

# Home Rule Charter



City of Webster

Webster, Texas

## PREAMBLE

Whenever people endeavor to form government at any level, of any size and of any magnitude, it is an absolute obligation for them to first consider and acknowledge the basic source of their authority to form such an instrument of power and to clearly and unequivocally state those rights of the citizens which cannot be violated by such instrument of power.

The city government chartered herein is formed for the purpose of protecting those rights, specifically to protect life, safety, security and property and to achieve certain other objectives, which are stated in this charter. It is granted such necessary powers listed herein, to accomplish these tasks, but at no time shall the city government assume for itself additional powers not specifically granted by the people.

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## ARTICLE I. INCORPORATION, BOUNDARIES & FORM OF GOVERNMENT

### Sec. 1.01 Incorporation

The inhabitants of the City of Webster, Harris 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 Webster” hereinafter referred to as the “City” with such powers, privileges, rights, duties and immunities as are herein provided.

### Sec. 1.02 Boundaries

The boundaries of the City are hereby established as described in the original order of incorporation and in the current City Ordinances including any future City Ordinances adopted.

### Sec. 1.03 Form of Government

The municipal government provided by this Charter shall be known as the “Council-City Manager” form of government. Pursuant to its provisions and subject only to the limitations imposed by the state constitution and by this charter, all powers of the city shall be vested in the mayor and councilmembers, who shall enact local legislation, adopt budgets, and determine policies. All powers of the city shall be exercised in the manner prescribed by this charter, or if not prescribed, then as may be prescribed by Ordinance.

## ARTICLE II. POWERS OF THE CITY

### Sec. 2.01 General Powers

The city shall have all the powers of local self-government granted to cities by the Constitution and laws of the State of Texas, together with all of the implied powers necessary to carry into execution such granted powers. The city may use a corporate seal; may sue and be sued; may contract and be contracted with; may cooperate with the government of the State of Texas or any agency or any political subdivision thereof or with the Federal government or any agency thereof to accomplish any lawful purpose for the advancement of the interest, welfare, health, environment, safety, and convenience of the city and its inhabitants; may acquire property within or without its corporate limits for any municipal purpose in fee simple or in any lesser interest or estate by purchase, gift, devise, lease, or condemnation and, subject to the provisions of this charter, may sell, lease, mortgage, hold, manage, improve, and control such property as may now or hereafter be owned by it, or which it may hereafter acquire, and shall have the right to lease or let its property, whether inside or outside of the city limits; may borrow money on the faith and credit of the city by issuance and sale of bonds, warrants or notes of the city; may borrow money on the revenue of municipally-owned utilities or other municipal enterprises by the issuance of bonds and notes secured by such revenues; may assess, levy and collect taxes for general and special purposes and all lawful subjects of taxation; may construct, own, lease, operate and regulate public utilities; may appropriate the funds of the city for all lawful purposes; may regulate and control the use, for whatever purpose, of the streets and other public places, may make and enforce all police, health, sanitary and other regulations; may pass such ordinances as may be expedient for the protection and maintenance of effective government, peace and welfare of the city, for the performance of the functions thereof, and for the order and security of its residents; and may provide suitable penalties for the violation of any ordinance enacted by the city and, except as prohibited by the Constitution and laws of this State or restricted by this charter, the city may exercise all municipal powers, functions, rights, privileges and immunities; may pass ordinances and enact such regulations as may be expedient for the maintenance of effective government, order, and peace of the city and the welfare, health, environment, safety, and convenience of its inhabitants. The powers hereby conferred upon the city shall include, but are not restricted to the powers conferred expressly and permissively by Chapter 147, page 307, Acts of the 33<sup>rd</sup> Legislature of the State of Texas, Regular Session, 1913, enacted pursuant to the Home Rule Amendment of the Constitution of Texas, known as the Enabling Act and including Article 1175 of the Revised Civil Statutes of Texas, 1925, as heretofore or hereafter amended, and Local Government Code 51.072, 51.073, 51.078 and 372.041, all of which are hereby adopted. In addition to the powers enumerated herein and subject only to the limitations imposed by the Constitution and Laws of the State of Texas and by this charter, the city shall have, without the necessity of express enumeration in this charter, each and every power which by virtue of Article II, Section V, of the Constitution of the State of Texas, the people of the city are empowered, by election, to grant or to confer upon the city by expressly and specifically granting and enumerating the same, including any other powers granted home rule municipalities by the laws of Texas. All

such power, whether expressed or implied, shall be exercised and enforced in the manner prescribed in this charter or, when not prescribed herein, in such manner as shall be provided by ordinance of the council.

Sec. 2.02 Eminent Domain

The city shall have the full right, power and authority to exercise the power of eminent domain when necessary or desirable to carry out any of the powers conferred upon it by this charter, or by the Constitution or laws of the State of Texas. The city may also exercise the power of eminent domain in any other manner authorized or permitted by the constitution and laws of this state, or in the manner and form that may be provided by ordinance of the governing body of the city. The power of eminent domain hereby conferred shall include the right of the city to take the fee in the lands so condemned and such power and authority shall include the right to condemn public property for such purposes. The city shall have and possess this power of condemnation for any municipal or public purpose, even though not specifically enumerated herein or in this charter.

Sec. 2.03 Streets and Public Property

The conveyance or lease or authorization of the conveyance or lease of any lands of the city shall be by ordinance.

Sec. 2.04 Street Development and Improvement and Assessment

- A. The city shall have the power to develop and improve, or cause to be developed and improved, any and all public streets, sidewalks, alleys, highways, and other public ways within the corporate limits of the city by laying out, opening, narrowing, widening, straightening, extending, lighting, and establishing building lines along the same; by purchasing, condemning and taking property therefore; by filling, grading, raising, lowering, paving, repaving, and repairing, in a permanent manner, the same; and by constructing, reconstructing, altering, repairing, and realigning curbs, gutters, drains, sidewalks, culverts, and other appurtenances and incidentals in connection with such development and improvement authorized herein above or any combination or part thereof. The cost of such development and improvement may be paid partly or entirely by assessments levied as a lien against the property abutting thereon and against the owners thereof, and such assessments may be levied in any amount and under the procedure not prohibited by the laws of the State of Texas; provided that no assessment shall be made against such land owners in excess of the enhancement value of such property occasioned by such improvements.
- B. When the city undertakes developing, improving and paving any and all public streets, sidewalks, alleys, highways and other public ways within its corporate

limits, the city shall have the power and authority to proceed in accordance with Chapter 106, page 489, Acts 1927, Fortieth Legislature, First Call session, as now or hereafter amended, the same being Chapter 311 of the Texas Transportation Code.

The procedure for the adoption of ordinances to assess the costs of street development and improvement shall be:

1. A copy of the proposed ordinance shall be furnished to: (1) each member of the city council, (2) the city attorney, and (3) any citizen of the city upon request to the city secretary at least five (5) working days before the date of the meeting at which the ordinance is to be considered.
2. An assessment ordinance shall not be adopted or passed at the meeting at which it is introduced.

#### Sec. 2.05 Sanitary Sewer System

The city shall have the power to provide for a sanitary sewer system and to require property owners to connect their premises with such sewer system; to provide for fixing penalties for failure to make sanitary sewer connections; and shall further have the right to fix fees to be charged by the city for sewerage service, providing rules and regulations for the collection thereof, and to provide for rendering a lien against any property owners' premises who fails or refuses to pay the pro rata assessment value of his share of the sewer system, and make it a personal liability.

The city, as a corporate body, shall likewise be subject to the provisions of this section pertaining to requirements for the connection of premises with such sewer systems. Failure of officials to take timely action in this regard shall be deemed a violation of this section.

#### Sec. 2.06 Garbage Disposal

The council may, by ordinance, adopt and prescribe rules and regulations for the handling and disposition of all garbage, trash and rubbish within the city and may fix fees to be charged for the removal of garbage, trash and rubbish, providing rules and regulations for the collection thereof.

#### Sec. 2.07 Nuisances

The city shall have the power to define, by ordinance, all nuisances and prohibit the same within the city and outside the city limits for a distance of 5,000 feet, to have power to police all parks or grounds, speedways, or boulevards owned by said city and lying outside

of said city, to prohibit the pollution of any stream, drain or tributaries, thereof, which may constitute the source of water supply of any city and to provide for policing the same as well as to provide for the protection of any water sheds and the policing of same.

