

PART I - HOME RULE CHARTER

HOME RULE CHARTER
CITY OF ROCKWALL
ROCKWALL COUNTY, TEXAS

FOOTNOTE(S):

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Editor's note— Printed herein is the Charter of the City of Rockwall, Texas, adopted by referendum on January 19, 1985. The Charter as printed here is updated through and contains amendments adopted by referendum on May 7, 1988, May 1, 1993, May 4, 1996 and May 7, 2005. Subsequent amendments to the Charter are indicated by parenthetical history notes following amended provisions. The absence of a history note indicates that the provision remains unchanged from the Charter as updated through May 7, 2005. Obvious misspellings have been corrected without notation. For stylistic purposes, a uniform system of headings, catchlines and citations to state statutes has been used. Additions made for clarity are indicated by brackets.

State Law reference— Adoption and amendments to a home-rule charter, V.T.C.A., Local Government Code § 29.001 et seq.

PREAMBLE

Recognizing that effective government is a government of law, we the people of Rockwall, Texas, establish this Charter as the basic law of our City. This Charter will provide a home rule government which will recognize and protect individual freedom, encourage interest and participation by the citizens, and serve in behalf of the general welfare.

ARTICLE I. - FORM OF GOVERNMENT AND BOUNDARIES**Sec. 1.01. - Incorporation.**

The inhabitants of the City of Rockwall, within the corporate limits as now established or as hereafter established in the manner provided by law, will continue to be a municipal body politic and corporate in perpetuity under the name of the "City of Rockwall."

Sec. 1.02. - Form of government.

The municipal government provided by this Charter will be of the Council-City Manager form. The Council, consisting of the Mayor and Council members elected by and responsible to the people, will appoint a City Manager, who will be directly responsible to the Council for the execution of the laws and the administration of the government of the City.

Sec. 1.03. - Boundaries of city.

The boundaries of the City of Rockwall will be the same as have heretofore been established as reflected on the official map at the time of adoption of this Charter and as amended from time to time by annexation and disannexation.

Sec. 1.04. - Annexation or disannexation.

(1)

The boundaries of the City of Rockwall may be enlarged and extended by the annexation of additional territory or decreased by disannexation in any manner and by any procedure now or hereafter provided by law.

- (2) Upon completion of the annexation procedure, the annexed territory will become a part of the City, and said land and its residents will be entitled to all the rights and privileges provided by the City for its citizens and will be bound by the acts, ordinances, resolutions and regulations of the City.
- (3) The City Council will establish a written policy governing extension of City services to all areas. Disannexation procedures are provided in Section 42 () of the Local Government code as presently written or hereafter amended. (Amended 1993)

ARTICLE II. - POWERS OF THE CITY

Sec. 2.01. - General powers of city.

The City will be an incorporated Home Rule City, with full power and rights of self government as provided by the Constitution and laws of the State of Texas. These powers and rights will include, but not be restricted to, the powers expressly conferred and permitted by the Texas Local Government Code, as presently written or hereafter amended. The City will have the powers described below:

- (a) To enact, establish and enforce codes, licenses and ordinances for the maintenance of good government and the interest and well-being of its inhabitants.
- (b) To cooperate with the government of the State of Texas, or any agency or political subdivision thereof, the government of the United States or its agencies, for any lawful purpose for the advancement of the interests, safety, convenience and welfare of its inhabitants.
- (c) To exercise the right of eminent domain, the right to extraterritorial jurisdiction and to have exclusive dominion over all public property in any manner permitted by the Constitution and laws of the State of Texas.
- (d) To contract and be contracted with; to sue; to buy, sell, lease, mortgage, hold, manage, and control such property as its interests require.
- (e) To establish, maintain, improve, alter, abandon, or vacate public streets, rights-of-way, sidewalks, alleys, squares, parks and other public ways, and to police the use thereof.
- (f) To acquire public utility systems that provide retail water or wastewater service, making reasonable assurance for compensation in accordance with applicable state law.

Sec. 2.02. - Public improvements.

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

Sec. 2.03. - Miscellaneous powers.

The City will have the power to establish and maintain ordinances and regulations governing the use of lands within the City and to enforce by all lawful means these ordinances and regulations, within and without its corporate limits. The City will have the power to authorize, regulate and inspect all construction and existing structures within or without its limits, consistent with State statutes, and to establish and enforce ordinances and regulations concerning their use, construction and reconstruction. The City will have the power to license and regulate persons, corporations and associations engaged in any business, occupation, profession or trade when authorized by State law. The City will have all powers granted by any section of this Charter.

ARTICLE III. - THE CITY COUNCIL

Sec. 3.01. - [Composition; terms.]

The Council will be composed of a Mayor and six Council members, elected at large, each of whom, unless sooner removed under the provisions of this Charter, will serve for a term of two years as prescribed by the Texas Election Code, and until his successor has been elected and duly qualified. All members of the City Council, other than the Mayor, will be elected under the place system. Those members of the Council whose terms expire in even numbered years will be in Place Two, Four and Six. Those members of the Council whose terms expire in odd numbered years will be Place One, Three and Five. The office of Mayor will be elected in an odd numbered year. All members of the City Council, including the Mayor, holding office at the time of passage of this Charter will continue to hold their respective place and office until their respective term of office for which they were elected expires.

(a) No person will serve more than three consecutive elected terms as either a Council member or as Mayor. In addition, no person will serve for more than four consecutive elected terms as Council member and Mayor (combined). A member who has served the maximum number of consecutive terms may serve additional terms subject to the same limitations after a break in service of one year or more.

(b) An appointed Council member must be subject to the provisions of Section 3.05 ()(4) of the Charter regarding the length of service for such appointed member. (Amended 1996)

Sec. 3.02. - Qualifications of members.

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

Sec. 3.03. - Compensation.

Compensation of members of the City Council will be determined by the Council by ordinance, but no increase in such compensation will take effect until commencement of the terms of Mayor and/or Council members elected at the next regular election. Members of the City Council will also be entitled to reimbursement for actual expenses incurred in the performance of official duties with the approval of the City Council at a public meeting.

Sec. 3.04. - Mayor and Mayor Pro Tem.

(1) The Mayor will be the official head of the City government. He/She will be the chairman and will preside at all meetings of the City Council. The Mayor will have the right to vote on all items voted on by the Council, but will have no power to veto. He/She will, when authorized by the City Council,

sign all official documents, such as ordinances, resolutions, conveyances, grant agreements, official plats, contracts and bonds. He/She will perform such other duties consistent with this Charter as may be imposed upon him/her by the City Council.

- (2) The Mayor Pro Tem will be a Council member elected by the City Council at the first regular meeting after each election of Council members and/or Mayor. The Mayor Pro Tem will act as Mayor during the disability or absence of the Mayor, and in this capacity will have the rights conferred upon the Mayor. (Amended, 1988)

Sec. 3.05. - Vacancies, forfeiture and filling vacancies.

- (1) The office of a Council member or the Mayor will become vacant upon his death, resignation, forfeiture of, or removal from office by any manner authorized by law.
- (2) If any member of the City Council is absent from three consecutive regular meetings, without explanation acceptable to a majority of the remaining Council members, his office will be declared vacant at the next regular meeting of the Council. (Amended, 1988)
- (3) Any member of the Council who ceases to possess the required qualifications for office or who is convicted of a felony or of a misdemeanor involving moral turpitude or is convicted of violating Section 171 of the Local Government Code concerning conflict of interest will forfeit his office. Every forfeiture must be declared and enforced by a majority of the Council.
- (4) In the event of a vacancy in the office of the Mayor, the Mayor Pro Tem must become the Mayor, thereby vacating his Council position. Within thirty days, vacancies in the Council, other than the Mayor, will be filled by a majority vote of the remaining elected members, for the unexpired term only, and provided the successor will possess all qualifications for the position.
- (5) Any appointed Council members will serve until the next regular City election. (Revised, 1996)

Sec. 3.06. - Powers of City Council.

