, as amended. The City Council shall be responsible for specification of places for holding such elections.
- (3) The City Council may by resolution or ordinance order a special election for purposes consistent with this Charter and laws of the State of Texas. The City Council will fix the time and places for such a special election, and provide all means for holding same.
- (4) Municipal elections shall be conducted by election officials appointed by the City Council, or as prescribed by law. Sample ballots identical in format to those used in the specific election shall be posted in the voting place(s) for the purpose of voter orientation.
- (5) All municipal elections shall be publicized in accordance with the Texas Election Code, as amended.
- (6) A sample ballot shall be published twice in the official newspaper of the City.

#### **SECTION 5.02 Filing for Office**

- (1) Candidates for elective City offices shall file for office in accordance with the Texas Election Code, as amended.
- (2) Candidates for elective City offices shall meet the following qualifications:
  - (A) Shall be at least eighteen (18) years of age at the time of the election for which they are filing;
  - (B) Shall meet all requirements to be a qualified voter set forth in the Texas Election Code at the time of the election for which they are filing;
  - (C) Shall have resided within the corporate limits of the City, or recently annexed territory, for at least twelve (12) months immediately preceding election day;
  - (D) No candidate may file in a single election for more than one (1) office or position as provided by this Charter;
  - (E) No employee of the City shall continue in such position after filing for an elective office provided for in this Charter; and

- (F) Shall comply with all other City ordinances or resolutions that may be applicable.

**SECTION 5.03 Official Ballots**

- (1) The name of each candidate seeking elective office, except those who have withdrawn, died, or become ineligible, and who are authorized to have their names removed from the ballot consistent with state law, shall be printed on the official ballot in the form designated by the candidate in accordance with the Texas Election Code, as amended. If two (2) or more candidates have the same surname, their residence addresses shall be printed with their names on the ballot.
- (2) The order of the names of the candidates on the ballot shall be determined by lot in a public drawing to be held under the supervision of the City Secretary in accordance with the Texas Election Code, as amended.
- (3) Procedures for voting by absentee ballot shall be consistent with the Texas Election Code, as amended.
- (4) An ordinance, bond issue, or Charter amendment to be voted on by the voters of the City shall be presented for voting by a clear, concise statement of the proposition, approved by the City Council, which statement shall describe the substance of the measure without argument or prejudice.
- (5) Procedures for write-in votes shall be consistent with the Texas Election Code, as amended.

**SECTION 5.04 Official Results**

- (1) The candidate for elective office receiving a majority of the votes cast shall be declared the winner. In the event that no candidate receives a majority of all votes cast for any one place at such election, the City 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, as amended. At such runoff election, the two (2) candidates receiving the highest number of votes (or three (3) persons in case of tie for second place) for any one place in the first election shall be voted for again.
- (2) The returns of every municipal election shall be handled in accordance with the Texas Election Code, as amended. These returns shall be delivered from the election judges to the City Secretary and the Mayor at City Hall as soon as possible after the closing of the polls. Election returns, general and special, shall be presented to the City Council at their next meeting following the election, at which time the City Council shall canvass and declare the results of the election, which shall be recorded in the minutes of the meeting.

**SECTION 5.05 Taking of Office**

- (1) Each newly elected person to the City Council shall be inducted into office at the first regular City Council meeting following the election.

(2) At such meeting the oath shall be in accordance with state law.

**ARTICLE VI**

**Recall, Initiative, and Referendum**

**SECTION 6.01 Scope of Recall**

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

**SECTION 6.02 Petitions for Recall**

Before the question of recall of such officer shall be submitted to the registered voters of the City, a petition demanding such question to be so submitted shall first be filed with the City Secretary, which said petition must be signed by registered voters in the specific City Council Ward equal to thirty percent (30%) of the registered voters in the specific Ward, or signed by three hundred twenty-five (325) registered voters in the specific Ward, whichever is greater. In the event the petition is for the recall of the Mayor, said petition must be signed by thirty percent (30%) of the registered voters in the City, or signed by nine hundred seventy-five (975) registered voters, whichever is greater.

