

**HOME RULE CHARTER  
CITY OF RED OAK, TEXAS**



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# RED OAK CHARTER COMMISSION

## Red Oak, Texas

November 6, 1996

The Honorable Dennis R. Brown, Mayor  
and City Council of the City of Red Oak, Texas  
City Hall  
Red Oak, Texas 75154

Honorable Mayor and City Council:

We submit herewith the original copy of a Home Rule Charter for the City of Red Oak as drafted by the Charter Commission.

The Charter Commission, in compliance with the applicable State statute, has designated Saturday, January 18, 1997, as the date on which this Home Rule Charter is to be submitted to qualified voters for adoption or rejection.

Your attention is directed to Article 1167, Vernon's Annotated Civil Statutes of Texas, as amended, requiring that not less than thirty (30) days prior to the date designated for submission of the Charter for adoption or rejection, the City Secretary shall mail a copy of the Charter to each qualified voter of the City of Red Oak.

This Home Rule Charter creates a Council-Manager form of government without change in the number of existing Council places. The Charter retains all the powers of the City granted by the Constitution and the Statutes of the State of Texas; it adds thereto certain powers not heretofore granted to the City; and, in general, it clarifies the means by which these powers are to be exercised.

We commend this Charter to the citizens of Red Oak and urge its adoption. It is our belief that this charter will permit our City Government to operate in a more effective and satisfactory manner to the best interest of all citizens.


# RED OAK CHARTER COMMISSION

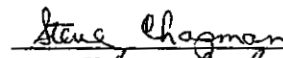
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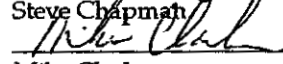
We respectfully request that a copy of this letter of transmittal be attached to each copy of the proposed Charter when mailed to all voters.

Respectfully Submitted,

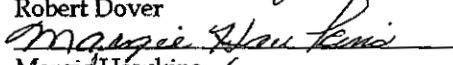
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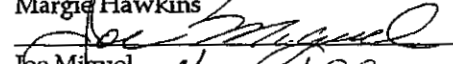
  
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Ron Brown, Chairman

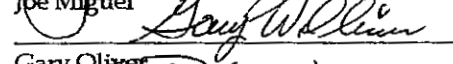
  
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Mike Clark

  
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Robert Dover

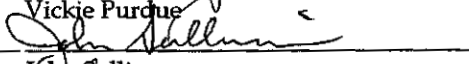
  
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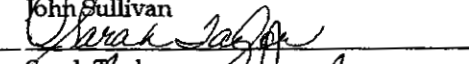
  
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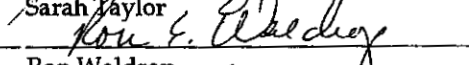
  
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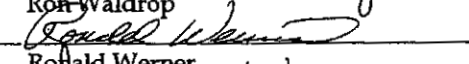
  
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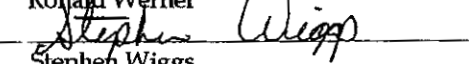
  
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Sarah Taylor

  
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Ron Waldrop

  
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Ronald Werner

  
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Stephen Wiggs

CHARTER COMMISSION

RON BROWN ..... CHAIRMAN

STEVE CHAPMAN  
MIKE CLARK  
ROBERT DOVER  
MARGIE HAWKINS  
JOE MIGUEL  
GARY OLIVER  
KEN PFEIFER

VICKIE PURDUE  
JOHN SULLIVAN  
SARAH TAYLOR  
RON WALDROP  
RONALD WERNER  
STEPHEN WIGGS

BETSY ELAM  
Legal Counsel to the Commission

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# **CHARTER OF THE CITY OF RED OAK, TEXAS**

## **PREAMBLE**

We, the people of the City of Red Oak, believing in modern government to meet modern needs while maintaining responsiveness to the desires of residents and of our community as a whole, do adopt this Charter as the basic foundation of our government.

We pledge ourselves to support our duly elected governing body in their administration both within and without the City.

We charge them to preserve the freedoms and independence which have been enjoyed by our City since its incorporation, undisturbed by conflict of commercial or political interests.

# CHAPTER I

## INCORPORATION AND POWERS OF THE CITY

### 1.01 Incorporation, Corporate Name

All persons, the inhabitants of the City of Red Oak, in Ellis County, Texas, within the boundaries of said City now established or as hereinafter established in the manner provided by law shall continue to be a municipal body politic and corporate in perpetuity under the name "City of Red Oak" hereinafter referred to as the "City" with such powers, rights, authority, privileges, obligations and immunities as are herein provided.

### 1.02 Corporate Boundaries

The boundaries and limits of the City shall be those established and described on an official map duly adopted by the City Council by ordinance and amended from time to time to include annexations and disannexations from the corporate limits. The City Secretary shall at all times keep a correct and complete description and official map on file, with recent annexations and disannexations.

### 1.03 Annexation

(a) The Council shall have the power, by ordinance, to fix boundaries of the City and to provide for the alteration or the extension of said boundaries, pursuant to any laws of the State of Texas now or hereinafter enacted with or without the consent of the territory and the inhabitants affected where the same is not inconsistent with state law.

(b) Such ordinance shall describe the territory to be annexed. Notice shall be published and public hearings held as required by state law. Amendments not enlarging or extending the boundaries set forth in the proposed ordinance may be incorporated into the proposed ordinance without the necessity of republication of said notice. The additional territory annexed shall be part of the City and the property situated therein shall bear its pro rata part of the taxes levied by the City as provided by state law. The inhabitants therefore shall be entitled to all the rights and privileges of other citizens and shall be bound by the acts, ordinances, resolutions and regulations of the City.

### 1.04 Disannexation

The Council may, by ordinance, disannex any territory within the corporate boundaries of the City, if the Council determines the territory is not necessary or suitable for City purposes, and may exchange territory with other municipalities. When the disannexation ordinance is passed, the disannexed territory shall cease to be part of the City; but the disannexed territory shall remain liable for its pro rata

share of any indebtedness incurred while the area was part of the City and the City shall continue to levy, assess and collect taxes on the property in the disannexed territory until such indebtedness has been paid.

#### 1.05 Form of Government

The municipal government provided by this Charter shall be known as “Council-Manager Government”. Pursuant to the provisions of, and subject only to the limitations imposed by the State Constitution, State Laws and this Charter, all powers of the City shall be vested in an elective council, hereinafter referred to as the “Council.”

#### 1.06 General Power of the City

(a) The City shall have all powers, functions, rights, privileges and immunities of every name and nature, that are now or hereafter may be granted to a Home Rule City by the Constitution and laws of this State, together with all implied powers necessary to carry into execution all such powers granted.

(b) Among such powers, the City shall have police powers, the power to adjust boundaries, to contract and to co-operate with the government of the State of Texas or any agency or subdivision thereof, or with the federal government or any agency thereof to accomplish any lawful purpose. The City may use a corporate seal; may acquire property within or without its corporate limits for any municipal purpose in fee simple, or in any lesser interest or estate by purchase, gift, devise, lease, exchange, condemnation, and subject to the provisions of this Charter, may sell, lease, mortgage, hold, manage, improve, exchange and control property as may now or hereafter be owned by it; may sue and be sued; may furnish municipal services, both within and without its corporate limits; may implead or be impleaded in all courts and places and in all matters whatever; may provide for the expenditure of public funds for a retirement system, group health, life and accident coverage, and surety bonds for City employees or officers; may pass ordinances, resolutions, and enact such regulations as may be expedient for the maintenance of good government, order and peace of the City and the interest, welfare, health, morals, comfort, safety, security and convenience of the City for its inhabitants consistent with the provisions of this Charter.

#### 1.07 General Powers Adopted

The enumeration of the particular powers of this Charter shall not be held or deemed to be exclusive, but in addition to the powers enumerated herein or implied hereby or appropriate to the exercise of such powers, the City shall have and may exercise all powers of local self-government and all other powers which, under the Constitution and laws of the State of Texas, it would be competent for this Charter specifically to enumerate.

### 1.08 Eminent Domain

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

### 1.09 Power to Acquire Property Inside and Outside the City for Public Purposes

The City shall have the power to sell and to acquire by condemnation or purchase either private or public property located inside or outside of the corporate limits for public purposes. The procedure to be followed in any sale or condemnation proceeding hereunder and authorized herein shall be in accordance with the provisions of the state law with reference to eminent domain.

### 1.10 Platting of Property

Should any property situated within the corporate limits of the City or within the extraterritorial jurisdiction of the City be hereafter platted into blocks and lots, the owner or owners of the property shall comply with the general plan of the City, all provisions of the ordinances, rules and regulations of the City and all the provisions of the applicable state laws.

### 1.11 Street Powers

The City shall have exclusive domain, control and jurisdiction in, upon, over and under all alleys, streets, gutters and sidewalks, situated in the City, and the power to layout, establish, open, alter, widen, lower, extend, grade, drain, abandon and improve streets, alleys, sidewalks, squares, parks, public places and bridges and regulate the use thereof, and require the removal from streets, sidewalks, alleys and other public property or places of all obstructions, telegraph, telephone or other poles, carrying electric wires or signs, encroachments of every nature or character upon any said streets and sidewalks, and to vacate and close private ways; and when a street or alley has been vacated or abandoned, the City shall have the right to sell the same in any manner in accordance with state law. The City shall have the power to assess property owners for improvements in accordance with state law. Such exclusive dominion, control and jurisdiction in, upon, over, under the public streets, avenues, sidewalks, parkways, alleys and highways of the City shall also include, but not be limited to, the right to regulate, locate, relocate, remove or prohibit the location of all utility pipes, lines, wires or other property.

