

# HOME RULE CHARTER

City of Mansfield, Texas



Charter Adoption January 28, 1975

# HOME RULE CHARTER

## City of Mansfield, Texas

### CHARTER COMMISSION

ELECTED SEPTEMBER 14, 1974

**BILL BRITTAIN** .....Chairman  
**AL STUBENRAUCH** ..... Vice Chairman  
**BARBARA COOK**.....Secretary

**DON E. WILLIAMS**

**JOE HUMPHRIES**

**JOE T. SPRY**

**ALICE HENRY**

**DWAIN CANNON**

**S. K. PRESSLEY**

**JAMES ICENHOWER**

**MACK CAIN**

**H. E. BAXTER, JR.**

**VIRGINIA CAREW**

**IRA GIBSON**

**STEVE BAKER**

### COUNCIL MEMBERS

**TOMMY WATSON, MAYOR**

**LOYD SEETON**

**DAVID ARSENEAU**

**CHARLES VESS**

**GLEN KING**

**GLENN WHITE**

### CITY STAFF

**BOBBY LOONEY, CITY ADMINISTER**  
**MARY ANN JOHNSTON, CITY SECRETARY**  
**KATHRYN HOWARD, CLERK**

**Charter Election January 25, 1975**

**Charter Adoption January 28, 1975**

# Home Rule Charter Amendments

First Amendment	8-11-79	Article III City Council
Second Amendment	5-7-88 (Charter Reprinted)	29 Amendments
Third Amendment	5-10-08 (Charter Reprinted)	4 Propositions
Fourth Amendment	11-3-20 (Charter Reprinted)	7 Propositions

## Charter Review Board

Tom Corbin, Chairman	Jeff Moore
Dr. Dwain Cannon	Jean Perry
John Justice	Gene Strause
Raymond Meeks	Wayne Wilshire

## Council Members

Bobby Block, Mayor	Jim Burgess
Gary Dalton, Mayor Pro Tem	Rusty Burris
Donnie Anderson	Jerry Daugherty
	McClendon Moody

## City Staff

Clayton Chandler, City Manager	Kathryn Howard, City Secretary
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**HOME RULE CHARTER**  
**FOR THE**  
**CITY OF MANSFIELD, TEXAS**

**PREAMBLE**

Recognizing that effective government is a government of law rather than of man, we the people of Mansfield, Texas invoke the guidance of God in establishing 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.**

All the inhabitants of the City of Mansfield, Tarrant County, Texas residing within the boundaries and limits of said City as are herein established or may hereafter be established, shall be a political subdivision of the State of Texas, incorporated under and to be known by the name and style of the "City of Mansfield" with such powers, rights and duties as provided in this Home Rule Charter in accordance with the Constitution and statutes of the State of Texas.

**Sec. 1.02. Form of Government.**

The municipal government provided by this Charter shall be of the Council-Manager form. The Council, consisting of the Mayor and Councilmen elected by and responsible to the people, shall appoint a City Manager, who shall 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 the City.**

The bounds and limits of the City of Mansfield shall be the same as have heretofore been established and as they exist on the date of acceptance of this Charter.

**Sec. 1.04. Extension of Boundaries.**

The Council shall have the powers to fix the boundary limits of the City, to provide for the extension of said boundary limits and the annexation of additional territories lying adjacent to said City, to provide for the disannexation of territory within said City and to provide for the exchange of territory with other cities and towns, according to such rules as may be provided by this Charter or any other method that may be prescribed by the laws of the State of Texas. Such rules or methods shall not be inconsistent with the procedural rules of the Municipal Annexation Act of the State of Texas.



(a) *Annexation of lands by petition:* The qualified voting property owner or owners of any land contiguous and adjacent to the City may, by petition in writing to the Council request the annexation of such contiguous and adjacent land, describing it by metes and bounds. The Council shall thereafter hear such petition and the arguments for and against the same, and grant or refuse such petition. The council may by proper ordinance, under such procedural rules as may be prescribed by law, receive and annex such territory as a part of the City.

(b) *Annexation by election:* The Council shall have the power to order an election or elections if it so desires for the purpose of annexing territory adjacent to the City. Said election shall be in accordance with this Charter or as prescribed by State statutes.

(c) *Annexation of lands by ordinance:* The Council may by ordinance annex territory adjacent to the City with or without the consent of the inhabitants or owners thereof, subject to such procedural rules as may be prescribed by law.

(d) *Annexed territory to become part of the City:* Upon completion of any one of the procedures hereinabove provided, the territory so annexed shall become a part of the City, and said land and its residents and future residents shall be entitled to all the rights and privileges of other citizens of the City and shall be bound by the acts, ordinances, resolutions and regulations of the City.

#### **Sec. 1.05. Contraction of Boundaries.**

Whenever there exists within the corporate limits of the City any territory not deemed suitable or necessary for City purposes, which territory adjoins the outer boundaries of the City, the Council may with or without a petition signed by a majority of the property owners residing in said territory, disannex such territory. Provided, however, that the right of disannexation shall not be available to any particular annexed area which was lawfully within the City limits of Mansfield at the time of the approval or sale of any obligation bonds of the City if proceeds therefrom have been expended for capital improvements to serve such particular area, unless said property owners of said territory are willing to monetarily reimburse the City for its percentage of the then outstanding indebtedness of the City for bonds and warrants and a fair proportion of the then existing budget which the assessed value of all property within said territory on the tax rolls next preceding the presentation of such petition bears to the total of all property on said rolls. Any disannexation will be consistent with State Statutes governing same.

### **ARTICLE II. POWER OF THE CITY**

#### **Sec. 2.01. Powers of the City.**

The City shall have all powers possible for a City to have under the Constitution and laws of this State as fully and completely as though they were specifically enumerated in this Charter. (Amended: 5-7-88)

#### **Sec. 2.02. 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. (Amended: 5-7-88)

### **Sec. 2.03. Intergovernmental Relations.**

The City may exercise any of its powers or 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, and divisions or agencies thereof, or the United States or any agency thereof. (Amended: 5-7-88)

## **ARTICLE III. THE CITY COUNCIL**

### **Sec. 3.01. Number, Selection and Term.**

The legislative and governing body of the City shall consist of a Mayor and six (6) Councilmembers and shall be known as the "Council of the City of Mansfield." The Councilmembers shall be elected by place at large under the general provisions provided by Article IV of this Charter for three (3) year terms. The three (3) year terms shall be staggered so that two (2) and not more than three (3) members be elected each year. The Mayor and each Councilperson, unless sooner removed under the provisions of this Charter, shall hold office until his successor is elected and qualified. Regular terms of office shall commence at the beginning of the first regular meeting of the Council following the final election as provided in Section 4.05. (Amended: 8-11-79, 5-7-88)

### **Sec. 3.02. Qualifications.**

The Mayor and each member of the City Council shall be:

(a) A resident citizen of the City of Mansfield for a period of not less than twelve (12) months immediately preceding his election of a resident of any of the territory not formerly within the corporate limits of the City but which is annexed under the provisions of this Charter for twelve (12) months preceding his election;

(b) A qualified voter of the State of Texas.

If the Mayor or any Councilman fails to maintain the foregoing qualification, shall be absent without valid excuse from three (3) consecutive regularly scheduled meetings, or shall fail to maintain an eighty (80) percent attendance record for each elected year without valid excuse, the Council must declare a vacancy at its next regular meeting and shall fill the vacancy as set forth in this Charter. (Amended: 8-11-79) (Amended: 11-3-20)

### **Sec. 3.03. Council to be the Judge of Election Qualification.**

The Council shall be the judge of the election and qualification of its own members.

### **Sec. 3.04. Compensation.**

The Mayor and each Councilman may receive a salary set by the Council, plus actual and necessary expenses incurred in the performance of his specified official duties of the office. All expenses shall be subject to the approval of the Council. (Amended: 8-11-79)

### **Sec. 3.05. Vacancies.**

When a vacancy occurs in the Mayor's office or the Council, the Council shall order a special election to be held as provided by State Law. (Amended: 8-11-79, 5-7-88)

### **Sec. 3.06. Mayor and Mayor Pro Tem.**

(a) *Mayor*: The Mayor shall preside at meetings of the Council, shall be recognized as head of the City Government for all ceremonial purposes and by the Governor for purposes of military law, but shall have no administrative duties. (Amended: 8-11-79)

(b) *Election of Mayor Pro Tem*: There shall be appointed a Mayor Pro Tem who shall perform all the duties of the Mayor in the absence or disability of the Mayor. (Amended: 11-3-20)

(c) *Emergency powers of the Mayor*: The emergency powers of the Mayor shall be set forth by State law and local ordinances. (Amended: 5-7-88)

### **Sec. 3.07. Power of Council.**

All powers of the City shall be vested in the Council, except as otherwise provided by laws or this Charter. The Council shall provide for the exercise thereof and for the performance of all duties and obligations imposed upon the City by law.