**SECTION 6.03 Form of Recall Petition**

The recall petition mentioned above must be addressed to the City Council of the City, must be distinctly and specifically pointed to the grounds upon which such petition for removal is predicated, and, if there be more than one (1) ground, said petition 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 the officer is charged. Each signer of such recall petition shall provide all requisite information as required by the Texas Election Code, as amended, and this Charter. The petition 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 the statements made therein are true, and that each signature appearing thereto was made in my presence on the day and date it purports to have been made, and I solemnly swear that the same is the genuine signature of the person it purports to be.

\_\_\_\_\_  
Signature

Sworn and subscribed before me this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_.

Signed \_\_\_\_\_

**SECTION 6.04 Various Papers Constituting Recall Petition**

The petition may consist of one (1) or more copies, or subscription lists, circulated separately, and the signatures thereto may be upon the paper or papers containing the form of petition, or upon other paper attached thereto. Verifications provided for in Section 6.03 of this Article may be made by one (1) or more petitioners, and the several parts of copies of the petition may be filed separately and by different persons, but no signatures to such petition shall remain effective or be counted which were placed thereon more than thirty (30) days prior to the filing of such petition or petitions with the City Secretary. All papers comprising a recall petition shall be filed with the City Secretary on the same day, and the City Secretary shall immediately notify, in writing, the officer so sought to be removed, by mailing such notice to the officer's City address.

**SECTION 6.05 Presentation of Petition to the City Council**

Within twenty-one (21) days after the date of the filing of the papers constituting the recall petition, the City Secretary shall verify the number of valid signatures and present such petition to the City Council of the City.

**SECTION 6.06 Public Hearing to be Held**

The officer whose removal is sought may, within seven (7) days after such recall petition has been presented to the City Council, request that a public hearing be held to permit him or her to present the facts pertinent to the charges specified in the recall petition. In this event, the City Council shall order such public hearing to be held, not less than five (5) days nor more than fifteen (15) days after receiving such request for a public hearing.

**SECTION 6.07 Calling of Recall Election**

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

**SECTION 6.08 Ballots in Recall Election**

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

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

“Shall \_\_\_\_\_ be removed from the office of \_\_\_\_\_ by recall?”

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

“Yes”

“No”

**SECTION 6.09 Result of Recall Election**

If a majority of the votes cast at a recall election shall be “No”, that is against the recall of the person named on the ballot, the officer shall continue in office for the remainder of his or her unexpired term, subject to recall as before. If a majority of the votes cast at such election be “Yes”, that is for the recall of the person named on the ballot, the officer shall, regardless of any technical defects in the recall petition, be deemed removed from office and the vacancy be filled by the City Council as provided in this Charter.

**SECTION 6.10 Recall, Restrictions Thereon**

No recall petition shall be filed against any officer of the City within three (3) months after the officer’s election, nor within three (3) months after an election for such officer’s recall.

**SECTION 6.11 Failure of the City Council to Call a Recall Election**

In case that all 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 on the City Council by the provisions of this Charter with reference to such recall, then a District Judge of Denton County, Texas, shall discharge any of such duties herein provided to be discharged by the City Secretary or by the City Council.

**SECTION 6.12 General Power of Initiative and Referendum**

The registered voters of the City, in addition to the method of legislation herein before provided, shall have the power of direct legislation by the initiative and referendum.

- (1) Initiative: Such power shall not extend to the budget or capital program or any ordinance not subject to initiative as provided by state law, relating to appropriation of money, issuing of bonds, levy of taxes or salaries of City officers or employees, or any zoning amendment or amendment of the City’s comprehensive plan.
- (2) Referendum: Such power shall not extend to the budget or capital program or any emergency ordinance or ordinance not subject to referendum as provided by state law, relating to appropriation of money, issuing of bonds, or levy of taxes, or any zoning amendment or amendment of the City’s comprehensive plan.

**SECTION 6.13 Initiative**

Following a review by the City Attorney for enforceability and legality, registered voters of the City may initiate legislation by submitting a petition addressed to the City Council which requests the submission of a proposed ordinance or resolution to a vote of the registered voters of the City. Said petition must be signed by twenty percent (20%) of the registered voters of the City, or five hundred (500), whichever is greater, 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 this Article, and shall be verified by oath in the manner and form provided for recall petitions in this Article. The petition may consist of one (1) or more copies as permitted for recall petitions. Such petition shall be filed with the City Secretary. Within twenty-one (21) days after the filing of such petition, the City Secretary shall present said petition and proposed ordinance or resolution to the City Council. Upon presentation

