



CHARTER

2004

CHARTER

Article I: Incorporation: Form of Government: Powers

Section 1.01. Incorporation.

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

Section 1.02. Form of Government.

The municipal government provided by this charter shall be known as the "council-manager" government. Pursuant to its provisions and subject only to the limitations imposed by the State Constitution and by this charter, all powers of the city shall be vested in an elective city council which shall enact local legislation, adopt budgets, determine policies, and appoint the city manager, who shall execute the laws and administer the government of the city. All powers of the city shall be exercised in the manner prescribed by this charter, or if the manner be not prescribed, then in such manner as may be prescribed by ordinance.

Section 1.03. Powers of the City

The city shall have all powers possible for a city to have under the Constitution and laws of this state, as fully and completely as though they were specifically enumerated in this charter. All such powers, whether expressed or implied shall be exercised and enforced in the manner prescribed by this charter, and when not prescribed herein, in such manner as may be provided by ordinance or resolution of the council of the City of Terrell.

The enumeration of particular powers in this charter shall not be held or deemed to be exclusive, but in addition to the powers enumerated herein, implied thereby or appropriate to the exercise thereof, the city may have and shall exercise all other powers which, under the Constitution of the State of Texas, it would be competent for the charter specifically to enumerate. The City of Terrell shall have and exercise all the powers conferred upon cities by what is known as the Home Rule Amendment to the Constitution of the State of Texas and the enabling act and all other laws passed or which may hereafter be passed by said legislature in relation to such matters.

The City of Terrell may exercise any of its powers or perform any of its functions, and may participate in the financing thereof, jointly or in cooperation, by contract or otherwise with the government of Texas or any agency thereof, or with the federal government or any agency thereof, or with the government of any county, city, or political subdivision to accomplish any lawful municipal purpose.

Section 1.04. Extension of Boundaries

- a) The limits of said corporation may be hereafter extended by adding additional territory to the same whenever the majority of the qualified voters of said territory shall indicate a desire to be included within the limits of the City of Terrell in the manner provided by state law.
- b) The city council shall have power by ordinance to fix the boundary limits of the City of Terrell and to provide for the alteration and the extension of said boundary limits, and the annexation of additional territory lying adjacent to the city, with or without the consent of the inhabitants annexed subject to the procedures set forth in state law.

When any additional territory has been so annexed, same shall be a part of the City of Terrell; provided, the provisions of this section shall be cumulative of all other provisions relating to the extension of boundary limits and annexation of territory to said city and shall never be construed as in conflict with such other provisions but shall be construed as an additional power and cumulative of other charter provisions.

Section 1.05. Public Improvements.

- a) Streets – The City of Terrell shall have exclusive dominion, control, and jurisdiction in, upon, and over and under the public streets, avenues, alleys, and highways of the City of Terrell, and may provide for the improvement thereof by paving, repaving, raising, draining, or otherwise. The provisions of Texas Transportation Code, Sections 311.001 and 313.001, together with existing amendments and all such amendments as hereinafter may be made, and acts supplementary thereto, now or thereafter enacted are expressly adopted and made a part of this charter. Such exclusive dominion, control and jurisdiction in, upon, over and under the public streets, avenues, alleys, and highways of the City of Terrell 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.
- b) Other Improvements – The City of Terrell shall have the power to provide for the improvement of drainage facilities and to extend its water and sewer systems and assess a part of the cost of such improvements against abutting property owners as in the case for street improvements according to the procedures set forth in Texas Transportation Code Sections 311.001 and 313.001, and fix a lien to secure the cost of such assessments as therein provided and issue assignable certificates provided, however, such assessments for improvements authorized by this section shall not exceed the enhanced value to said abutting property resulting from such improvements.

(Original Charter adopted April 10, 1973)

Article II: The City Council

Section 2.01. Composition, Eligibility, Election, and Terms.

- (a) Composition – There shall be a city council of four (4) council members and a mayor. The mayor shall be elected by the qualified voters of the city at large. The other four (4) council members shall be elected from single member districts. The council shall elect one (1) of their own members to act as mayor pro tem at the first council meeting after the municipal elections at which the new council members are qualified to take office.

One (1) member of the city council shall be elected from each of such defined districts by the voters residing therein and each candidate for the office of district council member shall be a resident of the district he shall represent; and shall remain a resident of the district during his term of office. The removal of a district council member of his residency from within the district from which he was elected will cause that office to then and there become vacant.

Districts shall be as follows:

District No. 2 shall consist of all the City of Terrell, west of the following streets: from the west city limits along Colquitt to Westway, along Westway to Eleventh, along Eleventh to Main, along Main to First, along First to Park, along Park to Pacific, along Pacific to Moore, along Moore to Frances, along Frances to Crenshaw, along Crenshaw to St. Luke, along St. Luke to Gilbert, along Gilbert to Rose Hill, and along Rose Hill to the city limits.

District No. 3 shall consist of all the City of Terrell east of the following streets: from the north city limits along the old T&NO Railroad to Rose, along Rose to Blanche, along Blanche to State, along State to Alamo, along Alamo to Virginia, along Virginia to Brin, along Brin to Blanche, along Blanche to High, along High to Dellis, along Dellis to Moore, along Moore to Frances, along Frances to Crenshaw, along Crenshaw to St. Luke, along St. Luke to Gilbert, along Gilbert to Rose Hill, and along Rose Hill to the city limits.

District No. 4 shall consist of all of the City of Terrell bounded by the following streets: from the north city limits along Poetry to State, along State to Rockwall, along Rockwall to Pacific, along Pacific to Moore, along Moore to Dellis, along Dellis to High, along High to Blanche, along Blanche to Brin, along Brin to Virginia, along Virginia to Alamo, along Alamo to State, along State to Blanche, along Blanche to Rose, along Rose to the old T&NO Railroad, and along the T&NO to the north city limits.

District No. 5 shall consist of all the City of Terrell bounded by the following streets: from the north city limits along Poetry to State, along State to Rockwall, along Rockwall to Pacific, along Pacific to Park, along Park to First, along First to Main, along Main to Eleventh, along Eleventh to Westway, along Westway to Colquitt and along Colquitt to the west city limits.

The city council shall reevaluate the four (4) districts every ten (10) years after the census has been taken by the U.S. Bureau of Census and redelineate the boundaries of the districts conforming as nearly as possible with an equal number of inhabitants in each district.

(Ordinance No. 1671 of February 18, 1992)

- (b) Eligibility – Each council member including the mayor shall have the following qualifications:
- (1) Must be a citizen of the United States.
 - (2) Must be a qualified voter of the State of Texas.
 - (3) Must have resided at least six (6) months next preceding the election within the corporate limits of the City of Terrell and where applicable in the district he wishes to represent.
 - (4) Must not have been convicted of a felony.
 - (5) Must not be disqualified by reason of any provision of any other section of this charter.

A member of the council ceasing to possess any of the qualifications enumerated in this section while in office shall immediately forfeit his or her office.

- (c) Election and Terms of Office – The Mayor and the four (4) district council members shall be elected, and hold office, unless sooner removed under the provisions of this charter and the laws of the State of Texas for a term of three (3) years.
- (d) Initial Election and Initial Terms – The Mayor shall be elected from the city at large and the four (4) district council members shall be elected by the voters in their respective districts commencing with the next regular municipal election. The council members from districts No. 2

and 4 shall serve an initial term of two (2) years when elected during the regular election on the third Saturday in May 2004. The Mayor shall be elected to serve a term of three (3) years when elected during the regular election held on the third Saturday in May 2004. Each office holder, including council members from districts No. 3 and 5, shall run thereafter upon the expiration of their terms.

- (e) Term Limitations – No elected officeholder shall serve more than three (3) consecutive terms in the position to which the officer holder was elected.

(Ordinance No. 1321 of July 12, 1983)

Section 2.02. Compensation, Expenses.

Members of the city council shall serve without pay or compensation; provided, however, they shall be entitled to all necessary expenses incurred in the performance of their official duties upon approval by the city council.

Section 2.03. Presiding Officer; Mayor.

The mayor shall preside at meetings of the city council, and shall be recognized as the head of the Terrell city government and perform such duties as may be prescribed by this charter and by the governor for purposes of military law, but shall have no administrative duties. The mayor shall have the right to vote on all matters, but his vote shall be cast last.

(Original Charter adopted April 10, 1973)

Section 2.04. Mayor Pro Tem / Deputy Mayor Pro Tem.

