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OF THE CITY OF OWASSO, OKLAHOMA

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CHARTER
OF THE CITY OF OWASSO, OKLAHOMA

PREAMBLE

We, the people of the City of Owasso, exercising the powers of home rule granted to us by the Constitution and laws of the State of Oklahoma, in order to provide for more efficient, adequate, and economical government, do hereby ordain, ratify, and establish this Charter of the City of Owasso, Oklahoma.

ARTICLE 1

INCORPORATION; FORM OF GOVERNMENT; POWERS

Section 1-1 Incorporation

When this Charter goes into effect, the Town of Owasso, Oklahoma, shall become a city, and within the corporate limits as now established or as hereafter may be established, shall be a municipal body politic and corporate in perpetuity under the name of "City of Owasso". The city shall be the legal successor of the town; and as such, it shall succeed to and possess all the property and rights belonging to the town, and shall be liable for all debts and other obligations for which the town is legally bound at the time of the succession in government.

Section 1-2 Form of Government

The municipal government provided by this Charter shall be known as a "council-manager government". All powers of the city shall be exercised in the manner prescribed by this Charter, or, if the manner is not thus prescribed, then in such manner as the council may prescribe by ordinance.

Section 1-3 Powers of the City

a. The city shall have all powers possible for a city operating under a home-rule charter to have under the constitution and laws of this state as fully and completely as though they were specifically enumerated in this Charter.

b. Provisions of state law relating to matters which may be regulated by cities operating under rule charters, shall be in effect in this city only insofar as they are applicable and are not superseded by this Charter or by ordinance.

Section 1-4 Construction

The powers of the city under this Charter shall be construed liberally in favor of the city, and the specific mention of particular powers in the Charter shall not be construed as limiting in any way the general power stated in this article.

Section 1-5 Intergovernmental Relations

The city may exercise any of its powers to perform any of its functions and may participate in the financing thereof, jointly or in cooperation, by contract or otherwise, with any one or more states or civil divisions or agencies thereof, or the United States or any agency thereof.

ARTICLE 2

THE COUNCIL

Section 2-1 Councilor: Number, Qualifications

a. There shall be a council of five members, which shall consist of one councilor from each of the five wards of the city as the wards are now constituted or as they may hereafter be constituted by ordinances.

b. Only qualified electors of the city who reside in the respective wards from which they are elected or appointed to fill a vacancy, shall be qualified for the offices of councilor. Upon election, or appointment, as the case may be, such councilor shall continue to reside within the ward from which elected or appointed during the entire term of said councilor's office, or upon removal of residence therefrom, forfeit such office. No councilor may hold any office in the city government by appointment by the City Manager or by any subordinate of the City Manager. If the mayor or any other councilor is convicted of a crime involving moral turpitude, their office shall become vacant immediately when the case is finally determined.

Section 2-2 Mayor and Vice Mayor

a. At the first meeting after the time prescribed for the beginning of the terms of a newly elected councilor, or as soon thereafter as practicable, the council shall elect from its membership a mayor and a vice mayor, who shall serve until the time prescribed for the beginning of the terms of the next newly elected councilor.

b. The mayor shall preside at meetings of the council. The mayor shall be recognized as head of the city government for all ceremonial purposes and by the governor for purposes of military law. The mayor shall have no administrative duties except signing such written obligations of the city as the council may require. As a council member, the mayor shall have all powers, rights, privileges, duties, and responsibilities of a councilor, including the right to vote on questions.

c. The vice mayor shall act as mayor during the absence, disability, or suspension of the mayor, or, if a vacancy occurs in the office of mayor, until another mayor is elected by the council from its membership for completion of the unexpired term and qualifies. If the office of vice mayor becomes vacant, the council shall elect from its membership another vice mayor for completion of the unexpired term.

Section 2-3 Council: Compensation

Neither the mayor nor any other council member may receive any compensation as mayor or councilor nor for any other service rendered the city, but may be reimbursed for expenses incurred in the discharge of their official duties.