to the City Council, it shall become the duty of the City Council, within two (2) regularly scheduled City Council meetings after the receipt thereof, to pass and adopt such ordinance or resolution without alteration as to meaning or effect in the opinion of the persons filing the petition, or to call a special election, to be held on the next uniform election date as provided by the Texas Election Code, as amended, at which the registered voters of the City shall vote on the question of adopting or rejecting the proposed legislation. Any election order so issued shall comply fully with the Texas Election Code, as amended. Unless otherwise provided by law, any election for an initiative under this Charter shall be held on the first authorized uniform election date that occurs after the sixty-second (62<sup>nd</sup>) day after the petition was presented to the City Council.

**SECTION 6.14 Referendum**

Registered voters of the City may require that any ordinance or resolution, with the exception of ordinances or resolutions appropriating money, authorizing the issuance of public securities or levying taxes, passed by the City Council be submitted to the voters of the City for approval or disapproval, by submitting a petition for this purpose within thirty (30) days after final passage of said ordinance or resolution, or within thirty (30) days after its publication. Said petition shall be addressed, signed, and verified as required in this Charter and shall be submitted to the City Secretary. Said petition must be signed by twenty percent (20%) of the registered voters of the City, or five hundred (500), whichever is greater. Immediately upon the filing of such petition, the City Secretary shall present said petition to the City Council. Thereupon the City Council shall immediately reconsider such ordinance or resolution and, if the City Council does not entirely repeal the same, shall submit it to popular vote as provided in this Charter. Pending the holding of such election, each ordinance or resolution shall be suspended from taking effect and shall not later take effect unless a majority of the registered voters voting thereon at such election shall vote in favor thereof. Unless otherwise provided by law, any election for a referendum under this Charter shall be held on the first authorized uniform election date that occurs after the sixty-second (62<sup>nd</sup>) day after the petition was presented to the City Council.

**SECTION 6.15 Voluntary Submission of Legislation by the City Council**

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

**SECTION 6.16 Form of Ballots**

The ballots used when voting upon such proposed and referred ordinance, 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” or  
“Against the Ordinance” or

“For the Resolution” or

**“Against the Resolution”**

**SECTION 6.17 Publication of Proposed and Referred Ordinances**

The City Secretary of the City shall publish at least once in the official newspaper of the City the proposed or referred ordinance or resolution within fifteen (15) days before the date of the election, and shall give such other notices and do such other things relative to such election as are required by law in municipal elections and by the ordinance or resolution calling said election.

**SECTION 6.18 Adoption of Ordinances**

If a majority of the registered 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 City Council.

**SECTION 6.19 Inconsistent Ordinances**

If the provisions of two (2) 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.

**SECTION 6.20 Ordinances Passed by Popular Vote, Repeal or Amendment**

No ordinance or resolution which may have been passed by the City Council upon a petition or adopted by popular vote under the provisions of this Article shall be repealed or amended except by the City Council in response to a referendum petition or by submission as provided by Section 6.15 of this Charter.

**SECTION 6.21 Further Regulations by the City Council**

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

**SECTION 6.22 Failure of the City Council to Call an Election-Initiative or Referendum**

In case that all of the requirements of this Charter shall have been met and the City Council shall fail or refuse to receive the initiative or referendum petition, or order such initiative or referendum election, or discharge any other duties imposed on the City Council by the provisions of this Charter with reference to such initiative or referendum, then a District Judge of Denton County, Texas, shall discharge any of such duties herein provided to be discharged by the City Secretary or by the City Council.

**ARTICLE VII**

**Financial Procedures**

**SECTION 7.01 Fiscal Year**

The fiscal year of the City shall begin on the first day of October and end on the last day of September on the next succeeding year. Such fiscal year shall also constitute the budget and accounting year.

**SECTION 7.02 Submission of Budget and Budget Message**

The City Manager shall submit a proposed budget to the Council at least sixty (60) days prior to the beginning of each fiscal year. The budget shall provide a complete financial plan for the fiscal year and shall contain, but not be limited to the following:

- (1) A budget message that shall consist of an outline explaining the proposed financial policies of the City for the upcoming fiscal year.
- (2) A consolidated statement of anticipated receipts and proposed expenditures of all funds.
- (3) Tax levies and tax collections from the previous fiscal year.
- (4) An itemized budget of expenses by department.
- (5) A revenue and expense statement for all types of bonds.
- (6) Other such information as may be required by City Council.