The mayor pro tem and deputy mayor pro tem shall be duly elected council members who shall be chosen by a majority of the city council at a regular meeting following each municipal election. The mayor pro tem shall act as mayor during the absence or disability of the mayor, and the deputy mayor pro tem shall act as mayor during the absence or disability of both the mayor and mayor pro tem. If a vacancy occurs in the office of mayor, the mayor pro tem shall become mayor to serve through the unexpired term of the mayor he succeeds.

(Ordinance No. 1321 July 12, 1983)

Section 2.05. Vacancies.

- (a) A vacancy of the council may result from the resignation, death, disability, or absence of a council member. In the case of absence from meetings, a council member who fails to attend three (3) consecutive regular meetings of the city council without being granted an excused absence by the city council shall be deemed to have vacated the office by such absences.

Any member of council who ceases to possess the required qualifications for office or who is convicted of a felony or of a misdemeanor involving moral turpitude or is convicted of violating Section 171 of the Local Government Code concerning conflict of interest shall forfeit his office. Every forfeiture shall be declared and enforced by a majority of the council.

- (b) The remaining members of the city council shall, by a majority vote thereof, at a regular meeting elect a member or members to fill the vacancy or vacancies thus existing or as set forth by state

law; and such member or members so elected by the city council shall serve in such position until the next regular municipal election, at which time the candidate then elected shall serve for the remaining term of office or for the succeeding term of office.

- (c) A person selected to fill a vacancy on the city council shall serve only until the next regular municipal election for that place.
- (d) If a candidate duly elected to the city council at the regular election fails to take the oath of office on or before 10 days after the beginning of the term, then that place shall be considered vacant and filled as herein provided for other vacancies. In the event such a candidate, elected to the city council at a special election, fails to take the oath of office on or before 10 days after the official canvass of the election, then that place shall be considered vacant and filled as herein provided for other vacancies.

Section 2.06. General Powers and Duties.

All powers of the city shall be vested in the council, except as otherwise provided by law or this charter, and the council shall provide for the exercise thereof and for the performance of all duties and obligations imposed on the city by law.

Section 2.07. Prohibitions.

- (a) Holding or Running for Other Office: No person elected to the city council, shall during the term for which he was elected, be appointed to any position of profit or trust in the service of the city. If a member of any board appointed by the council or any other appointive officer of the city shall become a candidate for nomination or election to any public office, such announcement or candidacy shall constitute an automatic resignation of his place or position with the city.

If a member of the city council becomes a candidate for nomination or election to any public office other than a place on the city council or if he becomes a candidate for election to any different place on the city council requiring him to take office prior to the end of his elective term, such announcement or candidacy shall constitute an automatic resignation of his place on the city council.

- (b) City Employees Holding or Running for Other Office: If any employee of the city shall become a candidate for nomination or election to any elective public office of profit or trust or the governing body of the City of Terrell, other than a municipal civil service employee as set forth in Section 143.086, Texas Local Government Code, such announcement or candidacy shall constitute an automatic resignation of his place or position with the city.
- (c) Appointments and Removals: No administrative officer or employee appointed by the city manager or any of his subordinates may be removed from office by the city council, nor may the council dictate the appointment or removal of such officer or employee. However, council may express its views and fully and freely discuss with the manager anything pertaining to appointment and removal of such officers and employees.
- (d) Interference with Administration: Except for the purpose of inquiries and investigations under Section 2.10, the council or its members shall deal with city officers and employees who are subject to the direction and supervision of the manager solely through the manager, and neither the council nor its members shall give orders to any such officer or employees, either publicly or privately.

Section 2.08. Judge of Qualifications.

The council shall be the judge of the election and qualifications of its members and of the grounds for forfeiture of their office and for that purpose shall have power to subpoena witnesses, administer oaths, and require the production of evidence. A member charged with conduct constituting grounds for forfeiture of his office shall be entitled to a public hearing on demand, and notice of such hearing shall be published in one (1) or more newspaper of general circulation in the city at least one (1) week in advance of the hearing. Decisions made by the council under this section shall be subject to review by the courts.

Section 2.09. City Secretary.

The council shall appoint, from recommendations of the city manager, or by any member of the city council, an officer of the city who shall have the title of city secretary. The city secretary shall give notice of council meetings to its members and the public, keep the journal of its proceedings, and perform such other duties as are assigned to the city secretary by this charter, by the council, by the city manager, or by state law. He may be removed at any time by a majority vote of the city council.

Section 2.10. Investigations.

The council may make investigations into the affairs of the city and the conduct of any city department, office, or agency and for this purpose may subpoena witnesses, administer oaths, take testimony and require the production of evidence. Any person who fails or refuses to obey a lawful order issued in the exercise of these powers by the council shall be guilty of a misdemeanor and on conviction be punished by a fine of not more than two hundred dollars (\$200.00).

Section 2.11. Independent Audit.

The council shall provide for an independent annual audit of all city accounts and may provide for such more frequent audits as it deems necessary. Such audits shall be made by a certified public accountant or firm of such accountants who have no personal interest, direct or indirect, in the fiscal affairs of the city government. The council may, without requiring competitive bids, designate such accountant or firm annually or for a period not exceeding three (3) years, provided that the designation for any particular fiscal year shall be made no later than thirty (30) days after the beginning of such fiscal year. A copy of such audit shall be kept in the office of the city secretary subject to inspection by any citizen and officer during regular office hours.

Section 2.12. Procedure.

- (a) Meetings – The council shall meet regularly at least once every month at such times and place as the council may prescribe. Special meetings may be held on the call of the Mayor or two (2) or more council members and unless declared an emergency, no less than seventy-two (72) hour notice shall be provided the public and each member. In case of a declared emergency the notice provisions of State Law shall be followed. All meetings shall be public; however, the council may recess for the purpose of discussing in a closed or executive session matters not expressly prohibited by state law to be deliberated on in executive or closed sessions.
- (b) Notice of Meetings – Written notice of the date, place, and subject of each meeting held by the city council shall be given before the meeting to the local news media and by having such notice posted on a bulletin board to be located at a place convenient to the public in the city hall for at least seventy-two (72) hours preceding the day of the meeting. However, in cases of

emergency or urgent public necessity, which shall be expressed in the notice, the notice shall be posted three (3) hours before the meeting is convened or called to order. The notice provisions of this charter shall follow State Statutes current at the time of the city charter, whichever is most restrictive.

- (c) Rules and Journal – The council shall determine its own rules and order of business and shall provide for keeping a journal of its proceedings. This journal shall be a public record.
- (d) Voting and Quorum – Any three (3) members of the city council shall constitute a quorum for the transaction of any business. The mayor shall be considered a regular member of the city council for purposes of constituting a quorum and be entitled to vote as provided in Section 2.03. No action of the council except as otherwise provided in the preceding sentence and in Section 2.05 shall be valid or binding unless adopted by the affirmative vote of three (3) or more members of the city council, which shall be taken by “Yea” or “Nay” vote, and entered into the official record.

Section 2.13. Ordinances.

- (a) Form – Every ordinance shall be introduced in writing and in the form required for final adoption. No ordinance shall contain more than one (1) subject which shall be clearly expressed in its title. The enacting clause of all ordinances shall be “BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF TERRELL”.
- (b) Procedure - Any proposed ordinance or resolution shall be introduced in written or printed form and discussed by Council on an agenda posted in accordance with the open meetings law of the State of Texas. Upon introduction of any ordinance, a copy shall be distributed to each council member and to the manager and a reasonable number of copies shall be made available in the office of the city secretary and such other public places as the council may designate. No ordinance shall be finally adopted until it has been considered and favorably acted on by the council at two (2) separate meetings of the city council held at least seven (7) days apart except as is otherwise expressly provided for in this charter, or except as authorized by State law. An ordinance may be adopted with or without amendment or rejected, but, if it is amended in substance from the form as first introduced to a degree that substantially changes its context, then the ordinance or its amended sections shall be subjected to all the procedures hereinabove required in the case of a newly introduced ordinance.
- (c) Publication – A full text of all penal ordinances shall be published at least twice in the official newspaper of the city, or in lieu thereof a descriptive caption or title stating in summary the purpose of the ordinance and penalty for violation thereof shall be published at least twice in the official newspaper of the city. The first publication above required shall be within ten (10) days from the date of final adoption of the ordinance. The city secretary shall note on every ordinance, the caption of which is hereby required to be published, and on the record thereof, the fact that same has been published as required by the charter, and the date of such publication, which shall be prima facie evidence of the legal publication and promulgation of such ordinance. All other ordinances not herein specifically required to be published, need not be published. Every ordinance shall be authenticated by the signature of the mayor and the city secretary and shall be systematically recorded and indexed in an ordinance book in a manner approved by the Council. It shall be necessary only to record the caption or title of ordinances in the minutes or journal of council meetings.
- (d) Effective date – Where publication of an ordinance or descriptive caption and penalty is required by this charter or by state statute, the effective date of such ordinances shall be from and after the date of the second or final required publication or at such later time as is stipulated. If no publication is required and no effective date is otherwise provided for in an ordinance, the effective date shall be from and after its final adoption. However, the effective

date of emergency ordinances shall be governed according to the provisions of Section 2.14 of this charter.