### **Sec. 3.08. Prohibitions.**

(a) *Holding other office*: Except where authorized by law, no Mayor or Councilman shall hold any other compensated City office or employment by the City during the term for which he was elected to the Council, and no former Mayor or Councilman shall hold any compensated appointive City office or employment until one (1) year after the expiration of the term for which he was elected to the Council.

***Amended May, 2008***

(b) *Appointment and removals*: Neither the Council nor any of its members shall in any way dictate the appointment or removal of any City administrative officer or employees whom the City Manager or any of his subordinates are empowered to appoint, unless otherwise provided in this Charter. The Council may express its views and fully and freely discuss with the City Manager anything pertaining to appointment and removal of such officers and employees.

(c) *Interference with administration*: Except for the purpose of inquiries and investigations by the direction of the Council, unless provided otherwise in this Charter, the Council or its members shall deal with City officers and employees who are subject to the direction and supervision of the City Manager solely through the City Manager, and neither the Council nor its members shall give orders to any such officer or employee, either publicly or privately.

(d) *Admission of liability*: Neither the Council nor its members shall accept or admit liability or pay any claim for damages asserted against the City without first obtaining a written opinion from the City Attorney regarding the City's liability therein.

### **Sec. 3.09. Meetings and Procedure.**

(a) *Meetings*: Council meetings shall be held at City Hall unless justification is announced and posted as required herein and the Council shall meet regularly at least twice in every month at such time as the Council may prescribe by rule. Meetings may be held on the call of the Mayor or three (3) members and whenever practicable, upon no less than seventy-two (72) hours notice to each member except that emergency meetings may be called by the Mayor or Mayor Pro Tem in the Mayor's absence or three (3) members after notice has been posted two (2) hours, or as otherwise required by law, provided, however, that all meetings shall be open to the public and public notice thereof given as required by the statutes of Texas, as now or hereafter amended. (Amended: 11-3-20)

(b) *Minutes and rules*: The Council shall determine its own rules and order of business and shall provide for keeping minutes of its proceedings in accordance with State law. The minutes shall be a public record.

(c) *Voting*: Every Councilperson and the Mayor must vote on all issues unless there is a declared and recorded conflict of interest. The minutes shall record those voting aye, those voting nay and those abstaining. Four (4) members of the Council shall constitute a quorum, but a smaller number may adjourn from time to time and may compel the attendance of absent members in the manner and subject to the penalties prescribed by the rules of the Council. In case of a 3--2 vote with five (5) people on any issue, item would automatically be scheduled for re-consideration for the next Council meeting. No action by the Council can be passed or failed unless four (4) of the Council members present at the meeting vote for its passage or failure. (Amended: 5-7-88)

### **Sec. 3.10. Investigation by Council.**

The Council shall have power to inquire into the conduct of any office, department, agency, officer or employee of the City and to make investigations as to municipal affairs, and for that purpose may subpoena witnesses, administer oaths and compel the production of books, documents, or other tangible evidence. Failure to obey such subpoena or to produce books, documents or other tangible evidence as ordered under the provisions of this section shall constitute a misdemeanor and shall be punishable by fine not to exceed two hundred dollars (\$200.00) and/or dismissal.

### **Sec. 3.11. Official Bonds for City Employees.**

The City Manager, City Secretary and such other city officers and employees as the Council may require, shall, before entering upon the duties of their offices, enter into a good and sufficient fidelity bond in the sum to be determined by the Council payable to the City and conditioned upon a faithful discharge of duties of such persons and upon a faithful accounting for all monies, credits, and things of value coming into the hands of such persons, and such bonds shall be signed as surety by some company authorized to do business under the laws of the

State of Texas, and the premium on such bonds shall be paid by the City, and such bonds must be acceptable to the Council. (Amended: 5-7-88)

### **Sec. 3.12. Independent Annual Audit.**

Not more than sixty (60) days after the end of each fiscal year, the Council shall designate a certified public accountant who, at the end of the next fiscal year, shall make an independent audit of accounts and other evidences of financial transactions of the City Government and shall submit his written report to the Council. He shall be required to make spot check audits at his own discretion or as determined by the Council. Notice of the annual audit and a summary shall be given by publication in some newspaper of general circulation in the City of Mansfield. Such accountant shall have no personal interest, direct or indirect, in the fiscal affairs of the City Government during which time he was retained by the Council. He shall not maintain any accounts or records of the City business, but, within specifications approved by the Council, shall post-audit the books and records of the City. (Amended: 5-7-88)

### **Sec. 3.13. Ordinances in General.**

(a) *Action requiring an ordinance:* In addition to other acts required by law or by specific provisions of this Charter to be done by ordinance.

- (1) Amend or repeal any ordinance previously adopted, except as otherwise provided in Article VII;
- (2) Levy taxes;
- (3) Regulate the rates charged for its services by a public utility;
- (4) Convey, lease or authorize the conveyance or lease of any lands of the City;
- (5) Authorize the borrowing of money;
- (6) Adopt, with or without amendment, ordinances proposed under the initiative power;
- (7) Grant, renew, extend or abolish a franchise. Acts other than those referred to in the preceding sentence may be done either by ordinance or by resolution; and,
- (8) Fees and all other charges shall be passed by ordinance.

(b) *Form.* Every proposed ordinance shall be introduced in writing and in the form required for final adoption. The enacting clause of every ordinance shall be, "Be it ordained by the City Council of the City of Mansfield . . ." The subject of any ordinance shall be clearly stated in its title. Any ordinance which repeals or amends an existing ordinance shall state sections and subsections to be amended or repealed.

(c) *Procedure for adoption:* An ordinance may be introduced at any regular or special meeting of the Council in accordance with rules established by the Council. No ordinance shall be introduced for action except as provided in Section 3.14 (Emergency Ordinances) unless such

ordinance has been posted by title on the agenda for which action is to occur in accordance with State law. Ordinances shall be considered and approved on one reading by the City Council save and except ordinances changing a zoning classification or approving a planned development zoning classification. Ordinances changing a zoning classification or approving a planned development zoning classification shall be considered and approved on two separate readings. The City Attorney shall approve all ordinances adopted by the Council as to legality thereof or shall file with the City Secretary written legal objections thereto. Every ordinance shall be authenticated by the signature of the Mayor or Mayor Pro Tem and the City Secretary. (Amended: 11-3-20)

Except as otherwise provided by law or this Charter, the City Secretary shall give notice of the enactment of every ordinance imposing any penalty, fine or forfeiture for any violation of any of its provisions, and of every other ordinance required by law or this Charter to be published by causing the said ordinance, or its caption and penalty, to be published at least one (1) time within ten (10) days after final passage thereof in a weekly or daily newspaper in general circulation in the City of Mansfield. The affidavit of such publication by the publisher of such newspaper taken before any officer authorized to administer oaths and filed with the City Secretary shall be conclusive proof of the legal publication and promulgation of such ordinance in all courts. Such ordinances shall take effect ten (10) days after the date of such publication provided that any penal ordinance shall take effect immediately upon its publication except as provided in Section 3.14.

A copy of every ordinance and resolution as codified shall be maintained and available for free reference in the office of the City Secretary. (Amended: 5-7-88)

### **Sec. 3.14. Emergency Ordinances.**

The Council may adopt emergency ordinances only to meet public emergencies affecting life, health, property, or the public peace in accordance with State law. In particular, such ordinances shall not levy taxes, grant or renew or extend a franchise, or regulate the rate charged by any public utility for its services. Neither shall they authorize the borrowing of money, except as provided in Article IX. An emergency ordinance shall be introduced in the form and manner generally prescribed for ordinances, except that it shall be plainly designed in the title as an emergency ordinance and shall contain, after the enacting clause, a declaration stating that an emergency exists and describing it in clear and specific terms. An emergency ordinance can be adopted with or without amendment or rejected at the meeting at which it is introduced. The affirmative vote of three (3) members of the Council shall be required for adoption. After adoption, the ordinance shall be published as required for other adopted ordinances, but may become effective immediately upon enactment. (Amended: 5-7-88) (Amended: 11-3-20)

## **ARTICLE IV. ELECTIONS**

### **Sec. 4.01. Nominations and Elections.**

(a) *Regular elections:* The regular City elections will be held annually on the **first Saturday in May unless specifically prescribed by State law**. The Council shall order the election and designate the place for holding such an election. (Amended: 5-7-88)

(b) *Special elections*: The Council may, by ordinance or resolution, order a special election for ordinances, bond issues, charter amendments, filling vacancies in an existing elected office, or any other reason the Council deems necessary. The Council will fix the place and date for holding this type of election which may or may not be held simultaneously with a regular election.