**SECTION 7.03 Anticipated Revenues Compared with Other Years in Budget**

The City Manager in the preparation of the budget shall place in parallel columns opposite the various items of revenue: the actual amount of each item of revenue for the last completed fiscal year; the estimated amount for the current fiscal year; and the proposed amount for the ensuing fiscal year.

**SECTION 7.04 Proposed Expenditures Compared with Other Years**

The City Manager in the preparation of the budget shall place in parallel columns opposite the various items of expenditures: the actual amount of each expenditure for the last completed fiscal year; the estimated amount for the current fiscal year; and the proposed amount for the ensuing fiscal year.

**SECTION 7.05 Budget a Public Record**

The budget and all supporting schedules shall be filed with the City Secretary, submitted to the City Council and shall be a public record. A copy of the budget shall be made available to any person upon request.

**SECTION 7.06 Notice and Public Hearing on Budget**

At the meeting of the City Council at which the budget is submitted, the City Council shall determine the time and place of a public hearing on the budget. The Council shall cause a notice of the hearing, setting forth the time, place and date, to be published in the official newspaper of the City of Roanoke as required by law. At the time and place set forth in the notice or at any time and place to which such public hearing shall from time to time be adjourned, the City Council shall hold a public hearing on the budget submitted and all interested persons shall be given an opportunity to be heard for or against any item or the amount of any item therein contained.

**SECTION 7.07 Proceeding on Adoption of Budget**

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

**SECTION 7.08 Budget, Appropriation and Amount to be Raised by Taxation**

On final adoption, the budget shall be in effect for the budget year. Final adoption of the budget by the City Council shall constitute the official appropriations as proposed by expenditures for the current year and shall constitute the basis of official levy of the property tax as the amount of tax to be assessed and collected for the corresponding tax year. Unused appropriations may be transferred to any item required for the same general purpose.

**SECTION 7.09 Contingent Appropriation**

Provision shall be made in the annual budget and in the appropriation ordinance for a contingent appropriation in an amount not less than three percent (3%) of the total general fund expenditures, to be used in case of unforeseen items of expenditures. Such contingent appropriation shall be under the control of the City Manager and distributed by him or her only after prior approval by the City Council.

**SECTION 7.10 Transfer of Appropriations**

During the fiscal year, the City Council shall have the power to transfer funds allocated by the budget to one activity, function or department to another activity, function or department, and to re-estimate revenues and expenditures.

**SECTION 7.11 Amending the Budget**

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

**SECTION 7.12 Certification; Copies Made Available**

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

**SECTION 7.13 Defect Shall Not Invalidate the 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.

**SECTION 7.14 Lapse of Appropriations**

Every appropriation, except an appropriation for a capital expenditure, shall lapse at the close of the fiscal year to the extent that it has not been expended or encumbered. An appropriation for a

capital expenditure shall continue in force until the purpose for which it was made has been accomplished or abandoned. The purpose of any such appropriation shall be deemed abandoned if three (3) years pass without any disbursement from or encumbrance of the appropriation. Any funds not expended, disbursed or encumbered shall be deemed excess funds.

**SECTION 7.15      Borrowing**

The City shall have the power to borrow money on the credit of the City and to issue or incur bonds and other evidences of indebtedness to finance public improvements or for any other public purpose not prohibited by the Constitution and the laws of the State of Texas and to issue refunding bonds to refund outstanding bonds and other evidences of indebtedness of the City previously issued. All such bonds and other evidences of indebtedness shall be issued in conformity with the laws of the State of Texas and may be secured by or paid, in whole or in part, from ad valorem tax revenues, revenues derived from other taxing powers of the City, revenues derived by the City from any fee or service charge, including revenues derived from the operations of any public utilities, utility systems, recreational facilities or any other municipal function to the extent not prohibited by the Constitution and laws of the State of Texas. Such bonds or evidences of indebtedness may be a charge upon and payable from the properties, or interest therein pledged, or the income therefrom, or both to the extent not prohibited by the Constitution or laws of the State of Texas. The proceeds of bonds or other evidences of indebtedness issued or incurred by the City shall be used only for the purpose for which the bonds or other indebtedness was issued or incurred.