Section 2.14. Emergency Ordinances.

To meet a public emergency affecting life, health, property, or the public peace, the council may adopt one (1) or more emergency ordinances, but such ordinances may not levy taxes, grant, renew, or extend a franchise, regulate the rate charged by any public utility for its services or authorize the borrowing of money except as provided in subsection 5.09(b). An emergency ordinance shall be introduced in the form and manner prescribed for ordinances generally, except that it shall be plainly designated as an emergency ordinance and shall contain, after the enacting clause, a declaration stating that an emergency exists and describing it in clear and specific terms. An emergency ordinance may be adopted with or without amendment or rejected at the meeting at which it is introduced, but the affirmative vote of at least four (4) members shall be required for adoption. If the council membership is less than five (5), a unanimous vote of all members of the council is required. After its adoption the ordinance shall be published and printed as prescribed for other adopted ordinances. It shall become effective upon adoption or at such later time as it may specify. Every emergency ordinance except one made authorizing emergency borrowing or contracting an indebtedness shall automatically stand repealed as of the 61st day following the date on which it was adopted, but this shall not prevent reenactment of the ordinance in the manner specified in this section if the emergency still exists. An emergency ordinance may also be repealed by adoption of a repealing ordinance in the same manner specified in this section for adoption of emergency ordinances.

Section 2.15. Codes of Technical Regulations.

The council may adopt any standard code of technical regulations by reference thereto in an adopting ordinance. The procedure and requirements governing such an adopting ordinance shall be as prescribed for ordinances generally except that:

- (a) The requirements of this charter for distribution and filing of copies of the ordinance shall be construed to include copies of the code of technical regulations as well as the adopting ordinance, and
- (b) A copy of each adopted code of technical regulations as well as of the adopting ordinance shall be authenticated and recorded by the city secretary.

Section 2.16. Authentication and Recording; Codification; Printing.

- (a) Authentication and Recording. The city secretary shall authenticate by his signature and record in full in a properly indexed book kept for the purpose all ordinances and resolutions adopted by the council.
- (b) Codification. The council shall revise and update annually a codification of all city ordinances and resolutions having the force and effect of law. The general codification shall be in bound or looseleaf form together with this charter and any amendments thereto, pertinent provisions of the Constitution and other laws of the State of Texas, and such codes of technical regulations and other rules and regulations as the council may specify. This compilation shall be known and cited officially as the "Terrell City Code". Copies of the code shall be furnished to city officers, placed in libraries and public offices for free public reference and made available for purchase by the public at a reasonable price fixed by the council.

- (c) Printing of Ordinances and Resolutions. The council may cause each ordinance and resolution having the force and effect of law and each amendment to this charter to be printed promptly following its adoption, and the printed ordinances, resolutions, and charter amendments may be distributed or sold to the public at reasonable prices to be fixed by the council. Following publication of the first Terrell City Code and at all times thereafter, the ordinances, resolutions, and charter amendments shall be printed in substantially the same style as the Code currently in effect and shall be suitable in form for integration therein. The council shall make such further arrangements as it deems desirable with respect to reproduction and distribution of any current changes in or additions to the provisions of the Constitution and other laws of the State of Texas, or the codes of technical regulations and other rules and regulations included in the Code.

Article III: The City Manager

Section 3.01. Appointment, Qualifications, Compensation.

The Council shall appoint a city manager for an indefinite term and fix his compensation. The manager shall be appointed solely on the basis of his executive and administrative qualifications. He need not be a resident of the city or state at the time of his appointment but shall reside within the City of Terrell while in office.

Section 3.02. Removal.

The council may remove the manager from office in accordance with the following procedures:

- (a) The council shall adopt by affirmative vote of a majority of all its members a preliminary resolution which must state the reasons for removal and may suspend the manager from duty for a period not to exceed forty-five (45) days. A copy of the resolution shall be delivered promptly to the manager.
- (b) Within five (5) days after a copy of the resolution is delivered to the manager, he may file with the council a written request for a public hearing. This hearing shall be held at a council meeting not earlier than fifteen (15) days nor later than thirty (30) days after the request is filed. The manager may file with the council a written reply not later than five (5) days before the hearing.
- (c) The council may adopt a final resolution of removal, which may be made effective immediately, by affirmative vote of a majority of all its members at any time after five (5) days from the date when a copy of the preliminary resolution was delivered to the manager, if he has not requested a public hearing, or at any time after the public hearing if he has requested one.

The manager shall continue to receive his salary until the effective date of a final resolution of removal. The action of the council in suspending or removing the manager shall be final and not subject to review by any court or agency.

Section 3.03. Acting City Manager.

By letter filed with the city secretary, the city manager shall designate, subject to approval of the council, a qualified city administrative officer to exercise the powers and perform the duties of manager during his temporary absence or disability. During such absence or disability, the council may revoke such designation at any time and appoint another officer of the city to serve until the city manager shall return or his disability shall cease.

Section 3.04 Powers and Duties of the City Manager.

The city manager shall be the chief executive and administrative officer of the city. He shall be responsible to the council for the administration of all city affairs placed in his charge by or under this charter. He shall have the following powers and duties:

- (a) He shall appoint and, when he deems it necessary for the good of the service, suspend or remove all city employees and appointive administrative officers provided for by or under this charter, except as otherwise provided by law, this charter or personnel rules adopted pursuant to this charter. He may authorize any administrative officer who is subject to his direction and supervision to exercise these powers with respect to subordinates in that officer's department, office, or agency.
- (b) He shall direct and supervise the administration of all departments, offices, and agencies of the city, except as otherwise provided by this charter or by statute.
- (c) He shall attend all council meetings and shall have the right to take part in discussion but may not vote.
- (d) He shall see that all laws, provisions of this charter, and acts of the council, subject to enforcement by him or by officers subject to his direction and supervision, are faithfully executed.
- (e) He shall prepare and submit the annual budget and capital program to the council.
- (f) He shall be responsible for the submission to the council and make available to the public a complete report on the finances and administrative activities of the city as of the end of each fiscal year.
- (g) He shall make such other reports as the council may require concerning the operations of city departments, offices, and agencies subject to his direction and supervision.
- (h) He shall keep the council fully advised as to the financial condition and future needs of the city and make such recommendations to the council concerning the affairs of the city as he deems desirable.
- (i) He shall perform such other duties as are specified in this charter or may be required by the council.
- (j) He shall be responsible for the proper handling, disbursement and reporting on all matters of finance, purchasing, property management and other acts required under Article V of this charter.

Article IV: Administrative Departments

Section 4.01 General Provisions.

- (a) Creation of Departments. The council may establish city departments, offices, or agencies in addition to those created by this charter and may prescribe the functions of all departments, offices, and agencies, except that no function assigned by this charter to a particular department, office, or agency may be discontinued or, unless this charter specifically so provides, assigned to any other.

- (b) Direction by the Manager. All departments, offices, and agencies under the direction and supervision of the manager shall be administered by an officer appointed by and subject to the direction and supervision of the manager. The appointments by the manager of the heads of all departments established by the council or by this charter shall be subject to the approval of the council, but approval by the council shall not be required for the heads of subdivisions of any department, office, or agency, or of any other subordinate employee of the city. Further, once an appointment of any person to head any department has been given approval by the council, such person may not be removed except by the manager. The manager may serve as head of one (1) or more such departments, offices, or agencies or may appoint one (1) person as the head of two (2) or more of them.

Section 4.02. Personnel Rules.

The city manager shall prepare personnel rules and the council may by ordinance adopt them with or without amendment. These rules shall provide for:

- (a) The classification of all city positions, based on the duties, authority, and responsibility of each position, with adequate provision for reclassification of any position whenever warranted by changed circumstances;
- (b) A pay plan for all city positions;
- (c) Methods for determining the merit and fitness of candidates for appointment or promotion;
- (d) The policies and procedures regulating reduction in force and removal of employees;
- (e) The hours of work, attendance regulations and provisions for sick and vacation leave.
- (f) The policies and procedures governing persons holding provisional appointments;
- (g) The policies and procedures governing relationships with employee organizations;
- (h) Policies regarding in-service training programs;
- (i) Grievance procedures; and
- (j) Other practices and procedures necessary to the administration of the city personnel system.