### 1.12 Solid Waste Disposal

The City shall have the power to provide for and/or own a solid waste collection and disposal system as well as regulation of all sanitary landfills. The Council shall have the right, by ordinance, to adopt and prescribe rules and regulations for the handling of all garbage, trash and rubbish in the City, and shall further have the right to fix charges and compensation to be charged by the City for the removal of garbage, trash and rubbish, and to provide rules and regulations for the collection thereof.

### 1.13 Sanitary Sewer System

The City shall have the power to provide for and/or own a sanitary sewer system and to require property owners to connect their premises with such sewer systems; and to provide penalties for failure to make sanitary sewer connections; and shall further have the right to fix charges and compensation to be charged by the City for sewage services, to provide rules and regulations for the collection thereof and to provide for fixing a lien against the property, the owners of which fail or refuse to pay such charges and compensation.

### 1.14 Water System

The City shall have the power to provide for and/or own a water system and to prescribe charges, rules, regulations, rates and restrictions with reference to use, consumption, waste, payment, cutoff, turn on, connections and management of such system, and to prescribe penalties for violations of such rules and regulations.

### 1.15 Parks, Playgrounds, Etc.

The City shall have exclusive control of all City parks and playgrounds and shall have the power to control, regulate and remove all obstructions and prevent all encroachments thereupon and to provide for raising, grading, filling, terracing, landscape gardening, erecting buildings, swimming pools and wading pools, tennis courts, organized sports facilities and other structures including, but not limited to, museums, libraries and art galleries.

### 1.16 Fire Protection and Hazardous Substance

The Council shall have the power, by ordinance or otherwise, to provide means for protection against conflagrations and for the establishment, maintenance, support and regulation of a Fire Department and for guarding against fires. It may also, by ordinance, regulate or forbid the storage of lumber, building materials of any kind, flammable or explosive goods or hazardous materials, wares and merchandise of any kind.

### 1.17 Police

(a) The Council shall, by ordinance or otherwise, provide means to preserve order within the City, and to secure residents of said City from violence, and property therein from injury or loss and for the establishment, maintenance, support and regulation of a Police Department.

(b) No person, except as authorized by general law, by this Charter, or by ordinances passed pursuant hereto, shall act as special police or special detective.

### 1.18 Health

The Council shall have the power to provide for a Health Department and to establish all necessary rules and regulations protecting the health of the City and for the establishment of quarantine stations, pest houses, emergency hospitals, and to provide for the adoption of necessary quarantine laws to protect the inhabitants against contagious or infectious diseases. Such general laws shall include the following powers, but not to the exclusion of the other powers.

(a) The Council shall have the power, by ordinance or otherwise, to regulate, license and inspect persons, firms, corporations, common carriers, or associations operating, managing, or conducting any hotel or any other public sleeping or eating place, or any place or vehicle where food or drink or containers thereof, of any kind is manufactured, prepared, stored, packed, served, sold or otherwise handled within the City limits; and shall have the power to prescribe health regulations with reference to any and all workers or employees hired or used in any said places or vehicles, or about said places and vehicles; or who deliver products to and from said places and vehicles; and shall have the power to inspect, license and regulate the sanitary condition of said places and vehicles and to condemn all articles not wholesome or fit for human consumption.

(b) The Council shall have the power to license, require occupation fees or taxes and to prescribe health regulations with respect to places of business, their persons and their workers and employees, and shall have the power to prescribe all necessary health regulations.

(c) The Council shall have the power to define all nuisances and prohibit the same within the City and outside the City limits for a distance of 5,000 feet; to have power to police all parks or grounds, speedways, or boulevards owned by the City and lying both outside and inside the City; to prohibit the pollution of any stream, draw, drain or tributaries thereof, water deposit and reservoir, whether above or below the ground, which may constitute the source of storage of water supply, and to provide for policing the same, as well as to provide for the protection of any watersheds and the policing the same, to inspect, license and regulate dairies, slaughter pens and slaughter houses inside or outside the limits of the City which meat or milk is furnished to the inhabitants of the City.



(d) The Council shall have the power to provide for fixing of penalties for failure of any person, firm, corporation or association to comply with any such rules and regulations so prescribed by the Council under the provisions of this section; it being the intention to vest in the Council not only powers expressly enumerated in this section, but all other powers reasonably necessary for the protection of the health of the City and its inhabitants.

## CHAPTER II CITY COUNCIL AND MAYOR

### 2.01 Governing Body

The governing and lawmaking body of the City shall consist of the Mayor and five (5) Councilmembers and shall be known as the City Council.

### 2.02 Elective Officers

(a) The members of the Council shall be elected and hold office as herein provided. All members of the Council, and the Mayor, shall be elected under the place system. The Mayor and each member of the Council shall hold office for a three (3) year term. Upon expiration of the terms of the current Mayor and Councilmembers, their successors shall be elected for terms as follows:

Place 1 and Place 3 and the Mayor shall be elected for a term of three (3) years, beginning with the regular City election held on the first Saturday in May, 1997.

Place 2, Place 4 and Place 5 shall be elected for three (3) year terms, beginning with the regular City election held on the first Saturday in May, 1998.

Upon the expiration of the above terms of the Mayor and Councilmembers, their successors shall be elected for terms of three (3) years. All places, including Mayor, will be elected at large.

### 2.03 Limitation on Consecutive Terms for Elected Officials

(a) A person who has served as Mayor or Councilmember for three consecutive terms shall not again be eligible to become a candidate for, or to serve in the office of, Mayor or Councilmember until the second general election after the third consecutive term has expired.

(b) For the purposes of this section, a term of office shall be defined as an elected period of three (3) years (defined as from the general election date to general

election date). A person elected to fill an unexpired term may serve three additional consecutive terms.

(c) This provision shall apply to all elections held subsequent to the adoption of this Charter, as amended.\*

\*This provision was amended by an election held on November 4, 2014.

#### 2.04 Qualifications

(a) Candidates. Each person who becomes a candidate for Mayor or Councilmember shall meet the following qualifications:

- (1) be at least twenty-one (21) years of age;
- (2) be a citizen of the United States;
- (3) be a qualified voter of the City;
- (4) reside and have resided for at least twelve (12) months preceding the election within the corporate limits of the City;
- (5) no candidate may file for more than one office or position number per election;
- (6) no employee of the City shall continue in such position after becoming a candidate for an elective office.

(b) When any member of the Council no longer possesses all of the qualifications specified in this section, or is convicted of a felony or any offense involving moral turpitude while in office, the office shall immediately and automatically become vacant. The Council shall be the judge of the qualifications of its members and for these purposes shall have the power to subpoena witnesses and require the production of records, but the decision of the Council in any case shall be subject to review by the courts.

#### 2.05 Compensation

The members of the Council shall serve without pay or compensation; provided, however, that they shall be entitled to reimbursement for expenses in the performance of their specific duties when approved by the Council.

#### 2.06 Presiding Officer- Duties of the Mayor

The Mayor shall preside over the meetings of the Council, and perform such duties consistent with the office as may be imposed upon him by this Charter, and by ordinances and resolutions passed in pursuance thereof. He shall participate in the discussion of all matters coming before the Council and he shall have a vote only to break a tie vote on matters before the Council. He shall sign, after authorization by the Council, all contracts and conveyances made or entered into by the City, and all bonds, warrants and any other obligation issued under the provisions of this Charter, in the manner prescribed in the ordinance authorizing the signing of any

such obligation. He shall be recognized as the official head of the City by the courts for the purpose of enforcing military law and for all ceremonial purposes.

### 2.07 Mayor Pro Tem

At the first meeting after each general election or general election run-off, if any, or as soon thereafter as practicable, the Mayor shall, with the approval of the Council, appoint one of the Councilmembers as Mayor Pro Tem who shall hold office for one (1) year. The Mayor Pro Tem shall perform the duties of Mayor in case of the absence or disability of the Mayor.

### 2.08 Vacancies; Forfeiture of Office; Filling of Vacancies

(a) Vacancies. The office of the Mayor or Councilmember shall become vacant upon the Mayor or Councilmember's death, resignation, removal from office (in any manner authorized by law) or forfeiture of office.

(b) Forfeiture of Office. The Mayor or a Councilmember shall forfeit his or her office if during a term of office, the Mayor or Councilmember:

- (1) lacks any qualification for the office prescribed by this charter or by other law;
- (2) violates any expressed prohibition of this charter;
- (3) is convicted of a felony crime or is convicted of a crime involving moral turpitude; or
- (4) fails to attend two consecutive regular meetings of the Council without being excused by the Council.

(c) Filling of Vacancies. If a vacancy occurs in the position of Mayor or Councilmember, a special election shall be held on the next election date authorized by the Texas Election Code that is at least 45 days after the vacancy occurs for the purpose of filling the vacancy. If the vacancy occurs within ninety (90) days prior to a general election, the vacancy shall be filled at the general election. All vacancies filled under this Section 2.08(c) shall be for the unexpired term of the office filled.

### 2.09 Meetings of the City Council

The Council shall hold at least one (1) regular meeting each month on the second Monday evening of the month at a time to be fixed by ordinance, unless the dates fall on a regularly observed City holiday, provided that the Council may establish as many additional regular meetings during the month as may be necessary for the transaction of the business of the City and its citizens. All meetings of the Council shall be open in accordance with and except as provided by the Texas Open Meetings Act, Chapter 551, Government Code, Vernon's Texas Codes Annotated, and shall be held at the City Hall, except that the Council may designate another place for the meetings.