(c) *Publicizing City elections*: It is the responsibility of the Council to inform the voters as to the time, place, date, purpose and filing period for the upcoming City election. Notice shall be given as provided by law. The provisions for absentee balloting shall also be publicized at this time. Sample ballots shall be posted outside the City offices and shall be published in some newspaper of general circulation in the City of Mansfield not less than ten (10) days prior to the election.

(d) *Conduct and regulation of City elections*: All City elections shall be governed by the Constitution of the State of Texas, Election Code of the State, this Charter, and ordinances of the City, in the order named. Municipal elections shall be conducted by the election officials appointed and approved by the Council. Sample ballots identical to the voting format for the specific election shall be posted in the voting place for the benefit of the voters.

(e) *Voter qualification*: All duly qualified electors under the laws of the State of Texas, who are residents of the City, shall be qualified to vote in any City election.

#### **Sec. 4.02. Filing for Office.**

(a) *Eligibility to file for office*: Each candidate for an elective position in the City shall meet the requirements set forth under Article [Section] 3.02 of this Charter.

(b) *Procedure for filing for office*: Any eligible person who desires to become a candidate for election shall file an application with the City Secretary in accordance with state law. Such an application shall clearly designate the office and position to which the candidate seeks election, and shall contain a sworn statement by the candidate that he is fully qualified under the provisions of this Charter to hold the office sought. (Amended: 5-7-88)  
***Amended May, 2008***

(c) *General campaign regulations*: Candidates for office are responsible for familiarizing themselves and complying with all campaign regulations such as: Campaign Manager appointment and expenditure statements prescribed by the Election Code.

The City Secretary may assist candidates with their questions, but has no legal duty to inform candidates, or has any legal authority, other than to act as file clerk for regulatory statements. Questions should be directed to a private attorney or the Election Division of the Secretary of State's Office in Austin.

Failure to comply with certain regulations can subject a candidate's right to have his name placed on the ballot.

#### **Sec. 4.03. Official Ballots.**

(a) *Candidates' names on ballots*: The names of all candidates who have filed for office shall be printed on the official ballots without party designation. The order on the ballot of the

names of the candidates for each office or position shall be determined by lot in a drawing to be held under the supervision of the City Secretary.

(b) *Early balloting*: Early voting shall be governed by the Election Code of the State of Texas.

*Amended May, 2008*

(c) *Write-in votes*: Write in voting shall be permitted in accordance with state law.

*Amended May, 2008*

#### **Sec. 4.04. Determination of Election Results.**

(a) *Canvassing*: Canvassing shall be conducted in accordance with state law.

*Amended May, 2008*

(b) *Majority rules*: The candidates for each place on the ballot who shall have received the majority of votes cast for such place shall be declared elected. In the event that no candidate for a designated office receives a majority of the votes cast for that place in the regular or special election, a runoff election shall be held between the candidates who received the two (2) greatest number of votes for such place. Notwithstanding, the provisions of Section 4.01(c), such a runoff election shall be held in accordance with State law. (Amended: 5-7-88)

#### **Sec. 4.05. Taking Office.**

The City Secretary shall promptly notify all persons elected to office. A candidate who is elected in a special or runoff City election shall, after taking the oath of office, take office, and enter upon his duties as provided in Section 3.01 or at the next Council meeting after the date of the final election.

### **ARTICLE V. RECALL OF OFFICERS**

#### **Sec. 5.01. Recall.**

Any elected City official shall be subject to recall and removal from office by the qualified voters of the City on grounds of incompetency, misconduct or malfeasance in office.

#### **Sec. 5.02. Petitions for Recall.**

Before the question of recall of such officer shall be submitted to the qualified voters of the City, a petition demanding such question to be submitted, shall first be filed with the person performing the duties of City Secretary, which said petition shall be signed by qualified voters of the City equal in number to at least thirty (30) percent of the number of votes cast at the last regular municipal election of the City, but in no event less than one hundred fifty (150) such petitioners. Each signer of such recall petition shall personally sign his name thereto in ink or indelible pencil, and shall write after his name his place of residence, giving name of street and number, or place of residence, and shall also write thereon the day, the month and year his signature was affixed.



**Sec. 5.03. Form of Recall Petition.**

The recall petition mentioned above must be addressed to the Council of the City of Mansfield, must distinctly and specifically point out the ground or grounds upon which such petition for removal is predicated, and, if there be more than one (1) ground, such as for incompetency, misconduct or malfeasance in office, shall specifically state each ground with such certainty as to give the office sought to be removed, notice of the matters and things with which he is charged. The signature shall be verified by oath in the following form:

``State of Texas )  
County of Tarrant/Johnson/Ellis )

I, \_\_\_\_\_, being first duly sworn, on oath depose and say that I am one of the signers of the above petition and that the statements made therein are true and that each signature appearing thereto was made in my presence on the day and date it purports to have been made, and I solemnly swear that the same is the genuine signature of the person whose name it purports to be.

Sworn and Subscribed to before me this \_\_\_\_\_ day of \_\_\_\_\_,  
19\_\_\_\_\_,

\_\_\_\_\_  
Notary Public in and for the State of Texas" (Amended: 5-7-88)

**Sec. 5.04. Various Papers Constituting Petition.**

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

**Sec. 5.05. Presentation of Petition to the Council.**

Within five (5) days after the date of filing of the papers constituting the recall petition, the person performing the duties of city Secretary shall present such petition to the Council of the City of Mansfield at a special meeting called for this purpose.

**Sec. 5.06. Public Hearing to be Held.**

The officer whose removal is sought may, within five (5) days after such recall petition has been presented to the Council, request that a public hearing be held to permit him to present facts pertinent to the charges specified in the recall petition. In this event, the Council shall order

such public hearing to be held, not less than five (5) days nor more than fifteen (15) days after receiving such request for a public hearing.

**Sec. 5.07. Election to be Called.**

If an officer whose removal is sought does not resign, then it shall become the duty of the Council to order an election to be held on the first uniform election date that permits compliance with the requirements of law.

*Amended May, 2008*

**Sec. 5.08. Ballots in Recall Election.**

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

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

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

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

"YES""NO"

**Sec. 5.09. Result of Recall Election.**

If the majority of the voted cast at a recall election shall be "NO" than is against the recall of the person named on the ballot, he shall continue in office for the remainder of his unexpired term, subject to recall as before. If a majority of the votes cast at such an election be "YES" that is for the recall of the person named on the ballot, he shall, regardless of any technical defects in the recall petition, be deemed removed from office and the vacancy be filled as vacancies in the Council are filled, as provided in Section 3.05 of this Charter.

**Sec. 5.10. Recall, Restrictions Thereon.**

No recall petition shall be filed against any officer of the City within six (6) months after his election, nor within six (6) months after an election for such officer's recall. Nothing herein shall prevent impeachment of an officer of the City nor removal for other causes as provided for herein.

**ARTICLE VI. ADMINISTRATIVE SERVICES**

**Sec. 6.01. City Manager.**

(a) *Appointment and qualification:* The Council shall appoint a City Manager who shall be the chief administrative and executive officer of the City and shall be responsible to the Council for the administration of all the affairs of the City. He shall be chosen by the Council solely on the basis of his executive and administrative training, experience, ability and character,

and need not when appointed, be a resident of the City. However, he shall become a resident of the City within six (6) months after appointment unless otherwise specifically excused by the Council.

(b) *Term and salary:* The City Manager shall serve at the will and pleasure of the Council and may be removed from office in accordance with the following procedures:

(1) The Council shall adopt by affirmative vote of four (4) members and may suspend the Manager from duty for a period not to exceed forty-five (45) days. A copy of the resolution shall be delivered promptly to the Manager. (Amended: 11-3-20)

(2) Within five (5) days after a copy of the resolution is delivered to the manager, he may file with the Council a written request for a public hearing. This hearing shall be held at the Council meeting not earlier than fifteen (15) days nor later than thirty (30) days after the request is filed. The manager may file with the Council a written reply not later than five (5) days before the hearing.

(3) The Council may adopt a final resolution of removal, which may be made effective immediately, by affirmative vote of four (4) at any time after five (5) days from the date when a copy of the preliminary resolution was delivered to the Manager, if he has not requested a public hearing, or at any time after the public hearing if he has requested one. (Amended: 11-3-20)

The manager shall continue to receive his salary until the effective date of a final resolution of removal. The action of the Council in suspending or removing the City Manager shall be final; it being the intention of this Charter to vest all authority and fix all responsibility of such suspension or removal in the Council. In case of the absence or disability of the City Manager, the Council may designate some qualified person to perform the duties of the office during such absence or disability. The City Manager shall receive such compensation as may be fixed by the Council. (Amended: 5-7-88)

(c) *Powers and duties:* The powers herein conferred upon the City Manager shall include but shall not be limited to the following:

(1) To appoint and remove any officer or employee of the City except those officers and employees whose appointment or a election is otherwise provided for by law or this Charter.