Section 4.03. City Attorney.

The city council shall appoint a city attorney from recommendations of the city manager, or by any member of the city council, who shall be duly licensed to practice law in the State of Texas. He shall receive for his services such compensation as may be fixed by the council. He may be removed at any time by majority vote of the city council.

The city attorney shall represent the City of Terrell in all its litigation. He shall be the legal advisor of and attorney and counsel for the City of Terrell, the council and all boards, commissions, and agencies and all officers and departments thereof.

The city attorney shall have authority to appoint one (1) or more assistants, subject to approval of the city council, at such compensation as may be fixed by the council, such assistant or assistants to hold office at the will of the city attorney so long as he remains as such.

Notwithstanding the above provisions, the council may engage special legal counsel to represent the City of Terrell in any specific matter or for the performance of any specifically delineated duties otherwise to be performed by the city attorney.

Section 4.04. Judge of the Municipal Court.

There shall be a magistrate of the municipal court known as the judge of the municipal court who shall be appointed by the city council from recommendations by the city manager, or by any member of the city council, at such compensation as the council shall fix. He may be removed at any time by majority vote of all members of the council. The city council may appoint an additional or substitute judge on recommendation of the city manager as the council may determine the needs to attend the duties of judge of the municipal court.

Article V: Financial Procedures

Section 5.01. Fiscal Year.

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

Section 5.02. Submission of Budget and Budget Message.

On or before the 1st day of August of each year, the manager shall submit to the council a budget for the ensuing fiscal year and an accompanying message.

Section 5.03. Budget Message.

The manager's message shall explain the budget both in fiscal terms and in terms of the work programs. It shall outline the proposed financial policies of the city for the ensuing fiscal year, describe the important features of the budget, indicate any major changes from the current year in financial policies, expenditures, and revenues together with the reasons for such changes, summarize the city's debt position and include such other material as the manager deems desirable.

Section 5.04. Preparation and Submission of Budget.

The budget shall provide a complete financial plan for the fiscal year, and shall be in the form and contain such information as required by state law and by the city council. The budget shall conform to recommendations for budgets and crediting procedures as prescribed by the municipal finance officers association to the extent possible.

Section 5.05. Budget a Public Record.

The budget and all supporting schedules shall be filed with the city secretary when submitted to the council and shall be opened to public inspection by anyone interested.

Section 5.06. Public Hearing on Budget.

The city council shall hold a public hearing on the proposed budget. Any taxpayer of the City of Terrell may attend and may participate in the hearing. The city council shall provide for public notice of the date, time, and location of the hearing on the budget in at least one (1) newspaper of general circulation in the county in which the municipality is located. Notice of the public hearing shall be published not earlier than the 30th day or later than the 10th day before the date of the hearing.

Section 5.07. Proceeding on Adoption of Budget.

At the conclusion of the public hearing, the governing body of the municipality shall take action on the proposed budget. On final approval of the budget by the governing body, and the municipality, the budget shall be filed with the municipal clerk. Should the council take no action after the conclusion of the public hearing, the budget, as submitted by the city manager, shall be deemed to be finally adopted by the Council on September 30.

Section 5.08. Budget, Appropriation, and Amount to be Raised by Taxation.

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

Section 5.09. Contingent Appropriation.

Provision shall be made in the annual budget and in the appropriation ordinance for a contingent appropriation in an amount not more than five per centum (5%) of the total general fund expenditures, to be used in case of unforeseen items of expenditures. Such contingent appropriation shall be under the control of the city manager and distributed by him only after prior approval by the city council. The proceeds of the contingent appropriation shall be disbursed only by transfer to other departmental appropriation, the spending of which shall be charged to the departments or activities for which the appropriations are made.

Section 5.10. Amending the Budget.

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

Section 5.11. Certification; Copies Made Available.

A copy of the budget, as finally adopted, shall be filed with the city secretary, the Terrell Public Library, and such other places required by state law or as the city council shall designate. The final budget shall be printed, mimeographed or otherwise reproduced and sufficient copies shall be made available for the use of all offices, agencies, and for the use of interested persons and civic organizations.

Section 5.12. Defect Shall Not Invalidate the 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.

Section 5.13. Finance.

A central accounting system shall be established, and insofar as local conditions will permit, all functions of accounting, financing, inventory, and budget controls will be centralized therein. The city manager shall perform or delegate to one (1) or more officers designated by him, the following duties and responsibilities:

- (a) Supervise and be responsible for the disbursement of all moneys and have control over all expenditures to ensure that budget appropriations are not exceeded;
- (b) Maintain a general accounting system for the city government and each of its offices, departments, and agencies, keep books for and exercise financial budgetary control over each office, department, and agency, keep separate accounts for the items of appropriation contained in the city budget, each of which accounts shall show the amount of the appropriation, the amounts paid therefrom, the unpaid obligations against it and the unencumbered balance; require reports of receipts and disbursements from each receiving and spending agency of the city government to be made daily or at such intervals as he may deem expedient;
- (c) Submit to the Council a monthly statement of all receipts and disbursements in sufficient detail to show the exact financial conditions of the City of Terrell;
- (d) Have custody of all public funds belonging to or under the control of the City of Terrell, or any office, department, or agency of the city government, and deposit all funds coming into his hands in such depository or depositories as may be designated by the city council, subject to the requirements of law in force from time to time as to the furnishing of bond or the deposit of securities and the payment of interest on deposits;
- (e) Have custody of all investments and invested funds of the city government, or in possession of such government in a fiduciary capacity, and have the safekeeping of all bonds and notes of the City of Terrell and the receipt and delivery of City of Terrell bonds and notes for transfer, registration, or exchange;
- (f) Supervise and be responsible for the purchase, storage, and distribution of all supplies, materials, equipment, and other articles used by any office, department, or agency of the city governments and prepare the periodical inventories of supplies, materials, and city-owned property;
- (g) Approve all proposed expenditures and unless there is an unencumbered balance of appropriations and available funds, no expenditures shall be made.

Section 5.14. Accounting Supervision and Control.

The city manager or such officer or officers designated by him shall have power and shall be required to:

- (a) Prescribe the forms of receipts, vouchers, bills, or claims to be used by all the offices, departments, and agencies of the city government;

- (b) Examine and approve all contracts, orders, and other documents by which the city government incurs financial obligations, having previously ascertained that moneys have been appropriated and allotted and will be available when the obligations shall become due and payable;
- (c) Audit and approve before payment all bills, invoices, payrolls, and other evidences of claims, demands, or charges against the city government and with the advice of the city attorney to determine the regularity, legality, and correctness of such claims, demands, or charges;
- (d) Inspect and audit any accounts or records of financial transactions which may be maintained in any office, department, or agency of the city government apart from or subsidiary to the accounts kept in his office.

Section 5.15. Lapse of Appropriations.

All appropriations shall lapse at the end of the fiscal year to the extent that they shall not have been expended or lawfully encumbered.

Section 5.16. Fees Shall be Paid to City of Terrell.

All fees received by any officer or employee shall belong to the city and shall be accounted for and paid to the department of finance at such times as required by the city manager except as otherwise provided.

Section 5.17. Sale of City Property.

Before the City of Terrell makes any sale or contract for the sale of any property belonging to the City of Terrell, except utilities, in the form of personal property, having an estimated value of one thousand dollars (\$1,000.00) or less, opportunity shall be given for open competition under such rules and regulations as the city council may prescribe.

In the sale of property valued at more than one thousand dollars (\$1,000.00) the property shall be advertised for sale and bids in the local newspaper. The contract of sale shall be awarded to the highest responsible bidder, either at auction or upon sealed bids, after such public notice and competition as may be prescribed, and upon such other terms and conditions not inconsistent with ~~express~~ expressed provisions of law and of this charter, as the city council may order; provided the city council shall have the power to reject any and all bids and advertise again. These same procedures shall be used whenever the City of Terrell acts as transfer agent. Sale of land shall be in accordance with provisions of Sections 253.008 and 272.001 of the Texas Local Government Code.

(Original Charter adopted April 10, 1973)

Section 5.18. Purchase Procedure.