## 2.10 Special Meetings

The Mayor or two or more members of the Council may call special meetings by giving notice to the City Secretary who shall notify each member of the Council of the time of the meeting and its purpose. Only matters set forth in an agenda posted in accordance with the Texas Open Meetings Act, Chapter 551, Government Code, Vernon's Texas Codes Annotated, shall be considered.

## 2.11 Rules of the Council: Minutes and Procedures

(a) The Council shall provide for citizen participation at any regular scheduled meeting with regard to any matter under consideration in accordance with rules and regulation for all meetings, and such minutes shall be a public record. Minutes of all meetings of the Council shall be promptly entered within forty-eight (48) hours after approval in the permanent official record of the City, and the City Secretary, or other designated person, shall at the same time provide a permanent and adequate index showing the action of the Council in regard to all matters submitted to it at both regular and special sessions. Voting, except on procedural motions, shall be by roll call and shall be recorded in the minutes. The vote upon the passage of all ordinances and resolutions shall be taken by the "ayes" and "nays" and entered upon the minutes, and every ordinance or resolution, upon its final passage, shall be authenticated by the signature of the presiding officer and the person performing the duties of the City Secretary, in accordance with this Charter.

(b) Any item requested by one (1) or more members of the Council or by the City Manager shall be placed on the agenda by the City Secretary. The Mayor will establish the order of the agenda for each Council meeting. The City Secretary shall prepare the agenda, which shall be publicly posted at City Hall in accordance with the Texas Open Meetings Act, Chapter 551, Government Code, Vernon's Texas Codes Annotated.

## 2.12 Quorum and Voting

Three (3) Councilmembers, excluding the Mayor, shall constitute a quorum to do business and no action of the Council shall be valid or binding unless adopted by the affirmative vote of three (3) or more members of the Council, including the Mayor in the event of a tie. A number less than a quorum may adjourn from time to time and compel the attendance of absent members. If the Council is reduced to less than three (3) members on account of vacancies, the remaining members shall constitute a quorum for the sole purpose of calling an election.

## 2.13 Reserved

## 2.14 Prohibitions

- (a) No person shall be appointed to or removed from or in any way favored or discriminated against with respect to any City position or appointive City administrative office because of race, sex, age, national origin, political or religious opinions or affiliations.
- (b) No person shall willfully make any false statement, certificate, mark, rating or report in regard to any test, certification or appointment under the personnel provisions of this charter or the rules and regulations made thereunder, or in any manner commit or attempt to commit any fraud preventing the impartial execution of such provisions, rules and regulations.
- (c) No person who seeks appointment or promotion with respect to any City position or appointive City administrative office shall directly or indirectly give, render or pay any money, service or other valuable thing to any person for or in connection with his test, appointment, proposed appointment, promotion or proposed promotion.
- (d) No person who holds any compensated appointive City position shall make, solicit or receive any contribution for any candidate for public office in the City or take any part in the management, affairs or political campaign of such candidate, but he may exercise his rights as a citizen to express his opinions and to cast his vote.
- (e) Elected officials, officers or employees of the City having a direct or indirect interest in any proposed or existing contract, purchase, work, sale, or service to, for, or by the City shall not vote or render a decision or use that position, authority, or influence, in any manner that would result in personal betterment, financially or otherwise, to any degree. Elected officials, officers, or employees shall publicly disclose any such interest upon assumption of office or prior to consideration of any such matters.
- (f) No elected official, officer, or employee of the City shall ever accept, directly or indirectly, any gift, favor, privilege, or employment from any firm, individual, or corporation doing business or proposing to do business with the City of Red Oak, except as may be authorized by law, resolution or ordinance.

### 2.15 Penalties

- (a) Any person who willfully conceals such interest or willfully violates any of the prohibitions of section 2.14 shall be guilty of malfeasance in office or position and may be punished by any fine that shall be prescribed by ordinance for the offense, and shall forthwith be removed from his office or position.
- (b) Any person or corporation contracting with or making a sale to the City who violates the prohibitions of section 2.14 shall have such contract or sale voided by the City Manager or Council.

### 2.16 Code of Ethics and Conduct

The City Council shall adopt, by ordinance, a code of ethics and conduct this is consistent with the provisions of this Charter and applicable to elected officers, appointed board, commission, and committee members, and employees of the City.

## CHAPTER III RESPONSIBILITIES OF THE CITY COUNCIL

### A. GENERAL

#### 3.01 Powers of the Council

All powers and authority, including determination of all matters of policy, which are expressly or by implication conferred on or possessed by the City, shall be vested in and exercised by the Council; provided, however, that the Council shall have no authority to exercise those powers which are expressly conferred upon other City officers by this Charter.

#### 3.02 Appointment of Members of Boards

The members of all boards created by this Charter or by the Council, including, but not limited to, the Board of Adjustment and Planning and Zoning Commission, shall be appointed by the Council.

#### 3.03 Investigative Powers of the Council

The Council shall have the power to inquire into or investigate the official conduct of any department, agency, officer or employee of the City and for that purpose shall have the power to administer oaths, subpoena witnesses, compel the production of books, papers, records or other evidence, and as it shall provide by ordinance, to punish and fix penalties for contempt for failure or refusal to obey any such subpoena or to produce any such books, papers, records or other evidence.

#### 3.04 Depository of City Funds

The Council is authorized to select a depository, according to state law, for the City funds.

#### 3.05 Interference in Administrative Matters

The City Manager shall be the chief administrative officer and the head of the administrative branch of the City. Except for the purpose of inquiry or investigation, the Council and its members shall deal with the administrative departments and

personnel solely through the City Manager, and no member of the Council shall give orders to any subordinate of the City Manager, either publicly or privately.

### 3.06 Appointive Offices

In addition to the elected officers, the other officers of the City shall be the City Manager, City Secretary, City Attorney, and such other officers as the Council may from time to time direct. The Council may abolish or consolidate such offices and positions as it may deem to be in the best interest of the City and may divide the administration of such offices or positions as it may deem advisable, create new offices and positions and discontinue any office or position at its discretion except the offices of City Manager, City Secretary and City Attorney. Removal of officers appointed by the City Council shall be at the discretion of the Council, by vote of the majority of the entire Council.

### 3.07 State of Emergency

(a) A state of emergency shall be deemed to exist during periods of impending or actual public crisis or disaster. A state of emergency may be declared by the vote of the Council, or by order of the Mayor, or, in his absence or disability, the Mayor Pro Tem, if a meeting of the Council cannot be called within the time available, whenever conditions threaten to render inadequate the normal procedures of the City for protection of persons or property.

During a state of emergency, the Mayor, or, in his absence or disability, the Mayor Pro Tem shall have all the powers which would be vested in the Council by state law to the extent he considers reasonable or necessary for the protection of persons or property.

(b) The emergency powers herein provided shall be exercised only to the extent made necessary by the nature of the emergency and during the continuation of the state of emergency.

## B. ORDINANCES

### 3.10 Validation of all Ordinances, Rules and Regulations

All ordinances, resolutions, rules and regulations of the City heretofore ordained, passed, adopted, or enacted, that are in force at the time this Charter becomes effective, and which are not in conflict with such Charter, shall remain in full force until altered, amended or repealed by the Council after such Charter takes effect.

### 3.11 Action Requiring an Ordinance

(a) The Council shall legislate by ordinance. In addition to other acts required by law or by specific provision of this Charter to be done by ordinance, those acts of the Council shall be by ordinance which:

- (1) adopt or amend an administrative code or establish, alter or abolish any City board, department, office or agency;
- (2) provide for a fine or other penalty or establish a rule or regulation for violation of which a fine or other penalty is imposed;
- (3) levy taxes, except as otherwise provided in Sections 9.01 – 9.11 with respect to the property tax levied by adoption of the budget;
- (4) grant, renew or extend a franchise;
- (5) regulate the rate charged for services by a public utility;
- (6) authorize the borrowing of money;
- (7) Adopt, with or without amendment, ordinances proposed under the initiative power; and
- (8) amend or repeal any ordinance previously adopted, except as otherwise provided in Section 7.30 with respect to repeal of ordinances reconsidered under the referendum power.

(b) Acts other than referred to in the preceding sentence may be done either by ordinance, resolution or minute order.

### 3.12 Form of Ordinances

Every proposed ordinance shall be introduced in writing and in the form required for final adoption. No ordinance shall contain more than one subject which shall be clearly expressed in its title except ordinances or resolutions making appropriations or authorizing the contracting of indebtedness or issuance of bonds or other evidence of indebtedness. The enacting clause of every ordinance shall be: "Be it ordained by the City Council of the City of Red Oak," but the same shall be omitted when the ordinances of the City are codified and published in a book or pamphlet form by the City. Any ordinance which repeals or amends an existing ordinance or part of the City code shall clearly set forth the provision or provisions being repealed or amended and, if amended, shall further clearly set forth the amendment being made.

### 3.13 Procedure for Enacting Ordinances and Resolutions; Publications

(a) Ordinances and resolutions may be passed at any regular meeting or special meeting called for that purpose provided notice has been given in accordance with the Texas Open Meeting Act, Chapter 551, Government Code, Vernon's Texas Codes Annotated.



(b) All ordinances and resolutions, unless otherwise provided by state law, this chapter, or the ordinance itself shall be final on the passage or adoption by the required majority of the Council. Every ordinance, resolution or motion shall require on final passage the affirmative vote of a majority of the members present unless more is required by state law or this charter.