#### Sec. 2.08 Tort Liability

Before the city shall be liable for damages for the death or personal injuries of any person or for damages to or destruction of property of any kind, which does not constitute a taking or damaging of property under Article I, Section 17, Constitution of the State of Texas, the person injured, if living, or his representatives, if deceased, or the owner, his agent or attorney of the property damaged or destroyed shall give the city manager or city secretary notice in writing of such death, injury, damage or destruction, duly verified by affidavit, within six (6) months after the same has been sustained, stating specifically in such written notice when, where, and how the death, injury, damage or destruction occurred, and the apparent extent of any such injury, the amount of damages sustained, the actual residence of the claimant by street and number at the date the claim is presented, the actual residence of such claimant for six (6) months immediately preceding the occurrence of such death, injury, damage or destruction, and the names and addresses of all witnesses upon whom it is relied to establish the claim for damages. No action at law for damages shall be brought against the city for such death, injury damage or destruction prior to the expiration of sixty (60) days after the notice herein before described has been filed with the city manager or the city secretary. After the expiration of the sixty (60) days aforementioned, the complainant may then have two (2) years in which to bring an action of law.

#### Sec. 2.09 Zoning

The council shall have full power and authority to zone the city and to pass all necessary ordinances, rules and regulations governing the same under and by virtue of the authority given to cities and legislative bodies under state law.

#### Sec. 2.10 Extension of Boundaries

A. The boundaries of the city may be enlarged and extended by the annexation of territory, in any of the methods hereinafter designated:

1. Annexation of Occupied Land on Petition of Inhabitants:

Where such additional territory adjoins the corporate limits of the city and contains three (3) or more inhabitants qualified to vote for members of the State Legislature, a written petition requesting annexation and signed by a majority of qualified voters within the territory may be presented to the council. The affidavit of one or more of the signers to the effect that said petition is signed by a majority of qualified voters shall be attached to the

petition. The council, at a regular session held no sooner than twenty (20) days after the presentation of said petition, by ordinance may annex such territory to the city.

2. Annexation of Unoccupied Lands on Petition of Owners:

The owner or owners of any land which is without residents, or on which less than three (3) voters qualified to vote for members of the State Legislature reside, and is adjacent to the city limits may request annexation of such territory by petition in writing to the council. The petition shall describe the property so owned in metes and bounds. The affidavit of one or more of the owners to the effect that there are no qualified voters in the territory and that the persons signing said petition own the land shall be attached to the petition. The council shall hear the petition of a landowner for annexation after the fifth day, but on or before the 30<sup>th</sup> day after the date the petition is filed, in accordance with V.T.C.A., Local Government Code 43.028.

3. Extension by Action of the City Council:

The council shall have the power of ordinance to fix the boundary limits of the city and to provide for the alternation and extension of said boundary limits, the annexation of additional territory lying adjacent to the city, with or without the consent of the owners and inhabitants of the territory annexed, in any manner not inconsistent with the procedural rules prescribed by the Legislature of the State of Texas in the Municipal Annexation Act as heretofore and hereafter amended.

4. Annexation by Any Other Method Provided by Law:

Additional territory may also be annexed to the city in any manner and by any procedure that may now be provided by law or that may be hereafter provided by law or in such manner as shall be provided by ordinances or resolutions of the council. Same shall be in addition to the methods hereinabove provided.

- B. Upon completion of any of the procedures for extending the limits of the city, the territory so annexed shall become a part of the city and property situated therein shall bear its pro rata share of taxes levied by the city unless otherwise prescribed by the laws governing annexation procedures, and the residents and future residents of the territory shall be entitled to all the rights and privileges of other citizens of the city and shall be bound by the acts, ordinances, resolutions, and regulations of the city.

Sec. 2.11      Contraction of Boundaries

Whenever there exists within the corporate limits of the city any territory not suitable or necessary for city purposes, and lying adjacent to the corporate limits, the council may, upon a petition signed by a majority of the voters qualified to vote for members of the State Legislature and such voters reside in such territory, or without any such petition if the same be uninhabited, by ordinance duly passed, discontinue said territory sought to be eliminated from the city and shall contain a plat designating such territory so that the same can be definitely ascertained; and when said ordinance has been duly passed, the same shall be entered upon the minutes and records of the city, and from and after the entry of such ordinance, said territory shall cease to be a part of the city, but said territory shall be liable for its pro rata share of any debts incurred while said area was a part of the city and the city shall continue to levy, assess, and collect taxes on the property within said territory to pay the indebtedness incurred while said area was a part of the city as though the same had not been excluded from the boundaries of the city.

## ARTICLE III. THE CITY COUNCIL

### Sec. 3.01 Number, Selection and Term

The legislative and governing body of the City shall consist of a mayor and six (6) councilmembers and shall be known as the “City Council of the City of Webster, Harris County, Texas.”

- A. The mayor shall be elected from the City at large. The councilmembers shall be elected from the City at large by positions and shall be known as positions 1, 2, 3, 4, 5, and 6.
- B. The mayor and each councilmember shall be elected to serve for three (3) year terms and shall hold office or until their respective successors been elected and qualified. All elections shall be held in the manner provided for by this charter, and the election laws of the State of Texas.
- C. This shall be effective beginning with the General Municipal Election in 2019 for councilmembers in positions 3, 4, and 5, in 2020 for mayor and councilmember in position 6; in 2021 for councilmembers in positions 1 and 2.

### Sec. 3.02 Qualifications

In addition to any other qualifications prescribed by law, the mayor and each councilmember shall meet the following conditions:

- A. Be a United States Citizen;
- B. Have been a resident of Texas and the City of Webster for at least twelve (12) months immediately preceding election day per the State of Texas Election Code;
- C. Have been registered to vote for at least one (1) year;
- D. Be twenty-one (21) years of age or older upon the commencement of the term to be filled at the election;
- E. Have not been convicted of a felony or an offense involving moral turpitude for which the person has not been pardoned or otherwise released from the resulting disabilities;
- F. Not have been found mentally incompetent by a final judgment of a court.

Sec. 3.03 Compensation

The mayor shall be compensated \$600.00 per month and the councilmembers compensated \$400.00 per month. The council is authorized to budget and approve reimbursement for necessary travel expenses.

Sec. 3.04 Mayor and Mayor Pro-Tem

The mayor shall be the official head of the city government. The mayor shall preside at all meetings of the council, shall have a vote on all council actions, and shall, when authorized by the council, sign all official documents such as ordinances, resolutions, conveyances, grant agreements, official plats, contracts, and bonds. The mayor shall perform other duties consistent with this charter or as may be imposed upon him by council. The mayor shall not have the power of veto.

The mayor pro-tem shall be a councilmember and be elected by the council at the first regular council meeting following each regular city election or runoff election, if needed. The mayor pro-tem shall act as mayor during the disability or absence of the mayor or if the office is vacated and in this capacity shall have the rights conferred upon the mayor.

Sec. 3.05 Vacancies, Forfeiture, Filling of Vacancies

- A. Vacancies - the office of a councilmember or office of the mayor shall become vacant upon their death, resignation, removal from office in any manner authorized by law, or forfeiture or recall of their office imposed by this charter.
- B. Forfeiture of Office - A councilmember or the mayor shall forfeit their office if they:
  - 1) lack at any time during their term of office any qualification for the office prescribed by this charter or by law;
  - 2) violates any express prohibition of this charter;
  - 3) are convicted of a crime involving moral turpitude; or
  - 4) fails to attend three (3) consecutive regular council meetings without being excused by the council.
- C. Filling of Vacancies - Any vacancy shall be filled in accordance with the Texas Election Code and the Texas Constitution. A vacancy for an unexpired term of 12 months or less may be filled by appointment by a vote of four or more councilmembers as provided by State Law.

Sec. 3.06 Prohibitions

- A. Holding other office: Except where authorized by law, no mayor or councilmember shall hold any other city office or city employment during their term as mayor or councilmember and no former mayor or councilmember shall hold any compensated appointive city office or city employment until one year after the expiration of their term as mayor or councilmember.
- B. Appointments and removals: Neither the council nor any of its members shall in any manner dictate the appointment or removal of any city department heads or employees whom the manager or any of his subordinates are empowered to appoint, except in cases of disciplinary action. The council may express its views and fully and freely discuss with the manager anything pertaining to appointment and removal of such officers and employees.
- C. Interference with administration: Except for the purpose of inquiries and investigations under Section 3.12, the council or its members shall deal with city officers and employees who are subject to the direction and supervision of the manager solely through the manager, and neither the council nor its members shall give orders to any such officer or employee, either publicly or privately.