Expenditures shall be made according to procedures established by ordinance of the city council for all budgeted items not exceeding the dollar amount as set forth under state law. All contracts or purchases exceeding the dollar amount as set forth under state law shall be let to the lowest and best bid by a responsible bidder after there has been an opportunity for competitive bidding in accordance with the requirements of Section 252.021 of the Texas Local Government Code and any amendments related thereto made for hereinafter made by the Legislature of Texas. Provided, however, the council shall have the right to reject any and all bids. Provided further, that the competitive bidding procedure shall not apply where excepted by state statute, including cases of public calamity where it becomes necessary to act at once to appropriate money to relieve the necessity of the citizens or to preserve the property of the

city, or when it is necessary to preserve or protect the public health of the citizens of the city, or in the case of unforeseen damage to public property, machinery, or equipment. These provisions shall not apply to contracts for personal or professional services; work done by the city and paid for by the day as such work progresses, and the purchase of land and right-of-way for authorized needs and purposes, but the notice required shall be given only with respect to an intention to issue time warrants with right of referendum.

Section 5.19. Disbursement of Funds.

All checks, vouchers, or warrants for the withdrawal of money from the city depository shall be signed by the city manager and countersigned by the finance officer, if there is one officially designated, or if not, then by the city secretary and/or by such other persons as designated by the city council.

Section 5.20. Borrowing in Anticipation of Property Taxes.

For the purpose of temporary borrowing, the city council shall have the power by ordinance to raise money on the credit of the city by the issuance of warrants, certificates of obligation, and/or notes in anticipation of the collection of taxes, of special assessments, or of other anticipated revenues.

Section 5.21. Sale of Notes; Report of Sale.

All notes issued pursuant to this article may be sold at not less than par and accrued interest at private sale without previous advertisement, and such sale shall be authorized by the council.

Section 5.22. Surety Bonds.

The directors of all administrative departments whose duties include the handling of moneys, and all employees whose duties include the handling of moneys, belonging to the City of Terrell, shall before entering upon the duties of their office or employment, make bond in some responsible surety company authorized to do business in the state, acceptable to the city council. Any such surety bond shall be conditioned that the principal thereon will faithfully perform and/or discharge the duties of his office, account for and pay over to the city all moneys and property coming into his hands belonging to the city, and if there are provisions of state law bearing upon the functions of his office under which the execution of a surety bond is required, it shall be further conditioned to comply therewith. Premiums for such surety bonds will be paid by the city.

Article VI: Bonds, Warrants and Other Evidence of Indebtedness

Section 6.01. Powers to Issue

In keeping with the Constitution of the State of Texas and not contrary thereto, the City of Terrell shall have the power to borrow money on the credit of the city for any public purpose not now or hereafter prohibited by the Constitution and laws of the State of Texas, and shall have the right to issue all tax bonds, ~~revenues~~ revenue bonds, funding and refunding bonds, time warrants, certificates of obligation and other evidence of indebtedness as now authorized or as may hereafter be authorized to be issued by any city under and in accordance with the restrictions, conditions and laws of the State of Texas.

Section 6.02. Sale of Bonds.

No bonds issued by the City of Terrell 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.

Section 6.03. Interest and Sinking Funds.

It shall be the duty of the council to levy an annual tax sufficient to pay the interest on and provide the necessary sinking fund required by law on all outstanding general obligation bonds, time warrants, and certificates of obligations of the city. The interest and sinking fund shall be deposited in a separate account and shall not be diverted to or used for any other purpose than to pay the interest and principal on all such bonds, time warrants, and certificates of obligations issued by the City of Terrell. The sinking fund maintained for the redemption of any debt may be invested in any interest bearing security authorized by laws of the state. Investments of all sinking funds for interest shall mature at least fifteen (15) days prior to the date of payment due on bonds issued by the City of Terrell. The council may also invest any other city funds in any state or national chartered bank in interest bearing certificates of deposit secured by pledged securities as required by state law for city deposits.

Section 6.04. Revenue Bonds.

The city shall have power to borrow money for the purpose of constructing, purchasing, improving, extending or repairing of public utilities, recreational facilities or facilities for any other self-liquidating municipal function not now or hereafter prohibited by any general laws of the state, and to issue revenue bonds to evidence the obligation created thereby. Such bonds shall be a charge upon and payable solely from the properties or interest therein acquired and the income therefrom, and shall never be a debt of the city. All revenue bonds issued by the city shall be in accordance with state law.

Section 6.05. Execution and Registration of Bonds.

All bonds, warrants, and certificates of indebtedness shall be signed by the mayor, countersigned by the city secretary, and sealed with the seal of the city in the manner provided by general law, and shall be payable at such times and place or places as may be fixed therein. It shall be the duty of the mayor, when such bonds are issued, to forward the same to the Attorney General of the State of Texas for approval and for registration by the comptroller of public accounts.

Section 6.06. Bond Register.

The director of finance or other officer of the city designated by the city manager shall keep, or cause to be kept, for and on behalf of the city a complete bond registry and books, showing all bonds, warrants, and certificates of indebtedness issued, the date and amount thereof, the rate of interest, maturity and other information pertinent thereto, of all bonds or other indebtedness surrendered and all other transactions of the council having reference to the refunding of the indebtedness of the said city. When bonds or their coupons are paid, their payment or cancellation shall be noted in said registry. The books shall be safely kept among the records of the city.

Article VII: Tax Administration

Section 7.01. Tax Assessor-Collector; Appointment.

The city council shall have the right to appoint a Tax Assessor-Collector, who shall be appointed by the city council from recommendations from the city manager, or any member of the city council or contract with a third party in accordance with state law. The Tax Assessor-Collector or third party designee shall collect all taxes and special assessments payable to the city. He shall supervise and be responsible for the assessment of all property subject to taxation within the corporate limits of the city for taxation, prepare and maintain property maps and ownership records on all property in the city, shall give all notices and do all other acts required by law for the assessment and collection of all taxes and special assessments levied and for the City of Terrell.

Section 7.02. Power to Tax, Franchise Taxes, Occupation Taxes.

- (a) The city council shall have the power under the provisions of state law to levy, assess, and collect annual tax upon all taxable property within the city not to exceed the maximum provided by the Constitution and general laws of the State of Texas.
- (b) The city council shall have the power annually to levy and collect a street rental charge against any public service corporation, person, or entity holding a franchise for the privilege of the use and occupancy of public streets, alleys, or grounds of the city, separately from the tangible property of such corporations, companies and corporate institutions, as authorized by the state laws, and shall have full power to enforce the collection ~~to~~ of such taxes.
- (c) The city council shall have the right to assess and collect such occupation taxes, licenses, and franchise taxes upon trades, professions, occupations, and any business transaction carried on in said city as may be authorized by the general laws of the State of Texas.
- (d) All existing taxes, assessments, and charges of whatever kind or nature heretofore levied by the City of Terrell shall remain in full force and effect until and unless repealed or changed by ordinance.

Section 7.03. Property Subject to Tax; Method of Assessment.

All property, real, personal or mixed, lying and being within the corporate limits of the City of Terrell on the first day of January, not expressly exempted by law, shall be subject to annual ad valorem taxation at its true market value. The mode and manner of making renditions, tax lists, assessments, tax rolls, delinquent tax rolls, collections and procedures for enforcing collection of such taxes shall be in accordance with the state laws governing the levy and collection of ad valorem taxes by cities, school districts, and counties. The city tax assessor-collector or third party designee shall assess all property which has been omitted from assessment in prior years upon a current supplemental assessment roll. The taxes upon such supplemental assessments shall be due at once, and if not paid within sixty (60) days thereafter, shall be deemed delinquent, and shall be subject to the same penalty and interest as other delinquent taxes for such year. If the ownership of any property should be unknown to the city tax assessor-collector, he shall enter that fact in the record.

In addition to the powers granted by this section, the city shall have the same power as county tax assessors and collectors in Texas to make reassessments, all at the same value and tax rates as such property should have been assessed and taxed for past years, and indicating the year or years for which it is assessed.

- 7.04 Deleted 02-07-04 {Board of Equalization; Appointments; Qualifications.}
- 7.05 Deleted 02-07-04 {Board of Equalization; Public Hearings; Notice to Court.}
- 7.06 Deleted 02-07-04 {Board of Equalization Powers and Duties.}
- 7.07 Deleted 02-07-04 {Board of Equalization; Records, Approval of Rolls.}

Section 7.08. Taxes; When Due and Payable.

All taxes due the City of Terrell shall be payable at the office of the city assessor-collector or the third party designee 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.