(c) The descriptive caption or title of an ordinance that imposes a penalty, fine or forfeiture and the penalty for violating the ordinance shall be published at least once in the official newspaper of the City.

(d) Unless the Mayor returns the ordinance or resolution pursuant to Section 3.14, an ordinance required to be published takes effect when the publication requirement is satisfied, unless the ordinance provides otherwise, and an ordinance this is not required to be published takes effect when adopted unless the ordinance provides otherwise.

(e) All ordinances and resolutions may be admitted and received in all courts, subject to the rules of evidence and the laws or jurisdictions where proof of such ordinances and resolutions are tendered without further proof.

### 3.14 Approval of Mayor

(a) The Mayor shall sign the ordinances and resolutions that are approved by the City Council.

(b) If the Mayor does not sign an ordinance or resolution before the fourth day after the date it is adopted by the Council, and does not return the ordinance or resolution under Subsection (c), the ordinance or resolution takes effect as provided by the Section 3.13.

(c) If the Mayor returns an ordinance or resolution to the governing body with a statement of objections before the fourth day after the date the ordinance or resolution is adopted by the Council, Council may on the return, reconsider the vote by which the ordinance or resolution was adopted. If a majority of the total number of members of the Council, excluding the Mayor, approve the ordinance or resolution on reconsideration and enter the votes in the journal of the Council proceedings, the ordinance or resolution shall immediately take effect after the passage.

### 3.15 Codification of Ordinances

The City Manager, as soon as practical after the adoption of this Charter, may cause to be codified and properly entered and published for public distribution or for anyone desiring same, the ordinances of the City, which codification may be revised and updated annually.

## CHAPTER IV CITY ADMINISTRATION

### A. GENERAL

#### 4.01 Administrative Departments

There shall be such administrative departments as are established by this Charter and may be established by the ordinance and excepting as otherwise provided in this Charter, these administrative departments shall be under the direction of the City Manager. The Council shall have power, by ordinance, to establish administrative departments or offices not herein provided by this Charter. The Council may discontinue, redesignate or combine any of the departments and/or administrative offices. No changes shall be made by the Council in the organization of the administrative service of the City until the recommendations of the City Manager thereon shall have been heard by the Council.

The head of each department shall be a chief, director, superintendent or coordinator who shall be appointed by the City Manager, subject to the approval of the Council and such chief, director, superintendent or coordinator shall have supervision and control over his department. Two or more departments may be headed by the same individual, and the City Manager may act as City Secretary and may head one or more departments.

### B. CITY MANAGER

#### 4.10 Appointment and Qualifications

The Council, by majority vote of the entire Council, shall appoint a City Manager, who shall be the chief administrative officer of the City.

The method of selection shall be left to the discretion of the Council so long as the method insures orderly, non-partisan action toward securing a competent and qualified person to fill the position. The City Manager shall be chosen solely upon the basis of the person's administrative training, experience, ability and character.

Neither the Mayor nor any Councilmember may be appointed City Manager or acting City Manager while holding office or for a period of two (2) years thereafter.

#### 4.11 Compensation

The City Manager shall receive compensation as may be fixed by the Council according to the person's experience, education and training.

#### 4.12 Term and Removal

The City Manager may be appointed for a definite term, but may be removed at the discretion of the Council, by vote of the majority of the entire Council.

If removed after serving six (6) months, he may demand written charges and the right to be heard thereon at a public meeting of the Council prior to the date on which his final removal shall take effect; but pending such hearing, the Council may suspend him from office.

The action of the Council in suspending or removing the City Manager shall be final. It is the intention of the Charter to vest all the authority and fix all responsibilities of such suspension or removal in the Council.

#### 4.13 Bond of City Manager

The Council shall require the City Manager, before entering upon the duties of his office, to execute a good and sufficient surety company bond, in such amount as the Council may demand, payable to the City and conditioned for the faithful performance of the duties of his office. The premium of such bond is to be paid by the City.

#### 4.14 Powers and Duties

The City Manager shall be responsible to the Council for the proper administration of all the affairs of the City and to that end shall have the power and be required to:

- (1) In cooperation with the City Attorney, to see that all state laws and City Ordinances are effectively enforced.
- (2) Appoint, suspend and/or remove all or any one of the heads of departments and all subordinate officers and employees of the City.
- (3) Exercise control over all departments and subdivisions thereof created by this Charter, or that may hereafter be created by the Council, except as hereinafter provided.
- (4) See that all terms and conditions imposed in favor of the City or its inhabitants in any public utility franchise are faithfully kept and performed, and upon knowledge of any violation thereof to call the same to the attention of the City Attorney, whose duty it shall be to take such steps as may be necessary to enforce the same.
- (5) Attend all meetings of the Council except when excused by the Council.
- (6) Prepare a proposed budget annually and submit it to the Council on or before August 1 of each year and be responsible for its administration after its adoption.
- (7) Administer the budget of the City.
- (8) Prepare and submit to the Council at the end of the fiscal year a complete report on the finances and administrative activities of the City for the preceding year.

- (9) Keep the Council advised of the financial condition and future needs of the City and make such recommendations as may seem to him advisable.
- (10) Prepare personnel rules subject to the approval of the Council.
- (11) Perform such other duties as may be prescribed by this Charter or required of him by the Council.

#### 4.15 Acting City Manager

(a) The City Manager, within thirty (30) days after taking office, shall designate by letter filed with the City Secretary, a qualified administrative officer of the City to perform the duties of the City Manager in his absence or disability. Such designation shall be subject to approval of the Council. No member of the City Council shall serve as Acting City Manager. Upon resignation or termination of the City Manager, the Acting City Manager shall perform the duties of the City Manager until a new City Manager or Acting City Manager is appointed by the Council.

(b) Should the need for an Acting City Manager occur prior to the City Manager submitting a designee or prior to the Council's approval of the City Manager's designee, the Council shall appoint an Acting City Manager.

(c) The City Manager may select a different Acting City Manager by repeating the letter of designation and obtaining the Council's approval.

### C. CITY SECRETARY

#### 4.20 Appointment

The City Manager with the advise and consent of the Council shall appoint a City Secretary who shall report to the City Manager; and, the City Secretary shall act as the Municipal Clerk and Secretary to the City and Council respectively, and shall hold office at the pleasure of the City Manager. The City Secretary shall be entitled to a seat at the Council table at all official meetings.

#### 4.21 Duties of the City Secretary

The duties and powers of the City Secretary shall be as follows:

- (1) Record the minutes of all official meetings of the Council; provided, however, only the captions of duly enacted ordinances and resolutions shall be recorded in the minutes.
- (2) Be the custodian of all municipal records of the Council.
- (3) Recommend to the Council rules and regulations to be adopted by ordinances to protect the safety and security of the municipal records.
- (4) Hold and maintain the City Seal and affix to all instruments requiring such seal.

- (5) To inquire into or investigate the genuineness of any signature on and the factual sufficiency of any initiative, referendum or recall petition filed with the City Secretary in accordance with the provisions of this Charter, and for that purpose the City Secretary shall have the power to administer oaths, subpoena witnesses, compel the production of books, papers, records and other evidence.
- (6) Perform such other duties as may be required by the Council.

#### 4.22 Compensation

The Council shall set the compensation of the City Secretary.

## CHAPTER V COURTS

#### 5.01 Purpose of the Municipal Court

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

#### 5.02 Judge of the Court

The “Judge of the Municipal Court” shall be appointed by the City Council. The Judge shall be an attorney in good standing, licensed to practice in the State of Texas. The Council shall fix the compensation for the Judge and such compensation shall never be based on fines assessed or collected. Removal of the Judge shall be at the discretion of the Council, by vote of the majority of the entire Council.

#### 5.03 Clerk of the Court

There shall be a Clerk of said court appointed by the City Manager. The Clerk of said court and such deputies as said Clerk may appoint, 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 as performed by clerks and deputies of courts. The Council shall require the Court Clerk, before entering upon the duties of the office, to execute a good and sufficient surety company bond, in such amount as the Council may demand, payable to the City and conditioned for the faithful performance of the duties of the office. The premium of such bond is to be paid by the City.

#### 5.04 Absence of Judge

The Council may appoint an alternate Judge who shall have the same qualifications of Municipal Judge and who shall receive such salary as may be fixed by the Council. In case of the temporary disability or absence of the Judge of the Municipal Court, the alternate Judge shall have authority to act as Judge of said court. The Council shall by appointment fill a vacancy in the office of the Judge for the remainder of the unexpired term.

#### 5.05 Fines

All monies received as court imposed fines or penalties shall be paid into the general fund of the City treasury, unless otherwise required by state law.

## CHAPTER VI CITY ATTORNEY

### 6.01 City Attorney

(a) The Council shall appoint a competent, duly qualified, licensed and practicing attorney in the State of Texas, to be an attorney for the City, hereinafter referred to as the "City Attorney." He shall serve at the discretion of the Council and he shall receive for his services such compensation as may be fixed by the Council. The City Attorney shall be the adviser of, and attorney for, all of the offices and departments of the City, and he shall represent the City in all litigation and legal proceedings; provided, that the Council may retain special counsel at any time they deem same appropriate and necessary. He shall review and concur or dissent upon all documents, contracts and legal instruments in which the City may have an interest. The City Attorney shall perform other duties prescribed by the Charter, by ordinance, or as directed by the Council.

(b) The Council may contract with an attorney or with a firm of attorneys who may designate one (1) member of said firm, with Council approval, to serve as City Attorney.

### 6.02 City Prosecutor

All cases in Municipal Court shall be prosecuted by the City Attorney, Assistant City Attorney or designated Prosecutor as the Council may authorize.

