

**AN ORDER CANVASSING THE RETURNS OF THE SPECIAL ELECTION HELD FOR THE PURPOSE OF SUBMITTING TO THE QUALIFIED VOTERS OF THE CITY OF WATAUGA THE ADOPTION OR REJECTION OF CERTAIN PROPOSITIONS EACH PROVIDING FOR AMENDMENT TO THE HOME RULE CHARTER, FOR AN ELECTION HAVING BEEN HELD ON NOVEMBER 5, 2019; DECLARING RESULTS OF THAT ELECTION; ADOPTING AMENDED HOME-RULE CHARTER; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, pursuant to Ordinance No. 2019-010 of the City of Watauga, Texas, adopted on the 15<sup>th</sup> day of August, 2019, a Special Election was duly held on the 5<sup>th</sup> day of November 2019, for the purpose of submitting to the qualified voters of the City of Watauga twenty-seven propositions for City Charter Amendments as set forth in Ordinance No. 2019-010; and,

**WHEREAS**, said Special Election was held with the solemnities and formalities necessary to make a valid election, all notices having been posted in the manner and for the length of time required by law; and,

**WHEREAS**, only duly qualified resident voters of the City of Watauga, Texas, voted at the Special Election called and held on November 5, 2019; and,

**WHEREAS**, Section 67.003 of the Texas Election Code generally provides that each local canvassing authority shall not convene for the purpose of canvassing the election results earlier than the later of: the third (3rd) day after the uniform election day in November, the date on which the early voting ballot board has verified and counted all provisional ballots, if any, or the date on which all timely received ballots cast from addresses outside of the United States are counted, if any; and, not later than the 11<sup>th</sup> (eleventh) day after the election day; and,

**WHEREAS**, Section 67.004(a) of the Texas Election Code establishes the quorum level required to canvass election results to be two members of the canvassing authority; and,

**WHEREAS**, a quorum of the City Council met on Tuesday, November 12, 2019, in a public meeting duly called and conducted in accordance with the Texas Open Meetings Act and duly canvassed the election returns of the above described Special Election, hereby attached as Exhibit "A".

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WATAUGA, TEXAS:**

**Section 1.**

The findings set forth above are found and determined to be true and are incorporated into the body of this order for all purposes as if fully set forth herein.

**Section 2.**

The City Council of the City of Watauga, having canvassed the returns of said Special Election and all election procedures heretofore occurring, finds that the election was duly and properly ordered; that due and proper notice of the election was given; that the election was in all respects regularly and lawfully held, and that said returns thereof have been duly and legally made.

**Section 3.**

There were cast at said election, 1,436 ballots, one ballot for each qualified person who voted. Each ballot presented twenty-seven (27) Propositions to voters and each voter could have cast one vote only for or against each of the twenty-seven (27) Propositions. Each qualified individual voter could have thus cast a maximum of twenty-seven (27) votes in this election. Voters cast 1,436 ballots in this election providing for a maximum total of 38,772 possible valid and legal votes. Of these possible votes, 34,175 actual votes were cast. The voting results for all the Propositions in said election are recorded in Exhibit A as an attachment to this order as if recited verbatim herein.

**Section 4.**

Pursuant to the applicable provisions of the Texas Local Government Code, Texas Election Code and the City of Watauga Home-Rule Charter, the City Council finds, determines, and declares the results of said Special Election to be that Propositions A, B, C, D, E, F, G, H, I, J, K, L, M, N, O, P, Q, R, S, T, V, W, X, Y, Z, and AA have been approved by a majority of the qualified voters of the city who voted in the Charter Amendment Election and that said amendments are adopted by operation of law pursuant to Section 9.005(a) of the Texas Local Government Code.

**Section 5.**

This order declares the amendments adopted and said amendments shall take effect upon the passage of this order, as provided by Section 9.005(b) of the Texas Local Government Code. (Home-Rule Charter with amendments attached as Exhibit “B”).

**Section 6.**

It is further ordered that as soon as practicable the Mayor shall certify to the Texas Secretary of State an authenticated copy of the new City Charter under the municipality’s seal, showing approval by the voters of the municipality, who shall then file and record the certification, as required by Section 9.007 of the Texas Local Government Code.

**Section 7.**

It is hereby declared to be the intention of the City Council that the phrases, clauses, sentences, paragraphs, and sections of this order are severable, and if any phrase, clause, sentence, paragraph, or section of this order shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs, and sections of this order, since the same would have been enacted by the City Council without the incorporation of this order of any such unconstitutional phrase, clause, sentence, paragraph, or section.

**Section 8.**

The City Secretary shall record in the Secretary's office the charter amendments adopted by the voters of the municipality.

The above order was, upon motion made by \_\_\_\_\_ and seconded by \_\_\_\_\_, duly passed and adopted by the City Council of the City of Watauga, Texas, on the 12th day of November 2019.

**THE CITY OF WATAUGA, TX**

ATTEST:

\_\_\_\_\_  
Arthur L. Miner, Mayor

\_\_\_\_\_  
Andrea Gardner, City Secretary

APPROVED AS TO FORM AND LEGALITY:

\_\_\_\_\_  
George E. Hyde, Interim City Attorney

**EXHIBIT “A”**

*(canvass report)*

<b>Proposition</b>	<b>Precinct</b>	<b>Votes For</b>	<b>Votes Against</b>	<b>No. of Votes received</b>
A	3194	146	74	220
	3287	175	113	288
	3187	72	59	131
	3332	161	80	241
	3398	115	55	170
	3509	171	74	245
	3667	17	3	20
	4261	1	0	1
<b>TOTALS</b>		<b>858</b>	<b>458</b>	<b>1,316</b>
B	3194	192	33	225
	3287	247	45	292
	3187	112	19	131
	3332	204	38	242
	3398	147	24	171
	3509	230	20	250
	3667	19	0	19
	4261	1	0	1
<b>TOTALS</b>		<b>1,152</b>	<b>179</b>	<b>1,331</b>
C	3194	164	63	227
	3287	214	76	290
	3187	91	36	127
	3332	170	69	239
	3398	121	50	171
	3509	196	49	245
	3667	16	2	18
	4261	1	0	1
<b>TOTALS</b>		<b>973</b>	<b>345</b>	<b>1,318</b>
D	3194	173	50	223
	3287	248	43	291
	3187	112	22	134
	3332	204	40	244
	3398	147	30	177
	3509	222	29	251
	3667	17	2	19
	4261	1	0	1
<b>TOTALS</b>		<b>1,124</b>	<b>216</b>	<b>1,340</b>

Proposition	Precinct	Votes For	Votes Against	No. of Votes received
E	3194	203	17	220
	3287	259	22	281
	3187	123	8	131
	3332	220	21	241
	3398	152	21	173
	3509	232	17	249
	3667	18	2	20
	4261	1	0	1
<b>TOTALS</b>		<b>1,208</b>	<b>108</b>	<b>1,316</b>
F	3194	142	75	217
	3287	204	76	280
	3187	93	41	134
	3332	171	68	239
	3398	115	54	169
	3509	178	65	243
	3667	14	5	19
	4261	1	0	1
<b>TOTALS</b>		<b>918</b>	<b>384</b>	<b>1,302</b>
G	3194	127	90	217
	3287	154	126	280
	3187	88	44	132
	3332	134	103	237
	3398	90	76	166
	3509	157	89	246
	3667	15	3	18
	4261	1	0	1
<b>TOTALS</b>		<b>766</b>	<b>531</b>	<b>1,297</b>
H	3194	157	59	216
	3287	213	67	280
	3187	99	30	129
	3332	166	68	234
	3398	123	44	167
	3509	189	51	240
	3667	14	5	19
	4261	1	0	1
<b>TOTALS</b>		<b>962</b>	<b>324</b>	<b>1,286</b>

Proposition	Precinct	Votes For	Votes Against	No. of Votes received
I	3194	129	87	216
	3287	174	106	280
	3187	77	53	130
	3332	144	94	238
	3398	101	63	164
	3509	163	77	240
	3667	13	4	17
	4261	1	0	1
<b>TOTALS</b>		<b>802</b>	<b>484</b>	<b>1,286</b>
J	3194	174	43	217
	3287	238	42	280
	3187	116	15	131
	3332	205	36	241
	3398	136	28	164
	3509	202	39	241
	3667	16	2	18
	4261	1	0	1
<b>TOTALS</b>		<b>1,088</b>	<b>205</b>	<b>1,293</b>
K	3194	170	41	211
	3287	229	37	266
	3187	102	24	126
	3332	186	37	223
	3398	129	29	158
	3509	196	32	228
	3667	17	1	18
	4261	1	0	1
<b>TOTALS</b>		<b>1,030</b>	<b>201</b>	<b>1,231</b>
L	3194	188	27	215
	3287	247	32	279
	3187	115	13	128
	3332	200	31	231
	3398	147	18	165
	3509	219	22	241
	3667	14	3	17
	4261	1	0	1
<b>TOTALS</b>		<b>1,131</b>	<b>146</b>	<b>1,277</b>

Proposition	Precinct	Votes For	Votes Against	No. of Votes received
M	3194	151	58	209
	3287	181	78	259
	3187	91	28	119
	3332	155	69	224
	3398	114	41	155
	3509	183	39	222
	3667	16	1	17
	4261	1	0	1
<b>TOTALS</b>		<b>892</b>	<b>314</b>	<b>1,206</b>
N	3194	111	103	214
	3287	146	133	279
	3187	70	54	124
	3332	118	117	235
	3398	94	66	160
	3509	144	94	238
	3667	12	6	18
	4261	0	1	1
<b>TOTALS</b>		<b>695</b>	<b>574</b>	<b>1,269</b>
O	3194	164	51	215
	3287	231	47	278
	3187	108	21	129
	3332	193	43	236
	3398	119	44	163
	3509	212	27	239
	3667	17	0	17
	4261	0	1	1
<b>TOTALS</b>		<b>1,044</b>	<b>234</b>	<b>1,278</b>
p	3194	181	30	211
	3287	235	37	272
	3187	109	15	124
	3332	190	43	233
	3398	132	29	161
	3509	213	20	233
	3667	16	1	17
	4261	1	0	1
<b>TOTALS</b>		<b>1,077</b>	<b>175</b>	<b>1,252</b>