**SECTION 7.16      Purchasing**

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

**SECTION 7.17      Depository**

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

**SECTION 7.18 Independent Audit**

At the close of each fiscal year, and at such other times as may be deemed necessary, the City Council shall call for an independent audit to be made of all accounts of the City by a certified public accountant. The certified public accountant selected shall have no direct or indirect personal interest in the financial affairs of the City or any of its officers. The report of audit, with the auditor's recommendations will be made to the City Council. Copies of the completed audit shall be placed on file in the office of the City Secretary, and shall be a public record.

**SECTION 7.19 Power to Tax**

- (1) The City shall have the power to levy, assess and collect taxes of every character and type for any municipal purpose not prohibited by the Constitution and laws of the State of Texas, as amended.
- (2) The City shall have the power to grant tax exemptions in accordance with the laws of the State of Texas.

**SECTION 7.20 Office of Tax Collector**

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

**SECTION 7.21 Taxes; When Due and Payable**

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

**SECTION 7.22 Tax Liens, Liabilities and Suits**

- (1) All taxable property located in the City on January 1 of each year shall stand charged from that date with a special lien in favor of the City for the taxes due. All persons purchasing any such property on or after January 1 in any year shall take the property subject to the liens provided above. In addition to the liens herein provided, on January 1 of any year, the owner of property subject to taxation by the City shall be personally liable for the taxes due for that year.
- (2) The City shall have the power to sue for and recover personal judgment for taxes without foreclosure, or to foreclose its lien or liens, or to recover both personal judgment and foreclosure. In any such suit where it appears that the description of any property in the

City appraisal rolls is insufficient to identify such property, the City shall have the right to plead a good description of the property to be assessed, to prove the same, and to have its judgment foreclosing the tax lien or for personal judgment against the owners for such taxes.

## **ARTICLE VIII**

### **Boards and Commissions**

#### **SECTION 8.01 Authority, Composition and Procedures**

- (1) The City Council shall create, establish or appoint, as may be required by the laws of the State of Texas or this Charter, or deemed desirable by the City Council, such boards, commissions and committees as it deems necessary to carry out the functions and obligations of the City. The City Council shall, by ordinance or resolution, prescribe the purpose, composition, function, duties, accountability and tenure of each board, commission and committee where such are not prescribed by law or this Charter.
- (2) Individuals who are registered voters of the City may be appointed by the City Council to serve on one (1) or more boards, commissions or committees. Such appointees shall serve at the pleasure of the City Council and may be removed at the discretion of the City Council, except for the members of the Board of Adjustment, who may be removed only for cause. Members of boards and commissions are considered City officers for purposes of the Texas Open Meetings Act, Chapter 551 of the Texas Government Code, as amended. Except as otherwise provided in this Charter, members of any such board, commission or committee shall serve without compensation but may be reimbursed for actual expenses as approved by the City Council.
- (3) All boards, commissions or committees of the City shall keep and maintain minutes of any proceedings held and shall promptly submit the minutes of such proceedings to the City Council.
- (4) No officer or employee of the City or any person who holds a compensated appointive position with the City shall be appointed to any board, commission or committee created or established by state law or this Charter other than in an advisory and/or *ex officio* capacity.
- (5) Any member of a board, commission or committee who is absent from three (3) consecutive regular meetings, or twenty-five percent (25%) of regularly scheduled meetings during the twelve-month (12-month) period immediately preceding and including the absence in question, without explanation acceptable to a majority of the other members, shall, upon approval of the City Council forfeit his or her position on the board, commission, or committee.

## **ARTICLE IX**

### **Planning & Zoning Commission and Board of Adjustment**

#### **SECTION 9.01      Organization**

- (1) There is hereby established a Planning & Zoning Commission which shall consist of at least seven (7) members who shall be appointed by the City Council to staggered terms of two (2) years in accordance with any ordinance adopted by the City Council. The Commission members shall be registered City voters. Any vacancy occurring during the unexpired term of a member shall be filled by the City Council for the remainder of the unexpired term. In July of each year, the Commission shall elect from its members a Chairman, Vice Chairman, and Secretary to serve for one (1) year beginning in that month. Members of the Commission may be removed, with or without cause, by an affirmative vote of a majority of the full membership of the City Council.
- (2) The Commission shall meet at least once a month. The Commission shall keep minutes of its proceedings which shall be of public record. Minutes will be recorded by the Commission Secretary. The Commission shall serve without compensation.
- (3) A majority of the full membership of the Commission members shall constitute a quorum for the purpose of transaction of business. No action or recommendation of the Commission, except as specifically provided in this Charter, shall be valid or binding unless adopted by the affirmative vote of a majority of the Commission members present. The Chairman shall be a voting member of the Commission. If the Vice-Chairman presides over the meeting in the Chairman's absence, the Vice-Chairman shall vote.