Section 2-4 Council: Powers

Except as otherwise provided in this Charter, all powers of the city, including the determination of all matters of policy, shall be vested in the council. Without limitation of the foregoing, the council shall have power, subject to the state constitution, law, and this Charter:

- a. To appoint and remove the City Manager;
- b. By ordinance to enact municipal legislation;

c. To adopt the budget, raise revenue, and make appropriations; and to regulate bond elections, the issuance of bonds, sinking funds, the refunding of indebtedness, salaries, wages, and other compensation of officers and employees, and all other fiscal affairs of the city;

d. To inquire in the conduct of any office, department, or agency of the city government, and investigate municipal affairs; and for this purpose, to subpoena witnesses, take testimony, and require the production of evidence;

e. To appoint or elect and remove the members of the personnel board, the members of the planning commission, the members of the board of adjustment, and other quasi-legislative, quasi-judicial, or advisory personnel and authorities, now or when and if established, or to prescribe the method of appointing or electing and removing them.

f. To regulate elections, the initiative and referendum, and recall.

g. To create, change, and abolish all offices, departments, and agencies of the city government other than the offices, departments, and agencies created by this Charter; and to assign additional powers, duties and functions consistent with this Charter to offices, departments, and agencies created by this Charter.

Section 2-5 Council: Appointments and Removals

Neither the council, the mayor, nor any of its other members may direct or request the appointment of any person to, or removal from, office or employment by the City Manager or by any other authority; or, except as provided in this Charter, participate in any manner in the appointment or removal of officers and employees of the city. Except for the purpose of inquiry, the council and its members shall deal with the administrative service solely through the City Manager; and neither the council nor any member thereof may give orders on administrative matters to any subordinate of the City Manager either publicly or privately.

Section 2-6 City Clerk to be Clerical Officer of Council

The city clerk shall be elected by the council for an indefinite term; provided, that the council by ordinance may provide that the city treasurer shall be ex-officio city clerk. The City Clerk shall serve as clerical officer of the council. The city clerk shall keep the journal of its proceedings, and shall enroll in a book or books kept for the purpose all ordinances and resolutions passed by it; shall be custodian of such documents, records, and archives as may be provided by applicable law or ordinance; shall be custodian of the seal of the city, and shall attest, and affix the seal to, documents when required in accordance with applicable law or ordinance; and shall have such other powers and duties consistent with this Charter as may be prescribed by ordinance or applicable law.

Section 2-7 Council: Meetings

The council shall hold at least one regular meeting every month, such time as it may prescribe by ordinance or otherwise. The mayor or any three councilors may call special meetings. All meetings of the council, except executive sessions held as authorized by law, shall be open to the public, and the journal of its proceedings shall be open to public inspection.

Section 2-8 Councilor: Absences to Terminate Membership

If the mayor or any other councilor is absent from more than one-half of all the regular and special meetings of the council held within any period of four consecutive calendar months, such person shall thereupon cease to hold office.

Section 2-9 Councilor: Removal

The mayor or any other councilor may be removed from office for any cause specified by applicable state law for the removal of officers, and by the method or methods prescribed thereby, and by recall as provided in this Charter.

Section 2-10 Council: Vacancies

The council, by majority vote of its remaining members, shall fill vacancies in its own membership for the unexpired terms or until successors are elected as provided in this section. If a vacancy occurs before the beginning of a regular filing period for council candidates, and the unexpired term extends beyond the time when the terms of councilor elected that year begin, then a councilor for that place shall be elected at the elections of that year to serve the rest of the unexpired term beginning at the time the terms of councilor elected that year begin.

Section 2-11 Council: Quorum, Rules, Yeas and Nays

A majority of all of the members of the council shall constitute a quorum, but a smaller number may adjourn from day to day or from time to time. The council may determine its own rules. On the demand of any member, the vote on any question shall be by yeas and nays, and shall be entered in the journal.

Section 2-12 Ordinances: Enacting Clause

The enacting clause of all ordinances passed by the council shall be, "Be it ordained by the Council of the City of Owasso, Oklahoma", and of all ordinances proposed by the voters under the power of initiative, "Be it ordained by the People of the City of Owasso, Oklahoma".

Section 2-13 Ordinances: Passage, When in Effect

Every proposed ordinance shall be read, by title only unless a majority vote of the council request reading in its entirety, and a vote of a majority of all the council shall be required for its passage. The vote on final passage of every ordinance shall be by yeas and nays, and shall be entered in the journal. The mayor shall have no power of veto. Within ten days after its passage, every ordinance shall be published in full or by number, title, and a brief gist in a newspaper of general circulation within the city. Every ordinance except an emergency ordinance, so published, shall become effective thirty days after its final passage unless it specifies a later time; provided that a franchise for a public utility shall not go into effect until the ordinance granting it has been published in full in a newspaper of general circulation within the city and has been approved at an election by a vote of a majority of the qualified electors voting on the question.