Sec. 3.07 Meetings of Council

- A. Regular Meetings - The city council shall schedule at least one (1) regular meeting in each month at a time to be fixed by the council for such regular meetings, and may hold as many additional meetings during the month as may be necessary for the transaction of the business of the city. All meetings of the city council shall be public except where otherwise authorized by law, and shall be held at the City Hall of the City of Webster, except that the city council may designate a place other than city hall, for such meetings. Notice of all meetings shall be posted on the official bulletin board at city hall and the official city website according to State Law.
- B. Special Meetings and Emergency Meetings - Special meetings and emergency meetings may be called at the request of the mayor or three members of the council.
- C. Minutes - Minutes of all open meetings of the council shall be recorded as a public record.
- D. Executive Sessions - The Council may recess to an executive session for any purpose permitted by State law. The general subject matter for consideration shall be expressed in the agenda or the motion calling for the session. Final action shall not be taken by council until the matter is placed on the agenda and a vote taken in an open meeting.
- E. Agenda – Items may be placed on the agenda by the mayor or by consensus of three

councilmembers prior to the next agenda being posted.

All meetings of the council shall be held in accordance with Texas Government Code §551.001 et seq.

#### Sec. 3.08 Rules of Procedure

The council shall, by resolution, determine its own rules and order of business and the rules shall provide that citizens of the city shall have a reasonable opportunity to be heard at any meeting in regard to any matter under consideration. The council shall provide that minutes be taken and recorded of all meetings, and such minutes shall be a public record. Voting, except on procedural motions, shall be by roll call if requested by the mayor or any councilman and the ayes and nays shall be recorded in the minutes. Four (4) members of the city council shall constitute a quorum for the purpose of transaction of business.

#### Sec. 3.09 Ordinances in General

- A. Form: The council shall legislate by ordinance only and the enacting clause of every ordinance shall be “Be It Ordained by the City Council of the City of Webster, Texas.” All ordinances passed by the city shall include in their enacting clause a statement of the purpose and intent of the ordinance. Each proposed ordinance shall be introduced in the written or printed form required for adoption. Except for legislative necessity or state law, no ordinance shall contain more than one subject, which subject or subjects shall be clearly expressed in its title.

After adoption, an ordinance shall not be amended or repealed except by the adoption of another ordinance amending or repealing the original ordinance. Except when an ordinance is repealed in its entirety, the amendatory or repealing ordinance shall set out in full the ordinance sections or subsections to be amended or repealed and shall indicate matter to be omitted by a strikethrough and shall indicate new matter by underscoring.

- B. Procedure – The mayor or three (3) councilmembers may offer any ordinance in writing that they desire and have it placed on the agenda of a regular council meeting. Copies of the proposed ordinance shall be furnished to members of council before the reading. Copies of the proposed ordinance shall be available at the city offices and shall be furnished to citizens upon request to the city secretary. If amended, it shall be available and furnished in the amended form for as long as the proposed ordinance is before council.
- C. Effective date - Every ordinance shall become effective upon adoption, or at any later time specified in the ordinance, except that every ordinance imposing any penalty, fine or forfeiture shall become effective after the caption, the offense and

penalty clauses of the ordinance have been published in the official city newspaper.

- D. Reading - The reading aloud of the title of the ordinance or resolution shall suffice as a reading, provided printed copies of the ordinance, in the form required for adoption, are in front of all members of council that are present at the meeting and a reasonable number of additional true copies are available to citizens present at the meeting. If four (4) councilmembers request that the ordinance or resolution be read in its entirety, it must be so read. Except as otherwise provided by this charter (Sec. 8.03 E, 8.06 E, and 8.09 C), it shall be necessary to the validity of any ordinance that it shall be read and considered at two sessions of the city council except in emergency situations as expressed in the body of the ordinance.

#### Sec. 3.10 Emergency Ordinances

The council may adopt emergency ordinances only to meet public emergencies endangering 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 in Article VIII. An emergency ordinance shall be introduced in the form and manner generally prescribed for ordinances except that it shall be plainly designated in the title as an emergency ordinance and shall contain, after the enacting clause, a declaration stated that an emergency exists and describing it in clear and specific terms. An emergency ordinance can be adopted with or without amendment or rejected at the meeting at which it is introduced. The affirmative vote of at least two-thirds (2/3) of the members of council present shall be required for adoption. After adoption, the ordinance shall be published as required for other adopted ordinances and shall become effective in the same manner. Every emergency ordinance so adopted, except one authorizing the borrowing of money as described herein, shall automatically stand repealed as of the sixty-first (61<sup>st</sup>) days following the day on which it became effective, but this shall not prevent re-enactment as a regular ordinance.

#### Sec. 3.11 Authentication, Recording, Codification, Printing, Distribution

- A. Authentication and Recording: The city secretary shall authenticate by signature and seal in full in a properly indexed book kept for the purpose, all ordinances and resolutions adopted by the council. All ordinances shall be numbered consecutively in the order in which adopted. This record shall be open for public inspection pursuant to law.
- B. “Codification: Within three (3) years after adoption of this charter and thereafter, by contract or by city personnel, supplements to this Code shall be prepared and printed whenever authorized or directed by the city. Every general ordinance enacted subsequent to such codification shall be enacted as an amendment to the code. For the purposes 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. The codification shall be adopted by the council by ordinance and shall be published promptly together with this charter and any amendment thereto and with appropriate references to State Statutes and the State Constitution, and such codes of technical regulations and other rules and regulations as the council may specify. This compilation shall be known and cited officially as the Code of Ordinances, City of Webster, Texas, 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 they are published as a code. Copies of the code shall be furnished to city officials, placed in city offices and a library open to the public designated by the council for free reference and made available for purchase by the public at a reasonable price fixed by the council.”

- C. Printing of Ordinances and Resolutions: The council shall cause each ordinance and each amendment to this charter to be printed promptly following its adopting, and the printed ordinance and charter amendments shall be distributed free or sold to the public at reasonable prices to be fixed by the council. Following publication of the first Code of Ordinances, City of Webster, Texas, and at all times thereafter, the ordinances and charter amendments shall be printed in substantially the same style as the code currently in effect and shall be suitable in form for integration therein.

#### Sec. 3.12 Investigation by City Council

The council shall have power to inquire into the conduct of any office, department, agency official, or employee of the city and to make investigations as to municipal affairs, and for that purpose may subpoena witnesses, administer oaths and compel the production of books, papers, and other evidence. Failure to obey such subpoena or to produce books, papers or other evidence as ordered under the provisions of this section shall constitute a misdemeanor and shall be punishable by fine. The council shall enact an ordinance to enforce this provision.

#### Sec. 3.13 Officials Protected from Financial Loss

Duly elected city officials, acting in their official capacity, shall be protected by the city from personal financial loss resulting from council decisions made while in official sessions as a result of lawsuits filed pertaining to such decisions.

#### Sec. 3.14 Bonds for City Employees

The council shall require bonds of all municipal officers and employees who receive or pay

out any monies of the city. The amount of such bonds shall be determined by the council and the cost thereof shall be borne by the city.

## ARTICLE IV. THE CITY MANAGER

### Sec. 4.01 Appointment and Qualifications

The council, with a minimum of five (5) assenting votes, shall appoint a city manager who shall be the chief administrative official of the city and who shall be responsible to the council for administration of all affairs of the city. The city manager shall be chosen solely upon the basis of executive and administrative training, experience and ability. The city manager need not be a resident of the city when appointed, but is encouraged to be a resident.

### Sec. 4.02 Compensation

The city manager shall receive compensation as may be fixed by the council according to experience, education and training. The city manager shall be bonded at city expense.

### Sec. 4.03 Term and Removal

The city manager shall be appointed for a definite term not to exceed three (3) years and may be removed at the discretion of the council, by vote of the majority of the council present and voting at a regular meeting. Council may renew the city manager's contract after a review.