## CHAPTER VII ELECTIONS

### A. GENERAL

#### 7.01 City Elections

The regular City election shall be held annually in May as provided by state law. Council members will be elected to fill those offices, the terms which expire that year. The Council shall fix the hours and place for holding such election. Notice of the election shall be published according to state law. In order, ordinance, or resolution of the Council calling any election, at which more than one (1) Councilmember shall be elected, the Council shall, in calling such election, provide for a separate place on the ballot for each vacancy to be filled at such election, designating such places as Places One, Two, Three, Four or Five; and in case an unexpired term is to be filled at such election, the place for the unexpired term shall be so designated.

#### 7.02 Special Elections

The Council, by ordinance or resolution, may call such special elections as are authorized by the state law, this Charter, or for any other reason the Council deems necessary, fix the time and place of holding same, and provide all means for holding such special elections in accordance with state law.

#### 7.03 Regulation of Elections

(a) All general and special elections shall be held in accordance with the laws of the State of Texas regulating the holding of municipal elections and in accordance with this Charter and ordinances or resolutions adopted by the Council for the conduct of elections. The Council shall appoint the election judges and shall provide for the compensation of all election officials in the City elections and for all other expenses in holding said elections.

(b) Sample ballots identical to the voting format for the election shall be posted in the voting place for the benefit of the voters.

#### 7.04 Exception of Election Code

In the event there is a conflict between any of the provisions of this article and the Texas Election Code or an omission of any elements or provisions necessary for conduction of an election, then those provisions of the Texas Election Code then existing shall prevail.

### **B. FILING FOR OFFICE**

#### 7.10 Filing for Office/Procedures

(a) Each candidate for an elective office shall meet the qualifications set forth in Section 2.04.

(b) Any person so qualified who desires to become a candidate for election shall file an application with the City Secretary in accordance with the Texas Election Code. Such an application shall be in compliance with the Texas Election Code.

#### 7.11 Holding Other Office

(a) No person elected to the Council shall, during the term for which he is elected to the Council, be appointed to any office, position, or employment in the service of the City, and no former member of the Council shall hold any compensated, appointive City office or employment until two (2) years after the expiration of the term for which he is elected to the Council.

(b) If any member of the Council shall become a candidate for election to any public office of the City, other than the office then held, he shall, immediately upon his becoming a candidate, forfeit his place on the Council.

(c) If any member of a board or commission appointed by the Council shall become a candidate for election to any public office of the City, he shall, immediately upon his being elected, forfeit his place as a member of such board or commission.

(d) If any appointive officer of the City shall become a candidate for election to any public office, he shall, immediately upon becoming a candidate, forfeit the office held within the City.

(e) If any employees of the City becomes a candidate for election to any public office of the City of Red Oak they shall, immediately upon becoming a candidate, forfeit the employment held within the City.

### C. ELECTION PROCEDURES

#### 7.20 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) Absentee Balloting: Voting shall be governed by the Texas Election Code.

(c) Write-In Votes: There must be space for each position on the ballot for the voter to write in a name for a qualified candidate who meets State filing requirements. There can be no write-in votes in any run-off election.

#### 7.21 Canvassing and Election Results



Returns of every municipal election shall be delivered forthwith by the election judges to the City Secretary with a copy of the returns being sent to the Mayor. The Council shall canvass the returns, investigate the qualifications of the candidates and declare the official results of the election prior to the first regular Council meeting following delivery of the votes to the City Secretary all in accordance with the Texas Election Code. The results of every municipal election shall be recorded in the minutes of the Council. The qualified persons receiving a majority of the votes cast for any office shall thereupon be declared elected by said Council. The decision of the Council, as to qualifications of candidates, shall be conclusive and final for all purposes.

#### 7.22 Election By Majority/Run-Off Elections

If no candidate receives a majority of all the votes cast for an office, the Council shall immediately upon declaring the official results of the election, order a run-off election for each office to which no one was elected. Such run-off election shall be held in accordance with state law. In such run-off election the two (2) candidates who received, in the preceding election, the highest number of votes for each office to which no one was elected, shall be voted on again by the qualified voters, and the candidate who receives the majority of the votes for each such office in the run-off election shall be elected to such office.

#### 7.23 Notification of City Officers

The City Secretary, with the concurrence of the Council, shall promptly notify all persons elected to office. A candidate who is elected in a regular, special or run-off election shall, after taking the oath of office as prescribed herein, take office, and enter upon his duties at the next Council meeting after the date of the election.

#### 7.24 Oath of Office

Every officer of the City, whether elected or appointed, shall take the oaths of office prescribed by Article 16, Section 1, Appendix J & K of the Texas Constitution prior to assuming office.

### **D. INITIATIVE, REFERENDUM AND RECALL**

#### 7.30 Initiative, Referendum and Recall

##### (a) General Authority

- (1) Initiative: The qualified voters of the City shall have power to propose ordinances to the Council, and, if the Council fails to adopt an ordinance so proposed without any change in substance, to adopt or

reject it at a City election, provided that such power shall not extend to the budget or capital program or any ordinance relating to zoning, appropriation of money, levy of taxes, issuance of bonds and notes, borrowing of money or salaries of City officers or employees. Such initiative power may be used to enact a new ordinance or to repeal or to amend sections of any existing ordinances.

(2) Referendum: The qualified voters of the City shall have power to require reconsideration by the Council of any adopted ordinance, and, if the Council fails to repeal an ordinance so reconsidered, to approve or reject it at a City election, provided that such power shall not extend to the budget or capital program or any emergency ordinance or ordinance relating to zoning, appropriation of money or levy of taxes, issuance of bonds and notes or borrowing of money.

(3) Recall: The qualified voters shall have the power to recall any elected official of the City. Such power shall be exercised by filing with the City Secretary a petition, signed by currently qualified voters of the City equal in number to at least twenty (20) percent of the total number of qualified voters registered to vote at the last regular City election, demanding the removal of such elected official. The recall petition must specifically state each ground or grounds upon which such petition for removal is predicated as to give the officer sought to be removed notice of the matters and things with which he is charged. The provisions regulating commencement, certification, amendment, withdrawal of initiative and referendum petitions and submission to voters shall apply to recall petitions.

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

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

“Shall (Name of person) be removed from the office of (Name of office) by recall?”

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

“YES”

“NO”

(c) Voting: In voting said ballot, the voter shall indicate his or her vote in favor of recall or against recall by marking the ballot in the way ordinarily prescribed for ballot propositions.

### 7.31 Commencement of Proceedings; Petitioners' Committee; Affidavit

Any five (5) qualified voters may commence initiative or referendum proceedings by filing with the City Secretary an affidavit stating they will constitute the Petitioners' Committee and be responsible for circulating the petition and filing it in proper form, stating their names and addresses and specifying the address to which all notices to the committee are to be sent, and setting out in full the proposed initiative ordinance or citing the ordinance sought to be reconsidered.

Promptly after the affidavit of the petitioners' committee is filed, the City Secretary shall issue the appropriate petition blanks to the Petitioners' Committee.

### 7.32 Petitions

(a) Number of Signatures: Initiative and referendum petitions must be signed by qualified voters of the City equal in number to at least twenty (20) percent of the total number of qualified voters registered to vote at the last regular City election.

(b) Form and Content: All papers of a petition shall be uniform in size and style and shall be assembled as one instrument for filing. Each signature shall be executed in ink and shall be followed by the signer's printed name, the signer's voter registration number, the county of registration, the signer's residence address and the date of signing. Petitions shall contain or have attached thereto throughout their circulation the full text of the ordinance proposed or sought to be reconsidered.

(c) Affidavit of Circulator: Each paper of a petition shall have attached to it, when filed, an affidavit executed by the circulator thereof stating that he personally circulated the paper, the number of signatures thereon, that all the signatures were affixed in his presence, that he believes them to be the genuine signatures of the persons whose names they purport to be and that each signer had an opportunity, before signing, to read the full text of the ordinance proposed or sought to be reconsidered.

(d) Time for Filing Petitions: Referendum petitions must be filed within sixty (60) days after adoption by the Council of the ordinance sought to be reconsidered. Initiative petitions must be filed within sixty (60) days after issuance of the appropriate petition blanks to the Petitioners' Committee; additional time as specified in 7.33 shall be allowed for amending petitions. All petitions shall be filed with the City Secretary.

### 7.33 Procedure After Filing

(a) Certificate of Secretary; Amendment:

- (1) Upon the filing of a petition, the City Secretary shall review the petition to determine the existence of the requisite number of signatures of qualified voters and whether the form of the petition complies with the provisions of this Charter. The City Secretary shall also review the petition to determine the genuineness of the signatures and the factual sufficiency of the petition upon a written complaint submitted under oath by a citizen of the City to the City Secretary. The Council may provide, by ordinance, the punishment and penalties for contempt for failure or refusal to obey any subpoena or request for production of evidence issued by the City Secretary.
- (2) Within ten (10) days after the petition is filed, the City Secretary shall complete a certificate as to its sufficiency, specifying, if it is insufficient, the particulars wherein it is defective and shall promptly send a copy of the certificate to the Petitioners' Committee by registered mail.
- (3) A petition certified insufficient for lack of the required number of valid signatures or due to inadequate form or content may be amended once if the Petitioners' Committee files a notice of intention to amend it with the City Secretary within five (5) days after receiving the copy of this certificate and files a supplementary petition upon additional papers within ten (10) days after receiving the copy of such certificate. Such supplementary petition shall comply with the requirements of subsections (b) and (c) of 7.32 and within five (5) days after it is filed the City Secretary, shall complete a certificate as to the sufficiency of the petition as amended and promptly send a copy of such certificate to the Petitioners' Committee by registered mail as in the case of an original petition.
- (4) If a petition or amended petition is certified sufficient, or if a petition or amended petition is certified insufficient and the Petitioners' Committee does not elect to amend as provided in this subsection (a) or request Council review under subsection (b) of this section within the time required, the City Secretary shall promptly present this certificate to the Council and the certificate shall then be a final determination as to the sufficiency of the petition.