Section 2-14 Ordinances: Emergency

An emergency ordinance is an ordinance which in the judgment of the council is necessary for the immediate preservation of peace, health, or safety, and which should become effective prior to the time when an ordinary ordinance would become effective. Every such ordinance shall contain, as a part of its

title, the words, "and declaring an emergency", and in a separate section, herein called the emergency section, shall declare the emergency. An affirmative vote of at least four councilors shall be required for the passage of an emergency ordinance. An emergency ordinance shall take effect upon passage unless it specifies a later time.

Section 2-15 Ordinances: Adoption by Reference

The council by ordinance may adopt by reference codes, standards, and regulations relating to building, plumbing, electrical installations, milk and milk products, and other matters which it has power to regulate otherwise. Such code, standard, or regulation so adopted need not be enrolled in the book of ordinances; but a copy shall be filed and kept in the office of the City clerk.

Section 2-16 Ordinances: Codification

The permanent, general ordinances of the city shall be codified and published in book or pamphlet form at least every ten years unless the council, by use of a loose-leaf system, provides for keeping the code up to date. The ordinances and parts of ordinances included in the code may be revised, rearranged, and reorganized; and the code may contain new matter, provisions of the state constitution and law applicable to the city, and this Charter. A copy of the published code shall be filed in the office of the city clerk after the council adopts the code by ordinance, but the code need not be enrolled in the book of ordinances.

Section 2-17 Initiative and Referendum

The powers of the initiative and referendum are reserved to the people of the city. In the exercise of these powers, the requirements of the state constitution and law shall be observed.

ARTICLE 3

CITY MANAGER AND ADMINISTRATIVE DEPARTMENTS

Section 3-1 City Manager: Appointment, Term, Qualification; Removal

a. There shall be a city manager. The council shall appoint a city manager for an indefinite term by a vote of a majority of all its members. It shall choose solely on the basis of executive and administrative qualifications. At the time of appointment, they need not be a resident of the city or state; but, during their tenure of office, they shall reside within the limits of said city or the designated fenceline thereof. Neither the mayor nor any other councilor may be appointed city manager or acting city manager during their term nor within two years after the expiration of their term.

b. The council may suspend or remove the city manager at any time by a vote of a majority of all its members; provided, that the council shall give the city manager a written statement of the reason for the proposed removal at least twenty days before removal, and on request shall give the city manager an opportunity for a public hearing thereon at or after the expiration of such time before removal.

Section 3-2 Temporary Absence or Disability of City Manager

By letter filed with the city clerk, the city manager may designate, subject to council approval, a qualified city administrative officer to be acting city manager during temporary absences or disabilities. The council may revoke such designation at any time and appoint another person acting city manager to serve during such times; and if the city manager fails to make such designation, the council may appoint an acting city manager to serve during such time. The council may remove an acting city manager at any time.

Section 3-3 City Manager: Powers and Duties

The city manager shall be chief administrative officer and head of the administrative branch of the city government. They shall execute the laws and ordinances and administer the government of the city, and shall be responsible therefore to the council. They shall:

a. Appoint and, when deemed necessary for the good of the service, lay off, suspend, demote, or remove all directors, or heads, of administrative departments and all other administrative officers and employees of the city except as they may authorize the head of a department, an officer, or an agency to appoint, lay off, suspend, demote, and remove subordinates in such department, office or agency.

b. Supervise and control, directly or indirectly, all administrative departments, agencies, officers, and employees.

c. Prepare a budget annually and submit it to the council, be responsible for the administration of the budget after it goes into effect and recommend to the council any changes in the budget which they deem desirable.

d. Submit to the council a report as of the end of the fiscal year on the finances and administrative activities of the city for the preceding year.

e. Keep the council advised of the financial condition and future needs of the city, and make such recommendations to the council on matters of policy and other matters as may seem desirable.

f. Have such other powers, duties, and functions as this Charter may prescribe, and such powers, duties, and functions consistent with this Charter as the council may prescribe.

Section 3-4 Administrative Departments, Offices, and Agencies

There shall be a department of finance headed by a city treasurer, a city attorney, and such other administrative departments, offices, and agencies as the council may establish.