All powers of the City of Rockwall and the determination of all matters of policy will be vested in the City Council. Except where in conflict with and otherwise expressly provided by this Charter the City Council will have all powers authorized to be exercised by the City Council by the Local Government Code and acts amendatory thereof and supplementary thereto, now or hereafter enacted. Without limitation of the foregoing and among the other powers that may be exercised by the Council, the following are hereby enumerated for greater certainty:

- (a) Appoint and remove the City Manager.
- (b) Appoint and remove the Municipal Judge. (Amended, 1988)
- (c) Appoint and remove the City Attorney.
- (d) Establish and dissolve administrative departments.
- (e) Adopt the budget of the City.
- (f) Collectively inquire into the conduct of any office, department or agency of the City and make investigations as to municipal affairs.
- (g)

Provide for a planning commission, a zoning commission and a board of adjustment and other boards as deemed necessary, and appoint the members of all such commissions and boards, and as well the members of the hospital board, if established. The planning and zoning commissions may be combined. Such boards and commissions will have all powers and duties now or hereafter conferred and created by this Charter, by City ordinance or by law.

- (h) Adopt and modify the official map of the City.
- (i) Adopt, modify and carry out plans in cooperation with the Planning Commission for the replanning, improvement and redevelopment of specific areas of the City.
- (j) Adopt, modify and carry out plans in cooperation with the Planning Commission for the replanning, reconstruction or redevelopment of any area or district which may have been destroyed in whole or part by disaster.
- (k) Regulate, license and fix the charges of [or] fares made by any person owning, operating or controlling any vehicle of any character used for the carrying of passengers for hire on the public streets and alleys of the City.
- (l) Provide for the establishment and designation of fire limits and prescribe the kind and characters of buildings or structures or improvements to be erected therein; provide for the erection of fireproof buildings within certain limits; and provide for the condemnation of dangerous structures or buildings or dilapidated buildings or buildings calculated to increase the fire hazard, and the manner of their removal or destruction.
- (m) Fix and regulate rates and charges of all utilities and public services as defined in Article X [of this Charter].
- (n) Individually initiate and place items on the agenda for consideration. (Amended, 1988)

Sec. 3.07. - Prohibitions.

- (1) Except where authorized by law or by this Charter, no Mayor or Council member will hold any other City office or City employment during his term as Mayor or Council member. No former Mayor or Council member will hold any compensated appointive office or City employment within one year after the expiration of his term as Mayor or Council member.
- (2) Members of the City Council must not in any way dictate the appointment or removal of any City administrative officers or employees whom the City Manager or any of his subordinates are empowered to appoint. The City Council at a meeting called for that purpose may express its views and fully and freely discuss with the City Manager anything pertaining to appointment and removal of such officers and employees.
- (3) Except for the purpose of inquiries and investigations as provided by this Charter, members of the City Council will deal with City officers and employees who are subject to the direction and supervision of the City Manager solely through the City Manager. Members of the City Council will not give orders to any such officer or employee either publicly or privately except as otherwise provided in this Charter.

Sec. 3.08. - Meetings of City Council.

- (1)

The City Council will hold at least one regular meeting each month and as many additional meetings as it deems necessary to transact the business of the City. The City Council will fix by ordinance the date and time of the regular meeting(s). Special meetings of the City Council will be held at the call of the Mayor or a majority of the Council members upon provision of public notice in accordance with state law.

- (2) Except as provided by State law, all meetings will be open to the public and will be held and notice given in accordance with state law.

Sec. 3.09. - Quorum.

Four members of the City Council will constitute a quorum for the purpose of transaction of business. No action of the City Council, except as specifically provided in this Charter, will be valid or binding unless adopted by the affirmative vote of a majority of Council members present.

Sec. 3.10. - Rules of procedure.

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

Sec. 3.11. - Passage of ordinances in general.

- (1) The City Council must legislate by ordinance only, and the enacting clause of every ordinance will be "Be it ordained by the City Council of the City of Rockwall, Texas ..." Each proposed ordinance will be introduced in the written or printed form required for adoption. No ordinance will contain more than one subject which must be clearly expressed in its title. General appropriation ordinances may contain various subjects and accounts for which monies are to be appropriated. After adoption an ordinance must not be amended or repealed except by the adoption of another ordinance amending or repealing the original ordinance. Except where an ordinance is repealed in its entirety, [an] amendatory or repealing ordinance must set out in full the ordinance sections or subsections to be amended or repealed and will indicate matter to be omitted by enclosing it in brackets and will indicate new matter by enclosing it in quotation marks.
- (2) Any member of the City Council may offer any ordinance in writing that has been placed on the agenda at a regular City Council meeting. Copies of proposed ordinances, in the form required for adoption, will be furnished to members of the City Council before the first reading. Copies of the proposed ordinance, in the form required for adoption, will be available at the City offices and will be furnished to citizens upon request to the City Secretary before the first reading and, if amended, must be available and furnished in amended form for as long as the proposed ordinance is before the City Council.
- (3) A proposed ordinance, except as related to an emergency, budget, tax, public utility rate setting, or State or Federal requirement, must be read at two City Council meetings with at least one week between readings.
- (4) A proposed ordinance may be amended at either reading, but any ordinance amended in substance be considered as a first reading, except that an ordinance authorizing the issuance of bonds or other obligations may be amended on second and final reading to provide for the terms

of sale of such bonds or obligations without such ordinance being placed again as a first reading at a subsequent meeting. Terms of sale will refer to interest rates, identity of purchaser, and applicability of bond insurance. At any reading of a proposed ordinance, the adoption of which was not preceded by a public hearing held by the City Council, interested persons will have a reasonable opportunity to be heard.

- (5) Every ordinance will become effective upon adoption or at any later time(s) specified in the ordinance, except that every ordinance imposing any penalty, fine or forfeiture will become effective only after having been published once in its entirety or summary form, after adoption, in a newspaper designated as the newspaper of record of the City.
- (6) The reading aloud of a title and caption of the ordinance will suffice as a reading provided printed copies of the ordinance in the form required for adoption are in front of all members of the City Council and a reasonable number of additional copies are available to citizens present at the meeting. If a majority of the members present request that the ordinance be read in its entirety, it must be read.

Sec. 3.12. - Emergency ordinances.

- (1) The City Council may adopt emergency ordinances only to meet public emergencies affecting life, health, property or the public peace. In particular, such ordinances will not levy taxes, grant or renew or extend a franchise, or regulate the rate charged by any public utility for its services. Neither will they authorize the borrowing of money except as provided in Article VII of this Charter.
- (2) An emergency ordinance will be introduced in the form and manner generally prescribed for ordinances, except that they will be plainly designated in the title as an emergency ordinance and will contain after the enacting clause a declaration stating that an emergency exists and describing the emergency in clear and specific terms.
- (3) An emergency ordinance may be introduced at any Council meeting and can be adopted with or without amendment or rejected at the meeting at which it is introduced. The affirmative vote of at least four members of the City Council will be required for adoption.
- (4) Emergency ordinances will become effective upon adoption and will be published as soon thereafter as practicable. Every emergency ordinance so adopted, except one authorizing the borrowing of money as described herein, will automatically stand repealed as of the sixty-first day following the day on which it became effective. The ordinance may be re-enacted if the emergency still exists.