### Sec. 4.04 Powers and Duties

The city manager shall be responsible to the council for the administration of all city affairs placed in the city manager's charge by or under this charter. The city manager shall have the following powers and duties:

- A. Appoint, with the approval of the majority of city council, an assistant city manager(s), all department heads and direct and supervise the administration of all departments, offices, and agencies of the city, except as otherwise provided by this charter or by the law. The manager may remove, suspend or discharge any assistant city manager(s) and department heads. Any assistant city manager(s) or department heads so disciplined may, if the employee elects, appeal the manager's decision to city council.
- B. Attend all council meetings (except when excused by council) and shall have the right to take part in discussion but may not vote.

- C. See that all laws, provisions of this charter and acts of the council, subject to enforcement by the city manager or by officials subject to the city manager's direction and supervision, are faithfully executed.
- D. Prepare the budget annually and submit it to the council and be responsible for its administration after its adoption.
- E. Submit to the council and make available to the public a complete report of the finances and administrative activities of the city as of the end of each fiscal year.
- F. Keep the council advised of the financial condition and future needs of the city and make such recommendations as the city manager deems advisable.
- G. Perform such duties as may be prescribed by this charter or may be required by the council not inconsistent with this charter.

#### Sec. 4.05 Acting City Manager

The city manager, within sixty (60) days after taking office, shall designate, by letter filed with the city secretary, a qualified administrative official of the city to perform the duties of the city manager in his absence or disability. In the event of long-term disability (as defined by the city personnel ordinance), resignation or termination of the city manager, the council shall appoint an acting city manager at the next council meeting. The acting city manager shall continue for the duration of any such disability, or until appointment of an interim or a permanent city manager. No member of the city council shall serve as acting city manager.

## ARTICLE V. ADMINISTRATIVE SERVICES

### Sec. 5.01 Administrative Departments, Offices and Agencies

#### A. General Provisions:

1. The council may create or establish departments, offices, or agencies in addition to those provided by this charter and may prescribe the functions and duties of such departments, offices, and agencies.
2. The council may abolish, redesignate, or combine any of the departments, offices, or agencies it has established.
3. The council shall take none of the foregoing actions until the recommendations of the city manager are heard by the council.

#### B. Direction and Supervision: Except as provided in Sec. 5.04 of 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 officials appointed by and subject to the direction and supervision of the city manager. The city manager may, with the consent of the council, serve as the head of one or more city departments, offices, or agencies, or appoint one person as the head of two or more of them.

### Sec. 5.02 City Attorney

The council shall appoint a competent and duly qualified and licensed attorney practicing law in the State of Texas, who shall be the attorney for the city (and may also be referred to as the city attorney). The attorney shall receive for services such compensation as may be fixed by the council and shall hold office at the pleasure of the council. The city attorney shall be the legal advisor of, and attorney for, all of the offices and departments of the city, and shall represent the city in all litigation and legal proceedings; provided that the council may retain special counsel. The attorney shall review and concur or dissent upon all documents, contracts, and legal instruments in which the city may have an interest. The city attorney shall perform other duties prescribed by this charter, ordinance, or as directed by council. The city attorney may be removed only by action of the city council.

Sec. 5.03      Municipal Court

- A.     The Municipal Court of Record in the City of Webster” for the trial of misdemeanor offenses, with all such powers and duties as are now, or may hereafter be prescribed by laws of the State of Texas relative to municipal courts.
- B.     The presiding judge and any associate judges of said court shall be appointed by city council to serve at the discretion of the council. Any such judge shall be an attorney licensed and practicing in the State of Texas for two or more years and shall be a resident of the State of Texas and shall receive such salary as may be fixed by council.
- C.     There shall be a municipal clerk of said court appointed by the city manager and named by Ordinance by the City Council.
- D.     The clerk of said court and deputies shall have the power to administer oaths and affidavits, make certificates, affix the seal of said court thereto, and generally do and perform any and all acts usual and necessary to be performed by the clerks of courts in issuing process of said courts and conducting the business thereof.
- E.     In case of the disability or absence of the presiding judge of the municipal court, the council shall appoint a qualified person as provided in B. above to act in the presiding judge’s place.
- F.     All costs and fines imposed by the municipal court less those designated for the state shall be paid into the city treasury for the use and benefit of the city.
- G.     There shall be an attorney appointed by council to serve as the prosecutor in municipal court.

Sec. 5.04      City Secretary

The council shall appoint a city secretary. The city secretary shall be provided an office in the city hall sufficient to maintain the records entrusted to the city secretary’s care and shall be entitled to a seat at the council table at all official meetings.

- A.     The City Secretary shall:
  - 1.     Attend all official meetings of the council and shall keep, in a record provided for that purpose, accurate minutes of the proceeding of the council; provided, however, only the captions of duly enacted ordinances and resolutions shall be recorded in the minutes.
  - 2.     Be the custodian of all municipal records of the council.

3. Recommend to the council rules and regulations to be adopted by ordinance to protect the safety and security of the municipal records.
4. Hold, maintain and affix the city seal to all instruments requiring such seal.
5. Administer oaths in any matter pertaining to municipal affairs.
6. Perform all other acts and duties as may be required or provided by law, ordinance, resolution, this charter or proper order of the council.

B. Compensation

The council shall set the compensation of the city secretary.

Sec. 5.05 Personnel System

A. Employment, Appointments and Promotions:

Employment, appointments and promotions of all city employees shall be made on the basis of merit demonstrated by examination, seniority or other evidence of competence.

B. Personnel Policies:

Personnel policies shall be prepared by the city manager and presented to the council which may, by ordinance, adopt them with or without amendment. The personnel policies shall be reviewed on a regular basis. The adopted policies shall govern the equitable administration of the personnel system of the city and shall provide for the following requirements, among others:

1. A pay benefit plan for all city personnel;
2. A plan for working hours, attendance regulations, and provision for sick and vacation leave;
3. Procedures for the hearing and adjudication of grievances; and
4. Other practices and procedures necessary to the equitable administration of the personnel system of the city.

## ARTICLE VI. NOMINATIONS AND ELECTIONS

### Sec. 6.01 Nominations and Elections

- A. General Elections: The general city elections will be held on the first Saturday in May, unless otherwise required by state law. The council shall fix the place for holding such election in accordance with state law.
- B. Special Elections: The council may, by resolution or ordinance, order a special election for ordinances, bond issues, charter amendments, filling vacancies in an existing elected office, or any other reason the council deems necessary. The council will fix the place and date for holding this type of election as provided by state law.
- C. Publicizing City Elections: It is the responsibility of the council to inform the voters as to the time, place, purpose and filing period for the potential candidates for the upcoming city election at least sixty (60) days prior to such election. The provisions for early voting shall also be publicized at this time. Election notices shall be posted outside the city offices and shall be published in the official city newspaper not earlier than thirty (30) days and not less than ten (10) days prior to the election.
- D. Conduct and Regulation of City Elections: All city elections shall be governed by the constitution of the State of Texas, Election Code of the State of Texas, this charter, and ordinances of the city, in the order named.
- E. Voter Qualifications: All duly qualified electors under laws of the State of Texas who have resided in the city for a minimum of thirty (30) days immediately prior to the election and who are registered to vote with the Harris County Clerk shall be qualified to vote in any city election.

### Sec. 6.02 Filing for Office

Any qualified citizen who desires to become a candidate for city office shall file an application with the city secretary for the candidate's name to appear on the ballot. Candidate qualifications are outlined in Sec. 3.02 and prohibitions in Sec. 3.06. Nothing other than the candidate's name shall appear on the ballot, except as provided by state law.

Sec. 6.03 Official Ballots

- A. Candidates' Names on Ballots: The placement and order of candidates' names on ballots shall be governed by the Election Code of the State of Texas.
- B. Early Voting: Voting shall be governed by the Election Code of the State of Texas.
- C. Write-In Candidates: A person may run as a write-in candidate in a city's general election or a special election to fill a vacancy. Write-in candidates must follow the requirements of the Texas Election Code.

Sec. 6.04 Determination of Election Results

- A. Canvassing: Election returns shall be canvassed in accordance with state law.
- B. Majority Rules: The candidate for each position on the ballot who shall have received the majority of votes cast for such position shall be declared elected. In the event that no candidate for a designated position receives a majority of the votes cast for that position in the regular or special election, a run-off election shall be held between the candidates who receive the two greatest number of votes for such position. Notwithstanding the provisions of Sec. 6.01 C, such a run-off election shall be held according to the Texas Election Code.