#### **SECTION 9.02      Duties and Powers**

- (1) The Commission shall be responsible to and act as an advisory board to the City Council. The Commission shall:
  - (A) Review all current and proposed ordinances and amendments pertaining to planning and zoning and make recommendations to the City Council for action to be taken;
  - (B) Make proposals to the City Council to amend, extend and add to the Comprehensive Plan for the physical development of the City;
  - (C) Keep public records of its resolutions, findings and determinations; and
  - (D) Review plats and zoning requests and make recommendations to the City Council for their final approval of same.
- (2) The Commission, shall have full power to:
  - (A) Exercise the authority of the Commission as provided by state law, this Charter and City ordinances;

- (B) Make reports and recommendations relating to the Comprehensive Plan and development of the City; and
- (C) Approve plats, site plans, and landscape plans if it has been given that authority by the City Council.

**SECTION 9.03 Procedure**

- (1) All rules and regulations adopted by the Commission shall be forwarded in writing to the City Manager who shall submit them to the City Council with the City Manager's recommendations. The City Council may amend, adopt or reject any such rules or regulations. If any rules or regulations should be rejected, the Commission may modify them and submit such modified rules and recommendations to the City Council.
- (2) Should any person on the Commission have a conflict of interest, pursuant to any state laws and/or City ordinances regulating conflicts of interest of municipal officers, with an agenda item then before the Commission, he or she shall disclose such interest to the other members of the Commission, and he or she is thereby prohibited from discussing or voting on the item.
- (3) Should any person on the Commission choose to abstain from voting on any question before the Commission, where no conflict of interest exists, the person's vote shall be recorded as a negative vote in the official minutes of the meeting.

**SECTION 9.04 The Comprehensive Plan: Procedure and Legal Effect**

- (1) The Comprehensive Plan shall include, but not be limited to, the Future Land Use Plan and the Thoroughfare Plan. The existing Comprehensive Plan for the physical development of the City contains recommendations for the growth, development and beautification of the City and its extraterritorial jurisdiction. Additions to and amendments of the Comprehensive Plan shall be by ordinance, but before any such revision, the Commission shall hold at least one (1) public hearing on the proposed action.
- (2) A copy of the proposed revisions to the Comprehensive Plan shall be forwarded to the City Manager who shall submit the proposal to the City Council, together with the City Manager's recommendations, if any. The City Council shall hold a public hearing, and shall adopt or reject such proposed revision or any part thereof as submitted within sixty (60) days following its submission by the City Manager. If the proposed revisions or any part thereof are rejected by the City Council, the City Council may request the Commission to make other modifications and again forward it to the City Manager for submission to the City Council.
- (3) Following the adoption by the City Council of the Comprehensive Plan, and any revisions thereto, it shall serve as a guide to all future City Council action concerning land use and development regulations and expenditures for capital improvements. Any proposal which deviates from the Comprehensive Plan shall not be authorized until and

unless the location and extent thereof shall have been submitted to and approved by the Commission. In case of denial of the request to deviate from the Comprehensive Plan, the Commission shall communicate its reasons to the City Council, which shall have the power to overrule such denial with a vote of three-fourths (3/4ths) of the Council Members present, or four (4) votes, whichever is greater, and upon such overruling, the City Council or the appropriate office, department or agency shall have authority to proceed.