Sec. 3.13. - Authentication, recording, codification, printing and distribution.

- (1) All ordinances and resolutions adopted by the City Council must be authenticated by seal and signature of the City Secretary and numbered consecutively as adopted. They must be properly indexed and placed in a book kept open for public inspection.
- (2) The City Council must maintain the codification of ordinances of the City. This codification must be known and cited as "The Rockwall City Code" and must be in full force and effect without the necessity of such Code or any part thereof being published in any newspaper. The caption, descriptive clause and other formal parts of the ordinances of the City may be omitted without affecting the validity of such ordinances when codified. Every general ordinance enacted subsequent to such codification must be enacted as an amendment to the Code. For the purpose of

this Section, general ordinances will be deemed to be those ordinances of a permanent or continuing nature which affect the residents of the City at large. Copies of the Code will be furnished to City officers, placed in City offices and made available for purchase by the public at a reasonable price fixed by the City Council.

- (3) The City Council will cause all ordinances and amendments to this Charter to be printed promptly following their adoption. A copy of each ordinance and amendment will be placed in appropriate City offices for public reference. Printed ordinances and Charter amendments will be sold to the public at a reasonable price to be fixed by the City Council.

Sec. 3.14. - Investigations by City Council.

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

Sec. 3.15. - Bond.

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

ARTICLE IV. - CITY ADMINISTRATION

Sec. 4.01. - City Manager.

- (1) The City Council will appoint a City Manager who will serve as chief administrative officer of the City. He/She will be responsible to the City Council for administration of all the affairs of the City, with only those exceptions that are named in this Charter. The City Manager will be appointed solely upon his executive and administrative qualifications. He/She need not be a resident of the City when appointed, but will reside within the City for the tenure of his appointment.
- (2) The City Council will fix the compensation of the City Manager, and his compensation may be amended from time to time in accordance with his experience, qualifications and performance.
- (3) The City Manager will be appointed for an indefinite term, and may be removed by resolution at the discretion of the Council by a majority vote of its members. Upon passage of that resolution stating the intention to remove the City Manager and the reasons therefor, a copy of which will be immediately furnished to him/her, the Council may suspend him/her from duty. The action of the City Council in removing the City Manager will be final. In case of the absence, disability or suspension of the City Manager, the Council may designate a qualified administrative officer of the City to perform the duties of the office except where the absence or disability is of a temporary nature.
- (4) The City Manager will have the power to:
 - (a) Appoint, suspend and remove all City employees and appointive administrative officers provided for in this Charter, except as otherwise provided by law, this Charter, or personnel rules adopted pursuant to this Charter.

- (b) Direct and supervise the administration of all departments, offices and agencies of the City, except as otherwise provided by law or this Charter.
- (c) See that all State laws and City ordinances are effectively enforced.
- (d) Attend all City Council meetings, with the right to take part in discussion, but he/she will not vote.
- (e) Prepare and accept items for inclusion in the official agenda of all City Council meetings and meetings of boards and commissions, including items initiated by members of the City Council. (Amended, 1988)
- (f) Prepare and recommend to the City Council the annual budget and capital program, and administer the budget as adopted by the City Council.
- (g) Keep the City Council fully advised at least quarterly as to the financial condition and future needs of the City, and make such recommendations concerning the affairs of the City as he/she or the City Council deems desirable or necessary.
- (h) Make reports as he/she or the City Council may require concerning the operations of the City departments, offices, or agencies subject to his direction or supervision.
- (i) Perform such other duties as are specified in this Charter or may be required by the City Council, and are consistent with this Charter or State or Federal law.
- (j) To [sic] sign and execute for and on behalf of the city all contracts and agreements approved by the City Council. When the City Manager is not available the acting city manager or Mayor may sign and execute such contracts and agreements which have been approved by the City Council.

Sec. 4.02. - City Secretary.

- (1) The City Manager will appoint or remove a City Secretary.
- (2) The City Secretary will:
 - (a) Give notice of all official public meetings of the City Council in a manner consistent with this Charter and State laws.
 - (b) Attend all public meetings and hearings of the City Council.
 - (c) Keep the minutes of the proceedings of all public official meetings and hearings of the City Council in a manner prescribed by the City Manager consistent with applicable law.
 - (d) Act as custodian of all official records of the City Council.
 - (e) Hold and maintain the seal of the City of Rockwall, and affix this seal to all appropriate documents.
 - (f) Authenticate by signature and seal, and record all ordinances, resolutions and proclamations of the City.
 - (g) Perform such other duties as may be required by the City Manager.

Sec. 4.03. - Municipal Court.

- (1) The City Council must establish and cause to be maintained a Municipal Court. The Court will have

all the powers and duties as are now, or may be prescribed by the laws of the State of Texas.

- (2) The City Council will appoint a City Judge of the Municipal Court who will be a competent, duly qualified attorney licensed and practicing for at least two years in the State of Texas. In the event a duly qualified attorney is not available, the City Council will then select a qualified person to be the Municipal Judge. The City Judge of the Municipal Court will be appointed to a term of two years and may be appointed to additional consecutive terms upon completion of his term of office. The appointment of the City Judge may be terminated by the City Council. The City Judge will receive compensation as may be determined by the City Council.
- (3) In the event of failure of the City Judge to perform his duties, the Mayor must act in his place and stead (and in the event of a vacancy, until a City Judge is appointed by the Council to fill the vacancy). If the Mayor acts as a City Judge, he/she must be compensated at the same salary, if any, as the City Judge for whom he/she is acting.
- (4) All costs, fines and penalties imposed by the Municipal Court must be paid into the City Treasury for the use and benefit of the City, as may be consistent with present and future State laws. (Amended, 1988)
- (5) The City Council may by ordinance establish a Municipal court of Record.

Sec. 4.04. - City Attorney.

- (1) The City Council, after consultation with the City Manager, must appoint a competent, duly qualified, licensed and practicing attorney in the State of Texas who will serve as the City Attorney.
- (2) The City Attorney will:
 - (a) Serve as the legal advisor to the City Council and City Manager.
 - (b) Represent the City in litigation and legal proceedings as directed by the City Council and City Manager.
 - (c) Review and provide opinions as requested by the City Council or City Manager on contracts, legal instruments, ordinances of the City and other items of City business.
- (3) The City Council will have the right to retain special counsel at any time that it may deem necessary and appropriate.
- (4) The City Attorney and special counsel will receive compensation as may be determined by the City Council.
- (5) The City Attorney, with approval of the City Council, may select additional attorneys to act for him/her and the City in its representation and/or litigation.
- (6) The City Attorney may be removed by a majority vote of the elected City Council.

Sec. 4.05. - Administrative departments, offices and agencies.

- (1) The City Council may, after hearing recommendations of the City Manager, establish, abolish, redesignate or combine departments, offices or agencies in addition to those provided for by this Charter, and may prescribe the functions and duties of such departments, offices and agencies.
- (2)

Except as provided elsewhere in this Charter, all departments, offices and agencies of the City will be under the direction and supervision of the City Manager, and will be administered by officers appointed by and subject to the direction and supervision of the City Manager. The City Manager may, with the consent of the City Council, serve as the head of one or more City departments, offices or agencies or appoint one person as the head of two or more of them.

- (3) The City Manager will appoint a City Tax Collector, whose duties and functions will be those usual to the office and consistent with existing or future laws of the State of Texas as they may apply to City or County Tax Collectors. Nothing in this paragraph [subsection] will be construed in such a way as to prohibit the City from contracting for tax collection services, as specified in Section 7.20 () of this Charter.