Sec. 6.05 Taking Office

The city secretary shall promptly notify all persons elected to office. A candidate who is elected in a regular, special or run-off city election shall take office as prescribed by the Texas Election Code.

## ARTICLE VII. INITIATIVE, REFERENDUM AND RECALL

### Sec. 7.01 General Authority

- A. Initiative: The qualified voters of the city shall have the power to propose ordinances to the council except an ordinance authorizing levy of taxes and, if the council fails to adopt an ordinance as proposed without any change in substance, the voters shall adopt or reject it at a city election. Such power shall be exercised by filing a petition with the city secretary, signed by currently qualified voters of the city equal in number to at least fifty (50) percent of the total number of qualified voters who voted at the last regularly held city election. This authority is limited only by state statute.
- B. Referendum: The qualified voters of the city shall have the power to require reconsideration by the council of any adopted ordinance except an ordinance levying taxes and, if the council fails to repeal any ordinance so reconsidered, the voters shall approve or reject it at a city election. Such power shall be exercised by filing a petition with the city secretary signed by currently qualified voters of the city equal in number to at least fifty (50) percent of the total number of qualified voters who voted at the last regularly held city election. This authority is limited only by state statute.
- C. Recall: The qualified voters of the city shall have the power to remove any elected official of the city on grounds of incompetency, noncompliance with this charter, misconduct or malfeasance in office. Such power shall be exercised by filing a petition with the city secretary, signed by currently qualified voters of the city equal in number to at least fifty (50) percent of the total number of qualified voters who voted at the last regularly held city election, demanding the removal of such elected official. The recall petition must specifically state each ground or grounds upon which such petition for removal is predicated as to give the officer(s) sought to be removed notice of the matters on which the proposed recall is based.

The provisions regulating initiation, certification, amendment, withdrawal of initiative and referendum petitions and submission to voters shall apply to recall petitions.

- D. The use of city funds, properties, equipment, supplies, resources, and facilities for the purpose of promoting either side of an issue of initiative, referendum or recall shall be prohibited, except that city facilities and properties may be used to stage fair and impartial debates or forums in which all interested parties are given equal opportunity to express their viewpoints.

### Sec. 7.02 Petitioners' Committee

- A. Any five (5) qualified voters may commence initiative or referendum proceedings by filing with the city secretary an affidavit stating they will constitute the petitioners' committee and be responsible for circulating the petition and filing it in proper form, stating their names and addresses and specifying the address to which all notices to the committee are to be sent, and setting out in full the proposed initiative ordinance or citing the ordinance sought to be reconsidered.
- B. In the case of recall, immediately after the affidavit of the petitioner's committee is filed, the city secretary shall immediately notify, in writing, the officer(s) sought to be removed and shall inform the officer(s) of its statement of grounds.

Sec. 7.03      Circulation and Form of Petitions

- A. All petition blanks used for the circulation by the members of the petitioners' committee or their designees shall be numbered, dated and submitted to the city secretary. These blank petitions shall be signed by the city secretary or authorized designee and approved by the city attorney within two (2) business days after receiving a completed affidavit. In the event the city secretary fails to comply with the preceding, such blank petitions shall be deemed valid and ready for circulation the following day. Location for twenty (20) signatures shall be provided on each blank petition. In addition to the requirements contained in the Charter, all petitions shall be filed in accordance with state law.
- B. All pages of a petition shall be uniform in size and style and shall be assembled as one (1) instrument for filing. Each signer of a petition must be a registered voter of the city and shall write after his name his address, giving name of street and number, and shall also write thereon the date his signature was affixed. Petitions shall contain or have attached throughout their circulation the full text of the ordinance proposed or sought to be reconsidered, or in the case of recall petition, a statement which distinctly and specifically states the ground(s) upon which such petition for removal is predicated. If there be more than one (1) ground, the statement shall specifically state each ground with certainty as to give the officer(s) sought to be removed notice of such matters with which he is charged.
- C. Each page shall have attached to it, when filed, an affidavit executed by the circulator stating that he personally circulated the paper, the number of signatures thereon, that all the signatures were affixed in his presence, that he believes them to be genuine signatures of the persons whose names they purport to be, and that each signer had an opportunity before signing to read the full text of the ordinance proposed, or sought to be reconsidered, or the identity of and charges against the official whose recall is being sought.
- D. Time for filing petitions: Initiative, referendum and recall petitions must be filed

within sixty (60) days after issuance of the appropriate petition blanks to the petitioners' committee; additional time as specified in Section 7.05 shall be allowed for amending petitions.

#### Sec. 7.04 Filing, Examination and Certification of Petitions

All copies of a petition comprising an initiative or referendum petition shall be assembled and filed with the city secretary as one (1) instrument. Within twenty (20) days after a petition is filed, the city secretary shall determine whether each copy of the petition has a proper statement of the circulator and whether the petition is signed by a sufficient number of qualified electors. The city secretary shall declare any copy of the petition entirely invalid which does not have attached thereto an affidavit signed by the circulator thereof. If a copy of the petition is found to be signed by more persons than the number of signatures certified by the circulator, each signature not certified shall be disregarded. If a copy of a petition is found to be signed by fewer than the number certified, the signatures shall be accepted unless void on other grounds. After completing examination of the petition, the city secretary shall certify the results thereof to the council at its next regular meeting. If the city secretary shall certify that the petition is insufficient, the city secretary shall set forth in the certificate the particulars in which it is defective and shall at once notify the committee of the petitioners of their findings.

#### Sec. 7.05 Amendments

An initiative or referendum petition may be amended at any time within ten (10) days after the notification of insufficiency has been sent by the city secretary, by filing a supplementary petition upon additional copies signed and filed as provided in case of an original petition. The city secretary shall, within five (5) days after such an amendment is filed, make examination of the amended petition, and if the petition be still insufficient, the city secretary shall file their certificate to that effect in their office and notify the committee of the petitioners of their findings and no further action shall be had on such insufficient petition. The findings of the insufficiency of a petition shall not prejudice the filing of a new petition for the same purpose, provided that any petition for referendum shall be filed within the time provided by Section 7.03.

#### Sec. 7.06 Effect of Certification of Referendum Petition

When a referendum petition is filed with the city secretary, the ordinance sought to be reconsidered shall be suspended from taking effect. Such suspension shall terminate when:

- A. There is a final determination of insufficiency of the petition, or
- B. The petitioners' committee withdraws the petition, or
- C. The council repeals the ordinance, or
- D. Upon the certification of the election results by the election officials.

Sec. 7.07      Action on Petitions

- A.      Action by council: When an initiative or referendum petition has been finally determined sufficient, the council shall promptly consider the proposed initiative ordinance in the manner prescribed for enacting ordinances or reconsider the referred ordinance by voting its repeal. If the council fails to adopt a proposed initiative ordinance without any change in substance within sixty (60) days or fails to repeal the referred ordinance within thirty (30) days after the date the petition was finally determined sufficient, it shall submit the proposed or referred ordinance to the voters of the city.
  
- B.      Submission to voters: The vote of the city on a proposed or referred ordinance shall be held not less than thirty (30) days and not more than one hundred twenty (120) days from the date of the final council vote thereon. If no regular city election is to be held within the period prescribed in this subsection, the council shall provide for a special election; otherwise, the vote shall be held at the same time as such regular election, except that the council may in its discretion provide for a special election at an earlier date within the prescribed period. Copies of the proposed or referred ordinance shall be made available at the poll and shall be published at least once in the official newspaper of the city within fifteen (15) days before the date of the election.
  
- C.      Withdrawal of petitions: An initiative or referendum petition may be withdrawn at any time prior to the fifteenth day preceding the day scheduled for a vote of the city by filing with the city secretary a request for withdrawal signed by at least three (3) members of the petitioners' committee. Upon the filing of such request, the petition shall have no further force or effect and all proceedings thereon shall be terminated.

Sec. 7.08      Results of Election

- A.      Initiative: If a majority of the qualified electors voting on a proposed initiative ordinance vote in its favor, it shall be considered adopted upon certification of the election results and shall be treated in all respects in the same manner as ordinances of the same kind adopted by the council. If conflicting ordinances are approved at the same election, the one receiving the greatest number of affirmative votes shall prevail to the extent of such conflict.
  