(2) Prepare and submit the annual budget and a five (5) year capital improvement program to the Council.

(3) Submit to the Council monthly a report on the finances and administrative activities of the City and a complete report as of the end of each fiscal year.

(4) Provide each Department Head with a financial report of his department monthly.

(5) Attend all meetings of the Council except when excused by Council.

(6) To perform such other duties as may be prescribed by this Charter or required of him by the Council, not inconsistent with provisions of this Charter.

## **Sec. 6.02. Other Departments, Boards, and Commissions.**

The Council, after obtaining the City Manager's recommendation, may abolish or consolidate such offices and departments as it may deem to be in the best interest of the City, and may divide the administration of any such departments as it may deem advisable; may create new departments, and may discontinue any offices or departments at its discretion.

The Council shall create, establish, or appoint, as may be required by law, circumstances, or this Charter, those boards, commission, and committees which are deemed necessary to carry out the functions and obligations of the City. The Council shall prescribe accountability and tenure of each board, commission, and committee where such are not prescribed by law or this Charter. The Council shall also prescribe the purpose, composition, function, and duty of each board, committee, or commission where such are not prescribed by law or this Charter.

## **Sec. 6.03. City Secretary**

(a) *Selection.* The City Council shall appoint a person who is an officer of the City and who shall have the title of City Secretary. The City Secretary holds office at the will and pleasure of the city council and the city council has sole authority to remove the city secretary.

(b) *Responsibilities.* The City Secretary shall:

- (1) give notices of City Council meetings;
- (2) keep the journal of the City Council's proceedings;
- (3) authenticate by the City Secretary's signature, record in full, and index all ordinances and resolutions; and
- (4) perform such other duties as the City Council assigns, as provided for elsewhere in this Charter, and as established by state law.

(Added: 11-3-20)

## **ARTICLE VII. LEGISLATION BY THE PEOPLE, INITIATIVE AND REFERENDUM**

### **Sec. 7.01. General Power.**

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

### **Sec. 7.02. Initiative.**

Qualified voters of the City may initiate legislation by submitting a petition addressed to the Council which requests the submission of a proposed ordinance or resolution to a vote of the qualified voters of the City. Said petition must be signed by qualified voters of the City equal in number to at least thirty (30) percent of the number of votes cast at the last regular municipal election of the City, but in no event less than one hundred fifty (150) such petitioners. Each copy of the petition shall have attached to it a copy of the proposed legislation. The petition shall be

signed in the same manner as recall petitions are signed, as provided in Section 5.02 of this Charter, and shall be verified by oath in the manner and form provided by recall petitions in Section 5.03 of this Charter. The petition may consist of one (1) or more copies as permitted for recall petitions in Section 5.04 of this Charter. Such petition shall be filed with the person performing the duties of City Secretary. At the next regular Council meeting after the filing of such petition, the person performing the duties of City Secretary shall present said petition and proposed ordinance or resolution to the Council. Upon presentation of the petition and draft of proposed ordinance or resolution, it shall become the duty of the Council, within ten (10) days after the receipt thereof, to pass and adopt such ordinance or resolutions without alteration as to meaning or effect in the opinion of the persons filing the petition, or to call a special election, to be held on the first uniform election date that permits compliance with the requirements of law, at which the qualified voters of the City shall vote on the question of adopting or rejecting the proposed legislation. However, if any other municipal election is to be held within sixty (60) days after the filing of the petition, the question may be voted on at such election.

*Amended May, 2008*

### **Sec. 7.03. Referendum.**

Qualified voters of the City may require that any ordinance or resolution, with the exception of ordinances or resolutions authorizing the issuance of either tax or revenue bonds whether original or refunding, levying taxes, or appropriate money, passed by the Council be submitted to the voters of the City for approval or disapproval, by submitting a petition for this purpose within ninety (90) days after final passage of said ordinance or resolution, or within ninety (90) days after its publication. Said petition shall be addressed, prepared, signed and verified as required for petitions initiating legislation as provided in Section 7.02 of this Charter and shall be submitted to the person performing the duties of City Secretary. Immediately upon the filing of such petition, the person performing the duties of City Secretary shall present said petition to the Council. Thereupon the Council shall immediately reconsider such ordinance or resolution and, if it does not entirely repeal the same, shall submit it to popular vote as provided in Section 7.02 of this Charter. Until such ordinance or resolution is approved by the voters as herein provided, the ordinance or resolution specified in the petition shall not go into effect, or further action thereunder shall be suspended if it shall have gone into effect.

### **Sec. 7.04. Voluntary Submission of Legislation by the Council.**

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

### **Sec. 7.05. Form of Ballots.**

The ballots used when voting upon such proposed and referred ordinances, resolutions, or measure, shall set forth their nature sufficiently to identify them and shall also set forth upon separate lines the words:

"FOR THE ORDINANCE," and  
"AGAINST THE ORDINANCE," or

"FOR THE RESOLUTION" and  
"AGAINST THE RESOLUTION."

**Sec. 7.06. Publication of Proposed and Referred Ordinance.**

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

**Sec. 7.07. Adoption of Ordinances.**

If a majority of the qualified voters voting on a proposed ordinance or resolution or measure shall vote in favor thereof, it shall thereupon, or at any time fixed therein, become effective as a law or as a mandatory order to the Council.

**Sec. 7.08. Inconsistent Ordinances.**

If the provisions of two (2) or more proposed ordinances or resolutions approved at the same election are inconsistent, the ordinance or resolution receiving the highest number of votes "FOR" or "AGAINST" shall prevail.

**Sec. 7.09. Ordinances Passed by Popular Vote, Repeal of Amendment.**

No ordinance or resolution which may have been passed by the Council as a result of popular vote under the provisions of this article shall be repealed or amended except in response to a referendum vote or by submission as provided in Section 7.03 of this Charter.

**Sec. 7.10. Ordinances by the Council (Further Regulations).**

The Council may pass ordinances or resolutions providing other and further regulations for carrying out the provisions of this article not inconsistent herewith.

**Sec. 7.11. Franchise Ordinances.**

Nothing contained in this article shall be construed to be in conflict with any of the provisions of Article II of this Charter, pertaining to ordinances granting franchises when valuable rights have accrued thereunder.

**ARTICLE VIII. LEGAL AND JUDICIAL SERVICES**

**Sec. 8.01. Municipal Court.**

There shall be established and maintained a court designated as the Municipal Court of the City of Mansfield for the trial of misdemeanor offenses, with all such powers and duties as are now or hereafter may be prescribed by laws of the State of Texas relative to Municipal Courts.

**Sec. 8.02. Judge of the Municipal Court.**

The Judge of said Court shall be appointed by the Council. Said Judge shall receive such salary as may be fixed by the Council. In case of the disability or absence of the Judge of the Municipal Court, the Council shall appoint a temporary Municipal Court judge, to fill the unexpired term. The Judge of said court shall be appointed to a two (2) year term. The Judge of the Municipal Court may be removed for cause, after a hearing, by a majority vote of the Councilmen qualified and serving.

**Sec. 8.03. Clerk of the Municipal Court.**

In accordance with state law, the City shall appoint a clerk of the Municipal Court. The Clerk of said Court and his deputies shall have the power to administer oaths and affidavits, make certificates, affix the seal of said Court thereto and generally do and perform any and all acts usual and necessary by the Clerk of Courts in issuing process of said Courts and conducting the business thereof.

*Amended May, 2008*

**Sec. 8.04. Associate Judges of the Municipal Court.**

The Council shall be empowered to appoint Associate Judges of the Municipal Court to serve under the direction of the Judge of the Municipal Court. An Associate Judge shall bear all powers and duties as are now or hereafter may be prescribed by laws of the State of Texas relative to Municipal Courts. (Amended: 5-7-88)

**Sec. 8.05. City Attorney.**

The City Council shall appoint a competent and duly qualified and licensed attorney in the State of Texas who shall serve as the City Attorney. (Amended: 11-3-20)

(a) *The City Attorney shall be required to:*

- (1) Serve as the legal advisor to the Council and to the City Manager;
- (2) Represent the City in litigation and legal proceedings;
- (3) Review and provide opinions as requested by the Council or by the City Manager on contracts, legal instruments, and ordinances of the City.