Sec. 4.06. - Personnel system.

- (1) Personnel rules must be prepared by the City Manager and presented to the City Council, which may adopt them by ordinance, with or without amendment. The adopted rules must establish the City as an Equal Opportunity Employer and will govern the equitable administration of the personnel system of the City.
- (2) The adopted rules will provide for the following requirements:
 - (a) A pay and benefit plan for all City employment positions.
 - (b) A plan for working hours, attendance policy and regulation, and provisions for sick and vacation leave.
 - (c) Procedures for the hearing and adjudication of grievances.
 - (d) Additional practices and procedures necessary to the beneficial and equitable administration of the City's personnel system.
 - (e) A plan for at least an annual oral and written evaluation based on a job description for all City employees by their immediate supervisor, including evaluation of the City Manager by the City Council.

ARTICLE V. - NOMINATIONS AND ELECTIONS

Sec. 5.01. - City elections.

- (1) City elections will be conducted in accordance with the Texas Election Code.
- (2) The regular City election will be held annually during the second calendar quarter of the year on the uniform election date established by the Texas Election Code. The City Council will be responsible for specification of places for holding such elections. (Amended, 1988)
- (3) The City Council may, by resolution, order a special election for purposes consistent with this Charter and laws of the State of Texas. The City Council will fix the time and places for such a special election, and provide all means for holding same.
- (4) Municipal elections will be conducted by election officials appointed by the City Council. Sample ballots identical in format to those used in the specific election will be posted in the voting place(s) for the purpose of voter orientation.
- (5) All municipal elections will be publicized in accordance with the Texas Election Code.

Sec. 5.02. - Filing for office[; qualifications of candidates.]

- (1) Candidates for City offices must file for office in accordance with the Texas Election Code.
- (2) Candidates for elective City office must meet the following qualifications:
 - (a) Must be at least twenty-one years of age at the time of the election for which they are filing.
 - (b) Must be a qualified voter.
 - (c) Must have resided within the corporate limits of the City, or recently annexed territory, for at least twelve months prior to the filing deadline.
 - (d) Must not, after notice of any delinquency, be in arrears in payment of taxes or other liabilities due the City.
 - (e) No candidate may file in a single election for more than one office or position as provided by this Charter.
 - (f) No employee of the City will continue in such position after filing for an elective office provided for in this Charter.

Sec. 5.03. - Official ballots.

- (1) The name of each candidate seeking elective office, except those who have withdrawn, died, or become ineligible, will be printed on the official ballot in the form designated by the candidate or party in accordance with the Texas Election Code. If two or more candidates have the same surname, or surnames so similar as to be likely to cause confusion, their residence addresses will be printed with their names on the ballot.
- (2) The order of the names of the candidates on the ballot will be determined by lot in a public drawing to be held under the supervision of the City Secretary in accordance with the Texas Election Code.
- (3) Procedures for early voting will be consistent with the Texas Election Code.
- (4) An ordinance, bond issue, or Charter amendment to be voted on by the voters of the City will be presented for voting by ballot title. The ballot title of a measure may be different from its legal title and will be a clear, concise statement, approved by the City Council, describing the substance of the measure without argument or prejudice.
- (5) Procedures for write-in votes will be consistent with the Texas Election Code.

Sec. 5.04. - Official results.

- (1) The candidate for elective office receiving a plurality of the votes cast will be declared the winner. In case of a tie amongst the candidates receiving the most votes, a runoff election will be held with only the names of those tied candidates on the ballot. The runoff election will be held within thirty days and in accordance with the laws of the State of Texas.
- (2) The returns of every municipal election will be handled in accordance with the Texas Election Code. These returns will be delivered from the election judges to the City Secretary and the Mayor at City Hall as soon as possible after the closing of the polls. Election returns, general and special, will be presented to the Council at their next meeting following the election, at which time the Council will canvass and declare the results of the election, which will be recorded in the minutes of the meeting.

ARTICLE VI. - INITIATIVE, REFERENDUM AND RECALL**Sec. 6.01. - General authority.**

- (1) *Initiative.* The qualified voters of the City will have power to propose ordinances to the City Council and, if the Council fails to adopt an ordinance so proposed without any change in substance, the voters will adopt or reject it at a City election. Such power will not extend to the budget or capital program or any ordinance not subject to initiative as provided by State law, relating to appropriation of money, levy of taxes or salaries of City officers or employees.
- (2) *Referendum.* The qualified voters of the City will have power to require reconsideration by the Council of any adopted ordinance and, if the Council fails to repeal an ordinance so reconsidered, the voters will approve or reject it at a City election. Such power will not extend to the budget or capital program or any emergency ordinance or ordinance not subject to referendum as provided by State law, relating to appropriation of money or levy of taxes.
- (3) *Recall.* The qualified voters of the City will have power to remove any official serving in an elective office.

Sec. 6.02. - Petitioners committee.

- (1) Any ten qualified voters may commence proceedings contemplated by this article by filing with the City Secretary an affidavit stating that they will constitute the petitioners committee. They will be responsible for preparing, printing and circulating the petition. They will file it in proper form and specify the address to which all notices to the committee are to be sent. The affidavit will set out in full the proposed initiative ordinance or cite the ordinance sought to be reconsidered, or, in the case of recall, state the identity of the official whose recall is being sought.
- (2) In the case of recall, the City Secretary will immediately notify in writing the officer(s) to be removed that the affidavit has been filed.

Sec. 6.03. - Petition circulation.

- (1) All petition blanks used for circulation by the members of the petitioners committee or their designees will be numbered, dated and bear the signature of the City Secretary.
- (2) No petition may be circulated and no signatures obtained until after the affidavit is filed.

Sec. 6.04. - Form of petition.

- (1) All pages of a petition must be uniform in size and style and must be assembled as one instrument for filing. Each signer of a petition must be a registered voter of the City of Rockwall and must personally sign his own name thereto in ink or indelible pencil, and must write after his name his place or residence within the boundaries of the City, giving name of street and number, or place of residence, and must also write thereon the date, including the month, day and the year his signature was affixed. Petitions must contain or have attached thereto throughout their circulation the full text of the ordinance proposed or sought to be reconsidered, or in the case of a recall petition, the identity of the official whose recall is being sought.
- (2) Each page of a petition must have attached to it when filed an affidavit executed by the circulator thereof stating that he/she personally circulated the paper, the number of signatures thereon, that all the signatures were affixed in his presence, that he/she 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 the official whose recall is being sought.

(3) Locations for twenty signatures must be provided on each blank petition.

Sec. 6.05. - Presentation of petitions.

- (1) A petition to the City Council for initiative or referendum, containing the signatures of qualified voters equal in number to fifteen percent of those who voted in the last general municipal election, or two hundred, whichever is greater, must be filed with the City Secretary not later than thirty days following the filing of the affidavit by the petitioners committee. Once the petition is filed, no signature may be withdrawn.
- (2) A petition to the City Council for recall, containing the signatures of qualified voters equal in number to thirty-five percent of those who voted in the last general municipal election, or four hundred, whichever is greater, must be filed with the City Secretary no later than thirty days following the filing of the affidavit by the petitioners committee. Once the petition is filed, no signature may be withdrawn.

Sec. 6.06. - Suspension of effect of ordinance for referendum petitions.

When a referendum petition is filed with the City Secretary, the ordinance sought to be reconsidered will be suspended from taking effect unless such suspension will create an immediate breach of public health and safety. Such suspension will terminate when:

- (a) There is a final determination of insufficiency of the petition;
- (b) The City Council repeals the ordinance; or
- (c) Upon the certification of election results by the election officials.