- B.      Referendum: If a majority of the qualified electors voting on a referred ordinance vote against it, it shall be considered repealed upon certification of the election results.

Sec. 7.09 Results of Recall Election

If a majority of the votes cast at a recall election shall be against removal of the elected official named on the ballot, the official shall continue in office. If the majority of the votes cast at the election be for the removal of the elected official named on the ballot, the council shall immediately declare their office vacant and such vacancy shall be filled in accordance with the provisions of this charter for the filling of vacancies.

Sec. 7.10 Failure of Council to Call an Election

In case all of the requirements of this charter shall have been met and the council shall fail or refuse to receive the recall petition, or order such recall election, or discharge other duties imposed upon said council by the provisions of this charter with reference to such recall, then the county judge of Harris County, Texas, will discharge any such duties herein provided to be discharged by the city secretary or by the council. In addition, any qualified voter in the city may seek judicial relief in the district court of Harris County, Texas, to have any of the provisions of this charter pertaining to recall carried out by the proper official.

## ARTICLE VIII. FINANCIAL PROCEDURES

### Sec. 8.01 Fiscal Year

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

### Sec. 8.02 Public Record

Copies of the budget as adopted shall be public records and shall be made available during normal office hours to the public for inspection upon request.

### Sec. 8.03 Annual Budget

- A. Content: The budget shall provide a complete financial plan of all city funds and activities for the ensuing fiscal year and, except as required by law or this charter, shall be in such form as the city manager deems desirable or the council may require. A budget message explaining the budget both in fiscal terms and in terms of the work programs shall be submitted with the budget. It shall outline the proposed financial policies of the city for the ensuing fiscal year, describe the important features of the budget, indicate any major changes from the current year in financial policies, expenditures, and revenues with reasons for such changes. It shall also summarize the city's position and include such other material as the city manager deems desirable. The budget shall begin with a clear general summary of its contents; shall show in detail all estimated income, indicating the proposed expenditures, including debt service, for the ensuing fiscal year. The proposed budget expenditures shall not exceed the total of estimated income plus funds on hand. The budget shall be prepared in accordance with the Texas Local Government Code, Chapter 102. It shall include in separate sections:
1. An itemized estimate of the expense of conducting each department, division and office.
  2. Reasons for proposed increases or decreases of such items of expenditure compared with the current fiscal year.
  3. A separate schedule for each department, indicating tasks to be accomplished by the department during the year, and additional desirable tasks to be accomplished, if possible.

4. A statement of the total probable income of the city from taxes for the period covered by the estimate.
  5. Tax levies, rates, and collections for the preceding five (5) years.
  6. An itemization of all anticipated revenue from sources other than the tax levy.
  7. The amount required for interest on the city's debts, for sinking fund and for maturing serial bonds.
  8. The total amount of outstanding city debts, with a schedule of maturities on bond issues and/or certificates of obligation.
  9. Such other information as may be required by the council.
  10. Anticipated net surplus or deficit for the ensuing fiscal year of each utility owned or operated by the city and the proposed method of its disposition; subsidiary budgets for each such utility giving detailed income and expenditure information shall be attached as appendices to the budget.
  11. A capital program, which may be revised and extended each year to indicate capital improvements pending or in process of construction or acquisition, and shall include the following items:
    - a. A summary of proposed programs;
    - b. A list of all capital improvements which are proposed to be undertaken during the five (5) fiscal years next ensuing, with appropriate supporting information as to the necessity for such improvements;
    - c. Cost estimates, method of financing and recommended time schedules for each such improvements; and
    - d. The estimated annual cost of operating and maintaining the facilities to be constructed or acquired.
- B. Submission: At least sixty (60) days prior to the end of the fiscal year, the city manager shall submit to the council a proposed budget and an accompanying message. The council shall review the proposed budget and revise as deemed appropriate prior to general circulation for public hearing.

- C. Public Notice and Hearing: The council shall post in the city hall and publish in the official newspaper a general summary of their proposed budget and a notice stating:
  - 1. The times and places where copies of the message and budget are available for inspection by the public, and
  - 2. The time and place, not less than ten (10) nor more than thirty (30) days after such publication, for a public hearing on the budget.
- D. Amendment Before Adoption: After the public hearing, the council may adopt the budget with or without amendment. In amending the budget, it may add or increase programs or amounts and may delete or decrease any programs or amounts, except expenditures required by law or for debt service or for estimated cash deficit, provided that no amendment to the budget shall increase the authorized expenditures to an amount greater than the total of estimated income plus funds available from prior years.
- E. Adoption: The council shall adopt its annual budget by ordinance, on one reading, not later than the twenty-seventh (27<sup>th</sup>) day of the last month of the fiscal year. Adoption of this budget shall require an affirmative vote of at least a majority of all members of the council. Adoption of the budget shall constitute appropriations of the amounts specified therein as expenditures from the funds indicated.

#### Sec. 8.04 Amendments After Adoption

- A. Supplemental Appropriations: If, during the fiscal year, the city manager certifies that there are available for appropriation revenues in excess of those estimated in the budget, the council may make supplemental appropriations for the year up to the amount of such excess.
- B. Emergency Appropriations: To meet a public emergency created by a natural disaster or man-made calamity affecting life, health, property, or the public peace, the council may make emergency appropriations, not to exceed ten (10) percent of the current fiscal year's budgeted receipts. Such appropriations may be made by emergency ordinance in accordance with the provisions of this charter. To the extent that there are no available unappropriated revenues to meet such appropriations, the council may, by such emergency ordinance, authorize the issuance of emergency notes, which may be renewed from time to time.
- C. Reduction of Appropriations: If at any time during the fiscal year it appears probable to the city manager that the revenues available will be insufficient to meet the amount appropriated, the city manager shall report to the council without delay, indicating the estimated amount of the deficit, any remedial action taken by him

and his recommendations as to any other steps to be taken. The council shall then take such further action as it deems necessary to prevent or minimize any deficit and for that purpose it may by ordinance reduce one or more appropriations.

- D. Transfer of Appropriations: At any time during the fiscal year the city manager may transfer part or all of any unencumbered appropriation balance among programs within a department, division, or office and, upon written request by the city manager, the council may by ordinance transfer part or all of any unencumbered appropriation balance from one department, office or agency to another.
- E. Limitations; Effective Date: No appropriation for debt service may be reduced or transferred, and no appropriation may be reduced below any amount required by law to be appropriated or by more than the amount of the unencumbered balance thereof. The supplemental and emergency appropriations and reduction or transfer of appropriations authorized by this section may be made effective immediately upon adoption.

#### Sec. 8.05 Lapse of Appropriations

Every appropriation, except an appropriation for a capital project, 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 project 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.

#### Sec. 8.06 Borrowing

- A. The right to borrow: The city shall have the right and power, except as prohibited by law, to borrow money by whatever method it may deem to be in the public interest.
- B. General obligation bonds: The city shall have the power to borrow money on the credit of the city and to issue general obligation bonds for permanent public improvements or for any other public purpose not prohibited by law, and to issue refunding bonds to refund outstanding bonds previously issued.
- C. Revenue bonds: The city shall have the power to borrow money for the purpose of constructing, purchasing, improving, extending or repairing of public utilities, recreational facilities or any other municipal function not prohibited by law, and to issue revenue bonds or refunding bonds to evidence the obligation created. Such bonds shall be a charge upon and payable from any or all city properties or interest pledged, or the income from the city properties, or both. The holders of the revenue

bonds shall never have the right to demand payment out of monies raised or to be raised by taxation.

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

#### Sec. 8.07 Purchasing

The council may, by ordinance, confer upon the city manager general authority to contract for all expenditures without further approval of the council for all budgeted items not exceeding limits set by council. All contracts for expenditures involving more than the set limits must be expressly approved in advance by the council. All contracts or purchases involving more than the limits set by council shall be let to the lowest responsible bidder whose submittal is among those most responsive to the needs of the city after there has been opportunity for competitive bidding as provided by law or ordinance; provided that the council, or city manager in such cases as he is authorized to contract for the city, shall have the right to reject any and all bids. Emergency contracts as authorized by law may be negotiated by the council, or city manager if given authority by the council, without competitive bidding. Such emergency shall be declared by the city manager and approved by council or may be declared by council.