All taxes not paid on or before January 31 of the year following that for which they were levied shall become delinquent and subject to all penalties, interest, and other costs provided by state law on delinquent state and county taxes.

Section 7.09. Tax Liens.

The tax levied by the city is hereby declared to be a lien, charge, or encumbrance upon the property 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, and encumbrance on the property in favor of the city, for the amount of taxes, penalties, interest, and other cost due on such 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 nonresidents. All taxes upon real estate shall especially be a lien and a charge upon the property, real, personal, or mixed, upon which the taxes are due, which lien may be foreclosed in any court having jurisdiction. The city's tax lien shall exist from January 1 in each year until the taxes are paid. 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 defeat such lien.

All persons or corporations owning or holding personal property or real estate in the City of Terrell on the first day of January of each year shall be liable for all municipal taxes levied thereon for such year.

The personal property of all persons owing any taxes to the City of Terrell is hereby made liable for all of said taxes, whether the same be due upon personal property or real property, or upon both.

Section 7.10. Arrears of Taxes Offset to Debt Against City.

The city shall be entitled to counterclaim 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, including all penalties and interest, 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 against the same.

Section 7.11. Additional Power of Council.

Except as otherwise provided by applicable state law, or this charter, the council shall have the power by ordinances for the assessment and collection of all taxes, and to make such rules, regulations, and mode of procedure to enforce the collection by and payment to the tax assessor-collector or third party designee as it may deem expedient, and shall provide such penalties for the failure to pay such taxes as it may deem expedient.

Article VIII: Initiative Referendum and Recall

Section 8.01. Power of Initiative.

The voters shall have power to propose any ordinance except an ordinance appropriating money or authorizing the levy of taxes, and to adopt or reject the same at the polls, such power being known as the initiative. Any initiative ordinance may be submitted to the council by a petition signed by qualified voters of the city equal in number to at least ten percent (10%) of the number of votes cast at the last regular municipal election, but not less than (250) qualified voters.

Section 8.02. Power of Referendum.

The voters shall have power to approve or reject at the polls any ordinance passed by the council or submitted by the council to a vote of the voters, such power being known as the referendum, except in cases of bond ordinances and ordinances making the annual tax levy. Ordinances submitted to the council by initiative petition and passed by the council without change shall be subject to the referendum in the same manner as other ordinances. Within twenty (20) days after the enactment by the council of any ordinance which is subject to referendum, a petition signed by qualified voters of the city equal in number to at least ten percent (10%) of the number of votes cast at the last preceding regular municipal election, but not less than two hundred fifty (250) qualified voters may be filed with the city secretary requesting that any such ordinance be submitted to a vote of the voters.

Section 8.03. Frequency of Election.

Special elections on initiated or referred ordinances shall be held on the nearest uniform election date after such ordinance is certified by the city secretary to be sufficient, and no ordinance on the same subject as an initiated ordinance which has been defeated or on the same subject as a referred ordinance which has been approved at any election may be initiated by the voters within two (2) years from the date of such election.

Section 8.04. Form of Petition.

Initiative petition papers shall contain the full text of the proposed ordinance. The signatures to initiative or referendum petitions need not all be appended to one paper, but to each separate petition there shall be attached a statement of the circulator thereof as provided by this section. Each signer of any petition paper shall sign his name in ink or indelible pencil, and shall indicate after his name his place of residence by street and number, or other description sufficient to identify the place. There shall appear on each petition the names and addresses of five (5) voters, who, as a committee of the petitioners, shall be regarded as responsible for the circulation and filing of the petition. Attached to each separate petition paper there shall be an affidavit of the circulator thereof that he only, personally circulated the foregoing paper, that it bears a stated number of signatures appended thereto which were made in his presence, and that he believes them to be the genuine signatures of the persons whose names they purport to be.

Section 8.05. Filing Examination, and Certifications.

All petition papers comprising an initiative or referendum petition shall be assembled and filed with the city secretary as one instrument. Within ten (10) days after the petition is filed, the city secretary shall determine whether each paper of the petition has a proper statement of the circulator, and whether the petition is signed by a sufficient number of qualified voters. The city secretary shall declare any petition

paper entirely invalid which does not have attached thereto an affidavit signed by the circulator thereof. After completing his examination of the petition, if the city secretary certifies that the petition is insufficient, he shall set forth in his certificate the particulars in which it is defective, and shall at once notify the petitioners of his findings. The city secretary shall then notify the council of the results of his examination at its next regular meeting.

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

When a referendum petition, or amended petition as defined above has been certified as sufficient by the city secretary, the ordinance specified in the petition shall not go into effect, or further action thereunder shall be suspended if it shall have gone into effect until and unless approved by the voters, as hereinafter provided.

Section 8.06. Council Consideration and Submission to Voters.

Whenever the Council receives a certified initiative or referendum petition from the city secretary, it shall proceed at once to consider such petition. A proposed initiative ordinance shall be read, and provision shall be made for a public hearing upon the proposed ordinance. The council shall take final action on the ordinance not later than sixty (60) days after the date on which such ordinance was submitted to the council by the city secretary. A referred ordinance shall be reconsidered by the council, and its final vote upon such reconsideration shall be upon the question "Shall the ordinance specified in the referendum petition be repealed?"

If the council shall fail to pass an ordinance proposed by the initiative petition, or shall pass it in a form different from that set forth in the petition therefore, or if the council fails to repeal a referred ordinance, the proposed or referred ordinance shall be submitted to the voters at the next appropriate election as defined by the Uniform Election Code.

Ordinances submitted to vote of the voters in accordance with the initiative and referendum provisions of this charter shall be submitted by ballot title, which shall be prepared in all cases by the city attorney, but it shall be finally approved by the city council. The ballot title may be different from the legal title of any such initiated or referred ordinance and shall be a clear, concise statement, without argument or prejudice, descriptive of the substance of such ordinance and if a paper ballot is used, it shall have below the ballot title the following propositions, one above the other in the order indicated: "FOR THE ORDINANCE," and "AGAINST THE ORDINANCE". Any number of ordinances may be voted on at the same election, and may be submitted on the same ballot, but any paper ballot used for voting on an initiated or referred ordinance or ordinances shall be for that purpose only. If voting machines are used, the ballot title of any ordinance shall have below it the same two (2) propositions, one above the other or one preceding the other in the order indicated, and the voter shall be given an opportunity to vote for either of the two (2) propositions and thereby to vote for or against the ordinance.

Section 8.07. Referendum Petitions; Suspensions of Effect of Ordinances.

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

- (a) There is a final determination of insufficiency of the petition, or
- (b) The petitioner's committee withdraws the petition, or
- (c) The council repeals the ordinance, or
- (d) Thirty (30) days have elapsed after a vote for repeal of the ordinance has failed.

Section 8.08. Results of Referendum Elections.

If a majority of the voters voting on a proposed initiative ordinance shall vote in favor thereof, it shall thereupon be an ordinance of the city. A referred ordinance which is not approved by a majority of the voters voting thereon shall thereupon be deemed repealed. If the conflicting ordinances are approved by the voters at the same election, the one receiving the greatest number of affirmative votes shall prevail to the extent of such conflict.

Initiative and referendum ordinances adopted or approved by the voters shall be published, and may be amended or repealed by the council, as in the case of other ordinances.

Section 8.09. Power of Recall.

The people of the city reserve the power to recall any elected officer of the city, and may exercise such power by filing with the city secretary a petition signed by qualified voters of the city equal in number to at least twenty-five percent (25%) of the qualified voters of the last regular municipal election, or not less than five hundred (500) voters of the last regular municipal election demanding the removal of such elected officer. If the petition is certified by the city secretary to be sufficient, the council shall order and hold an election forthwith to determine whether such officer shall be recalled, and if the majority of the legal votes are cast for a recall of the officer named on the ballot, the council shall immediately declare his office vacant, and such vacancy shall be filled forthwith in accordance with the provisions of this charter. No recall petition shall be filed against an officer within six months (6) after such elected officer takes office.

Any member of the city council, including the mayor, may be removed from office by recall.

Section 8.10. Public Hearing To Be Held.

The officer whose removal is sought may, within five (5) days after such recall petition has been ~~represented~~ presented to the city council, request that a public hearing be held to permit him to present pertinent facts. In this event, the city council shall order such public hearing to be held not less than five (5) days nor more than fifteen (15) days after receiving such request for a public hearing.

Section 8.11. Recall Elections.