ARTICLE 4

DEPARTMENT OF FINANCE; FISCAL AFFAIRS

Section 4-1 Department of Finance: City Treasurer

There shall be a department of finance, the head of which shall be the city treasurer. The city manager shall appoint the city treasurer for an indefinite term. Subject to and in accordance with this Charter, applicable law, and such ordinances and other policies as the council may adopt, the city treasurer or personnel under their supervision and control shall collect or receive revenue and other money for the city; shall be responsible for its custody, safekeeping, deposit, and disbursement; shall maintain a general accounting system for the city government; and shall have such other powers and duties consistent with this Charter as may be prescribed by ordinance or applicable law.

Section 4-2 Purchases and Sales

a. The city manager, subject to any regulations which the council may adopt, shall contract for and purchase, or issue purchase authorizations for, all supplies, materials, and equipment for the offices, departments, and agencies of the city government. Every such contract or purchase exceeding an amount to be established by ordinance, shall require the prior approval of the council. The city manager also may transfer to or between offices, departments, and agencies, or sell, surplus or obsolete supplies, materials, and equipment, subject to such regulations as the council may adopt.

b. Before the purchase of, or contract for, any supplies, materials, or equipment, or the sale of any surplus or obsolete supplies, materials, or equipment, ample opportunity for competitive bidding, under such regulations and with such exceptions as the council may prescribe, shall be given; but the council shall not except an individual contract, purchase, or sale from the requirement of competitive bidding.

c. The council by ordinance may transfer some or all of the power granted to the city manager by this section to an administrative officer subordinate to the city manager.

Section 4-3 Sale of Property Valued at More Than \$250,000

The sale of any city property, real or personal, including public utilities, or of any interest therein, the value of which is more than \$250,000 may be made only (1) by authority of an affirmative vote of a majority of the qualified electors of the city who vote on the question of approving or authorizing the sale at an election, or (2) by authority of a special non-emergency ordinance. Such ordinance shall be published in full in a newspaper of general circulation within the city within ten days after its passage, and shall include a section reading substantially as follows: "Section --. This ordinance shall be referred to a vote of the electors of the city if a sufficient and lawful referendum petition is properly filed within thirty days after its passage; otherwise it shall go into effect thirty days after its passage." The sale of an entire public utility may be authorized only as provided in (1) hereinabove.

Section 4-4 Public Improvements

Public improvements may be made by the city government itself or by contract. The council shall award all contracts for such improvements; provided that the council may authorize the city manager to award such contracts not exceeding an amount to be determined by the council and subject to such regulations as the council may prescribe. A contract for public improvements may be awarded only to the lowest and best responsible bidder after such notice and opportunity for competitive bidding as the

council may prescribe and in compliance with the Oklahoma Public Competitive Bidding Act of 1974. All bids may be rejected, and further notice and opportunity for competitive bidding may be given.

Section 4-5 Fiscal Year

The fiscal year of the city government shall begin on the first day of July and shall end on the last day of June of every calendar year.

Section 4-6 Independent Annual Audit

The council shall designate a certified public accountant or accountants who shall make an independent audit of the accounts and evidences of financial transactions of the department of finance and of all other departments, offices and agencies keeping separate or subordinate accounts or making financial transactions, as of the end of every fiscal year at least, and who shall report to the council and to the city manager.

ARTICLE 5

MUNICIPAL COURT

Section 5-1 Municipal Court

Cases arising out of violations of the charter and ordinances of the city shall be tried by the existing municipal court created by state law or a lawful successor of such court created by state law; provided, that the council by ordinance shall have power to create a municipal court to hear and determine such cases if and when it deem it necessary or desirable to do so.

ARTICLE 6
ELECTIONS

Section 6-1 Nomination and Election; Terms; Nonpartisan Elections; Etc.

- a. At the elections in 1973 and in every third year thereafter, the councilor from Ward One and the councilor from Ward Two shall be elected for terms of three years.
- b. At the elections in 1973, the councilor from Ward Three and the councilor from Ward Four shall be elected for terms of two years. At the elections in 1975 and in every third year thereafter, the councilor from Ward Three and the councilor from Ward Four shall be elected for terms of three years.
- c. At the elections in 1973, the councilor from Ward Five shall be elected for a term of one year. At the elections in 1974 and in every third year thereafter, the councilor from Ward Five shall be elected for a term of three years.
- d. The councilors shall serve for the terms indicated, and until their respective successors are elected and qualify. Their terms shall begin on the first meeting in May in the year in which they are elected. If a councilor-elect fails to qualify within one month after the beginning of the term, such office shall become vacant, and the vacancy shall be filled as other vacancies in the council are filled.
- e. All candidates for councilor shall be nominated, and all councilors shall be elected, at large, by the qualified electors of the entire city, although they must reside in the respective wards from which they are candidates.
- f. Both the primary and the general election shall be nonpartisan, and no party designation or emblem shall be placed on the ballots.
- g. Nothing in this Charter shall prohibit the use of voting machines.