Proposition	Precinct	Votes For	Votes Against	No. of Votes received
Q	3194	162	46	208
	3287	219	54	273
	3187	99	25	124
	3332	185	42	227
	3398	130	33	163
	3509	199	36	235
	3667	15	2	17
	4261	1	0	1
<b>TOTALS</b>		<b>1,010</b>	<b>238</b>	<b>1,248</b>
R	3194	145	64	209
	3287	197	76	273
	3187	85	42	127
	3332	146	81	227
	3398	117	51	168
	3509	175	59	234
	3667	15	4	19
	4261	1	0	1
<b>TOTALS</b>		<b>881</b>	<b>377</b>	<b>1,258</b>
S	3194	190	18	208
	3287	256	19	275
	3187	118	9	127
	3332	204	22	226
	3398	142	23	165
	3509	227	11	238
	3667	15	1	16
	4261	1	0	1
<b>TOTALS</b>		<b>1,153</b>	<b>103</b>	<b>1,256</b>
T	3194	130	78	208
	3287	180	95	275
	3187	85	38	123
	3332	143	88	231
	3398	103	61	164
	3509	155	81	236
	3667	12	5	17
	4261	1	0	1
<b>TOTALS</b>		<b>809</b>	<b>446</b>	<b>1,255</b>

Proposition	Precinct	Votes For	Votes Against	No. of Votes received
U	3194	92	117	209
	3287	126	157	283
	3187	54	79	133
	3332	98	134	232
	3398	76	96	172
	3509	112	132	244
	3667	8	11	19
	4261	0	1	1
<b>TOTALS</b>		<b>566</b>	<b>727</b>	<b>1,293</b>
V	3194	118	66	184
	3287	169	77	246
	3187	83	30	113
	3332	131	76	207
	3398	104	44	148
	3509	151	65	216
	3667	10	5	15
	4261	1	0	1
<b>TOTALS</b>		<b>767</b>	<b>363</b>	<b>1,130</b>
W	3194	118	82	200
	3287	170	80	250
	3187	74	47	121
	3332	148	70	218
	3398	105	51	156
	3509	159	61	220
	3667	12	4	16
	4261	0	1	1
<b>TOTALS</b>		<b>786</b>	<b>396</b>	<b>1,182</b>
X	3194	159	48	207
	3287	229	49	278
	3187	105	24	129
	3332	182	45	227
	3398	132	32	164
	3509	200	41	241
	3667	16	2	18
	4261	1	0	1
<b>TOTALS</b>		<b>1,024</b>	<b>241</b>	<b>1,265</b>

Proposition	Precinct	Votes For	Votes Against	No. of Votes received
Y	3194	117	87	204
	3287	161	110	271
	3187	74	51	125
	3332	144	82	226
	3398	98	66	164
	3509	145	87	232
	3667	7	11	18
	4261	0	1	1
<b>TOTALS</b>		<b>746</b>	<b>495</b>	<b>1,241</b>
Z	3194	136	65	201
	3287	177	72	249
	3187	86	30	116
	3332	143	74	217
	3398	104	47	151
	3509	161	57	218
	3667	11	5	16
	4261	1	0	1
<b>TOTALS</b>		<b>819</b>	<b>350</b>	<b>1,169</b>
AA	3194	176	34	210
	3287	252	29	281
	3187	119	9	128
	3332	201	31	232
	3398	153	17	170
	3509	215	24	239
	3667	19	0	19
	4261	1	0	1
<b>TOTALS</b>		<b>1,136</b>	<b>144</b>	<b>1,280</b>

**EXHIBIT "B"**

**HOME RULE CHARTER**

**for the**

**CITY OF WATAUGA, TEXAS**

**PREAMBLE**

We, the citizens of Watauga, Tarrant County, Texas, in order to establish a Home Rule municipal government, provide for the future progress of our city, and obtain more fully the benefits of local self-government, do hereby adopt this Home Rule Charter in accordance with the Statutes of the State of Texas and do hereby declare the residents of the City of Watauga in Tarrant County, Texas, living within the legally established boundaries of said city, to be a political subdivision of the State of Texas, incorporated forever under the name and style of the "City of Watauga" with such powers, rights and duties as are herein provided.

**ARTICLE I. - FORM OF GOVERNMENT AND BOUNDARIES**

**Sec. 1.01. - 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 applicable law and by this Charter, all powers of the city shall be vested in an elective council, hereinafter referred to as the "city council," which shall enact local legislation, adopt budgets, determine policies, and appoint the city manager, who in turn, shall be held responsible to the city council for the execution of the laws and the administration of 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 or applicable law.

**Sec. 1.02. - Boundaries of the city.**

The inhabitants of the City of Watauga, Tarrant County, Texas, residing within its corporate limits, as heretofore or hereafter established, are hereby constituted and shall continue to be a municipal body politic and corporate, in perpetuity, under the name of the "City of Watauga" with such powers, privileges, rights, duties, authorities, and immunities, as are herein provided.

The boundaries of the City of Watauga are hereby established and described as being those boundaries heretofore established in the original incorporation proceedings of the said City of Watauga and those boundaries established and changed thereafter in accordance with section 1.03 of this Home Rule Charter by all annexation or disannexation ordinances and proceedings of the City of Watauga maintained in the office of the city secretary of the City of Watauga.

**Sec. 1.03. - Extension of boundaries.**

The corporate limits of the City of Watauga may hereafter be extended by ordinance passed, adopted and approved by the city council after publication of such notices and holding of such public hearings as are required by law.

**ARTICLE II. - POWERS OF THE CITY**

**Sec. 2.01. - General powers adopted.**

The City of Watauga may exercise all powers that now are or hereafter may be granted to municipalities by applicable law. 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 city council of the City of Watauga. The enumeration of particular powers by this Charter shall not be deemed to be exclusive, and in addition to the powers enumerated herein or implied hereby or appropriate to the exercise to such powers, it is intended that the City of Watauga shall have and may exercise all powers of local self-government, and all powers granted to municipal corporations by applicable law.

**Sec. 2.01a. - General powers of the city council.**

All powers of the city and the determination of all matters of policy shall be vested in the city council. Except where in conflict with and otherwise expressly provided by this Charter, the city council shall have all powers authorized to be exercised by the city council under applicable law. Without limitation of the foregoing, the specific powers accorded to the city council are set forth in section 3.07 of this Home Rule Charter.

**Sec. 2.02. - Eminent domain.**

The city shall have the full right, power and authority to exercise the power of eminent domain when necessary or desirable to carry out any of the powers conferred upon it by this Charter, or by applicable law. The power of eminent domain hereby conferred shall include the right of the city to take the fee in the lands so condemned and such power and authority shall include the right to condemn, for any municipal or public purpose. The city shall have the power through eminent domain proceedings to acquire any public utility operating with or without a franchise and furnishing a public service to the citizens of Watauga. The procedure to be used in the acquisition of such property through eminent domain proceedings shall be that as set forth in applicable law. In valuing the property of the public utility to be acquired by the city through eminent domain proceedings, the measure of damages shall be the fair market value of the physical properties together with its franchise, if any, taken together as one system.

**Sec. 2.03. - Establishment and control of public property.**

The City of Watauga shall have the power to lay out, establish, open, alter, widen, lower, raise, extend, grade, abandon, discontinue, abolish, close, care for, pave, supervise, maintain and improve streets, sidewalks, alleys, and other public property or places of all obstructions and encroachments of every nature or character upon any of said streets and sidewalks, and the power to regulate, control, and/or prohibit the moving of any type of objects over, along, or upon, under or across streets, alleys, sidewalks, parks, squares, public places and bridges, of every kind and character in such places and at such time as public need shall dictate.

**Sec. 2.04. - Street development and improvement.**

The city shall have the power to develop and improve, or cause to be developed and improved, any and all public streets or ways within the corporate limits of the city by laying out, opening, narrowing, widening, straightening, extending, lighting, and establishing building lines along the same by purchasing, condemning, and taking property therefor; by filling, grading, raising, lowering, paving, repaving and repairing in a permanent manner, the same; and by constructing, reconstructing, altering, repairing, and realigning curbs, gutters, drains, sidewalks, culverts and other appurtenances and incidentals in connection with such development and the improvement authorized hereinabove, or any combination or parts thereof.

**Sec. 2.05. - Annexation and disannexation of territory and property.**

Annexation and disannexation of territory and property undertaken by the City of Watauga shall be performed in accordance with applicable law.

**Sec. 2.06. - Disaster clause.**

In case of disaster when a legal quorum of the city council cannot otherwise be assembled due to multiple deaths or injuries, the surviving member or members of the city council, or highest surviving city official, if no elected official remains, shall within 24 hours of such disaster, request the county judge of Tarrant County, Texas, to appoint a commission to act during the emergency and call a city election within 15 days of such disaster for election of a required quorum, if sufficient cause exists to believe that a quorum of the present city council will never again meet.

The succession of authority in the event of disaster, multiple deaths, or injuries shall be as follows: mayor, mayor pro tem, members with the longest continuous service on the city council by place number, and most senior administrative official in city.

### **ARTICLE III. - THE GOVERNING BODY**

#### **Sec. 3.01. - Number, selection, term of the governing body.**

The legislative and governing body of the city shall be known as the “city council of the City of Watauga” and shall consist of eight members including seven councilmembers elected by place number and a mayor. The term “member of city council” shall mean the mayor or an individual councilmember. The place numbers for the seven (7) councilmembers shall be known as Place 1, Place 2, Place 3, Place 4, Place 5, Place 6 and Place 7. All members of the city council are to be elected pursuant to majority vote from the city at large. The members of the city council shall be elected under the general provisions of article IV of this Charter for terms of office as set forth below, provided however, that if the dates specified for a general or special election in applicable law are altered or amended, such terms shall extend until the next date specified for conducting a general or special election following the expiration of the originally contemplated term.

Terms of office for members of the city council shall be two years in accordance with the following schedule. Regular terms of office shall commence immediately following the canvass of votes for the election as provided by this Charter. Terms of office for councilmembers in places 1, 2, 6 and 7 shall expire in May of even-numbered years. Terms of office for mayor and councilmembers in places 3, 4 and 5 shall expire in May of odd-numbered years.

Each member of the city council shall hold office until a successor is elected and duly sworn, unless removed under the provisions of this Charter.

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

Each member of the city council:

- (a) (i) shall have been a resident of the City of Watauga for a period of not less than 12 months immediately preceding his or her election or (ii) shall have been a resident of the city or of territory annexed into the City under the provisions of this Charter during the 12-month period preceding his or her election;
- (b) shall be a qualified voter of the State of Texas and the City of Watauga;
- (c) shall not be employed by the city;
- (d) shall not hold another elective governmental office;
- (e) shall be 21 years of age or older at the time of assuming office;
- (f) shall not have been determined to be mentally incompetent by a final judgment of a court; and
- (g) shall have not been finally convicted of a felony offense or a misdemeanor offense involving moral turpitude from which the person had not been pardoned or otherwise released from the resulting disability. For purposes of this Home Rule Charter, a crime of moral turpitude

shall mean a criminal offense involving fraud, deceit, dishonesty or a criminal offense that is inherently immoral.

The qualifications set forth in subsections (a) through (f) of this section shall be applicable to a person seeking the office of city councilmember or mayor as well as to a person serving in such position during the term of office.