(b) Council Review: If a petition has been certified insufficient and the Petitioners' Committee does not file notice of intention to amend it or if an amended petition has been certified insufficient, the Committee may, within five (5) days after

receiving the copy of such certificate, file a request that it be reviewed by the Council. The Council shall review the certificate at its next meeting following the filing of such request and approve or disapprove it, and the Council's determination shall then be a final determination as to the sufficiency of the petition.

(c) Court Review; New Petition: A final determination as to the sufficiency of a petition shall be subject to court review, provided such petition is presented to the court within ten (10) days of the final determination by the City Secretary or the Council if Council review was requested. A final determination of insufficiency, even if sustained upon court review, shall not prejudice the filing of a new petition for the same purpose.

#### 7.34 Referendum Petitions: Suspension of Effect of Ordinance

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

- (1) There is a final determination of insufficiency of the petition, or
- (2) The Petitioners' Committee withdraws the petition, or
- (3) The Council repeals the ordinance, or
- (4) Upon the certification of the election results by the election officials.

#### 7.35 Action on Petitions

(a) Action by Council: When an initiative or referendum petition has been finally determined sufficient, the Council shall promptly consider the proposed initiative ordinance in the manner prescribed for enacting ordinances or reconsider the referred ordinance in the manner prescribed for enacting ordinances or reconsider the referred ordinance by voting its repeal. If the Council fails to adopt a proposed initiative ordinance without any change in substance within sixty (60) days or fails to repeal the referred ordinance within thirty (30) days after the date the petition was finally determined sufficient, it shall submit the proposed or referred ordinance to the voters of the City.

(b) Submission to Voters: The vote of the City on a proposed or referred ordinance shall be held on the next election date authorized by the Texas Election Code that is at least thirty-two (32) days after the date of the final Council vote thereon. Copies of the proposed or referred ordinance shall be made available at the polls and shall be published at least once in the official newspaper of the City within fifteen (15) days before the date of the election.

(c) **Withdrawal of Petitions:** An initiative or referendum petition may be withdrawn at any time prior to the fifteenth day preceding the day scheduled for a vote of the City by filing with the City Secretary a request for withdrawal signed by at least four (4) members of the Petitioners' Committee. Upon the filing of such request, the petition shall have no further force or effect and all proceedings thereon shall be terminated.

(d) **Withdrawal Signatures:** No signature shall be withdrawn from any petition after such petition has been filed with the City Secretary.

#### 7.36 Results of Election for Initiative and/or Referendum

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

(b) **Referendum:** If a majority of the qualified electors voting on a referred ordinance vote against it, it shall be considered repealed upon certification of the election results.

#### 7.37 Results of Recall Election

If a majority of the votes cast at a recall election shall be against removal of the elected official named on the ballot, he shall continue in office. If the majority of the votes cast at the election be for the removal of the elected official named on the ballot, the Council shall immediately declare his office vacant and such vacancy shall be filled in accordance with provision 2.08 of this charter for the filing of vacancies.

#### 7.38 Limitation on Recall

No recall petition shall be filed against an elected official within six (6) months after he takes office.

#### 7.39 Public Hearing

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

#### 7.40 Failure of City Council to Call an Election

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

## CHAPTER VIII TAXES

### 8.01 Power to Tax

The Council shall have the power granted to municipalities by the Constitution and laws of the State of Texas to levy, assess and collect lawful taxes on property within the territory of the City, not to exceed the maximum limits set by the constitution and laws of the State of Texas.

### 8.02 Appraisal and Assessment of Taxable Property

All taxable property situated within the corporate limits of the City on the first day of January of each year, not expressly exempt by law, shall be subject to yearly taxation by the City. As prescribed by state law, the assessed value of such property shall be one-hundred (100) percent of its appraisal value on January 1 as determined by the Ellis County Appraisal District or its successor.

### 8.03 Taxes - When Due and Payable

All taxes due the City shall be payable at the office of the Tax Collector, who shall be designated by the Council, and may be paid at any time after the tax rolls for the year have been completed and approved, which shall be no later than October 1<sup>st</sup>. Taxes shall be paid on or before January 31<sup>st</sup>, of each year following the year for which the taxes are levied, 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 law. The Council may provide further, by ordinance, all taxes, either current or delinquent, due the City may be paid by installments. Failure to levy and assess taxes through omission, in preparation of the approved tax roll, shall not relieve the person, firm, or corporation so omitted from objection 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. The Council shall be prohibited from waiving penalties and interest, allowing discounts, and extending time for payment of taxes.

#### 8.04 Tax Liens

(a) The tax levied by the City is hereby declared to be a lien, charge, or encumbrance upon the property as of January 1<sup>st</sup> 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 also as against the unknown heirs of any person who owns the property upon which the tax is due and also as against non-residents. 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.

(b) In addition to the lien 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.

#### 8.05 Arrears of Taxes Offset to Debt Against City

The City shall be entitled to counterclaims and offset against any debt, claim, demand or account owed by the City to any person, firm or corporation who is in arrears to the City for taxes, in the amount of taxes so in arrears, and no assignment or transfer of such debt, claim, demand or account after the said taxes are due, shall affect the right of the City to so offset the said taxes against the same.

#### 8.06 Tax Remission Discount and Compromise, Correction of Error

Except as herein provided, neither the Council nor any other official of the City shall extend the time for payment of taxes nor remit, discount or compromise any tax due the City, nor waive the penalty and interest that may be due thereon to any persons, firms, or corporations owing taxes to the City for such year or years; provided, however, that this provision shall not prevent the compromise of any tax suit, or the correction of any errors in assessment, or preparation of tax rolls, or preparation of a tax statement. Such compromise or correction of errors shall first have the approval of the Council.



### 8.07 Other Rules and Regulations

Except as otherwise provided by law or this Charter, the Council shall have the power to provide, by ordinance, such rules, regulations and mode of procedure to enforce the collection by and payment to the Tax Assessor and Collector of all taxes due the City as it may deem expedient, and may provide such penalty and interest as prescribed by state law for the failure to pay such taxes.

## CHAPTER IX FINANCE

### A. BUDGET

#### 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 of each calendar year. Such fiscal year shall also constitute the Budget and Accounting year.

#### 9.02 Annual Budget

Operating Budget. The operating 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. A budget message explaining the budget both in fiscal terms and in terms of the work programs shall be submitted with the budget. It shall outline the proposed financial policies of the City for the ensuing fiscal year, describe the important features of the budget, indicate any major changes from the current year in financial polices, expenditures, and revenues, with reason for such changes. It shall also summarize the City's debt position and include such other material as the City Manager deems advisable. The budget shall begin with a clear, general summary of its contents, shall show in detail all estimated income, indicating the proposed property tax levy, property value to which it is to be applied, and all proposed expenditures, including debt service, for the ensuing fiscal year. The proposed budget expenditures shall not exceed the total of estimated income and unencumbered funds from previous years. The budget message shall be so arranged as to show comparative figures of the prior year, actual and estimated income, and expenditures of the current fiscal year, all compared to the estimate of the budgeted year. It shall include separate sections:

- (a) An itemized estimate of the expense of conducting each department, division and office;
- (b) Reasons for proposed increases or decreases of such items of expenditure compared with the current and prior fiscal year;

- (c) A separate schedule for each department, indicating tasks to be accomplished by the department during the year, and additional desirable tasks to be accomplished if possible;
- (d) A statement of the total probable income of the City from taxes for the period covered by the estimate;
- (e) Tax levies, rates, property values, and collections for the preceding five (5) years;
- (f) An itemization of all anticipated revenue from sources other than the tax levy;
- (g) The amount required for interest on the City's debts, for sinking fund and for maturing serial bonds;
- (h) The total amount of outstanding City debt, with a schedule of maturities on bond issues;
- (i) Anticipated net surplus of deficit for the ensuing fiscal year of each utility owned or operated by the City and the proposed method of its disposition; subsidiary budgets for each utility giving detailed income and expenditure information shall be attached as appendices to the budget;
- (j) Such other information as may be required by the Council or deemed desirable by the City Manager.

#### 9.03 Capital Facilities and Property Budget

A five (5) year Capital Facilities and Property budget, which may be revised and extended each year to indicate capital improvements pending or in process of construction or acquisition, shall provide the following items:

- (a) A summary of proposed programs;
- (b) A list of all capital facilities and property improvements which are proposed to be undertaken during the five (5) fiscal years next ensuing, with appropriate supporting information as to the necessity for such improvements;
- (c) Cost estimates, method of financing and recommended time schedules for each such improvement with the estimated effect on the tax levy and;
- (d) The estimated annual cost of operating and maintaining the facilities to be constructed or acquired over the five (5) year period.

#### 9.04 Submission

The City Manager shall submit to the Council a proposed budget and accompanying message on or before the first day of August of each year. The Council shall review the proposed budget and revise it as deemed appropriate prior to general circulation for public hearing.