Section 6-2 Wards: Number; Equal, Etc.

- a. There shall be five wards, which shall be numbered from one to five.
- b. The wards shall be formed of compact, contiguous territory, and shall be substantially equal in population.
- c. At intervals of not more than five years, the council shall review the wards and their boundaries and, if necessary, shall revise them to achieve and maintain such substantial equality in population among the wards.

Section 6-3 Primary Election: Filing

Any person qualified for the office for which they are filing may have their name placed on the ballot for the primary election as a candidate for councilor from their ward by filing, on the first Monday, Tuesday, or Wednesday of February, unless any such day or days be a legal holiday or a day wherein the office of the secretary of the county election board is lawfully closed, whereupon such time shall be extended commensurate with the legal holiday or lawful closing, with the secretary of the county election board, a sworn statement of their candidacy.

Section 6-4 Primary Election: Time, Etc.

A primary election shall be held on the first Tuesday in March of every year to nominate candidates for councilor to succeed those whose terms are expiring in the respective year. If only one person is a candidate for an office to be filled, they shall be not only nominated, but also elected ipso facto; and their name shall not appear on the primary or general election ballot. Every qualified elector of the city shall be entitled to vote for one candidate for each office to be filled.

Section 6-5 Primary Election: Who Nominated or Elected

In a primary election, the two candidates for each office to be filled receiving the greatest number of votes for that office, shall be nominated. If one of the candidates for an office receives a majority of all votes cast for all candidates for that office, they alone shall be not only nominated, but also elected ipso facto; and their name shall not appear on the ballot for the general election. In case of failure to nominate because of a tie, the nominee or nominees (as the case may be) shall be determined from among those tying, fairly by lot, by the county election board in a public meeting. If one of the two candidates for an office nominated in a primary election dies or withdraws before the general election, the remaining candidate shall be elected ipso facto; and their name need not appear on the ballot for the general election.

Section 6-6 General Election: Time, Who Elected

A general election shall be held in the city on the first Tuesday in April every year to elect the councilor to succeed those whose terms are expiring in the respective year. Every qualified elector of the city may vote for one of the two candidates for an office to be filled, but may not vote for any other person. The candidate for each office receiving the greater number of votes shall be elected. In case of failure to elect because of a tie, the election shall be determined from among those tying, fairly by lot, by the county election board in a public meeting.

Section 6-7 Registered Qualified Electors

The term qualified elector as used in this Charter means a person who has the qualifications prescribed for electors by the state constitution and law, and who is registered as may be required by law.

Section 6-8 Elections: When Not Held

If there are no candidates and no questions to be voted upon at a primary or general election, the election shall not be held.

Section 6-9 Political Activity of Officers and Employees

No city councilor or officer or employee of the city shall directly or indirectly solicit, coerce or attempt to coerce any employee to participate in or to refrain from participation in the nomination, election, or defeat of any candidate for city councilor, or the recall of any city councilor; but this shall not prohibit the ordinary exercise of one's right to express opinions and to vote.

Section 6-10 State Constitution and Law to Govern

The provisions of the state constitution and law applicable to city elections shall govern such elections in this city insofar as they are applicable and are not superseded by this Charter or by ordinance.

ARTICLE 7

RECALL

In addition to the circumstances hereinbefore mentioned terminating the term of office of a councilor, any cause specified by applicable state law for the removal of officers, and by the method or methods prescribed thereby.

Section 7-1 Recall Authorized

Any councilor may be recalled from office by the electors qualified to vote for the election of a successor to the incumbent, in the manner provided in this article.