Sec. 6.07. - Certification of petitions and presentation to City Council.

- (1) Within ten days after the petition is presented, the City Secretary must complete a certificate of sufficiency or insufficiency. Sufficiency must be determined by compliance with this Article.
- (2) If the petition is certified sufficient, the City Secretary must present the certificate to the City Council at the next regular City Council meeting. The City Council will verify determination of the sufficiency of the petition.
- (3) If a petition has been certified insufficient, the City Secretary will send the committee a Certificate of Insufficiency by registered mail which will include the particulars in which the petition is defective. The committee may, within five working days after receiving the copy of such certificate, file a request that it be reviewed by the City Council. The City Council will review the certificate at its next regular meeting following such a request and approve or disapprove it. Such determination will then be final. If no City Council review is requested within five working days, the City Secretary's certification is final.

Sec. 6.08. - Action on initiative and referendum petitions.

- (1) When an initiative or referendum petition has been finally determined sufficient, the City Council must promptly consider the proposed initiative ordinance in the manner prescribed for enacting ordinances or reconsider the referred ordinance by voting its repeal. If the City Council fails to

adopt a proposed initiative ordinance without any change in substance within sixty days, or fails to repeal a referred ordinance within thirty days after the date the petition was finally determined sufficient, it will submit the proposed or referred ordinance to the voters of the City not less than forty-five days following the failure of the City Council to act as specified herein. The special election must be held on one of the uniform election dates specified in the Texas Election Code. Any election order so issued will comply fully with the Texas Election Code.

- (2) The called election may coincide with a regular City election should such City election fall within the specified period. No ordinance substantially the same as an initiated ordinance which has been defeated or one substantially the same as a referred ordinance which has been approved at any election may be initiated by the voters within two years from the date of such election. Copies of the proposed or referred ordinance will be made available at the polls and will be published at least once in the newspaper of record of the City not more than fifteen days immediately prior to the date of the election.

Sec. 6.09. - Calling of recall election.

If the officer whose removal is sought does not resign, then the City Council will order an election and set the date for holding such recall election. The date selected for the recall election must be not less than forty-five days after the date the petition was presented to the City Council. If, after the recall election date is established, the officer vacates his position, the election must be canceled. The special election must be held on one of the uniform election dates specified in the Texas Election Code. Any election order so issued must comply fully with the Texas Election Code.

Sec. 6.10. - Withdrawal of petitions.

An initiative, referendum or recall petition may be withdrawn at any time prior to determination of sufficiency by filing with the City Secretary a request for withdrawal signed by at least seven members of the petitioners committee. Upon the filing of such request the petition will have no further force or effect and all proceedings thereon will be terminated.

Sec. 6.11. - Form of ballots.

(1) *Initiative.*

Ordinances must be submitted by ballot title, which must be prepared in all cases by the City Attorney. The ballot title may be different from the legal title of any such initiated or referred ordinance and it must be a clear, concise statement, without argument or prejudice, descriptive of the substance of such ordinance. Immediately below the ballot title must be printed the following two statements, one above the other [sic] other, in the order indicated:

"For adoption of the ordinance" and

"Against adoption of the ordinance"

Immediately below or to the left of each statement must appear a square in which the voter may cast his vote by making a mark.

(2) *Repeal.*

Ordinances being considered for repeal must be submitted by ballot title, which must be prepared in all cases by the City Attorney. The ballot title may be different from the legal title of any such ordinance and it must be a clear, concise statement, without argument or prejudice, descriptive of the substance of such ordinance. Immediately below the ballot title must be printed the following two statements, one above the other, in the order indicated:

"For repeal of the ordinance" and

"Against repeal of the ordinance"

Immediately below or to the left of each statement must appear a square in which the voter may cast his vote by making a mark.

(3) *Recall.*

Ballots used at recall elections must, with respect to each person whose removal is sought, submit the question:

"Will (name of person) be removed from the office (name of office) by recall?"

Immediately below each such question there will be printed the two following statements, one above the other, in the order indicated:

"For the removal of ... by recall."

"Against the removal of ... by recall."

Immediately below or to the left of each statement will appear a square in which the voter may cast his vote by making a mark.

Sec. 6.12. - Results of election.

- (1) If a majority of qualified electors voting on a proposed initiative ordinance vote in its favor, it will be considered adopted upon certification of the election results and will be treated in all respects in the same manner as ordinances of the same kind adopted by the City Council. If conflicting ordinances are approved at the same election, the one receiving the greater number of affirmative votes will prevail.
- (2) An ordinance adopted by initiative may be repealed or amended at any time after the expiration of two years by a majority vote or after one year by unanimous vote of all Council members.
- (3) If a majority of the qualified electors voting on a referred ordinance vote against the ordinance, it will be considered repealed upon certification of the election results. If a majority of the qualified electors voting on a referred ordinance vote for the ordinance, the ordinance will be considered in effect.
- (4) An ordinance repealed by referendum may be reenacted at any time after the expiration of two years by a majority vote or after one year by unanimous vote of all Council members.
- (5) If a majority of the votes cast on the question of recall at a recall election will be against the removal of the elected official named on the ballot, he/she will continue in office for the remainder of his unexpired term, subject to recall as before within the limitations of Sec. [Section] 6.14 below. If a majority of the votes cast on the question of recall at a recall election will be for the removal of the

elected official named on the ballot, he/she will, regardless of any technical defects in the recall petition, be deemed removed from office and the vacancy will be filled in accordance with the provisions of this Charter for the filling of vacancies.

Sec. 6.13. - Limitations and restrictions.

- (1) No recall petition must be filed against any officer of the City within six months after his election nor within six months of such a petition being filed and found insufficient, nor within one year after an election for such officer's recall. No such limitations will apply to appointed Council members.
- (2) In no instance will an officer removed from office by recall election serve in an elective office of the City within a period of five years following the date of the election at which he/she was removed from office.
- (3) Unless withdrawn, no petition will again be filed on a proposed or referred ordinance of substantially the same content within a period of two years of the failure of the petition at a City election.

Sec. 6.14. - Failure of City Council to call election.

In case all of the requirements of this Charter have been met and the City Council will fail or refuse to receive an initiative, referendum or recall petition, or order such initiative, referendum or recall election, or discharge other duties imposed upon said City Council by the provisions of this Charter with reference to initiative, referendum or recall, then the District Judge may discharge any such duties herein provided to be discharged by the City Secretary or by the City Council. In addition, any qualified voter in the City may seek judicial relief to have any of the provisions of this Charter pertaining to initiative, referendum or recall carried out by the proper official.

ARTICLE VII. - FINANCIAL PROCEDURES

Sec. 7.01. - Fiscal year.

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

Sec. 7.02. - Submission of budget and budget message.

On or before the first day of the eleventh month of the fiscal year, the City Manager must submit to the Council a budget for the ensuing fiscal year and an accompanying message.

Sec. 7.03. - Budget message.

The City Manager's message will explain the budget both in fiscal terms and in terms of the work programs. It will 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 together with the reasons for such changes, summarize the City's debt position and include such other material as the City Manager deems desirable.

Sec. 7.04. - Budget a public record.

The budget and all supporting schedules must be filed with the City Secretary when submitted to the Council and must be opened to public inspection by anyone interested.

Sec. 7.05. - Public hearing on budget.

At the Council meeting when the budget is submitted, the Council must name the date and place of a public hearing and must have published in the newspaper of record of the City the time and place, which will be not less than ten days nor more than thirty days after the date of notice. At this hearing, interested citizens may express their opinions concerning items of expenditures, giving their reasons for wishing to increase or decrease any items of expense.