#### Sec. 8.08 Administration of Budget

- A. Payments and obligations prohibited: No payment shall be made or obligation incurred against any allotment or appropriation except in accordance with appropriations duly made and unless the city manager or his designee first certifies that there is a sufficient unencumbered balance in such allotment or appropriation that sufficient funds are or will be available to cover the claim or meet the obligation when it becomes due and payable. Any authorization of payment or incurring of obligation in violation of the provisions of this charter shall be void and any payment so made illegal. Such action shall be cause for removal of any officer who knowingly authorized or made such payment or incurred such obligations, and he shall also be liable to the city for any amount so paid. However, this prohibition shall not be construed to prevent the making or authorizing of payments or making of contracts for capital improvements to be financed wholly or partly by the issuance of bonds, time warrants, certificates of indebtedness, certificates of obligations, or grants from other governmental bodies, or to prevent the making of any contract or lease providing for payments beyond the end of the fiscal year, provided that such action is made or approved by ordinance. All disbursements above a limit set by council shall require two (2) authorized

signatures. The council shall designate those authorized to sign the disbursements.

- B. Financial reports: The city manager shall submit to the council each quarter a report covering the financial condition of the city.
- C. Annual audit: An annual audit shall be performed by a competent independent certified public accounting firm. Such audit shall include a recapitulation of all audits made during the course of each fiscal year. All audit reports shall be filed with the city council, shall be available for public inspection and shall be made a part of the archives of the city. Notification shall be published on the city's website that the audit report is available for inspection in the city offices.

Sec. 8.09      Taxation

- A. There shall be appointed by the city manager a "city tax assessor/collector" subject to confirmation by the council. The city assessor/collector shall give a surety bond for faithful performance of their duties, including compliance with all controlling provisions of the State law bearing upon the functions of their office, in a sum which shall be fixed by the council.
- B. Powers of Taxation  

The city shall have the power to levy, assess, and collect taxes of every character and type not prohibited by the Constitution and Laws of the State of Texas, and for any municipal purpose.
- C. The council shall adopt its annual tax rate by ordinance, on one reading. The date of adoption will be no later than the twenty-seventh day of September, or as provided in the provisions of the Texas Property Tax Code.

## ARTICLE IX. BOARDS AND COMMISSIONS

### Sec. 9.01 Authority, Composition and Procedures

The council shall create, establish or appoint such boards, commissions and committees as it deems necessary or desirable to carry out the function, duties, accountability and tenure of each board, commission and committee where such are not prescribed by law or this charter.

- A. Individuals who are registered voters in the city may be appointed to serve on such boards, commissions or committees where such are not prescribed by law or this charter.
- B. All boards, commissions or committees of the city shall keep and maintain minutes of any proceedings to be placed on file with the city secretary.
- C. Members of the council shall not be appointed to any board, commission or committee created or established by council other than in an advisory capacity. This does not include service on a board, commission, or committee of the city, such as a Tax Increment Reinvestment Zone Board or a statutory economic development board as expressly permitted by law. This does not preclude subcommittees made up entirely of city council members.
- D. All members of boards and commissions shall have a period of orientation and instruction.

### Sec. 9.02 Planning and Zoning

- A. There shall be a planning and zoning commission whose responsibilities are to accomplish the city planning and zoning functions to effect the orderly and desired growth and development of the city. The commission shall formulate and recommend to the city manager a comprehensive master plan and shall consult with other city departments regarding planning. The commission shall recommend any proposed zoning changes to council and shall act in an advisory capacity to the council on all matters affecting the development of the city. No member of the planning and zoning commission shall hold a salaried or elected city office.
- B. Comprehensive Master Plan

The planning and zoning commission shall formulate a comprehensive master plan for the development of the city, containing the commission's recommendations for growth, development and beautification of the city. This plan shall be updated at

least every five (5) years and shall contain the planning considerations for the period of ten (10) years. This plan shall be forwarded, at least one hundred and twenty (120) days prior to the beginning of the following budget year, to the city manager who shall submit it to the council with his recommendations thereon. The council shall hold a public hearing on the proposed comprehensive plan, or modification thereof, and shall thereafter adopt it by resolution with or without amendment.

C. Plats

The planning and zoning commission shall have exclusive plat approval of proposed subdivisions submitted in accordance with city ordinances as adopted or hereafter amended. Hereafter, every owner of any tract of land situated within the corporate limits of the City of Webster who may divide the same in two or more parts for the purpose of laying out any subdivision or any addition to the city, shall comply with State law.

Sec. 9.03 Boards of Adjustment

The Building Board of Adjustment shall have the power to hear and review appeals from the refusal of building permits and appeals of other administrative decisions by the building department and its inspectors. The board may recommend to the council amendments, extensions or revisions of the building code, which shall include the standards of construction for building, plumbing and wiring. In the event that an inspection is warranted by the Chief Building Official of a potential dangerous building, the findings and disposition of said building shall be submitted to the Building Board of Adjustment for review and subsequent recommendation which will be forwarded to the City Council for final review and action.

The Zoning Board of Adjustment shall have the power to hear and review appeals and allow exceptions and grant variances from the zoning regulations, in such cases where the variance will not be contrary to the public interest, and where the literal interpretation and enforcement of the zoning ordinances would impose an unnecessary hardship and would itself violate the spirit, purpose and intent of the ordinances. Any persons, jointly or severally, aggrieved by any decision of the Zoning Board of Adjustment, may present to a court of competent jurisdiction a petition for a writ of certiorari as provided by V.T.C.A., Local Government Code § 211.011, duly verified, setting forth that such decision is illegal, in whole or in part, specifying the grounds of the illegality. Such petition shall be presented within ten days of the date of the decision of the Zoning Board of Adjustment.

## ARTICLE X. FRANCHISES AND PUBLIC UTILITIES

### Sec. 10.01 Powers of the City

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.

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

### Sec. 10.02 Power to Grant Franchises

The council shall have the power by ordinance to grant, renew and extend all franchises of a public service operation within the city and, with consent of the franchisee, to amend the same.

### Sec. 10.03 Ordinance Granting Franchise

Any ordinance granting, renewing, extending or amending a franchise shall not take effect until at least twenty-eight (28) days after its final passage. Within seven (7) days following the reading of the ordinance, a summary of the ordinance shall be published one time in the official city newspaper, and the expense of such publication shall be borne by the prospective franchisee. No franchise shall be exclusive.

### Sec. 10.04 Transfer of Franchise

No public service franchise shall be transferable except with the approval of the council as expressed by ordinance. The term "transferable," as used herein, shall not be construed in such a manner as to prevent the franchisee from pledging said franchise assets as security for a valid debt or mortgage.

### Sec. 10.05 Franchise Value Not To Be Allowed

In fixing reasonable rates and charges for utility service within the city and in determining the just compensation to be paid by the city for public utility property which

the city may acquire by condemnation or otherwise, nothing shall be included as the value of any franchise granted by the city under this charter.

Sec. 10.06 Right of Regulation

In granting public service franchises or in amending, renewing or extending them, the city shall have the following rights:

- A. To forfeit any such franchise by ordinance at any time for failure of the holder thereof to comply with the terms of the franchise. Such power shall be exercised only after written notice to the franchise holder stating wherein the franchise holder has failed to comply with the terms of the franchise and setting a reasonable time for the correction for such failure, and shall be exercised only after hearing and after such reasonable time has expired.
- B. To require such expansion, extension, enlargement and improvements of facilities and services as are necessary to provide adequate service to the public, and maintenance of the facilities and service at the highest reasonable standard of efficiency.
- C. To impose reasonable regulations to insure safe, efficient, and continuous service to the public.
- D. To require the keeping of accounts in such form as will accurately reflect the cost of the property of each franchisee which is used and useful in rendering its service to the public and the expenses, receipts and profits of all kinds of such franchisees. It shall be deemed sufficient compliance with this paragraph if the franchisee keeps its accounts in accordance with the uniform system established by any federal or state agency for their service.
- E. To require the franchisee and/or utility to restore, at the 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.
- F. To require every franchisee to furnish within a reasonable time to the city, without cost to the city, a general map, with updates outlining the location, character, size, length and terminals of all facilities of such franchisee in, over and under ground or property in the city and to provide detailed information on request.
- G. The city shall have the right to set rates of city-owned public services.
- H. 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.