Section 7-2 Recall Petition

a. To initiate recall proceedings, a written statement proposing the recall of a councilor shall be signed by twenty or more registered qualified electors of the city, and shall be filed with the city clerk after the incumbent has held the office at least four months. The statement shall also contain the reason or reasons for which the recall is sought, in not more than two hundred words. Within five days, the city clerk shall mail a copy of such statement by registered, certified, or similar special mail to the officer at their residential address. Within ten days after the statement is mailed to the officer, the officer may make and file with the city clerk a written statement in duplicate justifying their conduct in office, in not more than two hundred words; and the city clerk on request shall deliver one copy to one of the persons filing the statement proposing the recall.

b. The petition for recall shall include a demand that a successor to the incumbent sought to be recalled be elected, and shall also include before the space where the signatures are to be written the statement giving the reason or reasons for recall under the heading "STATEMENT FOR RECALL", and if the officer has filed a statement as authorized, the statement justifying the conduct in office under the heading "STATEMENT AGAINST RECALL". The two statements shall be in letters of the same size. A copy of the petition shall be filed with the city clerk within one month after recall proceedings are initiated by the filing of the first statement, and before the petition is circulated.

c. A number of registered qualified electors of the city, equal at least to twenty percent (20%) of the total number of votes cast for governor in the city at the last general state election at which a governor was elected, must sign the petition. Each signer shall write after their name, their address within the city, giving street or avenue and number, if any. Not more than one hundred signatures may appear on a single copy of the petition. Petitions may be circulated only by registered qualified electors of the city; and the person who circulates each copy of the petition shall sign an affidavit on the copy stating that each signer signed the petition in their presence, that each signature on the petition is genuine, and that they believe each signer to be a registered qualified elector of the city.

d. The circulated petition shall be filed with the city clerk not later than one month after the filing of a copy as provided above. Within one month after date of filing of the circulated petition, the city clerk shall examine it and ascertain whether it has been prepared and circulated as required, and whether the required number of registered qualified electors of the city have signed it. They shall then attach a certificate to the petition. If the certificate states that the petition has not been prepared and circulated as required and/or lacks a sufficient number of signatures, the petition shall have no effect. But, if the city clerk's certificate states that the petition has been prepared and circulated as required and has a sufficient number of signatures, they shall submit the petition and certificate to the council at its next meeting.

Section 7-3 Recall Election: Council to Order

a. The council, by resolution or ordinance passed within one month after receiving the petition and certificate of the city clerk, shall order and fix the date for a recall election, which shall be held not less than forty days, nor more than fifty days, after passage of the resolution or ordinance. The city clerk shall cause the resolution or ordinance ordering the election to be published in full in a newspaper of general circulation within the city within ten days after its passage; and such publication shall be sufficient notice of the election.

b. The qualified electors of the city may vote in a recall election on the election of successors to more than one officer on the same day.

Section 7-4 Same: How Held

a. The recall election shall be an election to fill the office held by the incumbent sought to be recalled. There shall be no primary. Any qualified person, including the incumbent, may file as a candidate for the office. The candidate receiving the greatest number of votes in the recall election shall be elected. If a candidate other than the incumbent is elected, the incumbent shall be recalled from office effective as of the time when the result of the election is certified. The successful candidate must qualify within one month thereafter; and if fails to do so, the office shall be vacant, and the vacancy shall be filled as other vacancies in the council are filled. A candidate thus elected and qualifying shall serve for the unexpired term. If the incumbent is a candidate and receives the greatest number of votes, they shall continue in office without interruption, and recall proceedings may not again be initiated against them within one year after the election.

b. The provisions of this Charter relating to city elections shall also govern recall elections insofar as they are applicable and are not superseded by the provisions of this article.

Section 7-5 Person Recalled or Resigning

A person who has been recalled from an office, or who has resigned from such office while recall proceedings were pending against them, may not hold any office or position of employment in this city government within three years after their recall or resignation.

ARTICLE 8

OFFICERS AND EMPLOYEES GENERALLY

Section 8-1 Merit System Created: Appointments, Removals, Etc.; Personnel Rules

A merit system is hereby established for personnel in the city service. Appointments and promotions in the service of the city shall be made solely on the basis of merit and fitness; and removals, demotions, suspensions, and layoffs shall be made solely for the good of the service. The council, consistently with this Charter, by ordinance or personnel rules, may regulate personnel matters and provide for proper personnel administration.