(b) *Limitation:* This Section shall not be a constraint upon the right of the Council to retain special counsel at any time that the Council may deem necessary and appropriate.

(c) *Compensation:* Compensation shall be fixed by contract with approval of Council or by appointment subject to the approval of Council. (Amended: 5-7-88)

## ARTICLE IX. MUNICIPAL FINANCE

### Sec. 9.01. Fiscal Year.

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

### Sec. 9.02. Submission of Budget.

The City Manager shall, not less than sixty (60) days prior to the close of fiscal year, prepare and submit to the Council a proposed balanced budget for the ensuing fiscal year as outlined in Section 9.03 of this Charter. A copy shall be filed with the City Secretary for public inspection.

### Sec. 9.03. Budget.

(a) *Budget message:* A budget message explaining the budget both in fiscal terms and in terms of the work programs shall be submitted with the budget. It shall outline the proposed financial programs of the City for the ensuing fiscal year, the capital program, the capital projects for five (5) fiscal years succeeding the budget year. It shall describe the important features of the budget and indicate any major changes from the current year in financial policies, expenditures, and revenues including the reasons for such changes. It shall also summarize the City's debt position and contain such other materials or information as the City Manager deems desirable.

(b) *Budget scope:* The budget shall provide a complete financial plan of all City funds and activities and, except as required by law or this Charter, shall be in such form as the City Manager deems desirable or the Council may require. The budget shall be so arranged as to show comparative figures for actual and budgeted income and expenditures for the preceding fiscal year; budgeted and estimated income and expenditure for the current fiscal year; and estimated income and expenditures for the next fiscal year. The total of proposed expenditures for the budgeted year shall not exceed the total of the established income and surplus.

(c) *Content:* The budget shall contain in separate sections the following:

- (1) A clear general summary of contents;
- (2) A consolidated statement of receipts and expenditures of all funds, listed and itemized individually;
- (3) An analysis and itemization of all estimated income of the City from surplus, miscellaneous income and taxes with miscellaneous income subclassified by sources;
- (4) Tax rates schedule for proposed budget as well as tax rates and collections for the preceding five (5) years;
- (5) An itemized statement of expenditures for pending and proposed new capital projects. Included shall be the amounts appropriated from the budget, the amounts to be raised by issuance of bonds, and the amount required for down payment;



(6) The amount required for sinking funds, for maturing serial bonds, and for interest on the City's debts;

(7) The total amount of the City's outstanding debts, with a schedule of maturity on bond issues in an attachment;

(8) A detailed estimate of the operating expenses of each department, office or agency;

(9) Statement of estimated net surplus or deficit for the ensuing fiscal year of each utility owned and operated by the City. A subsidiary budget for each utility shall be included giving details of income and expenditures;

(10) Such other information as is required by the Council or deemed desirable by the City Manager;

(11) A contingency fund may be included not to exceed five (5) percent of the general fund proposed expenditure; and

(12) Such dedicated reserves as may be required.

#### **Sec. 9.04. Public Notice and Hearing of Budget.**

The Council shall post in City office and publish in a newspaper of general circulation in the City, the budget message of the proposed budget with a notice stating:

(1) The time and places where copies of the message and proposed budget are available for inspection by the public.

(2) The time and place, not less than two (2) weeks after publication, for a public hearing of the budget.

#### **Sec. 9.05. Council Action on Budget.**

(a) The Council shall hold a public hearing on the budget as submitted at the time and place so advertised in accordance with Section 9.04. All interested persons shall be given an opportunity to be heard either for or against any item or items of the proposed budget.

(b) After a public hearing, the Council may increase or decrease items of the budget, except those items in proposed expenditures fixed by law. In no case shall the Council increase the total proposed expenditures unless it has provided for an increase of anticipated revenue to maintain a balanced budget.

(c) After a public hearing the Council may adopt the budget with or without amendment with an affirmative vote of a majority of the entire Council. Adoption of the budget shall constitute appropriation of the amounts specified therein as expenditures from the funds indicated, and shall constitute a levy of the Property Tax therein proposed.

### **Sec. 9.06. Failure to Adopt Budget.**

If the Council fails to adopt the budget by the fifteenth day of September, the amounts appropriated for operating during the current fiscal year shall be deemed adopted for the ensuing fiscal year on a month-to-month basis, with all items in it prorated accordingly, until such time as the Council adopts a budget for the ensuing fiscal year. The levy of property tax normally approved as part of the budget adoption will be set such that the tax receipts for the budgeted year shall equal the tax receipts of the current fiscal year.

### **Sec. 9.07. Public Records.**

Copies of the approved budget, capital improvement program, and supporting papers shall be filed with the City Secretary and shall be public records available to the public upon request.

### **Sec. 9.08. Budget Established Taxation.**

From the effective date of the budget, the amount stated therein as the amount to be raised by property tax shall constitute a determination of the amount of the levy for the purposes of the City, in the corresponding tax year; provided the levy does not exceed legal limits provided by the laws of the State of Texas.

A certified copy of the budget tax schedule shall be filed with the tax office, board, or commission whose duty it shall be to levy such taxes for the corresponding tax year.

### **Sec. 9.09. Amendments After Adoption.**

(a) *Supplemental appropriations:* If during the fiscal year the City Manager certifies that there are available for appropriation revenues in excess of those estimated in the budget, the Council may carry the excess into the next fiscal year or by resolution may make supplemental appropriations to retire indebtedness or to fund emergency appropriations as described in Section 9.09(b).

(b) *Emergency appropriations:* To meet a public emergency affecting life, health, property or the public peace, the Council may make emergency appropriations. Such appropriations may require emergency notes, which may be renewed from time to time, but the emergency notes and renewals of any fiscal year shall be paid not later than the last day of the fiscal year in which the emergency appropriation was made.

(c) *Reduction of appropriations:* If at any time during the fiscal year it appears probable to the City Manager that the revenues available will be insufficient to meet the amount appropriated, he shall report to the Council without delay, indicating the estimated amount of deficit, any remedial action taken by him and his recommendations as to any other steps to be taken. The Council shall then take such further action that it deems necessary to prevent or minimize any deficit.

(d) *Transfer of appropriations:* At any time during the fiscal year the City Manager may transfer part or all of any unencumbered appropriation balance among programs within a department, office or agency. The Council may require their approval of these transfers within

departments above a limit they wish to establish. Upon written request by the City Manager, the Council only may approve transfer of part or all of any unencumbered appropriation balance from one (1) department, office or agency to another.

(e) *Limitations*: No appropriation for debt service may be reduced or transferred, and no appropriation may be reduced below any amount required by law to be appropriated or by more than the amount of the unencumbered balance.

(f) *Effective date*: The supplemental and emergency appropriations and reduction or transfer of appropriations authorized by this section may be made effective immediately upon adoption or resolution by the Council.

### **Sec. 9.10. Capital Program.**

The City Manager shall submit a five (5) year capital program as an attachment to the annual budget. The program as submitted shall include:

- (a) A clear general summary of its contents;
- (b) A list of all capital improvements which are proposed to be undertaken-during the five (5) fiscal years succeeding the budget year, with appropriate supporting information as to the necessity for such improvements;
- (c) Cost estimates, method of financing and recommended time schedules for each such improvement; and
- (d) The estimated annual cost of operating and maintaining the facilities to be constructed or acquired.

The above information may be revised and extended each year with regard to capital improvements still pending or in process of construction or acquisition. (Amended: 5-7-88)

### **Sec. 9.11. Lapse of Appropriations.**

Every appropriation, except an appropriation for a capital expenditure, shall lapse at the close of the fiscal year to the extent that it has not been expended or encumbered. An appropriation for a capital expenditure shall continue in force until the purpose for which it was made has been accomplished or abandoned; the purpose of any such appropriation shall be deemed abandoned if three (3) years pass without any disbursement from or encumbrance of the appropriation.

### **Sec. 9.12. Administration of Budget.**

(a) *Payments and obligations prohibited*: No payment shall be made or obligation incurred against any allotment or appropriation except in accordance with appropriations duly made and unless the City Manager or his designee first certifies that there is a sufficient unencumbered balance in such allotment or appropriation that sufficient funds are or will be available to cover the claim or meet the obligation when it becomes due and payable. Any authorization of payment or incurring obligation in violation of the provisions of this Charter

shall be void and any payment so made illegal. Such action shall be cause for removal of any officer who knowingly authorized or made such payment or incurred such obligations, and he shall be liable to the City for any amount so paid. However, this prohibition shall not be construed to prevent the making or authorizing of payments or making of contracts for capital improvements to be financed wholly or partly by the issuance of bonds, certificates of obligations, or grants from other governmental bodies, or to prevent the making of any contract or lease providing for payments beyond the end of the fiscal year, provided that such action is made or approved by ordinance. All disbursements above a limit set by Council shall designate those authorized to sign the disbursements.