Sec. 10.07 Regulation of Rates

- A. Council, upon receiving a request from a franchise holder desiring a change in rates, charges or fares, shall call a meeting for consideration of such change.
- B. The franchise holder shall show the necessity for such change by establishing by clear, competent and convincing evidence:
  - 1. Cost of its investment properly allocable to service in the city;
  - 2. Amount and character of its expenses and revenues connected with the rendering of such service; and
  - 3. Any additional evidence required by council.
- C. Council may, if not satisfied with the sufficiency of the evidence furnished by the franchise holder, select and employ rate consultants, auditors and attorneys to investigate and, if necessary, litigate the requests for changes in rates, charges or fares. The franchise holder shall reimburse the city for its reasonable and necessary expenses so incurred.
- D. The franchise holder may, if not satisfied with the rate, charge or fare ordered by council, make a motion for rehearing within twenty (20) days of the entry of such order. Such motion will be deemed over-ruled if not acted upon by council within thirty (30) days, provided that council may by resolution extend such time for action on the motion to a maximum of sixty (60) days.
- E. No franchise holder may institute legal action contesting such rate, charge or fare fixed by council until such public service has exhausted all remedies provided herein.

Sec. 10.08 Option to Purchase

Any public utility franchise may be terminated by ordinance after ten (10) years after the beginning of operation, whenever the council determines to acquire by condemnation or otherwise the property of such utility necessarily used in or conveniently useful for the operation of the city within the city limits of same.

Sec. 10.09 Accounts of Municipally-Owned Utilities

Accounts shall be kept for each public utility owned or operated by the city, in such manner as to show the true and complete financial results of such city ownership and operation, including all assets, appropriately subdivided into different classes, all liabilities subdivided by classes, depreciation reserve, other reserves, and surplus; also revenues,

operating expenses including depreciation, interest payments, rental, and other disposition of annual income. The accounts shall show the actual capital cost to the city of each public utility owned, also the cost of all extensions, additions and improvements, and the source of the funds expended for such capital purposes. They shall show as nearly as possible the cost of any service furnished to or rendered by any such utility to any other city or governmental department. The council shall annually cause to be made by a certified public accountant and shall publish a report showing the financial results of such city ownership and operation, giving the information specified in this section or such data as the council shall deem expedient.

#### Sec. 10.10 Sales of Municipal Services

The council shall have the power and authority by ordinance:

- A. In or outside the limits of the city, to sell and distribute water; sell and provide sewer service; sell and provide garbage and trash collection and disposition; and to sell and provide other municipal services.
- B. To establish specifications for materials and construction used within or beyond the limits of the city for such municipal services; inspect same and require such materials to be kept in good order and condition at all times; make such rules and regulations as shall be necessary and proper; and prescribe penalties for noncompliance with same.

ARTICLE XI. TRANSITIONAL PROVISIONS  
DELETED 5/1/99



## ARTICLE XII. GENERAL PROVISIONS

### Sec. 12.01 Publicity of Records

All records and accounts of every office, department or agency of the city except those closed to the public by law shall be open to inspection by any citizen, any representative of a citizen's organization or any representative of the press at all reasonable times and under reasonable regulations established by the city manager.

### Sec. 12.02 Personal Financial Interest

No officer or employee of the city shall have a financial interest, direct or indirect, in any contract with the city, or shall be financially interested, directly or indirectly, in the sale to the city of any land, materials, supplies or service, except on behalf of the city as an officer or employee. Any willful violation of this section shall constitute malfeasance in office, and any officer or employee guilty thereof shall be subject to removal from his office or position. Any violation of this section, with the knowledge, expressed or implied, of the person or corporation contracting with the council shall render the contract involved voidable by the city manager or the council.

### Sec. 12.03 Official Newspaper

The council shall, by resolution, designate a public newspaper of general circulation in the city as the official organ, thereof, and to continue as such until another is designated, and shall cause to be published therein all ordinances, notices and other matter required by this charter, by the ordinances of the city, or by the constitution and/or laws of the State of Texas.

### Sec. 12.04 Nepotism

No appointment to serve the city shall violate the prohibition against nepotism as set forth by state law.

### Sec. 12.05 Oath of Office

Every official of the city, whether elected or appointed, before entering upon the duties of office, shall take and subscribe to the appropriate oath or affirmation which is prescribed by the State of Texas and the oath is to be filed and kept in the office of the city secretary.

Sec. 12.06 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 said city in any of the state courts, but in all such actions, suits, appeals, or proceedings same shall be conducted in the same manner as if such bond, undertaking or security had been given as required by law.

Sec. 12.07 Power to Settle Claims

The 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.

Sec. 12.08 Severability Clause

If any section or part of section of this charter shall be held invalid by a court of competent jurisdiction, such holding shall not affect the remainder of this charter nor the context in which such section or part of section so held invalid may appear, except to the extent that an entire section or part of section may be inseparable connected in meaning and effect with the section or part of section to which such holding shall directly apply.

Sec. 12.09 Gender of Wording

The masculine gender of the wording used throughout this charter shall always be interpreted to mean either sex.

Sec. 12.10 Prohibitions

- A. No person shall be appointed to or removed from or in any way favored or discriminated against with respect to any city position or appointive city administrative office because of race, sex, national origin, political or religious opinions or affiliations.
- B. No person shall willfully make any false statement, certificate, mark, rating or report in regard to any test, certification or appointment under the personnel provisions of this charter or the rules and regulations made thereunder, or in any manner commit or attempt to commit any fraud preventing the impartial execution of such provisions, rules and regulations.
- C. No person who seeks appointment or promotion with respect to any city position or appointive city administrative office shall directly or indirectly give, render or pay any money, service or other valuable thing to any person for or in connection with

his test, appointment, proposed appointment, promotion or proposed promotion.

- D. No person who holds any compensated appointive city position shall make, solicit or receive any contribution for any candidate for public office in the city or take any part in the management, affairs or political campaign of such candidate, but he may exercise his rights as a citizen to express his opinions and to cast his vote.
- E. Penalties: Any person who violates any of the provisions of subsections A. through D. of this section shall be guilty of a misdemeanor and upon conviction thereof shall pay such penalty as may be provided for by city ordinance or the statutes of the State of Texas. Any person convicted under this section shall be ineligible for a period of five (5) years thereafter to hold any city office or position and, if an officer or employee of the city, shall immediately forfeit his office or position.

#### Sec. 12.11 Assignment, Execution and Garnishment

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

#### Sec. 12.12 Amending the Charter and Schedule for Revised Charter

- A. Amendments to this charter shall be framed and submitted to the voters of the city in the manner provided by Chapter 13 of Title 28 of the Revised Civil Statutes of Texas, 1925, as now or hereafter amended.
- B. Non-Substantive Revisions. The city council may, without approval of the voters, adopt an ordinance that makes the following types of revisions to the charter:
  - 1. Renumbering, revising titles, and rearranging parts thereof.
  - 2. Correcting errors in spelling, grammar, cross-references, and punctuation.
  - 3. Revising language to reflect modern usage and style.

A revision adopted under this section is not intended to and is not to be interpreted as making any substantive change in any Charter provision.

Sec. 12.13 Charter Review Commission

The council shall appoint a charter review commission of seven (7) registered voters of the city at its first regular meeting in July not less than two (2) years, nor more than five (5) years, from the previous charter amendment election.

A. Duties of the commission:

1. Inquire into the operation of the city government under the charter provisions and determine whether any such provisions require revision. To this end, public hearings may be held and the commission shall have the power to compel the attendance of any officer or employee of the city and require the submission of any of the city records, which it may deem necessary to the conduct of such hearing.
2. Propose any recommendations it may deem desirable to insure compliance with the provisions of the charter by the several departments of the city government.
3. Propose, if it deems desirable, amendments to this charter to improve the effective application of the charter to current conditions.
4. Report its finding and present its proposed amendments, if any, to the council.

B. Action by the Council:

The council shall receive and announce that any report presented by the charter review commission is available for review by interested citizens during regular hours at city hall, shall consider any recommendations made, and if any amendments be presented as part of such report, shall order such amendment or amendments to be submitted to the voters of the city in the manner provided by Chapter 13 of Title 28 of the Revised Civil Statutes of Texas, 1925, as now or hereafter amended.

C. Term of Office:

The term of office of such charter review commission shall be six (6) months, and at the completion of such term, a report shall be presented to the council and all records of the proceedings of such commission shall be filed with the city secretary and shall become a public record.