**Sec. 3.03. - Determination of election qualifications and election canvass.**

- (a) The city secretary shall determine qualifications of candidates for election to the city council.
- (b) The council shall be the judge of the election of its members, subject to review by statutorily authorized election contests held in accordance with applicable law. The canvass of the election shall be held in accordance with the provisions of applicable law. Two members of the city council may constitute a quorum for the purpose of canvassing an election.

**Sec. 3.04. - Compensation.**

The mayor and councilmembers shall not receive a salary but shall be entitled to actual and necessary expenses incurred in the performance of their specific official duties of the office. All expenses shall be subject to prior approval of the city council.

**Sec. 3.05. - Vacancies; forfeiture of office; filling of vacancies.**

Vacancies. The office of the mayor or a councilmember shall become vacant upon death, written resignation submitted to the city secretary, removal from office in any manner authorized by this Charter, applicable law or forfeiture of office.

Forfeiture of office. The mayor or a councilmember shall forfeit his or her office if he or she (1) lacks at any time during his or her term of office any qualification for the office prescribed by this Charter or by law, (2) willfully violates any express prohibition of this Charter, (3) is convicted of a felony or crime involving moral turpitude, or (4) fails to attend any three consecutive regularly scheduled meetings of the city council without being excused. Failure to attend a meeting under subsection (4) of this paragraph may only be excused for reasons of jury service, personal emergency, incapacitation, or personal vacation away from the City of Watauga with notice. Intent to be absent for reason of personal vacation shall be provided in writing to the city secretary prior to the meeting at which the mayor or councilmember will not be in attendance. Additionally, a total of four absences, excused or unexcused, for reasons other than jury service in any six regularly-scheduled meetings, beginning on the date of the first absence from a regular meeting, shall constitute automatic forfeiture of said office.

Forfeiture proceedings shall be initiated at the next regularly scheduled meeting of the city council following the recall election or the act or omission constituting the basis for forfeiture of office, as applicable. For purposes of this section, determination of what shall constitute a sufficient "personal emergency" shall be in the discretion of the remaining members of the city council by majority vote in open session. If the city council by majority vote in open session finds that the act constituting the basis

for forfeiture of office provided for in this section has been established, the city council shall order initiation of proceedings to replace the mayor or councilmember. Neither the mayor nor a councilmember charged with an act subjecting him or her to forfeit his or her office may participate in such vote.

Filling of vacancies. Subject to and consistent with applicable law, any vacancy or vacancies occurring on such governing body may be filled by appointment by majority vote remaining members of the city council.

Notwithstanding the requirements in section 3.09 of this Charter specifying that a quorum of the city council consists of five members, if at any time there are four or more vacancies on the city council, the remaining members shall call for a special election within 120 days after the vacancy or vacancies occur in order that such vacancy or vacancies can be filled by majority vote of the qualified voters.

**Sec. 3.06. - Mayor and mayor pro tem.**

- (a) The mayor shall be recognized as the ceremonial and governmental head of the city. The mayor shall preside at all meetings of the city council, shall rule on questions of procedure at city council meetings, shall vote only in case of a tie vote of the city council, and shall have veto power as provided in section 3.13 of this Charter. The mayor shall sign all ordinances, resolutions, proclamations, bonds and other documents as required by applicable law. The mayor shall have no regular administrative duties.
- (b) The mayor shall be designated by the governor as the disaster management director for the city pursuant to applicable law. The mayor shall have the authority to declare a state of emergency when necessary.
- (c) The mayor shall have the power to recommend appointment or removal of the city manager, the city secretary and the city attorney, subject to the consent and approval of the remaining members of city council. Such approval must be in accordance with the voting procedure set forth in section 3.09(c) of this Charter.
- (d) Except as otherwise provided by applicable law and this charter, the mayor shall have the power to recommend appointment of members to city boards and commissions, subject to the consent and approval of the remaining members of city council. Such approval must be in accordance with the voting procedure set forth in section 3.09(c) of this Charter.
- (e) The mayor shall have the power to create special subcommittees of three members or less of the city council as he or she deems advisable or as instructed by the city council. The mayor shall have the power to appoint members of the city council to such subcommittees.
- (f) Election of mayor pro tem: at its first regular meeting following the regular city council election, the city council shall elect from its members, in accordance with the voting procedure set forth in section 3.09(c) of this Charter, a mayor pro tem who shall serve for a term of one year. The mayor pro tem shall perform all duties of the mayor in the absence or disability of the mayor or in instances where the mayor is unable to preside on specific issues

and items due to a declared conflict of interest. In the event of resignation or vacancy of the office of mayor pro tem, the office shall be filled for the remainder of the one-year term of office by election by the city council at the next regular meeting of the city council following the resignation or vacancy.

- (g) If the vacancy of the office of mayor should occur, the mayor pro tem shall perform the duties of mayor until the next regular or special election, at which election a mayor shall be elected to fill the unexpired term.

**Sec. 3.07. - Specific powers of the city council.**

All powers and authority granted to the city by the Constitution of the State of Texas shall be vested in the city council, except as otherwise provided by law or this Charter. The city council shall provide for the exercise thereof and for the performance of all duties and obligations imposed upon the city by law and this Charter and shall be specifically granted the powers set forth below:

- (a) With the exception of the mayor, be responsible for confirming or rejecting recommended appointments made by mayor or city manager.
- (b) Establish, create, consolidate or abolish, administrative departments and distribute the work of divisions.
- (c) Adopt the budget, manage and control the finances.
- (d) Authorize the issuance and sale of bonds, by a bond ordinance.
- (e) Conduct or direct the conduct of investigations pursuant to section 3.10 of this Charter.
- (f) Provide for such additional boards and commissions, not otherwise provided for in this Charter, as may be deemed necessary.
- (g) Adopt and modify the zoning plan and building codes, including electrical and plumbing codes, of and for the city, and require building permits.
- (h) Adopt and modify the official map of the city.
- (i) Adopt, modify, and carry out plans for the clearance of slum districts and rehabilitation of blighted areas.
- (j) Adopt, modify, and carry out plans for the planning, improvement and redevelopment of any area or district which may have been destroyed in whole, or in part, by disaster.
- (k) Regulate, license, and fix the charges or fares made by any person, firm or corporation owning, operating or controlling any vehicle of any character used for the carrying of passengers for hire or the transportation of freight for hire on the public streets and alleys of the city.

- (l) Provide for the establishment and designation of fire limits and prescribe the kind and character of building or structures and improvements to be erected therein; and provide for the erection of fireproof buildings within said limits.
- (m) Fix the salaries and compensation of the city officers and employees. Establish qualifications, rules and standards of and for all employees of the city.
- (n) Provide for a sanitary sewer and water system, require property owners to connect their premises with sewer system, and provide for penalties for failure to make sanitary sewer connections.
- (o) Provide for sanitary garbage disposal, set fees and charges therefor, and provide penalties for failure to pay such fees and charges. Define nuisances, prohibit same and provide penalties for violations.
- (p) Provide for all necessary public utilities, set fees and charges therefor and provide penalties for misuses of same.
- (q) Exercise exclusive dominion, control and jurisdiction (including the right to close and abandon streets and alleys), in, upon, over and under the public streets, avenues, sidewalks, alleys, highways, boulevards and public grounds of the city, and provide for the improvement of the same as set forth by applicable law.
- (r) Litigate, defend, compromise and settle any and all claims, demands, and lawsuits of every kind and character on behalf of the City of Watauga.
- (s) To require bonds, both special and general, of all contractors and others constructing or building for the city, and set up standards, rules and regulations therefor.
- (t) To pass, adopt and approve ordinances and provide penalties for violations.
- (u) To provide and/or arrange for any and all "civil defense measures" and "public shelter measures" for the City of Watauga, Texas, and for the citizens thereof, deemed necessary for the public welfare.
- (v) To exercise, or delegate to the mayor, or mayor pro tem in the absence of the mayor from the city, extraordinary and total executive powers (on a temporary basis) during the existence and duration of any major public disaster, for the public welfare.
- (w) To cause the general ordinances of the city to be codified and printed in code form.
- (x) To approve or disapprove all appointments by the city manager in connection with department head positions.

**Sec. 3.08. - Prohibitions.**

- (a) Holding other office. Except where authorized by law no member of the city council, including the mayor, shall hold any other city office or employment by the city during the term for which he or she was elected to the city council, and no former mayor or councilmember shall hold any compensated appointive city office or employment until two years after the expiration of the term for which he or she was elected.
  
- (b) Appointments and/or removals. The members of the city council shall in no way dictate the appointment or removal of any city administrative officer or employee whom the city manager or any other subordinates are empowered to appoint, unless otherwise provided in this Charter. In regard to the appointment or removal of any city administrative officer or employee, the city council and its members shall deal solely through the city manager. A willful violation of the foregoing provision by a member of the city council shall constitute misconduct. The remaining members of the city council by majority vote may expel such offending member upon a finding, in a public hearing, that such willful violation had been committed. The member of city council that is the subject of the expulsion shall not be permitted to vote on the issue. Such expulsion shall create a vacancy in the place held by such member. Members of city council removed from office under this provision shall not continue to perform the duties of their office until a successor is duly qualified pursuant to applicable law.
  
- (c) Interference with administration. Except for investigations conducted pursuant to section 3.10 of this charter, the city council or its members shall deal with city officers and employees who are subject to the direction and supervision of the city manager solely through the city manager. The city council and its members acting individually shall not give orders or instructions to any officer or employee except in the state of a declared emergency. Members of the city council, acting individually, shall not give orders or instructions to the city manager, either publicly or privately, except in a state of a declared emergency. Such prohibition shall not apply to a request that an item be placed on a city council meeting agenda for consideration by the city council. A willful violation of the foregoing provision by a member of the city council shall constitute misconduct. The remaining members of the city council by unanimous vote may expel such offending member upon a finding, in a public hearing, that such willful violation had been committed. The member of city council that the subject of the expulsion shall not be permitted to vote on the issue. Such expulsion shall create a vacancy in the place held by such member. Members of city council removed from office under this provision shall not continue to perform the duties of their office until a successor is duly qualified pursuant to applicable law.

- (d) Admission of liability. Neither the city council nor its members shall accept or admit liability or pay any claim for damages asserted against the city without first obtaining a written opinion from the city attorney regarding the liability of the city.
- (e) [Repealed.]
- (f) [Repealed.]
- (g) [Repealed.]
- (h) Willful action subject to conduct. For purposes of this Home Rule Charter, a person acts willfully with respect to the nature of his or her conduct when it is his or her conscious objective or desire to engage in the conduct knowing that such conduct is expressly prohibited.

**Sec. 3.09. - Meetings and rules of procedure.**

- (a) Meetings. Regular city council meetings shall be held at a location in the city and the city council shall meet regularly not less than one time each month and at such other times as the city council may prescribe. Special meetings may be held on the call of the mayor or a majority of the members of the city council. Workshops and other such meetings where no action will be taken by the city council may be held in a location outside the city, subject to applicable law and a visual or audible recording shall be made and preserved for each meeting.