#### 9.05 Public Notice and Hearing

The Council shall post in the City Hall and publish in the official newspaper as required by state law prior to any required public hearing on the budget a notice stating the time and place where copies of the message and budget are available for inspection by the public, and the time and place of each public hearing on the budget. The Council shall adopt the budget by ordinance.

#### 9.06 Amendment before Adoption

The Council may adopt the budget with or without amendment at a regular or special meeting. In amending the budget, it may add or increase any programs or amounts and may delete or decrease any programs or amounts, except expenditures required by law or for debt service or for estimated cash deficit, provided that no amendment to the budget shall increase the authorized expenditures to an amount greater than the total of estimated income plus funds available from prior years.

#### 9.07 Adoption

The Council shall adopt the budget by ordinance not later than the 30<sup>th</sup> day of September. Adoption of the budget will require an affirmative vote in accordance with Section 2.12. Adoption of the budget shall constitute appropriations of the amount specified therein as expenditures from the fund indicated, and shall constitute a levy of the property tax therein proposed.

#### 9.08 Defect Shall Not Invalidate Tax Levy

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

#### 9.09 Failure to Adopt a Budget

If the Council fails to adopt the budget by the 15<sup>th</sup> day of September, the amounts appropriated for the current fiscal year shall be deemed adopted for the ensuing fiscal year on a month to month basis with all items in it pro-rated accordingly until such time as the Council adopts a budget for the ensuing fiscal year. The levy of property tax normally approved as a part of the budget adoption will be set to equal the total current fiscal year receipts, unless the ensuing fiscal year budget is approved by September 30<sup>th</sup> of the current fiscal year.

### 9.10 Public Records

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

### 9.11 Specified Reserve Fund

Specified reserve funds may be created for specific purposes, and may be used only for such purposes.

## **B. AMENDMENTS AFTER ADOPTION**

### 9.20 Supplemental Appropriations

If during the fiscal year the City Manager certifies that there are revenues available for appropriation in excess of those estimated in the budget, the Council may make supplemental appropriations to fund the appropriations as desired or carry the excess into the next fiscal year.

### 9.21 Emergency Appropriations

(a) To meet a public emergency created by a natural disaster or man-made calamity affecting life, health, property, or the public peace, the Council may make emergency appropriations.

(b) In such case, the Council may authorize the issuance of emergency notes, but the emergency notes and renewals shall be paid not later than the last day of the fiscal year next succeeding that in which the emergency appropriations were made.

### 9.22 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 the deficit, any remedial actions taken by him and his recommendations as to any other steps to be taken. The Council shall then take such further action as it deems necessary to prevent or minimize any deficit and for that purpose the Council may by ordinance reduce one or more appropriations.

### 9.23 Transfer of Appropriations

At any time during the fiscal year the City Manager may transfer part or all of any unencumbered appropriation balance among programs within a department, division or office and transfer part or all of any unencumbered appropriation balance from one department, office or agency to another. If the City Manager transfers from one department, office or agency to another, then the City Manager shall provide a written accounting of all transfers to the City Council at the next regular City Council meeting.

#### 9.24 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 thereof.

#### 9.25 Effective Date

The supplemental and emergency appropriations authorized by this section may be made effective immediately upon adoption of the ordinance or budget amendments.

### C. BORROWING

#### 9.30 Authority to Incur Indebtedness

The Council shall have the power to incur, create, refund or refinance indebtedness and borrow money for the public purposes; to issue special or general obligation bonds, revenue bonds, funding and refunding bonds, time warrants and other evidences or indebtedness and to secure and pay the same in the manner and in accordance with the procedures provided and required by state law.

#### 9.31 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 this Charter and to issue refunding bonds to refund outstanding bonds previously issued. All such bonds shall be issued in conformity with the laws of the State of Texas and shall be used only for purposes for which they were issued. Any bond, excluding refunding bonds, to be issued under the provisions of this section shall not be issued without an election held in accordance with the provisions of state law.

#### 9.32 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 the Constitution and Laws of the State of Texas, and to issue revenue bonds to evidence the obligation created thereby. Such bonds shall be a charge upon and payable from properties, or interest therein pledged, or the income therefrom, or both. The holders of the revenue bonds shall never have the right to demand payment thereof out of monies raised or to be raised by taxation. All such bonds shall be issued in conformity with the laws of the State of Texas.

### 9.33 Bonds Incontestable

All bonds of the City having been issued and sold and having been delivered to the purchaser thereof, shall thereafter be incontestable and all bonds issued to refund in exchange for outstanding bonds previously issued shall and after said exchange, be incontestable.

### 9.34 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.

### 9.35 Use of Bond Funds

Any and all bond funds approved by a vote of the citizens of Red Oak will be expended only for the purposes stated in the bond issue.

### 9.36 Certificates of Obligation

All certificates of obligation issued by the City shall be approved by ordinance and issued in accordance with the laws of the State of Texas.

### 9.37 Sale of Bonds

No bonds issued by the City shall be invalid because they are sold for less than par value and accrued interest. The Council shall have the right to reject any or all bids.

## D. ADMINISTRATION OF BUDGET

### 9.40 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 appropriations and that sufficient funds therefrom are

or will be available to cover the claim or meet the obligation when it becomes due and payable. Any authorization or payment or incurring of obligation in violation of the provisions of this Charter shall be cause for removal of any officer who knowingly authorized or made such payment or incurred such obligations, and he shall also be liable to the City for any amount so paid. However, this prohibition shall not be construed to prevent the making or authorizing of payments or making of contracts for capital improvements to be financed wholly or partly by the issuance of bonds, time warrants, certificates of indebtedness, or certificates of obligation, 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.

#### 9.41 Financial Reports

The City Manager shall submit to the Council at its first regular City Council meeting each month the financial condition of the City budget items, budget estimates versus accruals for the preceding month and for the fiscal year to date. Such records are to be made public by the Council during open meeting. The financial records of the City will be maintained in accordance with accepted principles recommended by the American Institute of Certified Public Accountants and by the National Committee on Governmental Accounting.

#### 9.42 Independent Audit

At the close of each fiscal year, and at such times as it may be deemed necessary, the Council shall cause an independent audit to be made of all accounts of the City by a Certified Public Accountant. The Certified Public Accountant shall have no personal interest, directly or indirectly, in the financial affairs of the City or any of its officers. Upon the completion of the audit, the results thereof in a summary form shall be published immediately in the official newspaper of the City and copies of the audit placed on file in the City Secretary's office as a public record.

#### 9.43 Purchasing

(a) The Council may, by ordinance, confer upon the City Manager general authority to contract for expenditures without further approval of the Council for all budgeted items if the amount of the expenditure would not require competitive bidding under state law. All contracts or purchases, involving more than the limits set, shall be let to the lowest most responsible bidder whose submittal is among those most responsive to the needs of the City after there has been opportunity for competitive bidding as provided by law or ordinance; provided that the Council, or City Manager, in such cases as he is authorized to contract for the City, shall have the right to reject any and all bids.

(b) Contracts exempted from competitive bidding requirements by state law for reasons other than the amount of the expenditure may be negotiated by the Council, or City Manager, if given authority by the Council, without competitive bidding.

## CHAPTER X FRANCHISES AND UTILITIES

### 10.01 Powers of the City

In addition to the City's power to buy, construct, lease, maintain, operate and regulate public utilities within or without the City limits, and to manufacture, distribute and sell the commodities or products of such utility operations required and used by the public, the City shall have such further powers as may now or hereafter be granted under the Constitution and laws of the State of Texas.

### 10.02 Power to Grant Franchise

The Council shall have the power, by ordinance, after public hearing, to grant, renew, and extend all franchises for all utilities of every character operating within the City and, to amend the same, provided, however, that no franchise shall be granted for an indeterminate term, and that no franchise shall be granted for a term of more than twenty (20) years from the date of the grant, renewal or extension. Council action on all ordinances granting, renewing, extending or amending a utility franchise shall comply with the applicable provisions set forth in Section 3.13 of this Charter.

### 10.03 Reserved

### 10.04 Transfer of Franchise

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

### 10.05 Right of Franchise

All grants, renewals, extensions or amendments of utility franchises shall be subject to the following rights 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 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 extension of plant and service as is necessary to provide adequate service to the public and maintenance of the plant and fixtures at the highest reasonable standard of efficiency.

(c) To impose regulations to insure safe, efficient and continuous service to the public.

(d) To require at any time such compensation and rental as may be permitted by the laws of the State of Texas.

(e) To require the franchisee 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. The franchise holder in opening and refilling of all earth openings shall relay the pavement and do all other work necessary to complete restoration of streets, sidewalks or grounds to a condition equally as good or better as when disturbed.

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

#### 10.06 Regulation of Rates

The Council shall have full power after due notice and hearing to regulate, by ordinance, the rates, charges and fares of all public utility franchise holders operating in the City as authorized by state and federal law.

#### 10.07 Utility to File Annual Reports

(a) The Council may require all utilities operating within the corporate limits of the City to file a sworn annual report of the receipts from the operation of the said business for the current year, how expended, how much thereof for betterments or improvements, the rate of tolls or charges for services rendered to the public, and any other facts or information that the Council may deem pertinent for its use, including reports on operations within the City, in intelligently passing upon any questions that arise between the City and said public utility and public service companies; said reports to be filed with the City Secretary and said and preserved for the use of the Council. Such reports shall be reviewed annually by the Council to determine the propriety of the rates being charged.

(b) Any utility who shall for a thirty (30) day period willfully refuse or fail to report in the manner required by the Council in accordance with this Charter, or shall file any report, knowing that the same does not truly report the facts about the

matters mentioned therein, shall be subject to such penalties as may be prescribed by the Council by ordinance.