The city secretary shall at once examine the recall petition and if he finds it sufficient and in compliance with the provisions of this article of the charter, he shall within five (5) days submit it to the city council with the city secretary's certificate to that effect, and notify the officer sought to be recalled of such action. If the officer whose removal is sought does not resign within five (5) days after such notice, the city council shall thereupon order and fix a date for holding a recall election in accordance with the Uniform Election Code after the petition has been presented to the city council or after the public hearing provided for in Section 8.10 is held.

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

- (a) With respect to each person whose removal is sought, the ~~questions~~ question shall be submitted "Shall (name of person) be removed from the office of (Councilman or Mayor) by recall?"
- (b) Immediately below each such question there shall be printed the two (2) following propositions, one above the other, in the order indicated:

"For the recall of (name of person)"
"Against the recall of (name of person)"

Section 8.12. Results of Recall Election.

If a majority of the votes cast at a recall election shall be against the recall of the officer named in the ballot, he shall continue in office for the remainder of his unexpired term, subject to recall. If a majority of the votes cast at such an election be for the recall of the officer named on the ballot, he shall, regardless of any technical defects in the recall petition, be deemed removed from office, and the vacancy shall be filled by the city council as in other vacancies.

Section 8.13. Failure of Council to Call Election.

Should the city council fail or refuse to order any of the elections as provided for in this article when all the requirements for such election have been complied with by the petitioning voters in conformity with this article of the charter then the city shall be responsible for all court costs and attorneys' fees of the one who institutes suit to cause a writ of mandamus, mandatory injunction order or other court order to be issued requiring the calling of the election.

Article IX: Nominations and Elections

Section 9.01. Municipal Elections.

- (a) Regular Elections. Regular elections shall be held annually in accordance with the Uniform Election Code.
- (b) Qualified Voters. All citizens qualified by the Constitution and laws of the State of Texas to vote in the city, and who satisfy the requirements for registration prescribed by law shall be qualified voters of the city within the meaning of this charter, provided that the citizen must have resided inside the corporate limit of the City of Terrell for at least a thirty (30) day period prior to any election.
- (c) Conduct of Elections. The provisions of the Election Code of the State of Texas shall apply to elections held under this charter except when the Election Code gives precedence to the home rule charter. All elections provided for by the charter shall be conducted by the election authorities established by law. For the conduct of city elections for the prevention of fraud in such elections, and for the recount of ballots in cases of doubt or fraud, the council shall adopt by ordinance all regulations which it considers desirable, consistent with law and this charter.
- (c) Special Elections. The council may by ordinance order a special election, fix the time for holding same, and provide all means for holding such special election which shall be held in accordance with the Uniform Election Code.

- (d) Failure to Act. In the case of the failure of the council to act, the election may be ordered by the city secretary, and, in case of his failure to act, by the county judge of Kaufman County, Texas, and, in case of his failure to act, by Governor of the State of Texas. The city secretary shall give notice of such election by causing said notice to be published and posted not less than ten (10) or more than thirty (30) days previous to the day of such election in the official newspaper of the city.

Section 9.02. Filing of Candidates.

Any person who attests the eligibility herein stated and who desires to become a candidate for mayor or member of the council shall file with the city secretary a sworn application containing his or her correct name or initials for a designated place on the ballot at least thirty (30) days prior to the election of members. Such candidate shall comply with the requirements of the laws of the State of Texas which prescribe procedures for the filing of candidates for elective municipal office, and the provisions of this charter.

If the city secretary deems the applicant not qualified, he shall advise the applicant, and promptly refer the application to the council, who shall within five (5) days determine the qualifications and eligibility of such applicant, and immediately notify the applicant of its decision.

Section 9.03. Council Ballots.

The names of all candidates for the mayor and council as contained in their applications, and as hereinbefore provided, except such as may have withdrawn, died or become ineligible, shall be printed on the official ballots without party designations. If two (2) candidates with the same surname, or with names so similar as to be likely to cause confusion, are nominated, the addresses of the places of residence shall be placed with their names on the ballot. The order or the names on the ballot shall be determined by lot. The official ballots shall be printed not less than twenty (20) days before the date of the election.

Section 9.04. Regulation of Elections.

All elections shall be held in accordance with the laws of the State of Texas. The council shall adopt an ordinance regulating the holding of places to enable voters to expeditiously cast their ballots and shall provide for the installation of adequate equipment to guarantee a secret ballot. The council shall appoint the election judges and other election officials, and shall provide for their compensation, and for all other expenses of holding such elections.

Section 9.05. Determination of Election Results.

- (a) Elections and Declaring Results. The returns of every municipal election shall be delivered forthwith by the election judges to the city secretary. The election judges shall count and deliver the returns to the city secretary without adjournment or delay. The council shall canvass the returns, certify the qualification of the candidates and declare the official results of the election not later than the first regular meeting following the delivery of such returns to the city secretary. The qualified person receiving a majority of the qualified votes polled at this election shall thereupon be declared by the council to have been elected. In the event no candidate receives a majority of the qualified votes polled at such regular election for the office for which he or she is a candidate, the council shall immediately order a special election to be held not less than twenty (20) days nor more than thirty (30) days after the results of the regular election shall have been declared. At such special election the names of two (2) candidates receiving the highest number of votes cast at the regular election for the office for which they are candidates

shall be submitted for the election, and the candidate receiving the majority of votes at such special election for the position for which he or she was a candidate shall be declared duly elected.

- (b) Notification and Qualification of City Officers. It shall be the duty of the city secretary to promptly notify all persons elected or appointed to office of their election or appointment. Any officer elected or appointed must qualify by taking and subscribing his oath of office within thirty (30) days; otherwise, the office shall be vacant.
- (c) Tie vote. All ties in either election shall be decided by a runoff election as above required.

Section 9.06. Ballots for Charter Amendments.

A charter amendment to be voted on by the city shall be presented for voting by ballot title. The ballot title of an amendment shall be a clear, concise statement describing the substance of the proposal without argument or prejudice. If a paper ballot is used, below the ballot title shall appear the following question: "Shall the above described amendment be adopted?" Immediately below such question shall appear, in the following order, the words, "yes" and "no", and to the left of each a square in which by making a cross (x), the voter may cast his vote.

Section 9.07. Voting Machines and Devices.

The council may provide for the use of mechanical equipment or other devices for voting or counting the votes not inconsistent with law.

Article X: Franchise and Public Utilities

Section 10.01. Powers of the City.

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

Section 10.02. Franchises; Power of Council.

The council shall have power to grant, amend, renew or extend by ordinance all franchises of all public utilities of every character of operating within the City of Terrell, and for such purposes is granted full power. All ordinances granting, amending, renewing or extending franchises for public utilities shall be read at two (2) separate regular meetings of the council and shall not be finally passed until thirty (30) days after the first reading; and no such ordinance shall take effect until sixty (60) days after its final passage; and pending such time, the full text of such ordinance shall be published once each week for four (4) consecutive weeks in the official newspaper of the City of Terrell, and the expense of such publication shall be borne by the proponent of the franchise. No public utility franchise shall be transferable except to persons, firms, or corporations taking all or substantially all of the holder's business in the City of Terrell and except with the approval of the council expressed by ordinance. No franchise shall be granted for an indeterminate term nor for a term of more than twenty-five (25) years. No exclusive franchise shall ever be granted.

Section 10.03 Franchise Value Not To Be Allowed.

In fixing reasonable rates and charges for utility service within the city and in determining the just compensation to be paid by the city for public utility property which the city may acquire by condemnation or otherwise, nothing shall be included as the value of any franchise granted by the city under this charter.

Section 10.04. Right of Regulation.

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

- (a) To repeal the same by ordinance at any time for failure to begin construction or operation within the time prescribed or for failure otherwise to comply with the terms of the franchise, such power to be exercised only after due notice and hearing.
- (b) To require an adequate and reasonable extension of plant and service, and the maintenance of the plant and fixtures at the standard necessary to render the highest reasonable quality of utility service to the public
- (c) To establish reasonable standards of service and quality of products and prevent unjust discrimination in service rates.
- (d) To prescribe the form of accounts kept by each such utility. If the franchise or ordinance does not prescribe the form of accounts kept by each utility, then it shall keep its accounts in accordance with the utility system of accounts for said utility prescribed by the National Association of Railroad and Public Utility Commissioners, the State Railroad Commission of Texas, or their successors or other state or federal utility regulating agencies.
- (e) To examine and audit the accounts and other records of any such utility at any time and to require annual and other reports, including reports on local operations by each such public utility.
- (f) To impose such reasonable regulations and restrictions as may be deemed desirable or conducive to the safety welfare and accommodation of the public.