(b) *Financial reports:* The City Manager shall submit to the Council each month a report covering the financial condition of the City.

(c) *Annual audit:* An annual audit shall be performed by a competent certified public accounting firm as provided in Article [Section] 3.12.

### **Sec. 9.13. Borrowing.**

(a) *The right to borrow:* The City shall have the right and power, except as prohibited by law, to borrow money by whatever method it may deem to be in the public interest and in accordance with laws of the State of Texas.

(b) *General obligation bonds:* The City shall have the power to borrow money on the credit of the City and to issue general obligation bonds for permanent public improvements or for any other public purpose not prohibited by law, and to issue refunding bonds to refund outstanding bonds previously issued.

(c) *Revenue bonds:* The City shall have the power to borrow money for the purpose of constructing, purchasing, improving, extending, or repairing of public utilities, recreational facilities or any other self-liquidating municipal function not prohibited by law, and to issue revenue bonds to evidence the obligation created. Such bonds shall be a charge upon and payable from any or all City properties or interest pledged, or the income from the City properties, or both. The holders of the revenue bonds shall never have the right to demand payment out of monies raised or to be raised by taxation.

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

### **Sec. 9.14. Purchasing.**

The Council may confer upon the City Manager general authority to contract for expenditures without further approval of the Council for all budgeted items not exceeding limits set by Council or State law. All contracts for expenditures involving more than the set limits must be approved by the Council. All contracts or purchases involving more than the limits set, shall be let as provided by law or ordinance; provided that the Council, or City Manager in such cases as he is authorized to contract for the City, shall have the right to reject any and all bids.

Emergency contracts as authorized by law may be negotiated by the Council, or City Manager if given authority by the Council, without competitive bidding. Such emergency shall be declared by the City Manager and approved by Council or may be declared by Council.

*Amended May, 2008*

**Sec. 9.15. Power to Tax.**

The Council shall have the power to levy, assess and collect an annual tax upon real and personal property within the City to the maximum provided by the Constitution and general laws of the State of Texas. The Council shall also have the power to levy such additional taxes as now or hereafter may be authorized by the State of Texas.

**Sec. 9.16. Property Subject to Tax, Method of Assessment.**

All real and personal property within the City of Mansfield, not expressly exempted by law, shall be subject to annual taxation as provided herein except as may be required by State law. (Amended: 5-7-88)

**Sec. 9.17. Taxes--When Due and Payable.**

All taxes due the City of Mansfield shall be payable at the office of the City Tax Assessor-Collector and may be paid at any time after the tax rolls for the year have been completed and approved, which shall be not later than October 1st. Taxes shall be paid on or before January 31st and all such taxes not paid on or prior to such date shall be deemed delinquent and shall be subject to such penalty and interest as prescribed by State statute. The Council may provide further by ordinance that all taxes, either current or delinquent, due the City of Mansfield, may be paid by installments. Failure to levy and assess taxes through omission in preparation of the approve tax roll shall not relieve the person, firm or corporation so omitted from obligation to pay such current or past due taxes as shown to be payable by recheck of the rolls and receipt for the years in question. (Amended: 5-7-88)

**Sec. 9.18. Tax Liens.**

The tax levied by the City is hereby declared to be a lien, charge, or encumbrance upon the property as of January 1st of each year, upon which the tax is due, which lien, charge or encumbrance the City is entitled to enforce and foreclose in any court having jurisdiction over the same, and the lien, charge or encumbrance on the property is such as to give the State Courts jurisdiction to enforce and foreclose said lien on the property on which the tax is due, not only as against any resident of this State or person whose residence is unknown, but as against nonresidents. All taxes upon real estate shall especially be a lien and a charge upon the property upon which the taxes are due, and such lien may be foreclosed in any court having jurisdiction. Such lien shall be, prior to all other claims, and no gift, sale, assignment or transfer of any kind, or judicial writ of any kind, can ever defeat such lien.

In addition to the liens herein provided, on the first day of January of any year the owner of real and personal property subject to taxation by the City shall be personally liable for the taxes due thereon for such year. The City shall have the power to sue for and recover personal judgment for taxes without foreclosure, or to foreclose its lien or liens, or to recover both personal judgment and foreclosure. In any such suit where it appears that the description of any

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

## **ARTICLE X. PLANNING AND ZONING**

### **Sec. 10.01. The Planning and Zoning Commission.**

There shall be established a Planning and Zoning Commission, which shall consist of seven (7) residents from the City of Mansfield. The members of said Commission shall be appointed by the Council for a term of two (2) years. Three (3) members of the Planning and Zoning Commission shall be so appointed each odd-numbered year and for (4) members shall be appointed each even-numbered year. The Commission shall elect a chairman from among its membership and shall meet not less than once each month. Vacancies and unexpired terms shall be filled by the Council for the remainder of the term. A majority of the members shall constitute a quorum. Members of the Commission may be removed with the consent of a majority of the Council and for cause set forth in writing. A member may request a public hearing within five (5) days of notice of removal by the Council, said hearing to be scheduled not less than ten (10) nor more than thirty (30) days after said notice. (Amended: 11-3-20)

The Commission shall keep minutes of its proceedings which shall be of public record. The Commission shall serve without compensation. (Amended: 5-7-88)

*Amended May, 2008*

### **Sec. 10.02. Powers and Duties.**

The Planning and Zoning Commission shall:

- (a) Recommend a City Plan for the physical development of the City,
- (b) Recommend to the Council approval or disapproval of proposed changes in the zoning plan, and
- (c) Exercise control over platting or sub-dividing land within the corporate limits of the City and outside said corporate limits to the extent authorized by law.

The Commission shall be responsible to and act as an advisory body to the Council and shall have and perform such additional duties as may be prescribed by ordinance.

### **Sec. 10.03. The Master Plan.**

The master plan for the physical development of the City of Mansfield shall contain the Commission's recommendations for growth, development and beautification of the City. A copy of the master plan, or any part thereof, shall be forwarded to the Council, which may adopt this plan in whole or in parts, and may adopt any amendments thereto after at least, one (1) public hearing on the proposed action. The Council shall act on such plan, or part thereof, within sixty (60) days following its submission. If such plan, or part thereof, shall be rejected by the Council,

the Commission may modify such plan, or part thereof, and again forward it to the Council for consideration.

All amendments to the master plan recommended by the Commission shall be submitted in the same manner as outlined above to the Council for approval and all recommendations affecting the master plan shall be accompanied by a recommendation from the Planning and Zoning Commission.

#### **Sec. 10.04. Legal Effect of the Master Plan.**

Upon the adoption of a master plan by the Council, no subdivision, street, park or any public way, ground or space, public building or structure, or public utility whether publicly or privately owned, which is in conflict with the master plan shall be constructed or authorized by the City until and unless the location and extent thereof shall have been submitted to and approved by the Commission. In case of disapproval, the Commission shall communicate its reasons to the Council, which shall have the power to over-rule such disapproval, and upon such over-ruling, the Council shall have power to proceed. The widening, narrowing, re-locating, vacating or change in the use of any street, alley or public way, or ground or the sale of any public building, or real property, shall be subject to similar submission and approval by the Planning and Zoning Commission and failure to approve may be similarly overruled by the Council.

### **ARTICLE XI. FRANCHISES AND PUBLIC UTILITIES**

#### **Sec. 11.01. Powers of the City.**

In addition to the City's power granted elsewhere in this Charter, the City shall have the power to buy, own, sell, construct, lease, maintain, and operate public service within or without the City limits and to manufacture, distribute and sell the output of such service operation within or without the City limits. The City shall have such regulatory and other power as may now or hereafter be granted under the Constitution and Laws of the State of Texas. Public service shall include utilities or service to the public of every character.

#### **Sec. 11.02. Power to Grant Franchise.**

The Council shall have power by ordinance to grant, amend, renew and extend, all franchises of all public utilities of every character operating within the City of Mansfield. All ordinances granting, amending, renewing, or extending franchises for public utilities shall be read at two (2) separate regular meeting of the Council, and shall not be finally passed until twenty-eight (28) days after the first reading, and no such ordinance shall take effect until thirty (30) days after its final passage; and pending such time, the full text of such ordinance shall be published once each week for three (3) consecutive weeks in a newspaper of general circulation in the City of Mansfield; and the expense of such publication shall be borne by the proponent of the franchise. No franchise shall be for an indeterminant period nor be transferable except with the approval of the Council expressed by ordinance.

**Sec. 11.03. Franchise Value not to be Allowed.**

No value shall be assigned to any franchise granted by the City of Mansfield under this Charter in fixing reasonable rates and charges for utility service within the City and in determining the just compensation to be paid by the City for public utility property which the City may acquire by condemnation or otherwise.