All meetings shall be held and public notice thereof given as required by applicable law. Closed meetings shall be conducted as authorized by applicable law.

- (b) Minutes and rules. The city council shall determine its own rules and order of business and shall provide for keeping minutes of its proceedings. The minutes shall be a public record.
- (c) Voting. Except as prohibited by conflict of interest laws or this charter, all members of the city council authorized to vote shall vote “aye” or “nay” on every action requiring a vote. The nature of a conflict of interest shall be concisely stated in the minutes. Voting, except on procedural motions, shall be accomplished by an electronic device which shall reflect the ayes and nays. Tabulation of the voting by the city council shall be announced in open meetings by the mayor or his or her duly appointed representative. All members of the city council may have one vote and only one vote on each item and issue. Five members of the city council shall constitute a quorum. In the event that there are vacancies on the city council, a majority of the number of nonvacant positions on city council shall constitute a quorum. Unless otherwise provided by applicable law, no action by the city council shall be valid unless adopted by the affirmative vote of a majority of the members of city council attending the meeting at which the action is considered and in which there is a quorum present.

**Sec. 3.10. Investigation by the city council.**

The city council shall have the power to inquire or direct the inquiry into the official conduct of any department, agency, appointed board, office, officer, employee or appointed board member of the city. The city council, for such investigation, shall have the power to administer oaths, subpoena witnesses, compel the production of any evidence material to the inquiry or direct same to be done. The city council shall provide, by ordinance, penalties for failing or refusing to obey any such subpoena or to produce any evidence. No member of the city council shall ever vote upon any matter involving the consideration of his or own official conduct.

**Sec. 3.11. - Ordinance in general.**

The city council shall legislate by ordinance, and the enacting clause of every ordinance shall be, "Be it ordained by the city council of the City of Watauga."

The city attorney shall approve all ordinances as to form and legality. Every ordinance enacted by the city council shall be signed by the mayor or mayor pro tem, in the mayor's absence, and shall be filed with and recorded by the city secretary.

All ordinances shall be submitted at an open meeting of the city council and may be finally passed and adopted on the first submission subject to affirmative vote of the city council in accordance with the voting procedure set forth in section 3.09(c) of this Charter with a reading of the caption or preamble of the ordinance unless otherwise specified or required by applicable law or this Charter.

An ordinance of the City of Watauga may be proved prima facie by a code of ordinances printed by authority of the city or by a copy of the ordinance certified by the city secretary to be a true copy of the same.

Except as otherwise provided by applicable law or this Charter, the city secretary shall give notice of the enactment of any ordinance imposing any penalty, fine or forfeiture for any violation of any of its provisions, and of every other ordinance required by applicable law or this Charter to be published, by causing the said ordinance, or a caption of the ordinance and penalty, to be published at least one time after final passage thereof in the official city newspaper. The affidavit of such publication by the publisher of the newspaper taken before any officer authorized to administer oaths and filed with the city secretary, shall be conclusive proof of the legal publication and promulgation of such ordinance. All ordinances shall be effective after approval by the city council, approval by the mayor and attestation of the city secretary. Every ordinance shall be authenticated by the signature of the mayor and city secretary.

Any ordinance or resolution, other than an emergency measure or the budget, which authorizes or requires the expenditure or diversion of any city funds for any purpose or proposes any new ad valorem property tax increase or decrease, shall have a separate statement submitted and signed by the city manager outlining the fiscal impact and probable gain or loss in income or cost of the measure each year for the first five years after its passage and a statement as to whether or not there will be costs involved thereafter. Such separate statement shall not become a part of the ordinance or resolution but shall

remain with the ordinance or resolution throughout the entire legislative process, including submission to the mayor.

An ordinance providing for an emergency measure is an ordinance addressing the immediate preservation of life, health, property or the public peace as set forth in section 3.12. The city council shall, within its discretion, declare what measures are emergency measures, and any ordinance carrying an emergency clause shall be construed to be an emergency measure, which emergency shall be set forth and defined in the preamble of such ordinance. An ordinance addressing an emergency measure shall be passed and adopted on the first reading of the caption or preamble.

**Sec. 3.12. - Emergency ordinances.**

The city council may adopt emergency ordinances only to meet public emergencies affecting life, health, property or the public peace. In particular, such ordinances shall not levy taxes, grant, renew or extend a franchise, or attempt to regulate the rate charged by any public utility for its services. An emergency ordinance shall be introduced in the form and manner generally prescribed for an emergency ordinance and shall contain after the enacting clause, a declaration stating that an emergency exists and describing it in clear and specific terms. An emergency ordinance can be adopted with or without amendment or rejected at the meeting in which it is introduced. A vote by the city council in accordance with the procedure set forth in section 3.09(c) of this Charter shall be required for adoption. After adoption, the ordinance shall be published as required for other adopted ordinances and shall not be in effect more than 45 days.

**Sec. 3.13. - Veto by mayor.**

All ordinances and resolutions passed and adopted by the city council shall, before they take effect, be placed in the office of the city secretary. The mayor shall sign those ordinances and resolutions which he or she approves. Such as he or she shall not sign, he or she shall return to the city council with his or her written objections attached thereto. Upon the return of any ordinance or resolution by the mayor, the vote by which the ordinance or resolution was passed and adopted shall be reconsidered at the next regular meeting of the city council. If, after such reconsideration, the city council agrees to pass and adopt such ordinance or resolution by two-thirds majority vote of the voting members of the city council, the same shall be in full force and effect. If the mayor shall neglect to approve or object to any ordinance or resolution for a longer period than seven days after the ordinance or resolution is placed in the office of the city secretary as aforesaid, the same shall become effective immediately upon publication as required by applicable law.

## **ARTICLE IV. - ELECTIONS**

### **Sec. 4.01. - Laws governing city elections.**

All city elections shall be governed by applicable law governing general and municipal elections. In the event there should be any failure of applicable law or this Charter to provide for some feature of the city elections, the city council shall have the power to provide for or correct such deficiency in said election if the election is conducted fairly and in substantial compliance with applicable law, the Charter and the ordinances of the city.

### **Sec. 4.02. - General elections.**

The city elections shall be held at a time to be set by resolution of the city council on those days specified by applicable law at which time officers shall be elected to fill those offices as required by this Charter, announced in accordance with the applicable law and with the ordinances adopted by the city council for the conduct of the elections.

### **Sec. 4.03. - Special elections.**

The city council may by ordinance or resolution call such special elections as are authorized by applicable law or by this Charter, fix the date and place of holding same, and provide all means for holding such special elections.

### **Sec. 4.04. - Publishing city elections.**

It is the responsibility of the city council to inform the qualified voters of the city as to the time, place, date, and purpose of any forthcoming city election, and the city council shall establish such rules and procedures, in addition to those required by applicable law, to adequately inform the qualified voters of the city of same.

### **Sec. 4.05. [Repealed.]**

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

### **Sec. 5.01. - Scope of recall.**

Any councilmember, whether elected to office by the qualified voters of the city or appointed by the city council to fill a vacancy shall be subject to recall and removal from office by the qualified voters of the city on grounds of incompetency, misconduct, or malfeasance in office.

For purposes of this section, the term "incompetency" shall mean lack of ability, legal qualification or fitness to discharge the required duty.

For purposes of this section, the term "misconduct" shall mean a transgression of some established and definite rule of law, charter provision or city ordinance. In order to constitute "misconduct," such conduct must be of a forbidden nature, a dereliction from duty, unlawful behavior, and willful in nature.

For purposes of this section, "malfeasance" shall mean a wrongful act which the actor has no right to do and which affects, interrupts, or interferes with the performance of official duty of any officer, employee or member of the governing body of the city.

**Sec. 5.02. - Petitions for recall.**

Before the question of recall of such councilmember shall be submitted to the qualified voters of the city, a petition demanding that such question be submitted shall first be filed with the city secretary. Said petition shall be signed by qualified voters of the city equal in number to at least 30 percent of the number of votes cast in the last regular municipal election of the city, or 350 such petitioners, whichever is greater. Each signer of such recall petition shall personally sign his or her name thereto in ink or indelible pencil, print his or her name, provide voter registration number, date of birth, name and number of street of residence and shall also write thereon the day, the month and year his or her signature was affixed. There shall also be required a heading on each signature page stating the basis of the recall. The city secretary shall have authority to approve or disapprove as to whether such petitioners are qualified voters of the city. The city secretary shall also have authority to disqualify signatures on the petition for any discernible and verifiable irregularity in the petition or noncompliance with the requirements set forth in this section.

**Sec. 5.03. - Form of recall petition.**

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

STATE OF TEXAS )	§
COUNTY OF TARRANT )	§

\_\_\_\_\_, being first duly sworn, on oath deposes and says that I am one of the signers of the above petition and that the statements made therein are true, and that each signature appearing thereto was made in my presence on the day and the date it purports to have been made. Each person signing this petition has read the full text of the basis of the recall as set forth in the petition. I solemnly swear that the same is the genuine signature of the person whose name it purports to be.

SWORN AND SUBSCRIBED TO before me this \_\_\_\_\_ day of \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_, 20 \_\_\_\_\_.

_____ Notary Public	
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**Sec. 5.04. - Various papers constituting petition.**

The petition may consist of one or more copies, or subscription lists, circulated separately, and the signatures thereon may be upon the paper or papers containing the form of petition or upon other papers attached thereto. Verifications provided for in section 5.03 of this article may be made by one or more petitioners; and the several parts of copies of the petition may be filed separately and by different persons; but no signatures to such petition shall remain effective or be counted which were place thereon more than 45 days prior to the filing of such petition or petitions with the person performing the duties of the city secretary. All papers comprising a recall petition shall be filed with the city secretary on the same day, and the city secretary shall, by certified mail, immediately notify the officer so sought to be removed.

**Sec. 5.05. - Presentation of petition to the city council.**

Within 20 calendar days after the date of filing of papers constituting the recall petition, the city secretary, after approving or disapproving said signatures, shall present such petition to the city council of the City of Watauga at a special meeting called for this purpose or at a regular meeting of the city council.

**Sec. 5.06. - Public hearing to be held.**

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

**Sec. 5.07. - Election to be called.**

If a councilmember whose removal is sought does not resign, the city council shall order an election and set a date for holding such recall election within 75 days after the recall petition has been presented to the city council. The date of the election shall be in compliance with applicable law. The councilmember whose removal is sought shall be determined to have a conflict of interest per se concerning a determination by the city council of the election and date of election and shall not participate in the vote on such matters.

**Sec. 5.08. - Ballots in recall election.**

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

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

\_\_\_\_\_ FOR the recall of (name of person).

\_\_\_\_\_ AGAINST the recall of (name of person).