Sec. 7.06. - Proceeding on adoption of budget.

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

Sec. 7.07. - Budget, appropriation and amount to be raised by taxation.

On final adoption, the budget will be in effect for the budget year. Final adoption of the budget by the Council will constitute the official appropriations as proposed by expenditures for the current year and will constitute the basis of official levy of the property tax as the amount of tax to be assessed and collected for the corresponding tax year. Estimated expenditures will in no case exceed proposed revenue plus cash on hand. Unused appropriations may be transferred to any item required for the same general purpose.

Sec. 7.08. - Contingent appropriation.

Provision may be made in the annual budget and in the appropriation ordinance for a contingent appropriation in an amount not more than seven percent of the total general fund expenditures, to be used in case of unforeseen items of expenditures. This contingent appropriation will apply to current operating expenses and will not include any reserve funds of the City. Such contingent appropriation will be under the control of the City Manager and distributed by him/her only after prior approval by the City Council. The proceeds of the contingent appropriation will be disbursed only by transfer to other departmental appropriation, the spending of which will be charged to the departments or activities for which the appropriations are made. (Amended, 1988)

Sec. 7.09. - Amending budget.

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

Sec. 7.10. - Certification; copies made available.

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

Sec. 7.11. - Capital program.

The City Manager will prepare and update a five-year capital program in accordance with the procedures approved by the City Council.

The above information may be revised and extended each year with regard to capital improvements still pending or in process of construction or acquisition.

Sec. 7.12. - Defect shall not invalidate tax levy.

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

Sec. 7.13. - Lapse of appropriations.

Every appropriation, except an appropriation for a capital expenditure, will lapse at the close of the fiscal year to the extent that it has not been expended or encumbered. An appropriation for a capital expenditure other than in the operating budget of the City will continue in force until the purpose for which it was made has been accomplished or abandoned. The purpose of any such appropriation will be deemed abandoned if three years pass without any disbursement from or encumbrance of the appropriation. However, any appropriations, including capital expenditures, provided for in the annual operating budget will lapse at the end of the fiscal year. Any funds not expended, disbursed, or encumbered prior to their lapse as described herein will be returned to the appropriate accounting fund of the City.

Sec. 7.14. - Borrowing.

(1) *[Authority.]* The City will have the right and power, except as prohibited by law or this Charter, to borrow money by whatever method it may deem to be in the public interest.

(2) *Tax obligation bonds—General.*

- (a) The City will have the power to borrow money on the credit of the City and to issue general obligation bonds for permanent public improvements or any other public purpose not prohibited by law and this Charter, to issue refunding bonds to refund outstanding bonds previously issued, and to issue other obligations permitted by law. All such bonds or other obligations, e.g., Certificates of Obligation and Contractual Obligation, will be issued in conformity with the laws of the State of Texas, will be issued for stated, specific projects or purposes. Any funds remaining after completion of said projects will be used to service or retire the debt created by the issuance of said bonds or obligations.
- (b) Any tax obligation bonds, other than refunding bonds, issued under the provisions of this section will not be issued without an election. The City Council will prescribe the procedure for calling and holding such elections, will define the voting precincts and will provide for the return and canvass of the ballots cast at such elections.
- (c) If at such elections a majority of the vote will be in favor of creating such a debt of the City, it will be lawful for the City Council to issue bonds as proposed in the ordinance submitting same. However, if a majority of the vote polled will be against the creation of such debt, the City Council will be without authority to issue the bonds. In all cases when the City Council must order an election for the issuance of bonds of the City, it must at the same time submit the question of whether or not a tax must be levied upon the property of the City for the purpose of paying the interest on the bonds and to create a sinking fund for their redemption. (Amended, 1988)
- (d)

State law permits the issuance of Certificates of Obligation at the discretion of the City Council. However, it is the expressed will of the citizens of Rockwall that such obligations be issued only after being authorized by a vote of the citizens at an election called for the purpose of considering the issuance of such obligations. An exception to this guideline is to be permitted only in the event of an urgent public necessity. In order to issue Certificates of Obligation in the event of an urgent public necessity, when a vote of the citizenry is not held, the affirmative vote of six members of the Council must be required to authorize such issuance.

(3) *Revenue bonds.*

- (a) The City will have the power to borrow money for the purpose of constructing, purchasing, improving, extending or repairing of public utilities, recreational facilities or any other self-liquidating municipal function not prohibited by the Constitution and the laws of the State of Texas. With an affirmative vote of at least six of the members of the City Council, it will have the power to issue revenue bonds and to evidence the obligation created thereby. Revenue bonds for any purpose other than water and sanitary sewer system improvement, expansion, or reconstruction must be authorized by a majority of citizens voting in an election called for the purpose of considering the issuance of such obligations. Upon approval of such revenue bonds by the voters, an affirmative vote of a majority of the full membership of the City Council will be required to issue said revenue bonds. Such bonds will be a charge upon and payable from the properties, or interest therein pledged, or the income therein gained from, or both. The holders of the revenue bonds will never have the right to demand payment thereof out of monies raised or to be raised by taxation. All such bonds will be issued in conformity with the laws of the State of Texas and will be used only for the purpose for which they were issued.

(4) *Emergency funding.*

- (a) In any budget year, the City Council may, by unanimous resolution of the elected Council, authorize the borrowing of money. Notes may be issued which are repayable not later than the end of the current fiscal year.

Sec. 7.15. - Purchasing.

- (1) The City Council may, by ordinance, give the City Manager general authority to contract for expenditure without further approval of the Council for all budgeted items not exceeding limits set by the 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 the Council must be let to the lowest bidder whose submittal is among those responsive to the needs of the City after there has been opportunity for competitive bidding as provided by law or ordinance. The City Council, or City Manager in such cases as he/she is authorized to contract for the City, will have the right to reject any and all bids.

- (2) Emergency contracts as authorized by law and this Charter may be negotiated by the City Council or City Manager if given authority by the Council, without competitive bidding. Such emergency will be declared by the City Manager and approved by the City Council, or may be declared by the City Council.

Sec. 7.16. - Administration of budget.

- (1) No payment will be made or obligation incurred against any allotment or appropriation except in accordance with appropriations duly made unless the City Manager or his designee first certifies that there is a sufficient unencumbered balance in such allotment or appropriation and that sufficient funds therefrom are or will be available to cover the claim or meet the obligation when it becomes due and payable.
- (2) Any authorization of payment or incurring of obligation in violation of the provisions of this Charter will be void and any payment so made illegal. Such action will be cause for removal of any officer who knowingly authorized or made such payment or incurred such payment or obligation, and he/she will also be liable to the City for any amount so paid.
- (3) This prohibition will 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, or certificates of obligation, or to prevent the making of any contract or lease providing for payments beyond the end of the fiscal year, providing that such action is made or approved by ordinance.
- (4) The City Manager will submit to the Council each month or as directed by the City Council a report covering the revenues and expenditures of the City in such form as requested by the City Council.

Sec. 7.17. - Depository.

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

Sec. 7.18. - Independent audit.

At the close of each fiscal year, and at such other times as may be deemed necessary, the City Council must call for an independent audit to be made of all accounts of the City by a certified public accountant. No more than [five] consecutive annual audits must be completed by the same firm. The certified public accountant selected must have no personal interest, directly or indirectly in the financial affairs of the City or any of its officers. The report of audit, with the Auditor's recommendations, will be made to the City Council. Upon completion of the audit, the summary must be published immediately in the newspaper of record of the City and copies of the audit placed on file in the City Secretary's office as a public record. (Amended, 1993) (Amended, 1996)

Sec. 7.19. - Power to tax.