**SECTION 9.05 Board of Adjustment**

- (1) The City Council shall create and establish a Board of Adjustment. The City Council shall, by ordinance, provide standards and procedures for such Board to hear and determine appeals of administrative decisions, petition for variances in the case of peculiar and unusual circumstances which would create a hardship, and prevent the reasonable use of land, and such other matters as may be required by the City Council or by law. Appointment and removal of members of the Board of Adjustment shall be in accordance with the provisions of Section 8.01(2) of this Charter and state law.
- (2) The Board shall consist of at least five (5) members who shall be appointed by the City Council to staggered terms of two (2) years. The Board shall consist of registered City voters.
- (3) Each case before the Board of Adjustment shall be heard by not less than seventy-five percent (75%) of the members. The concurring vote of seventy-five percent (75%) of the members shall be required to reverse an order, requirement, decision or determination of an administrative official; decide in favor of an applicant on a matter on which the Board is required to pass under a zoning ordinance; or authorize a variation from the terms of the zoning ordinance.

**ARTICLE X**

**Utility and Public Service Franchises and Licenses**

**SECTION 10.01 Authority**

The City shall have the power to buy, own, sell, construct, lease, maintain, operate and regulate public services and utilities and to manufacture, distribute and sell the output of such services and utility operations. The City shall not supply any utilities service outside the City limits, except by a written contract. The City shall have such regulatory and other power as it may now or hereafter be granted under the Constitution and laws of the State of Texas.

**SECTION 10.02 Ordinance Granting Franchise**

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

**SECTION 10.03 Transfer of Franchise**

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

**SECTION 10.04 Franchise Value Not to be Allowed**

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

**SECTION 10.05 Right of Regulation**

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

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

**SECTION 10.06 Regulation of Rates**

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

**SECTION 10.07 Licenses**

The City shall have the power to license, levy and collect fees in order to license any lawful business, occupation or calling subject to control pursuant to the police powers of the State of Texas and for any other purpose not contrary to the Constitution and laws of the State of Texas.

**ARTICLE XI**

**General Provisions**

**SECTION 11.01 Public Records**

All records of the City shall be open to inspection in accordance with state law.

**SECTION 11.02 Official Newspaper**

The City Council shall declare an official newspaper of general circulation in the City. All ordinances, notices and other matters required by this Charter, City ordinance, or the Constitution and laws of the State of Texas shall be published in the official newspaper.

**SECTION 11.03 Oaths**

All elected and appointed officers of the City shall take and sign an oath of office as prescribed for state elective and appointive offices in the Constitution of the State of Texas.

**SECTION 11.04 Severability**

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

**SECTION 11.05 Wording Interpretation**

The gender of the wording throughout this Charter shall always be interpreted to mean either sex. All singular words shall include the plural and all plural words shall include the singular. All references to the state law or laws of the State of Texas, however expressed in this Charter, shall mean "as presently enacted or as may be amended or superceded". The use of the word "City" in this Charter shall mean the City of Roanoke, Texas, and the use of the word "Charter" shall mean this Home Rule Charter.

**SECTION 11.06 Regulation of Liquor and Beer**

The sale of liquor and beer is prohibited in all residential sections or areas of the City, as designated by any zoning ordinance or Comprehensive Plan of the City. The City Council may enact any and all other regulations regarding, among other things, the sale, consumption and distribution of alcoholic beverages, as permitted by law.

**ARTICLE XII**

**Legal Provisions**

**SECTION 12.01 Assignment, Execution and Garnishment**

- (1) Property, real and personal, belonging to the City shall not be liable to be sold or appropriated under any writ of execution or cost bill. Funds belonging to the City in the hands of any person, firm or corporation, shall not be liable to garnishment, attachment or sequestration; nor shall the City 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 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 whatsoever.
- (2) The City shall not be obligated to recognize any assignment of wages or funds by its employees, agents or contractors, except as provided by the laws of this State or the United States of America.

**SECTION 12.02 Security and Bond**

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

**SECTION 12.03 Notice of Claim**

The City shall not be held liable on account of any claim for the death of any person or injuries to any person or damage to any property unless the person making such complaint or claiming such damages shall, within sixty (60) days after the time at which it is claimed such damages were inflicted upon such person or property, file with the City a written statement, under oath, stating the nature and character of such damages or injuries, the extent of the same, the place where same happened, the circumstances under which same happened and the condition causing same, with a detailed statement of each item of damages and the amount thereof, giving a list of any witnesses known by the claimant to have seen the accident.

**SECTION 12.04 Power to Settle Claims**

The City Council shall have the power to compromise and settle any and all claims and lawsuits of every kind and character, in favor of, or against, the City, including suits by the City to recover delinquent taxes.