**Sec. 5.09. - Result of recall election.**

If the majority of the votes cast at a recall election shall be against the recall of the person named on the ballot, he or she shall continue in the office for the remainder of his or her unexpired term, subject to recall as specified in this Charter. If a majority of the votes cast at such election are for the recall of the person named on the ballot, he or she shall, regardless of any technical defects in the recall petition, be deemed removed from office, have no right to hold over the position pursuant to applicable law, and the vacancy shall be filled as provided in section 3.05 of this Charter.

**Sec. 5.10. - Recall restrictions thereon.**

No recall petition shall be filed against any elected or appointed member of the city council within six months after his or her election or appointment, within six months prior to the expiration of the term of office or within six months after an election for such recall.

**Sec. 5.11. - Failure of city council to call an election.**

In case all of the requirements of this Charter shall have been met and the city council shall fail or refuse to receive the recall petition, or order such recall election, or discharge other duties imposed upon said city council by the provisions of this Charter with reference to such recall, then the county judge of Tarrant County, Texas, may discharge any such duties herein provided to be discharged by the city secretary or by the city council.

**ARTICLE VI. - LEGISLATION BY THE PEOPLE, INITIATIVE AND REFERENDUM**

**Sec. 6.01. - General power.**

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

**Sec. 6.02. - Initiative.**

The people of the City of Watauga reserve the power of direct legislation by initiative, and in exercise of such power may propose any ordinance or resolution except: (1) ordinances appropriating money or levying taxes, and (2) ordinances repealing ordinances appropriating money or levying taxes, not in conflict with this Charter, or applicable law. Any initiated ordinance or resolution may, subject to the above, be submitted by the qualified voters of the City of Watauga, by submitting a petition addressed to the city council which requests the submission of a proposed ordinance or resolution to a vote of the qualified voters of the city. Said petition must be signed by qualified voters of the city equal in number to 30 percent of the number of votes cast at the last regular municipal election of the city, or 350, whichever is greater, and each copy of the petition shall have attached to it a copy of the proposed legislation. The petition shall be signed in the same form and manner as recall petitions are signed as provided in section 5.02 of this Charter and shall be verified by oath in the same manner provided for recall petitions in section 5.03 of this Charter. The petition may consist of one or more copies known as "recall petitions" in the same form and manner as provided in section 5.04 of this Charter. Such petition shall be filed with the city secretary. Within 20 days after filing of such petition, the city secretary shall present said petition and proposed ordinance or resolution to the city council. Upon presentation to it of the petition and the draft of the proposed ordinance or resolution, it shall become the duty of the city council, within ten days after the receipt thereof, to pass and adopt such ordinance or resolution without alteration as to meaning or effect in the opinion of the persons filing the petition, or to call a special election, to be held as provided

by applicable law, at which the qualified voters of the City of Watauga shall vote on the question of adopting or rejecting the proposed legislation.

However, if any other municipal election is to be held within 60 days after the filing of the petition, the question may be voted on at such election.

**Sec. 6.03. - Referendum.**

Qualified voters of the city may require that any ordinance or resolution, with the exception of ordinances or resolutions authorizing the issuance of either tax bonds or revenue bonds, whether original or refunding, passed and adopted by the city council be submitted to the qualified voters of the city for consideration of its repeal, by submitting a petition for this purpose within 90 days after final passage and adoption of said ordinance or resolution, or within 90 days after its publication. Said petition shall be addressed, prepared, signed, and verified as in the same form and manner as provided in section 6.02 of this Charter, and shall be submitted to the city secretary. Immediately upon the filing of such petition, the city secretary shall present said petition to the city council. Thereupon, the city council shall immediately consider the repeal of such ordinance or resolution, and if it does not entirely repeal the same, shall submit the consideration of repeal to popular vote in the same manner as provided in section 6.02 of this Charter. Pending the holding of such election, such ordinance or resolution shall be suspended from taking effect and shall not later take effect unless a majority of the qualified voters voting thereon at such election shall vote against the repeal of same.

Should the popular vote be to uphold the ordinance or resolution, no other referendum election may be held on the same and/or similar ordinance or resolution within six months. But should the same and/or similar ordinance or resolution be passed, adopted and approved by the city council after invalidation by popular vote, a referendum petition may be filed again as outlined in article VI of this Charter.

**Sec. 6.04. - Voluntary submission of legislation by the city council.**

The city council, upon its own motion and by vote in accordance with the procedure set forth in section 3.09(c) of this Charter, may submit to popular vote at any election for adoption or rejection any proposed ordinance or resolution or measure, in the same manner and with the same force and effect as provided in this article for submission on petition, and may in its discretion call a special election as provided by applicable law for this purpose.

**Sec. 6.05. - Form of ballots.**

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

"FOR THE ORDINANCE" and

"AGAINST THE ORDINANCE," or

"FOR THE RESOLUTION" and

"AGAINST THE RESOLUTION"

**Sec. 6.06. - Publication of proposed and referred ordinance or resolution.**

The city secretary shall publish at least once in the official newspaper of the City of Watauga, the notice of special initiative or referendum election, as applicable, and the preamble of proposed or referred ordinance or resolution, and shall give such other notices and do such other things relative to such election as are required in general municipal elections or by the ordinance or resolution calling said election.

**Sec. 6.07. - Adoption of ordinances or resolutions.**

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

**Sec. 6.08. - Inconsistent ordinances or resolutions.**

If the provisions of two or more proposed ordinances or resolutions passed at the same election are inconsistent, the ordinance or resolution receiving the highest number of votes shall prevail.

**Sec. 6.09. - Ordinance or resolutions passed by popular vote, repeal or amendment.**

No ordinance or resolution which may have been passed, adopted and approved by the city council as a result of popular vote under the provisions of this article shall be repealed or amended, except by the city council, in response to an initiative or referendum vote or as provided in this article.

**Sec. 6.10. - Further regulations by city council.**

The city council may pass, approve and adopt ordinances or resolutions providing other and further regulations for carrying out the provisions of this article not inconsistent herewith.

**Sec. 6.11. - Franchise ordinances.**

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

## **ARTICLE VII. - ADMINISTRATIVE ORGANIZATION**

### **Sec. 7.01. - City manager.**

- A. Appointment and qualifications. The mayor shall recommend the appointment of a city manager, subject to approval by the city council by vote in accordance with the procedure set forth in section 3.09(c) of this Charter, who shall be the chief administrative and executive officer of the city and shall be responsible to the city council for the administration of all the affairs of the city. The city manager shall be chosen by the city council solely on the basis of executive and administrative training, education, experience, ability and character. No member of the city council shall during the time for which he or she is elected and for two (2) years thereafter be appointed city manager.
- B. Term and salary. The city manager shall not be appointed for a definite term and may be removed at the will and pleasure of the city council by vote in accordance with the procedure set forth in section 3.09(c) of this Charter. The action of the city council, in suspending or removing the city manager, shall be final. It is the intention of this Charter to vest all authority and fix all responsibility of such suspension or removal in the city council. In case of absence or disability of the city manager, the city council may designate some qualified person, other than an elected officer of the city, to perform the duties of the office during such absence or disability. The city manager shall receive such compensation as may be fixed by the city council and may include a termination benefit package which shall not alter the status of the city manager as an employee at will.
- C. Powers and duties. The powers herein conferred upon the city manager shall include but shall not be limited to the following:
  - 1. Appoint and remove any employee of the city except those employees whose appointment or election is otherwise provided by applicable law or this Charter.
  - 2. Prepare and submit the annual budget and a five year capital improvement program to the city council as prescribed in article IX of this Charter.
  - 3. Submit to the city council a report for each month on the finances and administrative activities of the city and a complete report as of the end of each fiscal year.
  - 4. Provide each department head with a monthly financial report of his or her department.
  - 5. Attend all meetings of the city council except when excused by the city council.
  - 6. Make a written report to the city council each month on all department expenditures.
  - 7. Execute all contracts and related instruments as provided in the procurement policy.

8. Execute on behalf of the city, standard form documents, including but not limited to deeds, releases of liens, rental agreements, easements, right-of-way agreements, joint use agreements, and other similar documents, under the following conditions:
  - a. The execution of the document is necessary to carry out a public works project; to utilize, maintain or improve a city facility, street, right-of-way, easement, park or other city property; or to implement other city policies, provided that such project, program or policy has been approved by the city council;
  - b. That all blanks are filled in on any document correctly and that such document is consistent with the objectives approved by the city council; and
  - c. That the form of such document shall be approved by the city attorney.
9. Perform such other duties as may be prescribed by this Charter or required by the mayor, as directed by the city council, not inconsistent with provisions of this Charter.
10. Appoint, by letter filed with the city secretary, a qualified administrative officer of the city to perform his or her duties during his or her temporary absence. The appointment shall be made from a list of qualified individuals previously approved by the city council. In the event of failure of the city manager to make such appointment, or in the case of disability of the city manager, the city council may, by resolution, appoint an officer or employee of the city, other than an elected official, to perform the duties of the city manager until he or she shall return or his or her disability shall cease.

**Sec. 7.02. - City secretary.**

The city council shall appoint the city secretary. The city secretary shall not be appointed for a definite term and may be removed from office by the city council, by voting in accordance with the procedure set forth in section 3.09(c) of this Charter. The city secretary shall be required to:

1. Give notice of and attend all official public meetings of the city council.
2. Record the minutes and proceedings of all official public meetings of the city council; provided, however, that only the title and caption of duly enacted ordinances shall be recorded in the minutes.
3. Act as custodian of all official records of the city council.
4. Maintain the official map of the city in the city hall of Watauga, Texas.
5. Hold and maintain the seal of the city and affix this seal to all appropriate documents.
6. Authenticate by signature and seal, and record in a book kept and indexed for the purpose, all ordinances and resolutions of the city.

7. Perform such other duties as may be required by the city council acting as the governing body of the city, this Charter and applicable law. The city secretary shall be under the exclusive direction and supervision of the city council. By resolution, the city council may delegate to the city manager the approval of sick leave, vacation leave and other administrative duties regarding the supervision of the city secretary.

**Sec. 7.03. - City departments and services.**

The city council shall establish and maintain departments in sufficient numbers and specialty to effectively provide services of the city and may include administration, finance, tax, public works, parks, police, reserve police, fire, volunteer fire, emergency medical and any other necessary municipal services.

**Sec. 7.04. - [Repealed.]**

**Sec. 7.05. - [Repealed.]**

**Sec. 7.06. - Residency requirements for city manager, department heads and employees.**

The city manager need not be a resident of the city when appointed. However, he or she shall become a resident of the city within 12 months after commencement of employment and thereafter shall continue to reside within the city during his or her tenure in office. For all other employees and department heads, other than the city manager, the city may not require residency in the city as a requirement of employment. The city may require residency within the United States as a condition of employment. The city council may determine and impose standards with respect to the time within which city employees who reside outside the city must respond to a civil emergency. Such standards may not be imposed retroactively on any person in the employ of the city at the time the standards are adopted. The time period to satisfy the residency requirement for the city manager may be extended for an additional period not to exceed six months upon affirmative vote of the city council.