Section 8-2 Personnel Board Created

a. There shall be a personnel board consisting of three members appointed by the council for overlapping three-year terms. The term of one member shall begin July 1 in every year. The council shall appoint the original members so that the term of one will expire at that time in each of the first three succeeding years. A member may not hold any other office or position of employment in the city government. The council, by a vote of a majority of all its members, after adequate opportunity for a public hearing, may remove a member for the good of the service; and the vote shall be by yeas and nays and shall be entered in the journal. The council shall fill vacancies for the unexpired terms. Members shall serve without compensation unless the council provides otherwise.

b. At the time prescribed for the beginning of the term of a newly appointed member or as soon thereafter as practicable, the board shall elect a chair, a vice chair, and a secretary; and the secretary need not be a member of the board. The board shall determine the time and place of its regular meetings, and the chair or two members may call special meetings.

c. The personnel board shall have power to subpoena officers and employees of the city and other persons to testify and to produce documents and other effects as evidence.

Section 8-3 Classified and Unclassified Services

a. All officers and employees of the city shall be divided into the classified and the unclassified service.

b. The following shall constitute the unclassified service:

- (1) The mayor and other councilors, the municipal judge or judges, and the city clerk.
- (2) The city manager, one assistant city manager, if any, the principal secretary to the city manager, if any, and the city attorney.
- (3) Members and secretary of each board, commission, or other plural authority.
- (4) All personnel who serve without compensation.
- (5) All temporary and all part-time officers and employees, except those whom the council may place in the classified service or by ordinance or personnel rules.
- (6) Not to exceed ten additional officers and/or employees whom the council may place in the unclassified service by ordinance or personnel rules after the city reaches a population of 25,000.

c. All other officers and employees shall be in the classified service.

d. Nothing herein shall prohibit including unclassified personnel in the classification plan for pay purposes.

Section 8-4 Removal, Etc.: Hearing Before the Personnel Board

a. The city manager or any other authority who lays off, suspends without pay for more than ten (10) days, demotes, or removes any officer or employee in the classified service after a probationary period of six months, shall, at that time or within two days thereafter, deliver, or have delivered, or mail by registered, certified, or similar special mail, to the officer or employee a written statement of the reason or reasons for the layoff, suspension, demotion, or removal.

b. Such officer or employee may appeal in writing to the personnel board. The appeal must be filed with the secretary of the board, or with the city clerk for transmittal to the board, within ten days after receipt of notice of the layoff, suspension, demotion, or removal.

c. As soon as practicable thereafter, the board shall hold a public hearing on the appeal, or give an adequate opportunity therefore, and shall report in writing its findings and recommendations, in cases or subordinates of the city manager, to the city manager, and in other cases to the respective authorities having power of removal. The city manager or other authority having power of removal shall then make a final decision in writing regarding the appellant's layoff, suspension, demotion, or removal, as the case may be; provided that, if the board finds that the layoff, suspension, demotion, or removal was made for a political reason or reasons or for any other reason or reasons than the good of the service, it shall veto the layoff, suspension, demotion, or removal, and the action by the city manager or other authority shall be nullified thereby.

Section 8-5 Qualifications of Officers and Employees

Officers and employees of the city shall have the qualifications prescribed by this Charter and such additional qualification as the council may prescribe; but the council shall not prescribe additional qualifications for council members.

Section 8-6 Nepotism

Neither the city manager, the council, nor any other authority of the city government, may appoint or elect any person related to any councilor, to the city manager, or to themselves, or, in the case of a plural authority, to one of its members, by affinity or consanguinity within the third degree, to any office or position of profit in the city government; but this shall not prohibit an officer or employee already in the service of the city from continuing and being promoted therein.

Section 8-7 Holding More Than One Office

Except as may be otherwise provided by this Charter or by ordinance, the same person may hold more than one office in the city government. The city manager may hold more than one such office, through appointment by themselves, by the council, or by other city authority having power to fill the particular office, subject to any regulations which the council may make by ordinance; but they may not receive compensation for service in such other offices. Also the council by ordinance may provide that the city manager shall hold ex officio designated offices subordinate to the city manager as well as other designated compatible city officer, notwithstanding any other provision of this Charter.

Section 8-8 Bonds of Officers and Employees

The city manager, the city treasurer, and such other officers and employees as the council may designate, before entering upon their duties shall provide bonds for the faithful performance of their respective duties, payable to the city, in such form and in such amounts as the council may prescribe, with a surety company authorized to operate within the state. The city shall pay the premiums on such bonds.

Section 8-9 Oath or Affirmation of Office

Every officer of the city, before entering upon the duties of the office, shall take and subscribe to the oath or affirmation of office prescribed by the state constitution. The oath or affirmation shall be filed in the city clerk's office.