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

Sec. 7.20. - Office of Tax Collector.

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

Sec. 7.21. - Taxes; when due and payable.

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

Sec. 7.22. - Tax liens, liabilities and suits.

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

ARTICLE VIII. - BOARDS, COMMISSIONS AND COMMITTEES**Sec. 8.01. - Authority, composition and procedures.**

- (1) The City Council will create, establish or appoint, as may be required by the laws of the State of Texas or this Charter, or deemed desirable by the City Council, such boards, commissions and committees as it deems necessary to carry out the functions and obligations of the City. The City Council will, by ordinance or resolution, prescribe the purpose, composition, function, duties, accountability and tenure of each board, commission and committee where such are not prescribed by law or this Charter. Each board, commission, or committee will elect from among its members a chairman and vice-chairman to serve for a term not to exceed one year.
- (2) Individuals who are qualified voters in the City may be appointed to serve on one or more boards, commissions or committees. The City Council may, by ordinance or resolution, consolidate the functions of the various boards, commissions or committees provided for in this Charter. Except as otherwise provided in this Charter, members of any such board, commission or committee will serve without compensation but may be reimbursed for actual expenses as approved by the City Council.
- (3)

All boards, commissions or committees of the City must keep and maintain minutes of any proceedings held and must submit a written report of such proceedings to the City Council at intervals prescribed by the City Council.

- (4) No elected official of the City nor any person who holds a compensated appointive position with the City will be appointed to any board, commission or committee other than in a nonvoting advisory capacity, except as authorized by state law.
- (5) Any member of a board, commission or committee who is absent from three consecutive regular meetings without explanation acceptable to a majority of the other members must forfeit his position on the board, commission or committee.

ARTICLE IX. - PLANNING AND ZONING COMMISSION AND BOARD OF ADJUSTMENT

Sec. 9.01. - Organization.

- (1) There is hereby established a Planning and Zoning Commission which must consist of seven members who will be appointed by the City Council to staggered terms in accordance with the existing Zoning Ordinance. The Commission members must be qualified City voters. No member will serve on the Commission for more than two "full" consecutive terms. A member who has served for two consecutive terms may be reappointed after a lapse in service of 12 months or more. Any vacancy occurring during the unexpired term of a member will be filled by appointment by the City Council for the remainder of the unexpired term. A majority of the members will constitute a quorum. In August of each year, the Commission will elect from its members a Chairman and Vice Chairman to serve for one year beginning in that month. Members of the Commission may be removed with the consent of a majority of the Council after public hearing and for cause set forth in writing.
- (2) The Commission must meet at least once a month. The Commission must keep minutes of its proceedings which must be of public record. Minutes will be recorded by a member of the City Staff. The Commission will serve without compensation.

Sec. 9.02. - Duties and powers.

- (1) The Commission will be responsible to and act as an advisory board to the City Council. The Commission must:
 - (a) Review all current and proposed ordinances and amendments pertaining to planning and zoning and make recommendations to the City Council for action to be taken.
 - (b) Make, amend, extend and add to a Master Plan for the physical development of the City.
 - (c) Keep public records of its resolutions, findings and determinations. (Amended, 1988)
 - (d) The Chairman of the Planning and Zoning Commission must make a formal monthly report in person to the City Council.
- (2) The Commission will have full power to:
 - (a) Exercise the authority of the Zoning Commission as provided by State law, this Charter and City ordinances.
 - (b) Prepare, adopt and administer rules and recommendations pertaining to subdivisions and to

platting in territories within the city limits and its extraterritorial jurisdiction.

- (c) Make reports and recommendations relating to the Master Plan and development of the City.
- (d) Within its budget appropriation, and consistent with state purchasing law contract for professional and consultant services to aid in carrying out its duties.

Sec. 9.03. - Master Plan.

The existing Master Plan for the physical development of the City contains recommendations for the growth, development and beautification of the City and its extraterritorial jurisdiction. Recommended changes to the Master Plan must be submitted to the City Manager after the Planning and Zoning Commission holds at least one public hearing on the proposed change.

Sec. 9.04. - Procedure for amending Master Plan.

- (1) City Manager will submit the proposed changes to the Council, together with any recommendations. The Council, after a public hearing, will adopt or reject such proposed revision or any part thereof as submitted within sixty days following its submission by the City Manager. If the proposed revisions or part thereof should be rejected by the Council, the Planning and Zoning Commission may make modifications and again forward it to the City Manager for submission to the Council.
- (2) All rules and regulations adopted by the Planning and Zoning Commission regarding implementation of the Master Plan, will be forwarded to the City Manager who will submit them to the Council with his recommendations. The Council may adopt or reject any such rules or regulations. If any rules or regulations should be rejected, the Planning and Zoning Commission may modify them and submit such modified rules and regulations to the City Manager for submission with his recommendations to the Council. (Amended, 1996)

Sec. 9.05. - Legal effect of Master Plan.

Following the adoption by the Council of the Master Plan, it will serve as a guide to all future Council action concerning land use and development regulations and expenditures for capital improvements. Any proposal which deviates from the Master Plan will not be authorized until and unless the location and extent thereof will have been submitted to and approved by the Planning and Zoning Commission. In case of disapproval, the Commission will communicate its reasons to the Council, which will have the power to overrule such disapproval and upon such overruling, the Council or the appropriate office, department or agency will have authority to proceed. A two-thirds vote of the City Council will be required to overrule the recommendations of the Commission, except as otherwise provided by State law. The failure of the Commission to act within thirty days after the date of official submission to the Commission will be deemed approval, unless a longer period be granted by the Council or submitting official.

Sec. 9.06. - Board of adjustment.

The Council must, by ordinance, establish a Board of Adjustment and must provide standards and procedures for such board to hear and determine appeals from administrative decisions, petitions for variances in the case of peculiar and unusual circumstances which would prevent the reasonable use of land, and such other matters as may be required by the Council or by law. Board members must be qualified voters of the City. (Amended, 1988) (Amended, 1996)

ARTICLE X. - UTILITY AND PUBLIC SERVICE FRANCHISES AND LICENSES

Sec. 10.01. - Authority.

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

Sec. 10.02. - Ordinance granting franchise.

- (1) Any ordinance granting, renewing, extending or amending a public service or utility franchise must be read at two separate meetings of the City Council and will not take effect until thirty days after the final reading. Within fifteen days following the first reading of the ordinance, a summary of the ordinance will be published once in a newspaper designated as the newspaper of record of the City. The expense of such publication will be borne by the prospective franchisee.
- (2) No franchise will be granted for a term of more than twenty years from the date of the grant, renewal or extension of any franchise.
- (3) No franchise may be exclusive.

Sec. 10.03. - Transfer of franchise.

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

Sec. 10.04. - Franchise value not to be allowed.

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

Sec. 10.05. - Right of regulation.

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

- (a) To repeal the franchise by ordinance for failure to begin construction or operation within the time prescribed, or for failure to comply with terms of the franchise.
- (b) To require all extensions of service within the City limits to become part of the aggregate property of the service and operate subject to all obligations and reserved rights contained in this Charter. Any such extension is considered part of the original grant and terminable at the same time and under the same conditions as the original grant.
- (c) To require expansion and extension of facilities and services and to require maintenance of existing facilities to provide adequate service at the highest level of efficiency.
- (d) To require reasonable standards of service and quality of product and prevent rate discrimination.
- (e) To impose reasonable regulations and restrictions to insure [ensure] the safety and welfare of the public.
- (f) To examine and audit accounts and records and to require annual reports on local operations of the public service or utility.