**Sec. 7.07. - Other departments, boards and commissions.**

The city council may abolish or consolidate any office or department. The city council may divide the administration of any such department as it may deem advisable and may create new departments.

The city council shall create, as may be required by applicable law or circumstances, those boards and commissions which are deemed necessary to carry out the function and obligations of the city. Such boards and commissions shall have all powers and duties now or hereafter conferred and created by this Charter, by city ordinance, or by applicable law. The city council shall prescribe accountability and tenure of each board and commission where such are not prescribed by applicable law. The city council shall prescribe the purpose, composition, function and duty of each board or committee where such are not prescribed by applicable law. The members of such boards and commissions shall be appointed by the mayor, subject to the approval and consent of the remaining members of city council. Except as prohibited by conflict of interest laws or this charter, all members of a board or commission authorized

to vote shall vote “aye” or “nay” on every action requiring a vote. The nature of a conflict of interest shall be concisely stated in the minutes.

**Sec. 7.08. - Employee and citizen grievances.**

The City of Watauga shall maintain at all times a current Personnel, Administrative and Financial Policies and Procedures Manual to be passed, adopted and approved by resolution of the city council. Employee grievances shall be addressed and strictly governed by the policies and procedures as set forth in the Personnel, Administrative and Financial Policies and Procedures Manual in effect at the time of the action which gives rise to such grievance. The city council of the City of Watauga, Texas, as an elected governing body, shall be available to the citizens of Watauga in order to address concerns and grievances.

**ARTICLE VIII. - LEGAL AND JUDICIAL SERVICES**

**Sec. 8.01. - Municipal court.**

There shall be established and maintained a court designated as "Municipal Court in the City of Watauga," for the trial of misdemeanor offenses, with all such powers and duties as are now or hereafter may be prescribed by applicable law relative to municipal courts and municipal courts of record. All fines imposed by said court shall be paid into the city treasury for the use and benefit of the city, except as otherwise may be required by applicable law.

**Sec. 8.02. - Judge of the municipal court.**

The judge of the municipal court shall be appointed by the city council and serve in accordance with chapter 30 of the Government Code, V.T.C.A., Government Code ch. 30, for a term not to exceed two years.

The municipal judge shall hold office for the duration of the term unless removed at the will and discretion of the city council. If the judge is removed or vacates the office, the city council shall immediately appoint a qualified person to fill the unexpired term.

The municipal judge must:

- a. Be a resident of this state.
- b. Be a citizen of the United States.
- c. Be a licensed attorney in good standing in Texas.
- d. Have been licensed by the Supreme Court of Texas to practice law in Texas for five or more years.

The judge of the municipal court shall receive such compensation as may be determined by the city council.

**Sec. 8.03. - Clerk of the municipal court.**

There shall be a clerk of the municipal court to be appointed by the city manager with the concurrence of the city council. Said clerk may hold another position of city employment concurrent with, but secondary to and not in conflict with this position.

The clerk of the court and deputies shall have the power to administer oaths and affidavits, make certificates, affix the seal of the court, and generally do and perform any and all acts as usual and necessary to be performed by the clerks of courts in issuing process of said courts and conducting the business thereof.

**Sec. 8.04. - City attorney.**

The mayor shall recommend the appointment of a competent and duly licensed attorney practicing law in the State of Texas who shall be the city attorney. The city attorney shall receive for his or her services such compensation as may be fixed by the city council and shall hold his or her office at the pleasure of the city council. The city attorney, or such other attorneys approved by the city council, shall represent the city in all litigation. The city attorney shall be the legal advisor of, and attorney and counselor for, the city, all offices and departments and for all officers and employees of the city in matters relating to their official powers and duties.

The city attorney must:

- a. Be a resident of this state.
- b. Be a citizen of the United States.
- c. Be a licensed attorney in good standing in Texas.
- d. Have been licensed by the Supreme Court of Texas to practice law in Texas for five or more years.

The city attorney shall review and approve as to form and legality all ordinances and resolutions and, as determined necessary by the city, any contracts, documents and legal instruments.

The city council shall have the right to retain special counsel any time it determines such action to be necessary.

The city attorney shall perform all services incident to the position as may be required by applicable law, by this Charter, by ordinance or as directed by the city council.

## **ARTICLE IX. - MUNICIPAL FINANCE**

### **Sec. 9.01. - Fiscal year.**

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

### **Sec. 9.02. - Annual budget.**

- A. Content. The budget shall provide a complete financial plan of all city funds and activities and, except as required by applicable law or this Charter, shall be in such form as the city manager deems desirable or the city council may require. A budget message explaining the budget both in fiscal terms and in terms of the work programs shall be submitted with the budget. It shall outline the proposed financial policies of the city for the ensuing fiscal year, describe the important features of the budget, and indicate any major changes from the current year in financial policies, expenditures, and revenues, with reasons for such changes. It shall also summarize the debt position of the city and include such other material as the city manager deems advisable. The budget shall begin with a clear, general summary of its contents. It shall show in detail all estimated revenue and indicate the proposed property tax levy. All proposed expenditures shall not exceed the total estimated revenue. The budget shall be so arranged as to show comparative figures for actual and estimated revenue and expenditures of the preceding fiscal year, compared to the estimate for the budgeted year. It shall include in separate sections:
1. An itemized estimate of the expense of conducting each department, division and office.
  2. Reasons for proposed increases or decreases of such items of expenditure compared with the current fiscal year.
  3. A separate schedule for each department, indicating tasks to be accomplished by the department during the year, and additional desirable tasks to be accomplished if possible.
  4. A statement of the total probable revenue of the city from taxes for the period covered by the estimate.
  5. Tax levies, rates, and collections for the preceding five years.
  6. An itemization of all anticipated revenue from sources other than the tax levy.
  7. The amount required for interest on the city's debts, for sinking fund and for maturing serial bonds.
  8. The total amount of outstanding city debt, with a schedule of maturities on bond issues.
  9. Such other information as may be required by the city council.

10. Anticipated net surplus or deficit for the ensuing fiscal year of each utility owned or operated by the city and the proposed method of its disposition; subsidiary budgets for each utility giving detailed revenue and expenditure information shall be attached as appendices to the budget.
  11. A capital program, which may be revised and extended each year to indicate capital improvements pending or in process of construction or acquisition, and shall include the following items:
    - (a) A summary of proposed programs.
    - (b) A list of capital improvements which are proposed to be undertaken during the five fiscal years next ensuing with appropriate supporting information as to the necessity for such improvements.
    - (c) Cost estimates, method of financing and recommended time schedules for each such improvement.
    - (d) The estimated annual cost of operating and maintaining the facilities to be constructed or acquired.
- B. Submission. On or before the first day of August of each year, the city manager shall submit to the city council a proposed budget and an accompanying message. The city council shall review the proposed budget and revise as deemed appropriate prior to general circulation for public hearing.
  - C. Public notice and hearing. In accordance with applicable law, the city council shall provide notice stating (1) the times and places where copies of the message and budget are available for inspection by the public, and (2) the time and place for a public hearing on the budget.
  - D. Amendment before adoption. After the public hearing, the city council may adopt the budget with or without amendment. In amending the budget, it may add or increase programs or amounts and may delete or decrease any programs or amounts, except expenditures required by applicable law or for debt service or which would cause a cash deficit, provided that no amendment to the budget shall increase the authorized expenditures to an amount greater than the total of estimated revenue plus funds available from prior years.
  - E. Adoption. The city council shall adopt the budget by ordinance as specified in article III of this Charter by the date established by applicable law. Adoption of the budget will require an affirmative vote of two-thirds of the voting members of the city council. Adoption of the budget shall constitute appropriations of the amounts specified therein as expenditures from the funds indicated and shall constitute a levy of the property tax therein proposed.
  - F. Failure to adopt. If city council fails to adopt the budget on or prior to such day, the amounts appropriated for the current fiscal year shall be deemed adopted for the ensuing fiscal year

on a month-to-month basis with all items prorated accordingly until such time as the city council adopts a budget for the ensuing fiscal year. The levy of property tax normally approved as a part of the budget adoption, will be set to equal the total current fiscal year tax receipts, unless the ensuing fiscal year budget is approved as hereinabove provided.

**Sec. 9.03. [Repealed.]**

**Sec. 9.04. - Amendments after adoption.**

- A. Supplemental appropriations. If during the fiscal year the city manager certifies that there are available for appropriation revenues in excess of those estimated in the budget, the city council may carry the excess into the next fiscal year or, by ordinance, may make supplemental appropriation within the same fiscal year up to the amount of such excess.
- B. Emergency appropriations. To meet a public emergency created by a natural disaster or manmade calamity affecting life, health, property, or the public peace, the city council may make emergency appropriations. Such appropriations may be made by emergency ordinance in accordance with the provisions of this Charter. To the extent that there are no available unappropriated revenues to meet such appropriations, the city council may by such emergency ordinance authorize the issuance of emergency notes, which may be renewed from time to time.
- C. Reduction of appropriations. If at any time during the fiscal year it appears probable to the city manager that the revenues available will be insufficient to meet the amount appropriated, he or she shall report to the city council without delay, indicating the estimated amount of the deficit, any remedial action taken and his or her recommendations as to any other steps to be taken. The city council shall then take such further action as it deems necessary to prevent or minimize any deficit and for that purpose it may by ordinance reduce one or more appropriations.
- D. Transfer of appropriations. At any time during the fiscal year, the city manager may transfer part or all of any unencumbered appropriation balance among programs within [a] department, division, or office and, upon written request by the city manager, the city council may by ordinance transfer part or all of any unencumbered appropriation balance from one department, office or agency to another.
- E. Limitations. No appropriation for debt service may be reduced below any amount required by applicable law to be appropriated or by more than the amount of the unencumbered balance thereof.
- F. Effective date. The supplemental and emergency appropriations and reduction or transfer of appropriations authorized by this section may be made effective immediately upon passage, adoption and approval of the ordinance.