**Sec. 11.04. Right of Regulation.**

All grants, renewals, extensions, or amendments of public utility franchises, whether it be so provided in the ordinance or not, shall be subject to the right of the City:

(a) To repeal the same by ordinance at any time for failure to begin construction or operation within the time prescribed or for failure otherwise to comply with the terms of the franchise, such power to be exercised only after due notice and hearing.

(b) To require an adequate and reasonable extension of plant and service, and the maintenance of the plant and fixtures at the standard necessary to render the highest reasonable quality of utility service to the public.

(c) To establish reasonable standards of service and quality of products and prevent unjust discrimination in service or rates.

(d) (1) To prescribe the form of accounts kept by each such utility; provided, that if the utility shall keep its accounts in accordance with the uniform systems of accounts for said utility prescribed by the National Association of Railroad and Public Utility Commissioners, the Federal Power Commission, the Federal Communications Commission, the Railroad Commission of Texas, or their successors, or other State or federal utility regulating agencies, this shall be deemed sufficient compliance with this paragraph.

(2) At any time to examine and audit the accounts and other records of any such utility and to require annual and other reports, including reports on local operations by each such public utility.

(e) To impose such reasonable regulations and restrictions as may be deemed desirable or conducive to safety, welfare, and accommodation of the public.

(f) To require the franchise to restore at the franchisee's expense, all public or private property to a condition equally as good as or better than before disturbed by construction, repair or removal.

(g) To require every franchisee to furnish within a reasonable time to the City, without cost to the City, a general map, with updates outlining the location, character, size length, and terminals of all facilities of such franchisee in, over, and under ground of property in the City and to provide detailed information on request.



**Sec. 11.05. Grant not to be Exclusive.**

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

**Sec. 11.06. Consent of Property Owners.**

The consent of abutting and adjacent property owners shall not be required for the construction, extension, maintenance or operation of any public utility; but nothing in this Charter or in any franchise granted thereunder shall ever be construed to deprive any such property owner of any right of action for damage or injury to his property as now or hereafter provided by law.

**Sec. 11.07. Extensions.**

All extensions of public utilities within the City limits shall become a part of the aggregate property of the public utility, shall be operated as such, and shall be subject to all the obligations and reserved rights contained in this Charter and in any original grant thereafter made. The right to use and maintain any extension shall terminate with the original grant and shall be terminable as provided in Section 11.04 of this Charter. In case of an extension of a public utility operated under a franchise hereafter granted, such right shall be terminated at the same time and under the same conditions as the original grant.

**Sec. 11.08. Temporary Permits.**

Permits unconditionally revocable at the will of the Council for minor or temporary privileges in the streets, public ways and public places of the City may be granted and revoked by resolution from time to time, and such permits shall not be deemed franchises as the term is used in this Charter. (Amended: 5-7-88)

**Sec. 11.09. Other Conditions.**

All franchises heretofore granted are recognized as contracts between the City and the grantee, and the contractual rights as contained in any such franchises shall not be impaired by the provisions of this Charter, except that the power of the City to exercise the right of eminent domain in the acquisition of any utility property is in all things reserved, and except the general power of the city heretofore existing and herein provided for to regulate the rates and services of a utility, which shall include the right to require adequate and reasonable extension of plant and service and the maintenance of the plant fixtures at the standard necessary to render the highest reasonable quality of utility service to the public. Every public utility franchise hereafter granted shall be held subject to all the terms and conditions contained in the various sections of this article whether or not such terms are specifically mentioned in the franchises. Nothing in this Charter shall operate to limit in any way, as specifically stated, the discretion of the Council or the electors of the City in imposing terms and conditions as may be reasonable in connection with any franchise grant including the right to require such compensation or rental as may be permitted by the laws of the State of Texas.

### **Sec. 11.10. Franchise Records.**

Within six (6) months after this Charter takes effect, every public utility and every owner of public utility franchise shall file with the City, as may be prescribed by ordinance, certified copies of all franchises owned or claimed, or under which utility is operated in the City. The City shall compile and maintain a public record of public utility franchises.

### **Sec. 11.11. Accounts of Municipally Owned Utilities.**

Accounts shall be kept for each public utility owned or operated by the City, in such manner as to show the true and complete financial results of such City ownership and operation, including all assets, appropriately subdivided into different classes, all liability subdivided by classes, depreciation reserve, other reserves, and surplus; also revenues; operating expenses including depreciation interest payments, rental, and other disposition of annual income. The accounts shall show the actual capital cost to the City of each public utility owned, also the cost of all extensions, additions, and improvements and the source of the funds expended for such capital purposes. They shall show as nearly as possible the cost of any service furnished to or rendered by any such utility to any other City or governmental department. The Council shall annually cause to be made by a certified public accountant, and shall publish a report showing the financial condition of said public utility and the financial results of such City ownership and operation, giving the information specified in this section and such additional data as the Council shall seem expedient.

### **Sec. 11.12. Sale of Public Services.**

(a) The Council shall have the power and authority to sell and distribute any public service to any person, firm or corporation outside the limits of the City and to permit them to connect with said system under contract with the City under such terms and conditions as may appear to be for the best interests of the City.

(b) The Council shall have the power and authority to prescribe the kind of materials used within or beyond the limits of the City where it furnishes the service, and to inspect the same and require them to be kept in good order and condition at all times and to make such rules and regulations, as shall be necessary and proper, and prescribe penalties for noncompliance with same.

### **Sec. 11.13. Regulation of Rates.**

The Council shall have full power after notice and hearing to regulate by ordinance the rates, charges and fares of every public utility franchise holder operating in the City, provided that no such ordinance shall be passed as an emergency measure.

(a) The Council, upon receiving a request from a public service desiring a change in rates, charges or fares, shall call a meeting for consideration of such change.

(b) The public service shall show the necessity for such change by establishing by clear, competent and convincing evidence:

(1) Cost of its investment property allocable to service in the City;

(2) Amount and character of its expenses and revenues connected with the rendering of such service; and

(3) Any additional evidence required by Council.

(c) The Council may, if not satisfied with the sufficiency of the legal evidence furnished by the public service, select and employ rate consultants and auditors to investigate and [any] requests or changes in rates, charges or fares. The public service shall reimburse the City for fifty (50) percent of its reasonable and necessary expenses incurred.

(d) The public service may, if not satisfied with the rate, charge or fare ordered by Council, make a motion for rehearing within twenty (20) days of the entry of such order. Such motion will be deemed overruled if not acted upon by the Council within thirty (30) days, provided that the Council may by resolution extend such time for action on the motion to a maximum of sixty (60) days.

(e) No public service may institute legal action contesting such rate, charge or fare fixed by the Council until such public service has exhausted remedies provided herein.

## **ARTICLE XII. GENERAL PROVISIONS**

### **Sec. 12.01. Publicity of Records.**

All records and accounts of every office, department, or agency of the City shall be open to inspection by any citizen or by any representative of the press at all reasonable times and under such reasonable regulations as may be established by the Council, provided that police records and vital statistic records, and any other records closed to the public by law, shall not be considered records for the purpose of this section.

### **Sec. 12.02. Personal Financial Interests.**

(a) Any City officer, appointee, or employee who has a substantial financial interest, direct or indirect, or by reason of ownership of stock in any corporation, in any contract with the City or in the sale of any land, material, supplies, or services to the City or to a contractor supplying the City shall make known that interest to the Council and refrain from voting upon or otherwise participating in his capacity as a City officer, appointee, or employee in the making of such sale or in the making or performance of such contract. Any City officer, appointee, or employee who conceals such a substantial financial interest or violates the requirements of this section shall be guilty of malfeasance in office or position and shall forfeit his office or position. Violation of this section with the knowledge express or implied of the person or corporation contracting with or making sale to the City shall render the contract or sale voidable by the City Manager or the Council.

(b) When ownership of stock in a corporation is involved, such stock ownership in an amount in excess of one (1) percent of the stock of such corporation shall constitute substantial interest.

**Sec. 12.03. Prohibitions.**

*(a) Activities prohibited:*

(1) In appointments to and removal from any City office or employment, persons shall not be favored or discriminated against because of race, sex, religion, age, national origin or handicap. (Amended: 5-7-88)

(2) No person who seeks appointment or promotion with respect to any City position or appointive City administrative office shall directly or indirectly give, render or pay any money, service or other valuable thing to any person for or in connection with his test, appointment, proposed appointment, promotion or proposed promotion.

(3) No City official or employee, elected or appointed, shall orally, by letter, or otherwise solicit or assist in soliciting any assessment, subscription or contribution for any political party or political purpose whatever from any subordinate City official or employee holding any compensated City position.