- (g) To require the franchisee 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.
- (h) To require the franchisee to furnish to the City, within a reasonable time, at the franchisee's expense, a general map outlining current location, character, size, length, depth, height and terminal of all facilities over and under property within the City and its extraterritorial jurisdiction.
- (i) 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. 10.06. - Regulation of rates.

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

Sec. 10.07. - Licenses.

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

ARTICLE XI. - GENERAL AND TRANSITIONAL PROVISIONS

Sec. 11.01. - Public records.

All records of the City must be open to inspection except for those that are closed to the public by law. The records may be examined and copied in the City offices during normal office hours at a nominal charge established by the City Manager.

State law reference— Public records act, V.T.C.A., Government Code § 552.001 et seq.

Sec. 11.02. - Newspaper of record.

The City Council must designate annually a newspaper of general circulation in the City to serve as newspaper of record. All ordinances, notices and other matters required by this Charter, City ordinance, or the Constitution and laws of the State of Texas must be published in the newspaper of record.

Sec. 11.03. - Nepotism.

No person related within the second degree by affinity or within the third degree by consanguinity to the Mayor or any City Council member or the City Manager will be employed or appointed to any positions of the City. This will not apply to any person continuously employed prior to the election or appointment of the person related in the above degree.

Sec. 11.04. - Oaths.

All elected and appointed officers of the City must take and sign the oath of office based on those prescribed for state elective and appointive offices, respectively, in the Constitution of the State of Texas.

Sec. 11.05. - Prohibitions and penalties.

- (1) Equality of rights under the law must not be denied or abridged with respect to appointment to or removal from any position because of race, gender, age, national origin, political or religious opinions or affiliations.
- (2) No person who seeks appointment or promotion with respect to any City position will, 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 or promotion.
- (3) No person will willfully make any false statement, certificate, mark, rating or report in regard to any test, certification or appointment or attempt to commit any fraud preventing the impartial execution of the personnel provisions, rules and regulations of this Charter.
- (4) No person who holds any compensated nonelective City position will make, solicit or receive any contribution for any candidate for public office in the City, or take part in the management, affairs or political campaign of such candidate. He/She may exercise his rights as a citizen to express his opinion and cast his vote.
- (5) Any person who willfully engages in any of the above prohibited activities will be ineligible for appointment or election to a position in the City for a period of five years from that time. If he/she is an officer or employee of the City at the time of the violation, he/she must immediately forfeit his office or position.
- (6) No person will be qualified to hold a municipal office or serve the City in any other capacity for which compensation is paid who is delinquent in the payment of taxes or other liabilities due the City.

Sec. 11.06. - Assignment, execution and garnishment.

- (1) Property, real and personal, belonging to the City will not be liable to be sold or appropriated under any writ or execution of cost bill. Funds belonging to the City in the hands of any person, firm or corporation, will not be liable to garnishment, attachment or sequestration; nor will the City be liable to garnishment, attachment or sequestration; nor will the City be liable to garnishment of

account of any debt it may owe or funds or property it may have on hand owing to any person. Neither the City nor any of its officers or agents will be required to answer any such writ of garnishment on any account whatever.

- (2) The City will not be obligated to recognize any assignment of wages or funds by its employees, agents or contractors.

Sec. 11.07. - Security and bond.

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

Sec. 11.08. - Notice of claim.

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

State law reference— Tort claims, V.T.C.A., Civil Practice and Remedies Code § 101.001 et seq.

Sec. 11.09. - Power to settle claims.

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

Sec. 11.10. - Service to process against City.

All legal process against the City will be served upon both the Mayor and the City Manager.

Sec. 11.11. - Judicial notice.

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

Sec. 11.12. - Separability.

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

Sec. 11.13. - Wording interpretation.

- (1) The gender of wording throughout this Charter must always be interpreted to mean either sex. All singular words will include the plural and all plural words will include the singular. All references to State law or laws of the State of Texas, however expressed in this Charter, will mean "as presently enacted or hereafter amended."
- (2) The term "Council" will include the Mayor and all other Council members.
- (3) Definitions. When used in this Charter, the terms below will have the meanings stated in this

section.

- (a) "City" will refer to the municipal corporation more specifically titled "The City of Rockwall."
- (b) "Elected officer" will refer to any member of the City Council regardless of whether the individual became a member by election or appointment.
- (c) "Appointed officer" will refer to any individual appointed by the City Council.
- (d) "Administrative officer" will refer to any employee of the City appointed by the City Manager.
- (e) "Office" will refer to any position in the City filled by appointment by the City Council or City Manager.
- (f) "Officers" will refer to any member of the City Council, or any individual appointed by the City Council other than members of ad hoc committees with a limited term.
- (g) "Employee" will refer to any person who is employed and paid a salary by the City including those individuals on a part-time basis, but does not include City Council members or members of the volunteer fire department.
- (h) "Public Utility" will refer to any privately owned business that provides a service to the public under the terms of a franchise granted by the City Council. The term will include but not necessarily be limited to electric service, gas service, telephone service, and cable television service.

Sec. 11.14. - Amendment of Charter.

Amendments to this Charter may be framed and submitted to the qualified voters of the City in the manner provided by the constitution and the laws of the State of Texas as presently enacted or hereafter amended.

Sec. 11.15. - Charter Review Commission.

- (1) The City Council must appoint a Charter Review Commission of ten citizens of the City which will:
 - (a) Inquire into the operation of the City government under the Charter and determine whether any provisions require revision. To this end, public hearings may be held. The Commission may compel the attendance of any officer or employee of the City and require submission of any City records it deems necessary to conduct the hearings.
 - (b) Propose any recommendations it deems desirable to insure [ensure] compliance with the Charter of the City government.
 - (c) Report its findings and present its recommendations to the City Council.
- (2) The City Council will receive and have published in the newspaper of record of the City a comprehensive summary of the report presented by the Commission; will consider any recommendations made, may order any amendments suggested to be submitted to the voters of the City in the manner provided by State law as now written or hereafter amended.
- (3) The term of office of the Commission must be for not more than six months, at the end of which time a report will be presented to the City Council and all records of proceedings of the commission will be filed with the City Secretary and become a public record.

Sec. 11.16. - Schedule of transition.

- (1) This Charter will take effect immediately following adoption by the voters.
- (2) Upon adoption of this Charter, the present members of the City Council filling elective offices will continue to fill those offices for the terms for which they were elected. Thereafter, the City Council will be elected as provided in this Charter. Persons who, on the date this Charter is adopted, are filling appointive positions with the City which are retained under this Charter, may continue to fill these positions for the term for which they were appointed, unless removed by the City Council or by other means provided in this Charter.
- (3) All City ordinances, bonds, resolutions, rules and regulations in force on the effective date of this Charter will remain in force until altered, amended or repealed by the Council, and all rights of the City under existing franchises and contracts are preserved in full force and effect.

Sec. 11.17. - Officers and employees.

Except as specifically provided, nothing in this Charter will affect or impair the rights or privileges of persons who are City officers or employees at the time of its adoption.

Sec. 11.18. - Pending matters.

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

Sec. 11.19. - Submission of Charter to electors.

The Charter Commission in preparing this Charter finds and declares that it is impractical to segregate each subject so that the voter may vote "Yes" or "No" on each subject. The Charter is so constructed that in order to enable it to work and function, it is necessary that it should be adopted in its entirety. For these reasons the Charter Commission directs that this Charter be voted upon as a whole.