**Sec. 9.05. - Lapse of appropriations.**

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

**Sec. 9.06. - Administration of budget.**

- A. Payments and obligations prohibited. No payment shall be made or obligation incurred against any allotment or appropriation except in accordance with appropriations duly made and unless the city manager or his or her designee first certifies that there is a sufficient unencumbered balance in such allotment or appropriations and that sufficient funds therefrom are or will be available to cover the claim or meet the obligation when it becomes due and payable. Any authorization of payment or incurring of obligation in violation of the provisions of this Charter shall be void and any payment so made illegal. Such action shall be cause for removal of any officer who knowingly authorized or made such payment or incurred such obligations, and he or she shall also be liable to the city for any amount so paid. However, this prohibition shall not be construed to prevent the making or authorizing of payments or making of contracts for capital improvements to be financed wholly or partly by the issuance of bonds, time warrants, certificates of indebtedness, or certificates of obligation, or to prevent the making of any contract or lease providing for payments beyond the end of the fiscal year, provided that such action is made or passed, adopted and approved by city council.
- B. Financial reports. The city manager shall submit to the city council a report for each month reflecting the financial condition of the city by budget items, including budget estimates versus accrual for the preceding month and for the fiscal year to date. Such records are to be made public by the city council during open meeting. The financial records of the city will be maintained on an accrual basis to support this type of financial management.
- C. Independent audit. At the close of each fiscal year, and at such times as it may be deemed necessary, the city council shall cause an independent audit to be made of all accounts of the city by a certified public accountant. Upon completion of the audit, the results thereof in a summary form shall be placed on file in the city secretary's office as a public record.

**Sec. 9.07. - Borrowing.**

The city, upon a two-thirds majority vote of the councilmembers, shall have the power, except as prohibited by applicable law, to borrow money by whatever method it may deem to be in the public interest.

- A. General obligation bonds. The city shall have the power to borrow money on the credit of the city and to issue general obligation bonds for permanent public improvements or for any

other public purpose not prohibited by applicable law, and to issue refunding bonds to refund outstanding bonds of the city previously issued. All such bonds shall be issued in conformity with applicable law.

- B. Revenue bonds. The city shall have the power to borrow money for the purpose of constructing, purchasing, improving, extending or repairing of public utilities, recreational facilities or any other self-liquidating municipal function not prohibited by applicable law, and to issue revenue bonds to evidence the obligation created thereby. Such bonds shall be a charge upon and payable from properties, or interest therein pledged, or the revenue therefrom, or both. The holders of the revenue bonds shall never have the right to demand payment thereof out of monies raised or to be raised by taxation. All such bonds shall be issued in conformity with applicable law.
- C. Bonds incontestable. All bonds of the city having been issued and sold and having been delivered to the purchaser thereof, shall thereafter be incontestable and all bonds issued to refund in exchange for outstanding bonds previously issued shall and after said exchange, be incontestable.
- D. Borrowing in anticipation of property tax. In any budget year, the city council may, by resolution, authorize the borrowing of money in anticipation of the collection of the property tax for the same year whether levied or to be levied. Notes may be issued for periods not exceeding one year and must be retired by the end of the budget year in which issued.
- E. Use of bond funds. Any and all bond funds passed by the vote of the citizens of Watauga will be expended only for the purposes stated in the bond issue.
- F. Certificates of obligation. All certificates of obligation issued by the city shall be passed, adopted and approved by ordinance and issued in accordance with applicable law.

**Sec. 9.08. - Purchasing.**

The city council shall pass, adopt and approve by resolution a written purchasing policy applicable to all contracts, purchases and expenditures for goods and services in the city.

The city manager, all department heads and employees shall faithfully adhere to the requirements of the written purchasing policy. Failure to do so shall constitute sufficient basis for termination.

However, all contracts, purchases and expenditures exceeding the maximum amount permitted by applicable law in effect at the time of the expenditure, without requiring competitive bidding or proposals, must be expressly passed, adopted and approved in advance by the city council and be subject to applicable law regulating municipal procurement. The city council shall retain the right to reject any and all bids.

Contracts for purchases that are necessary because of a public calamity, as authorized by applicable law may be negotiated by the city council or the city manager, if granted authority by the city council, without

the necessity of competitive bidding. Such emergency shall be declared by the mayor. All expenditures must be supported by documentation justifying such expenditures.

**Sec. 9.09. - Specified reserve fund.**

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

**ARTICLE X. - TAXATION**

**Sec. 10.01. - Reserved.**

**Sec. 10.02. - Power to tax.**

The city shall have the power to tax property in accordance with applicable law.

**Sec. 10.03. - Property subject to tax, method of assessment.**

Property subject to taxation and the method of assessment shall be determined in accordance with applicable law.

**Sec. 10.04. - Limitation on tax rate.**

Any limitation on tax rate shall be determined in accordance with applicable law.

**Sec. 10.05. - Reserved.**

**Sec. 10.06. - Reserved.**

**Sec. 10.07. - Reserved.**

**Sec. 10.08. - Reserved.**

**Sec. 10.09. - Taxes; when due and payable.**

All taxes due the City of Watauga shall be payable at the office of the city tax assessor-collector and may be paid at any time after the tax rolls for the year have been completed and approved, which shall not be later than October 1. Taxes shall be paid on or before January 31 and such taxes not paid on or prior to such date shall be deemed delinquent and shall be subject to such penalty and interest as provided by applicable law. The city council may provide further by ordinance that all taxes either current or delinquent, due the City of Watauga may be paid by installments. Failure to levy and assess taxes through omission in preparation of the approved tax roll shall not relieve the person, firm or corporation so omitted from obligation to pay such current or past due taxes as shown to be payable by recheck of the rolls and receipt for the years in question.

**Sec. 10.10. - Tax liens.**

The tax levied by the city is hereby declared to be a lien, charge, or encumbrance upon the property as of January 1 of each year, upon which the tax is due, which lien, charge or encumbrance the city is entitled

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

In addition to the liens herein provided, on the 1st day of January of any year the owner of real and personal property subject to taxation by the city shall be personally liable for the taxes due thereon for such year. The city shall have the power to sue for and recover personal judgment for taxes without foreclosure, or to foreclose its lien or liens, or to recover both personal judgment and foreclosure. In any such suit where it appears that the description of any property in the city assessment rolls is insufficient to identify such property, the city shall have the right to plead a good description of the property intended to be assessed, to prove the same, and to have its judgment foreclosing the tax lien and/or personal judgment against the owner for such taxes.

#### **ARTICLE XI. - PLANNING AND ZONING, BOARD OF ADJUSTMENT**

##### **Sec. 11.01. - The planning and zoning commission.**

There shall be established by the city council a planning and zoning commission which shall consist of seven persons who are residents in the City of Watauga and who own real property within the city.

##### **Sec. 11.02. - Powers and duties.**

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

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

##### **Sec. 11.03. - The master plan.**

The master plan for the physical development of the City of Watauga shall contain the commission's recommendations for growth, development and beautification of the city. A copy of the master plan, or any part thereof, shall be forwarded to the city council, which may adopt this plan in whole or in part, and may adopt any amendments thereto after at least one public hearing on the proposed action. The city council shall act on such plan, or part thereof, within 60 days following its submission. If such plan, or part

thereof, shall be rejected by the city council, the commission may modify such plan or part thereof, and again forward it to the city council for consideration.

All amendments to the master plan recommended by the commission shall be submitted in the same manner as outlined above to the city council for approval, and all other recommendations affecting the master plan shall be accompanied by a recommendation from the planning and zoning commission.

**Sec. 11.04. - Legal effect of the master plan.**

Upon the adoption of a master plan by the city council, no subdivision, street, park, or any public way, ground or space, public building or structure, or public utility, whether publicly or privately owned, which is in conflict with the master plan shall be constructed or authorized by the city until and unless the location and extent thereof shall have been submitted to the commission and passed, adopted and approved by the city council. In the event of commission disapproval, the reasons therefor shall be directed in writing to the city council. The city council shall have the power to overrule such disapproval of the planning and zoning commission and therewith exercise its discretionary power for appropriate action in the matter which presents a conflict with the master plan. The widening, narrowing, relocating, vacating, or change in the use of any street, alley, or public way or ground, or the sale of any public building or real property, shall be subject to similar submission and approval of the planning and zoning commission, and failure to approve may be similarly overruled by the city council for appropriate action at the discretion of the city council.

**Sec. 11.05. – Zoning Board of adjustment.**

There shall be a zoning board of adjustment as specified by applicable law.

**ARTICLE XII. - FRANCHISES AND PUBLIC UTILITIES**

**Sec. 12.01. - 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 further powers as may now or hereafter be granted under applicable law.

**Sec. 12.02. - Franchise; power of the city council.**

The city council shall have power by ordinance to grant, amend, renew and extend all franchises of all public utilities operating within the city. All ordinances granting, amending, renewing or extending franchises for public utilities shall be read at two separate regular meetings of the city council, and shall not be finally passed, adopted and approved until 30 days after the first reading. No such ordinance shall take effect until 30 days after its final passage, adoption and approval, and pending such time, the full text of such ordinance shall be published once each week for four consecutive weeks in the official newspaper of the city, and the expense of such publication shall be borne by the proponent of the franchise. No public utility franchise shall be granted for a term of more than 20 years nor be transferable except with the approval of the city council expressed by ordinance. Every public utility and every owner of a public utility

franchise shall file with the city secretary certified copies of all franchises owned or claimed, under which such utility is operated in the city.

**Sec. 12.03. - Franchise value not to be allowed.**

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

**Sec. 12.04. - Right of regulation.**

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

- (a) Repeal the same ordinance at any time upon the failure of the grantee to comply with any provision of the ordinance, the franchise, this Charter, or any applicable law or rule of any applicable governmental body;
- (b) Require proper and adequate extension of plant and service and require the maintenance of the plant and fixtures at the highest reasonable standard of efficiency;
- (c) Establish reasonable standards of service and quality of products and prevent unjust discrimination in service or rates;
- (d) At any time examine and audit the accounts and other records of any such utility and require annual and other reports, including reports on operations within the city;
- (e) Impose such reasonable regulations and restrictions as may be deemed desirable or conducive to the safety, welfare and accommodation of the public;
- (f) Require such compensation and rental as may be permitted by applicable law.

**Sec. 12.05. - No[n]exclusive.**

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

**Sec. 12.06. - Consent of property owners.**

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

**Sec. 12.07. - Extensions.**

All extensions of public utilities within the city limits shall become a part of the aggregate property of the public utility, shall be operated as such, and shall be subject to all the obligations and reserved rights contained in this Charter and in any grant hereafter made. The right to use and maintain any extension shall terminate with the original grant and shall be terminable as provided in section 12.04. In case of an extension of a 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.

**Sec. 12.08. - Other conditions.**

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

**Sec. 12.09. - Accounts of municipally-owned utilities.**

Accounts shall be kept for each public utility owned or operated by the city in such a manner as to show the true and complete financial results of such city ownership and operation. The accounts shall show the actual capital costs of each public utility owned, the cost of all extensions, additions and improvements, and the source of funds expended for such capital purposes. They shall show as nearly as possible the cost of any service furnished to or rendered by any such utility to any city government unit. The city council shall cause an annual report to be made by a certified public accountant in connection with the annual audit and shall publish such report showing the financial results of such city ownership or operation, giving the information specified in this section and such data as the city council shall require.