#### 10.08 Accounts of Municipally Owned Utilities

Accounts shall be kept for each public utility owned or operated by the City, in such manner as to show the true and complete financial results of such City ownership and operation, including all assets, appropriately subdivided into different classes, all liabilities subdivided by classes, depreciation reserve 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, shall show as nearly as possible the cost of any service furnished to or rendered by any such utility to any other City or governmental department. The Council shall annually cause to be made by a certified public accountant and shall publish a report showing the financial results of such City ownership and operation, giving the information specified in this section and such other data as the Council shall deem expedient.

#### 10.09 Franchise Records

The City shall compile and maintain a public record of utility franchises.

#### 10.10 Extensions

All extensions of service of utilities within the City limits shall become a part of the aggregate property of the utility, shall operate as such, and shall be subject to all the obligations and reserved rights contained in the Charter and in any original grant hereafter made. The right to use and maintain any extension shall terminate with the original grant and shall be terminable as provided in Section 10.05. In case of extension of a utility operated under a franchise hereafter granted, such right shall be terminable at the same time and under the same conditions as the original grant.

## CHAPTER XI PLANNING AND ZONING

#### 11.01 State Law Adopted

The Council shall have the power and authority to zone the City and to pass all necessary ordinances, rules and regulations governing same, under and by virtue of the authority given to cities and legislative bodies thereof by Chapter 211 of the

Texas Local Government Code, together with all existing amendments which may hereafter be made thereto.

### 11.02 Board of Adjustment

The Council shall appoint a Board of Adjustment which shall have all of the powers and authority as set forth in Chapter 211 of the Texas Local Government Code, and as hereafter amended, and such additional powers and privileges as may be duly assigned to it by the ordinances of the City.

### 11.03 The Planning and Zoning Commission

(a) There shall be established by the Council a Planning and Zoning Commission, which shall have all the powers and authority set forth in Chapter 211 of the Texas Local Government Code, and as amended, and such additional powers and privileges as may be duly assigned to it by the ordinances of the City. If the Council chooses, it may establish separate planning and zoning boards and establish the duties of each.

(b) A member of the Commission may be removed with the consent of a majority of the Council. If a vacancy occurs upon the Planning and Zoning Commission, by both resignation or otherwise, the Council shall appoint a commissioner to fill such a vacancy for the unexpired term. The Commission shall keep minutes of its proceedings which shall be a public record. The Commission shall serve without compensation. No member of the Planning and Zoning Commission shall hold another salaried or elected City office.

## CHAPTER XII TRANSITION AND GENERAL PROVISIONS

### 12.01 Effect of Charter on Existing Law

All ordinances, resolutions, rules and regulations in force in the City on the effective date of this Charter, and not in conflict with this Charter, shall remain in force until altered, amended or repealed. All taxes, assessments, liens, encumbrances and demands, of or against the City, fixed or established before such date, or for the fixing or establishing of which proceedings have begun at such date, shall be valid when properly fixed or established either under the law in force at the time of beginning of such proceedings or under the law after the adoption of this Charter.

### 12.02 Continuation of Present Offices

All persons holding administrative office at the time this Charter takes effect shall continue in office and in the performance of their duties until provision shall have been made in accordance therewith for the performance of such duties or the discontinuance of such office. The powers conferred and the duties imposed upon

any office, department or agency of the City by the laws of the State shall, if such office, department or agency be abolished by this Charter or under its authority, be thereafter exercised and discharged by the office, department or agency designated by the Council unless otherwise provided herein.

#### 12.03 Public Meetings

All meetings of the Council and all boards and commissions appointed by the Council shall be governed by the provisions of the Open Meetings Act, Chapter 551 of the Texas Government Code and any amendments thereto. This section shall not be construed to require any action or measure beyond that required by the aforementioned State Statute.

#### 12.04 Public Records

Access to the records of every office, department or agency of the City shall be subject to public inspection as provided by Chapter 522 of the Texas Government Code and any amendments thereto. This section shall not be construed to require any action or measure beyond that required by the aforementioned State Statute.

#### 12.05 Official Newspaper

The Council may designate, by resolution, a newspaper of general circulation in the City as the official newspaper of the City, and shall cause to be published therein all ordinances, notices and other matters which are required to be published by this Charter, the ordinances of the City or the Constitution or laws of the State of Texas.

#### 12.06 Notice of Injury or Damage

Before the City shall be liable for any claim for damages for the death or personal injuries of any person or for damages to property, the complainant or his authorized representative shall notify the City Secretary. The notification shall be in writing and shall state specifically how, when and where the death, injury or damage occurred; the amount of loss claimed; and the identity of any witnesses upon whom it is relied to establish the claim. The person giving notice under this section shall give the addresses of every place that he has resided during the six (6) month period prior to the damage or injury and subscribe his name to the notice under oath that the statements and facts contained in said notice are true and correct. The notification shall be filed within six months of the date of injury or damage or in the case of death, within six months (6) of the date of death.

#### 12.07 Bond or Security Not Required

It shall not be necessary in any action, suit or proceeding in which the City is a party, for any bond, including supersedeas 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.

#### 12.08 Judicial Notice

This Charter shall be deemed a public act and shall have the force and effect of a general law; may be read in evidence without pleading or proof, and judicial notice shall be taken thereof in all courts and places without further proof.

#### 12.09 Continuance of Contracts and Succession of Rights

All contracts entered into by the City or for its benefit prior to the taking effect of this Charter shall continue in full force and effect. Public improvements for which legislative steps have been taken under laws or ordinances existing at the time this Charter takes effect may be carried to completion in accordance with the provisions of such existing laws or ordinances. All suits, taxes, penalties, forfeitures and all other rights, claims and demands, which have accrued under the laws, heretofore in force governing the City shall belong to and be vested in and shall be prosecuted by and for the use and benefit of the corporation hereby created, and shall not in any way be diminished, affected or prejudiced by the adoption and taking effect of this Charter.

#### 12.10 Continuance of Present Governing Body

All members of the Council, including the Mayor, holding office at the time of passage of this Charter shall continue to hold their respective place and office until their respective term of office for which they were elected expires.

#### 12.11 Property Not Subject to Execution

No property owned or held by the City shall be subject to any execution of any kind of nature.

#### 12.12 Garnishment

No funds of the City or within the custody of the City or any of its officers in any official capacity shall be subject to garnishment and the City shall never be required to answer in any garnishment proceedings.

#### 12.13 Persons Serving on Boards

Persons serving on any board at the time of the adoption of this Charter shall continue to serve on the board to which they were appointed until their term shall have expired or until their successors shall have qualified.

#### 12.14 Assignment of Wages

The City shall never be liable to the assignee of any wages of any officer, agent or employee of said City, whether earned or unearned, upon any claim or account whatsoever, and as to the City such assignment shall be absolutely void.

#### 12.15 When General Law Applicable

The general laws of the State of Texas and ordinances of the Council shall furnish the authority for the power and exercise thereof and control all matters to the extent not specifically and completely covered by this Charter.

#### 12.16 Severability Clause

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

#### 12.17 Meaning of Words

The provisions of this Charter shall be liberally construed for the purpose of effecting the objects and ends thereof. Unless some other meaning is manifest the word "CITY" shall be construed to mean the "CITY OF RED OAK," and the word "AND" may be read "OR" and the word "OR" may be read "AND," if the sense requires; the words in the present tense include future tense, except when a more restricted meaning is manifest, and singular may mean plural. Throughout this Charter words used in expressing masculine gender shall be construed to include the feminine. The word "CITY SECRETARY" refers to the person performing the duties of the City Secretary. The word "COUNCIL" shall be construed to mean the "CITY COUNCIL OF THE CITY OF RED OAK."

#### 12.18 Amending Charter

Amendments to this Charter may be framed and submitted to the voters of the City in the manner provided in Chapter 9 of the Texas Government Code, and as now or hereafter enacted.

#### 12.19 Submission of Charter to Voters

The Charter Commission in preparing this Charter concludes that it is impracticable to segregate each subject so as to permit a vote of "yes" or "no" on the same, for the reason that the Charter is so constructed that in order to enable it to work and function, it is necessary that it should be adopted in its entirety. For these reasons, the Charter Commission directs that the said Charter be voted upon as a whole and

that it shall be submitted to the qualified voters of the City at an election to be held for that purpose on Saturday, January 18, 1997. Not less than thirty days prior to such election, the Council shall cause the City Secretary to mail a copy of this Charter to each qualified voter of the City as appears from the latest certified list of registered voters. If a majority of qualified voters voting in such election shall vote in favor of the adoption of this Charter, it shall become the Charter of the City, and after the returns have been canvassed, the same shall be declared adopted and the City Secretary shall file an official copy of the Charter with the records of the City. The Secretary shall furnish the Mayor a copy of said Charter which copy of the Charter so adopted, authenticated and certified by his signature and the seal of the City, shall be forwarded by the Mayor to the Secretary of the State of Texas and shall show the approval of such Charter by majority vote of the qualified voters voting at such election.

We, the undersigned members of the City of Red Oak Charter Commission heretofore duly appointed to prepare a Charter for the City of Red Oak, Texas, do hereby certify that this publication constitutes a true copy of the proposed Charter of the City of Red Oak, Texas, as adopted by the members thereof.

**The City of Red Oak  
411 West Red Oak Road  
Red Oak, Texas 75154**

BULK RATE  
U.S. POSTAGE  
**PAID**  
PERMIT #7  
RED OAK TX 75154