Section 10.05. Consent of Property Owners.

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

Section 10.06. Extensions.

All extensions of public utilities within the city limits shall become a part of the aggregate property of the public utility, shall be operated as such, and shall be subject to all the obligations and reserved rights contained in this charter and in any original grant hereafter made. The right to use and maintain any extension shall terminate with the original grant. In case of an extension of public 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.

Section 10.07. Temporary Permits.

Permits for minor or temporary privileges in the streets, public ways, and public places of the city may be granted and revoked from time to time, provided they are unconditionally revocable at the will of the governing body. Such permits shall not be deemed franchises as the term is used in this charter.

Section 10.08. Other Conditions.

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

Section 10.09. Franchise Records.

Within six (6) months after this charter takes effect, every public utility and every owner of public utility franchise shall file with the city certified copies of all franchises owned or claimed, or under which such utility is operated in the City of Terrell. The city shall compile and maintain a public record of public utility franchises.

Section 10.10. Regulation of Rates.

The city council shall have the power by ordinance to fix and regulate, after public hearing and reasonable notice, the price of water, gas, electric lights, electric power, and steam heat, and to regulate and fix the fares, and charges of local telephone service and charges of all public transportation of every kind, whether transporting passengers, freight or baggage, and generally to fix and regulate the rates and charges of all public utilities of every kind operating within the corporate limits of the City of Terrell.

Article XI: Boards and Commissions

Section 11.01. Boards and Commissions.

The city council shall have authority to establish by ordinance such boards and commissions as it may deem necessary for the conduct of city business and management of municipal affairs. The authority, functions and responsibilities of such boards and commissions shall be such as is spelled out in the ordinance establishing them. All existing boards and commissions heretofore established shall be continued in accordance with the ordinances or other acts under which they have been created, or until the city council shall by ordinance abolish, modify, or alter the ordinances or acts under which they exist. Notwithstanding any other provision of this charter the elected city council shall have paramount authority over all matters affecting the budgets, appropriation of funds, expenditures, purchases and sale of

properties and procedures for accounting ~~therefor~~ therefore, consistent with the ~~express~~ expressed provisions of this charter and applicable provisions of the State Constitution and laws of this state.

Article XII: General Provisions

Section 12.01. Personal Financial Interest.

The mayor, council members, and other officers and employees of the city shall not be interested in the profits or emoluments of any contract, job, work or service for the City of Terrell; nor shall either of them be interested in the sale to the city of any supplies, equipment, material, or articles purchased nor shall either of them be the owner of stock in any public utility or public service corporation operating under franchise or license of the City of Terrell. Any contract in which any officer or employee of the city has an interest or shall acquire an interest may be declared void by the city council. Any violations of this section shall result in the forfeiture of office, position, or job.

Section 12.02. Prohibitions.

The mayor, city council members, and other officers and employees of the City of Terrell are expressly prohibited from accepting any gift, donation, or privilege of value from any person, firm, or corporation on terms more favorable than those to the general public. This section shall not be construed so as to prohibit gifts and contributions to any special benefit fund for all employees of the city or department or division specially authorized and recognized by action of the city council.

Section 12.03. Official Oath.

All officers of the city shall, before entering upon the duties of their respective offices, take and subscribe the official oath prescribed by the Constitution of the State of Texas. The oath of office shall be administered by the mayor, mayor pro tem, city secretary, or any other person authorized by law to administer oaths.

Section 12.04. Notice of Claim.

The city shall not be held liable on account of any claim for the death of any person or damages to any person or to any property unless the person making such complaint or claiming such damages shall, within sixty (60) days after the time at which it is claimed such damages were inflicted upon such person or property, file with the city a written statement under oath, stating the nature and character of such damages or injuries, the extent of the same, the place where same happened, the circumstances under which same happened and the conditions causing same, with a detailed statement of each item of damages and the amount thereof, and if it be for personal injuries, giving a list of any witnesses known by affiant to have seen the accident.

Section 12.05. Assignment, Execution, and Garnishment.

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

Section 12.06 Security or Bond Not Required.

It shall not be necessary in any action, suit, or proceedings in which the city shall be a party for any bond, undertaking, or security to be executed in behalf of the city, but all actions, suits, and proceedings shall be conducted in the same manner as if such bond, undertaking, or security had been given. The city shall have all remedies of appeal provided by law to all courts without bond or security of any kind. For the purposes of all such actions, suits, proceedings, and appeals, the city shall be liable in the same manner and to the same extent as if the bond, undertaking or security had been executed and given.

Section 12.07. Nepotism.

No person related within the second degree by affinity, or third degree by consanguinity to the mayor or any member of the city council or the city manager shall be appointed to any paid office position of the city. This prohibition shall not apply to any person who shall have been employed by the city for two (2) or more years prior to and at the time of election of the mayor, or members of the city council or the appointment of the city manager so related to him or her.

Section 12.08. Fire Limits.

The governing body may establish fire limits and prescribe the kind and character of materials to be used in buildings constructed within such limits.

Section 12.09. When Provisions Take Effect.

For the purpose of nominating and electing members of the council, the provisions of this charter shall be in effect for the regular municipal election to be held in April, 1973. For all other purposes this charter shall be in effect from and after its approval by the voters of the city and the entering of an official order upon the records of the city by the governing body declaring the same adopted.

Section 12.10. Ordinances, Rules, and Regulations Validated.

All ordinances, resolutions, rules, and regulations of the City of Terrell heretofore ordained, passed 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 governing body of the city after such charter takes effect.

Section 12.11. Separability Clause.

If any section or part of a 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 a 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.

Section 12.12. Charter Amendment.

This charter may be amended in accordance with the procedures set forth in Section 9.004 of the Texas Local Government Code, as amended or as may be hereafter amended.

Section 12.13. Officers and Employees.

- (a) Rights and Privileges Preserved. Nothing in this charter except as otherwise specifically provided shall effect or impair the rights or privileges of persons who are city officers or employees at the time of its adoption.
- (b) Continuance of Office or Employment. Except as specifically provided by this charter, if at the time this charter takes full effect a city administrative officer or employee holds any office or position which is or can be abolished by or under this charter, he shall continue in such office or position until the taking of effect of some specific provision under this charter directing that he vacate the office or position. Any elected officer whose office becomes appointive or is or may be abolished by this charter shall continue in office to which he or she was elected until his or her term expires, at which time such elective office is abolished as such.

Section 12.14. Departments, Offices, and Agencies.

- (a) Transfer of Powers. If a city department, office, or agency is abolished by this charter, the powers and duties given it by law shall be transferred to the city department, office, or agency designated by this charter or, if the charter makes no provision, designated by the city council.
- (b) Property and Records. All property, records and equipment of any department, office, or agency existing when this charter is adopted shall be transferred to the department, office, or agency assuming its powers and duties, but, in the event that the powers or duties are to be discontinued or divided between units or in the event that any conflict arises regarding a transfer, such property, records, or equipment shall be transferred to one or more departments, offices, or agencies designated by the council in accordance with this charter.

Section 12.15. Pending Matters.

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

Section 12.16. State and Municipal Laws.

All city ordinances, resolutions, orders and regulations which are in force when this charter becomes fully effective are repealed to the extent that they are inconsistent or interfere with the effective operation of this charter or of ordinances or resolutions adopted pursuant thereto. To the extent that the Constitution and laws of the State of Texas permit, all laws relating to or affecting this city or its agencies, offices, or employees which are in force when this charter becomes fully effective are superseded to the extent that they are inconsistent or interfere with the effective operation of this charter or of ordinances or resolutions adopted pursuant thereto.

Section 12.17. Existing City Commission to Become City Council.

With the adoption of this charter, the present chairman of the city commission shall become the mayor; Commissioner No. 2 shall become Council Member No. 2 and the Mayor Pro Tem; Commissioner No. 3 shall become District Council Member No. 3; Commissioner No. 4 shall become District Council Member No. 4; and Commissioner No. 5 shall become District Council Member No. 5. Each of them shall continue

in office for the duration of the term to which elected and their successors have been elected and qualified as provided by the provisions of this charter.

Section 12.18. Submission of Charter to Electors.

The charter commission in preparing this charter finds and declares that it is impracticable to segregate each subject to that the voter may vote "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 of Terrell at an election to be held for that purpose on the 3rd day of April, 1973. If said charter is approved by a majority of the qualified voters, voting at said election, it shall become the charter of the City of Terrell upon the entering upon the records of said city by the governing body of such city an official order declaring the adoption of said charter.

(Original Charter adopted on April 10, 1973)