**Sec. 12.10. - Sales of utility services.**

- (a) The city shall have the power and authority to sell and distribute water and any other utilities to any person, firm or corporation inside or outside the limits of the city, and to permit them to connect with said system under contract with the city, under such terms and conditions as may appear to be in the best interests of the city, provided the charges fixed for such services

shall be reasonable when considered in the light of all circumstances, to be determined by the city council.

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

**Sec. 12.11. - Regulation of rates and service.**

The city council shall have the power, after due notice and hearing, to regulate by ordinance the rates and services of every public utility operating in the city and shall have power to employ at the expense of the grantee, expert assistance and advice in determining reasonable rate and equitable profit to the grantee.

**ARTICLE XIII. - TRANSITIONAL PROVISIONS**

**Sec. 13.01. - Charter adoption.**

This Charter shall be submitted to the qualified voters of the City of Watauga for adoption or rejection at an election to be called for such purpose, at which election, if a majority of the qualified voters voting in such election shall vote in favor of the adoption of this Charter, it shall then immediately become the Charter and governing law of the City of Watauga until amended or repealed. It being impractical to submit this Charter by sections, it is hereby prescribed that the form of ballot to be used in such election shall be as follows to wit:

\_\_\_\_\_ FOR THE ADOPTION OF THE CHARTER

\_\_\_\_\_ AGAINST THE ADOPTION OF THE CHARTER

**Sec. 13.02. - Officers and employees.**

- A. Rights and privileges preserved. Nothing in this Charter, except as otherwise specifically provided, shall affect or impair the rights or privileges of persons who are city officers or employees.
- B. The participation of employees in the city in political campaigns or political activity shall be regulated by provisions contained in the Personnel, Administrative and Financial Policies and Procedures Manual as passed, adopted and approved by resolution of the city council. The city shall maintain at all times a current Personnel, Administrative and Financial Policies and Procedures Manual passed, adopted and approved by resolution of the city council. Such Personnel, Administrative and Financial Policies and Procedures Manual shall contain

provisions for the regulation of city employee participation in political campaigns and political activities.

- C. Employees of the City of Watauga are not required to contribute to any political fund or render any political service to any person or party. Further, no city employee shall be removed, reduced in classification and/or salary, or otherwise prejudiced by refusing to contribute to any political fund or render a political service.

**Sec. 13.03. - Preservation of contract rights.**

All contracts entered into by the City of Watauga, or for its benefit, prior to the taking effect of this Charter, shall continue in full force and effect. All rights, immunities, powers, privileges and franchises now possessed by said city shall also continue in full force and effect.

**Sec. 13.04. - Franchises.**

**Sec. 13.05. - Charter review commission.**

There shall be established a charter review commission which shall perform the function of (1) inquiring into the operation of the city government under the provisions of the Home Rule Charter and determining whether revision is required of any such provisions, (2) proposing recommendations, (3) insuring compliance with the provisions of the Home Rule Charter, (4) proposing amendments to the Home Rule Charter to improve the effective application and administrative efficiency of the operation of the city under the Home Rule Charter and (5) reporting its findings and presenting such proposed amendments to the city council. The charter review commission shall consist of seven members to be appointed by the mayor, subject to the approval and consent of the city council. Each member of the charter review commission shall be a resident of the city at the time of appointment and shall remain a resident of the city so long as he or she continues to serve on the charter review commission. Places on the charter review commission shall be numbered one through seven with the odd-numbered places on the board to be appointed for a two-year term to expire on the 30th day of June each odd-numbered year. All members appointed to even-numbered places on the commission shall be appointed for a two-year term to expire on the 30th day of June on even-numbered years. All members of the commission shall serve without compensation. All vacancies occurring in the membership of the commission shall be filled by appointment of the mayor, with approval of the city council, for the length of the unexpired term.

The members of the charter review commission shall elect a chairperson to report to the mayor and city council. The chairperson shall also be responsible for scheduling and presiding over meetings of the commission.

## **ARTICLE XIV. - GENERAL PROVISIONS**

### **Sec. 14.01. - Public records.**

All records of the city shall be maintained and available for public inspection in accordance with applicable law.

### **Sec. 14.02. - Personal financial interest.**

No officer or employee of the city shall have a financial interest, directly or indirectly, in any contract with the city, nor shall he or she be financially interested, directly or indirectly, in the sale to the city of any land, or rights or interest in any land, material, supplies or service. Any violation of this section with the knowledge, express or implied, of the persons or corporations contracting with the city shall render the contract voidable by the city manager or the city council.

Nothing in this article shall prohibit the city from obtaining land through purchase, gift or agreement from any city official or employee when required for easement, right-of-way, parks or municipal buildings; provided, however, no councilmember shall participate in city council action during the acquisition of such land when that councilmember has any financial interest, directly or indirectly, in said land and further provided that purchase agreements must not exceed fair market value as determined by a disinterested independent appraiser.

### **Sec. 14.03. - Nepotism.**

No persons related within the second degree of affinity or within the third degree by consanguinity to any elected officer of the city or to the city manager, shall be appointed to any office, position or clerkship or other service of the city, save and except any such who have been continuously employed by the city for a period of two years prior to the election of the mayor, councilmember, or appointment of the city manager. The provisions of this section of the Charter shall not apply to volunteer services to the city.

### **Sec. 14.04. - Official bond for city employees.**

The city council shall require bonds of all municipal officers and employees who receive or disburse any funds of the city. The amount of such bonds shall be determined by the city council and the cost thereof shall be paid by the city.

### **Sec. 14.05. - Tort liability.**

City liability for damages resulting from property damage, death or personal injuries of any kind shall be subject to article 1, section 17 of the Texas Constitution and chapter 101 of the Texas Civil Practice and Remedies Code, V.T.C.A., Civil Practice and Remedies Code ch. 101.

**Sec. 14.06. [Repealed.]**

**Sec. 14.07. - Effect of charter on existing laws.**

All codes, ordinances, resolutions, rules and regulations in force on the effective date of this Charter, and not in conflict with this Charter, shall remain in force until altered, amended or repealed by the city council. All taxes, assessments, liens, encumbrances and demands, of or against the city, fixed or established before such date, or for the fixing or establishing of which proceedings have begun at such date, shall be valid when properly fixed or established either under the law in force at the time of the beginning of such proceedings or under the law after the adoption of this Charter. All rights of the city under existing franchises and contracts and all existing authority for the issuance of bonds, granted prior to adoption of this Charter, shall be preserved in full force and effect.

**Sec. 14.08. - Applicability of general laws.**

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

**Sec. 14.09. - Property not exempt from special assessments.**

No property of any kind, by whomsoever owned or held or by whatsoever institution, agency, political subdivision or organization, owned or held, whether in trust or by nonprofit organization or corporation, or by "foundation" or otherwise (except property of the City of Watauga, Texas, independent school districts, and other tax-supported institutions), shall be exempt in any way from any of the special taxes, charges, levies and assessments, authorized or permitted by this Charter, for local improvements for the public welfare.

**Sec. 14.10. - Amending the charter.**

Amendments to this Charter may be formulated and submitted to the qualified voters of the City of Watauga in the manner provided by applicable law.

**Sec. 14.11. - Judicial notice.**

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

**Sec. 14.12. - Wording Interpretation.**

The use of any gender herein shall be applicable to all genders. The use of the word "City" in this Charter shall mean the City of Watauga, Texas, and the use of the word "Charter" shall mean this Home Rule

Charter. The term “qualified voter” shall mean a person who meets all legal requirements of applicable law and this Charter for becoming a registered voter and is also registered to vote.

**Sec. 14.13. - Appeals.**

All procedures, structure and authority regarding termination and dismissal of employees shall be regulated by the Personnel, Administrative and Financial Policies and Procedures Manual for the City of Watauga, as now or hereafter amended.

**Sec. 14.14. - Conflict of interest.**

Any person serving on the city council, appointed board, commission or employee of the city, who shall have a conflict of interest while conducting city business, shall immediately declare such conflict of interest by affidavit filed with the city secretary and shall disqualify himself or herself from participation in the matter for which the conflict exists. Conflict of interest includes the following:

- A. Related (by blood or marriage) to the person or persons doing or requesting business with the city.
- B. Having business or monetary connections with the persons or person doing business with or requesting to do business with the city.
- C. Persons serving on boards, commissions or other official agencies doing business with or in conjunction with the city.
- D. Having a substantial interest in real property wherein it is reasonably foreseeable that an action on the matter will have a special economic effect on the value of the property distinguishable from its effect on the public.
- E. It does not constitute a conflict of interest for members of the city council, boards or commissions to vote on issues involving their election or selection to a post, office or other position to which members are generally eligible, or from voting when other members are included in the issues.

Any person serving as an elected official of any political subdivision other than the City of Watauga shall be prohibited from serving on any appointive board or commission of the city.

The failure by any person to make known a conflict of interest and failure to disqualify oneself as required shall constitute grounds for disciplinary action by the city council. Such disciplinary action may include reprimand or removal from office to the extent allowed by applicable law. An action constituting a reprimand requires a majority vote of the voting members of the city council. Any action for removal from office requires a unanimous vote of the voting members of the city council. The councilmember the subject of the removal issue shall not be permitted to vote.

**Sec. 14.15. - Amendatory provision.**

Any article, section, provision or reference contained in this Charter either adopting or referring to any state statute, state constitutional provision or other state law shall, upon amendment, revision, repeal or abolishment, of such state statute, state constitutional provision or state law, be subject to the new interpretation or reading which supersedes the prior provision.

**Sec. 14.16. - Enumeration of powers herein not exclusive of other powers.**

The enumeration of particular powers of this Home Rule Charter shall not be deemed or held to be exclusive, but in addition to the powers enumerated herein, implied thereby, or appropriate to the exercise thereof, the City of Watauga shall have and may exercise all other powers which are now or may hereafter be, possessed or enjoyed by cities of over five thousand (5,000) population pursuant to applicable law, and all the powers of the city, whether expressed or implied, shall be exercised and embraced in the manner prescribed by this Home Rule Charter, and when not so prescribed, then in such manner as may be provided by ordinance or resolution of the city council.

**Sec. 14.17. - Charter to become effective notwithstanding some section or portion thereof being valid.**

If any section or part of a section of this Charter proves to be invalid or unconstitutional, the same shall not be held to invalidate or impair the validity, force or effect of any other section or part of a section of this Charter, unless it clearly appears that such other section or part of a section of this Charter is wholly or necessarily dependent for its operation upon the section or part of a section so held to be unconstitutional or invalid; it being here declared that the citizens voting for this Charter would have voted for the same with such objectionable or invalid section or part of a section omitted therefrom.

**Sec. 14.18. - Rearrangement and Renumbering**

The council shall have the power, by ordinance, to renumber and rearrange all articles, sections, subsections, paragraphs, and subparagraphs of this Charter or any amendments thereto, as it shall deem appropriate.