(4) No person who holds any compensated City position shall solicit or receive any contribution to the campaign funds of any candidate for municipal office or take part in the management, affairs, or political campaign of any municipal candidate, unless specifically permitted by state law.

*Amended May, 2008*

(5) A person who holds any compensated City position shall not engage in political activity relating to a campaign for an elective office while in uniform or on active duty.

*Amended May, 2008*

(6) For purposes of this section, a person engages in political activity if the person:

1. Makes a public political speech supporting or opposing a candidate;
2. Distributes a card or other political literature relating to the campaign of a candidate;
3. Wears a campaign button;
4. Circulates or signs a petition for a candidate;
5. Solicits votes for a candidate; or
6. Solicits campaign contributions for a candidate.

*Amended May, 2008*

(7) While out of uniform and not on duty a person who holds any compensated City position may engage in political activity, including each activity listed in Section 12.03(5).

*Amended May, 2008*

(b) *Penalties:* Any person who by himself or with others violates any of the provisions or paragraphs (1) through (3) of the preceding subsection (a) shall be guilty of a misdemeanor and upon conviction thereof shall be punishable by a fine of not more than one hundred dollars (\$100.00). Any person who by himself or with others violates any of the provisions of paragraph (4) of the preceding subsection (a) shall be guilty of an offense and upon conviction thereof shall be punishable by a fine of not more than one hundred dollars (\$100.00). Any person convicted under this section shall be ineligible for a period of five (5) years thereafter to hold any City office or position and, if an officer or employee of the City, shall immediately forfeit his office or position.

#### **Sec. 12.04. Nepotism.**

No person related within the second degree by affinity, or within the third degree by consanguinity to any elected officer of the City, or to the City Manager, shall be appointed to any office, position or clerkship or other service of the City. This prohibition shall not apply, however, to any person who shall have been continuously employed by the City for a period of two (2) years prior to the election of the Councilman or appointment of the City Manager so related to him.

#### **Sec. 12.05. Assignment, Execution and Garnishment.**

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

#### **Sec. 12.06. Security and Bonds.**

It shall not be necessary in any bond, undertaking, or security to be demanded or executed by or on behalf of said City in any of the State Courts, but in all such actions, suits, appeals, or proceedings, same shall be conducted in the same manner as if such bond, undertaking or security had been given as required by law.

#### **Sec. 12.07. Damage Suits.**

Before the City shall be liable to damage claim or suit for personal injury, or damage to property, the person who is injured or whose property is damaged or someone in his behalf shall give the City Manager or the person performing the duties of City Secretary, notice in writing duly verified within thirty (30) days after the occurrence of the alleged injury, or damage, stating specifically in such notice when, where and how the injury or damage was sustained, and setting forth the extent of the injury or damage as accurately as possible. No action at law for damages shall be brought against the City for personal injury or damage to property prior to the expiration of thirty (30) days after notice herein-before described has been filed with the City Manager or the person performing the duties of City Secretary and not later than two (2) years after the occurrence of the injury or damage to property. In case of injuries resulting in death, before the

City shall be liable in damages therefor the person or persons claiming such damages shall after the death of the injured person give notice as above required in case of personal injury, provided however, that nothing herein contained shall be construed to mean that the City waives any rights, privileges, defense or immunities in tort actions which are provided under the common law, the Constitution and General Laws of the State of Texas. The notice herein required shall be waived only by appropriate resolution of the Council.

**Sec. 12.08. Welfare and/or Pension Plan for City Employees.**

The council shall have the power exercisable in its discretion, and subject to such limitations and regulations as it shall deem proper to create, operate, amend, and contract for a welfare and/or pension plan for any or all City employees.

**Sec. 12.09. Separability Clause.**

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

**Sec. 12.10. Effect of Charter on Existing Law.**

All ordinances, resolutions, rules, regulations and contracts now in force under the City government of Mansfield and not in conflict with the provisions of this Charter shall remain in force under this Charter until altered, amended, or repealed by the City Council after this Charter takes effect. All rights of the City under existing franchises and contracts and all existing authority for the issuance of bonds, not in conflict with the provisions of any amendment of this Charter, shall be preserved in full force and effect.

**Sec. 12.11. Applicability of General Laws.**

The Constitution of the State of Texas, the statutes of said State applicable to home ruled municipal corporations, as now or hereafter enacted, this Charter and ordinances enacted pursuant hereto shall, in the order mentioned, be applicable to the City of Mansfield. The City shall also have the power to exercise any and all powers conferred by the laws of the State of Texas upon any other kind of city, town, or village, not contrary to the provisions of any such powers by the City of Mansfield shall be optional with it, and it shall not be required to conform to the law governing any other city, town, or villages unless and until by ordinance it adopts same.

**Sec. 12.12. Amending the Charter.**

Amendments to this Charter may be framed and submitted to the voters of the City in the manner provided by Chapter 9 of the Texas Local Government Code, as now or hereafter amended. (Amended: 11-3-20)

**Sec. 12.13. Charter Construction.**

All powers granted heretofore to cities are hereby preserved. In case of any irreconcilable conflict between the provisions of this Charter and any superior law, the powers of the City and its officers shall be defined in such superior laws. In case of any insufficiency or omission that may be supplied by reference to the general laws, such provisions of the general laws are hereby adopted, and the city shall have and exercise all of the powers that it could have acquired by expressly adopting and incorporating into this Charter all of the provisions of State and general laws, it being the intent of this Charter that no lawful power of the City shall fall because of any omission, insufficiency or invalidity of any portion or portions of this Charter. The insufficiency or invalidity of any portion or portions of this Charter shall not in any way affect the remainder of the Charter, but the same shall be construed as if adopted with such portion and/or portions so found invalid or impotent.

**Sec. 12.14. Judicial Notice.**

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

**Sec. 12.15. Gender of Wording.**

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

## **THE END**

We the undersigned members of the Charter Commission, duly elected as such Charter Commission in accordance with Articles 1165 and 1166 of the Revised Civil Statutes of the State of Texas, on the fourteenth day of September, 1974, have, in accordance with law, framed the Charter for the City of Mansfield, State of Texas, and herewith respectfully submit the same to the Honorable City Council of the City of Mansfield on the fourteenth day of December, 1975.

It is respectfully requested that the Honorable City Council of the City of Mansfield submit the proposed Charter as framed by the Charter Commission to the qualified voters of the City of Mansfield, at an election to be held on the twenty-fifth day of January, 1975, said election to be called in accordance with the election laws of the State of Texas, and that such other action be taken by the Honorable City Council as required by law in the submission of said Charter.

Respectfully submitted,



**RESOLUTION OF CERTIFICATION OF  
HOME RULE CHARTER ADOPTION**

WHEREAS, the citizens of the City of Mansfield are of the belief that Municipal Government is the form of government that is closest to the people; and

WHEREAS, the Citizens of the City of Mansfield are of the belief that Municipal Government should be a democratic government and should reflect the highest ideals and morals of a democratic government; and

WHEREAS, the citizens of the City of Mansfield are of the belief that Home rule is the form of Municipal Government that is the highest expression of a truly democratic government; and

WHEREAS, the people of the sovereign State of Texas through their Legislature have provided for the adoption of Home Rule Charter for Cities by affirmative vote of their citizens; and

WHEREAS, the citizens of the City of Mansfield, County of Tarrant, State of Texas, on the 25<sup>th</sup> day of January, 1975, in a duly called and conducted election did approve and adopt (by an affirmative majority vote) the attached Home rule Charter for the City of Mansfield, Texas; and

WHEREAS, the City Council of the City of Mansfield, County of Tarrant, State of Texas, on the 28<sup>th</sup> day of January, 1975, canvassed the returns of said Home Rule Charter election as required by law and found that approval of said Home Rule Charter for the City of Mansfield, Texas, passed by an affirmative majority vote;

THEREFORE, BE IT RESOLVED that the following Home Rule Charter for the City of Mansfield, Texas, is adopted by the citizens of the City of Mansfield, County of Tarrant, State of Texas, as the governing document and controlling law of the City of Mansfield, Texas; and be it further

RESOLVED, that the City Secretary shall transmit an appropriate copy of this Resolution and of said Home Rule Charter to appropriate authorities of the State of Texas as required by law and shall maintain and preserve this Resolution and a copy of said Home rule Charter among the permanent records of the City of Mansfield.

PASSED and UNANIMOUSLY ADOPTED by the City Council, City of Mansfield in regular meeting assembled on the 28<sup>th</sup> day of January, 1975.

Thomas Y. Watson  
Mayor

ATTEST:  
Mary Ann Johnston  
City Secretary