**SECTION 12.05 Service of Process Against the City**

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

**SECTION 12.06 Judicial Notice**

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

**SECTION 12.07 Pending Matters**

All rights, claims, actions, orders, contracts and legal or administrative proceedings shall continue except as modified pursuant to the provisions of this Charter and in each case shall be maintained, carried on or dealt with by the City department, office or agency appropriate under this Charter.

**SECTION 12.08 Property Not Exempt From Special Assessments**

No property of any kind, by whomsoever owned or held or by whatsoever institution, agency, political subdivision or organization, owned or held, whether in trust or by non-profit organization, or corporation, or by foundation, or otherwise, (except property of the City), shall be exempt in any way from any of the special taxes, charges, levies and assessments, authorized or permitted by this Charter for local improvements for the public welfare.

**SECTION 12.09 City Council May Require Bonds**

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

**SECTION 12.10 Disaster Clause**

In case of disaster, when a legal quorum of the City Council cannot otherwise be assembled due to multiple deaths or injuries, the surviving members of the City Council, highest surviving City

official, and the County Judge of Denton County or his/her designee, must within twenty-four (24) hours of such disaster, appoint a five (5) member commission, which would include any surviving elected City officials, to govern the City, respond to the emergency, and call a City election within fifteen (15) days of such disaster, or as provided in the Texas Election Code, as amended, for election of a required quorum, if for good reasons it is known a quorum of the present City Council will never again meet.

**SECTION 12.11 No Waiver of Immunity**

Nothing in this Charter is intended to waive the City's governmental immunity from suit and/or damages.

**ARTICLE XIII**

**Transitional Provisions**

**SECTION 13.01 Effective Date**

This Charter or any amendments hereto shall take effect immediately following adoption by the voters, as prescribed by state law.

**SECTION 13.02 Continuation of Elective Offices**

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

**SECTION 13.03 Continuation of Operation**

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

**SECTION 13.04 Officers and Employees**

Except as specifically provided, nothing in this Charter shall affect or impair the rights or privileges of persons who are City officers or employees at the time of its adoption. Upon adoption of this Charter, the person then serving as the City Manager shall be deemed to be the City Manager.

**ARTICLE XIV**

**Nepotism, Prohibitions and Penalties**

**SECTION 14.01 Nepotism**

No person related within the second degree by affinity or within the third degree by consanguinity to the City Manager shall be employed by the City. The nepotism prohibition shall not apply to the following:

- (1) Any person employed by the City for six (6) months prior to a close relative related within the prohibited degree being appointed to City Manager, or
- (2) Any person who serves in an unpaid capacity with the City.

**SECTION 14.02 Equality of Rights**

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

**SECTION 14.03 Wrongful Influence**

No person who seeks appointment or promotion with respect to any City position shall, directly or indirectly, give, render or pay any money, service, or other valuable thing to any person for, or in connection with, his or her test, appointment or promotion.

**SECTION 14.04 Wrongful Interference**

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

**SECTION 14.05 Employee's Political Activities**

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

**SECTION 14.06 Penalties**

Any person who willfully engages in and is found in violation of any of the activities prohibited in sections 14.02, 14.03, 14.04 or 14.05 of this Article shall be ineligible for appointment or election to a position in the City for a period of five (5) years from that time. If the person is an officer or employee of the City at the time of the violation, he or she shall immediately forfeit his or her office or position, if found in violation.

**SECTION 14.07 Conflict of Interest**

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

## **ARTICLE XV**

### **Review and Amendment of Charter**

#### **SECTION 15.01 Amending the Charter**

Amendments to this Charter may be framed and submitted to the voters of the City in the manner provided by Chapter 9 of the Texas Local Government Code, as amended, but not more often than once every two (2) years, as provided by the laws of the State of Texas.

#### **SECTION 15.02 Charter Review Commission**

The City Council may appoint a Charter Review Commission, composed of nine (9) registered voters of the City of Roanoke, Texas, three (3) members per Ward. Not more than three (3) members of the Charter Review Commission may be Council Members. Only one (1) Council Member per Ward may serve on the Charter Review Commission.

#### **SECTION 15.03 Review of the Charter**

A regular review of this Charter will begin no later than July 2013, and at least every six (6) years thereafter.