Section 8-10 Who May Administer Oaths and Affirmations

All officers authorized by federal or state law, the mayor, the city manager, the city clerk, the municipal judge or judges, and such other officers as the council may authorize, may administer oaths and affirmations in any matter pertaining to the affairs and government of the city.

Section 8-11 Removal, Etc. of Officers and Employees

The power to lay off, suspend, demote, and remove accompanies the power to appoint or elect; and the city manager, the council, or other appointing or electing authority at any time may lay off, suspend, demote, or remove any officer or employee to whom they, the council, or the other appointing or electing authority respectively may appoint or elect a successor.

Section 8-12 Acting Officers and Employees

The appointing or electing authority who may appoint or elect the successor of an officer or employee, may appoint or elect a person to act during the temporary absence, disability, or suspension of such officer or employee, or, in case of a vacancy, until a successor is appointed or elected and qualified, unless the council provides by general ordinance that a particular superior or subordinate of such officer or employee shall act. The council by general ordinance may provide for a deputy to act in such case.

Section 8-13 Officers to Continue Until Successors are Elected or Appointed and Qualify

Every officer who is elected or appointed for a term ending at a definite time, shall continue to serve thereafter until a successor is elected or appointed and qualifies unless such services are sooner terminated by resignation, removal, disqualification, death, abolition of the office, or other legal manner.

Section 8-14 Conflict of Interests

a. Neither the mayor, any other council member, nor the city manager shall sell or barter anything to the city or to a contractor to be supplied to the city; or make any contract with the city; or purchase anything from the city other than those things which the city offers generally to the public. Any such officer violating this section, upon conviction thereof, shall thereby forfeit their office. Any violation of this section, with the knowledge, express or implied, of the person or corporation contracting with the city, shall render the contract voidable by the city manager or the council. This subsection shall not apply in cases in which the city acquires property by condemnation.

b. The council by ordinance or personnel rules may further regulate conflict of interests and ethics of officers and employees of the city.

Section 8-15 Recalled by election 3/3/2015

ARTICLE 9

AMENDMENT AND SEPARABILITY OF CHARTER

Section 9-1 Amendment: Proposal, Ratification, Approval

This Charter may be amended by proposals therefore submitted by the council, or by the mayor upon initiative petition of the electors as provided by the state constitution, at a general or special election, ratified by a majority of the qualified electors voting thereon, and approved by the governor as provided by the state constitution. If more than one amendment is proposed, all of them except those which are so interrelated that they should be ratified or rejected together, shall be submitted in such manner that the electors may vote on them separately. A proposition to amend this Charter may be either in the form of a proposed amendment to a part or parts of the charter or of a proposed new charter.

Section 9-2 Separability

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

b. If a court of competent jurisdiction holds a part of this Charter invalid, or if a change in the state constitution or law renders a part of this Charter invalid or inapplicable, the council by ordinance may take such appropriate action as will enable the city government to function properly.

ARTICLE 10

SUCCESSION IN GOVERNMENT

Section 10-1 When Charter Goes Into Effect

This Charter shall go into effect immediately upon its ratification by a vote of a majority of the qualified electors of the town voting upon the question at an election and its approval by the Governor as provided by the State Constitution, and the government created by this Charter shall supersede the heretofore existing town government as of that time.

Section 10-2 Officers and Employees to Continue

When this Charter goes into effect, the trustees under the town government shall become councilors from their respective wards, and shall continue in office until their terms expire. The chair of the board of trustees, the town treasurer, the town clerk, and the town marshal shall become respectively mayor, city treasurer, city clerk, and chief of police under this Charter. All other officers and employees under the town government (including members of all boards and commissions) shall continue in their respective offices and positions of employment under this Charter.

Section 10-3 Ordinances Continued

All ordinances, insofar as they are not inconsistent with this Charter, shall continue in effect until they are repealed or until they expire by their own limitations.

Section 10-4 Pending Actions and Proceedings

The adoption of this Charter shall not abate or otherwise affect any action or proceeding, civil or criminal, pending when it takes effect, brought by or against the municipality or any office, department, agency or officer thereof.

Section 10-5 Powers and Duties of the City Manager

Notwithstanding any other provisions of this Charter, during the interim between the going into effect of this Charter and the appointment of the first city manager, the city council shall have the duties and may exercise the powers of the city manager.