



**city of center**

# **CHARTER**

**Adopted on April 7, 1984**

CHARTER COMMISSION MEMBERS

Portia Gaines, Chairperson

Leon Aldridge  
Walter Bounds  
Max Brown  
Nell Brown  
Bill Haley  
Curtis Lawhorn  
Johnny Lee  
Matt Loftice  
Joe N. McNealy, Sr.  
Vance Payne  
Barbara Prince  
Perry Sampson  
Stephen Taylor  
Kathy Thomas

CITY COUNCIL MEMBERS

George Ihlo, Mayor  
W. R. Bowlin, Mayor Pro Tem  
David Chadwick  
Frances Oates  
Marcellus White  
John Windham

CITY STAFF MEMBERS

Ronald E. Cox, City Manager  
Lou Adams, City Secretary

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ARTICLE I

INCORPORATION AND CORPORATE NAME, BOUNDARIES, AND  
FORM OF GOVERNMENT

## ARTICLE I

### INCORPORATION AND CORPORATE NAME, BOUNDARIES, AND FORM OF GOVERNMENT

#### Section 1, Incorporation and Corporate Name

The inhabitants within the boundaries of the City of Center, Shelby County, Texas, shall constitute and continue to be a municipal body politic and corporate in perpetuity under the name of the "City of Center", hereinafter referred to as the "City".

#### Section 2. Boundaries

The boundaries of the City are those so designated in the original incorporation of the City with such changes as have occurred or may occur in the future.

#### Section 3. Form of Government

The form of government for the City shall be that of Council-Manager.

ARTICLE II

POWERS OF THE CITY

## ARTICLE II

### POWERS OF THE CITY

The City shall have all the powers granted to cities by the Constitution and laws of the State of Texas, together with all the implied powers necessary to carry into execution all the powers granted. The City may acquire property within or without its corporate limits for any City purpose in fee simple or any lesser interest or estate, by purchase, gift, devise, lease, or condemnation, and may sell, lease, mortgage, hold, manage and control such property as its interests may require; may furnish municipal services, both within and without its corporate limits; and, except as prohibited by the Constitution of this State or restricted by this Charter, the City shall have and may exercise all municipal powers, functions, rights, privileges and immunities of every name and nature whatsoever. The City may use a corporate seal; may sue and be sued; may contract and be contracted with; may implead and be impleaded in all courts and places and in all matters whatever; may cooperate with the government of the State of Texas or any agency thereof, the Federal Government, or any agency thereof, or any political subdivision of the State of Texas, to accomplish any lawful purpose for the advancement of the interest, welfare, health, morals, comfort, safety, security and convenience of the City or its inhabitants; and may pass such ordinances as may be expedient for maintaining and promoting the peace, welfare and government of the City and for the performance of the functions thereof.

The enumeration of particular powers by this Charter shall not be deemed to be exclusive, and in addition to the powers enumerated therein or implied thereby, or appropriate to the exercise of such powers, it is intended that the City shall have, and may exercise, all powers of local self-government, as well as all powers enumerated in Chapter 13, Title 28, Article 1175 of the Revised Civil Statutes of the State of Texas, of 1925, and amendments thereto and hereafter enacted; and any other powers which, under the Constitution and laws of the State of Texas, it would be competent for this Charter specifically to enumerate.

ARTICLE III

NOMINATIONS AND ELECTIONS



## ARTICLE III

### NOMINATIONS AND ELECTIONS

#### Section 1. City Elections

- A. Schedule. The regular City election will be held annually on the first Saturday in April. The Council shall be responsible to specify places for holding such election.
- B. Special Elections. The Council may, by resolution, order a special election under conditions specified elsewhere in this Charter for ordinances, bond issues, Charter amendments, recall or other purposes deemed appropriate by the Council. The Council will fix time and places for holding such special elections, and provide all means for holding same.
- C. Voter Eligibility List. The City Secretary shall obtain a copy of the official voter eligibility list certified by the County Tax Assessor-Collector for the current year, broken down by voting boxes applicable to the City, if available.
- D. Conduct and Regulation of Elections. All City elections shall be governed by the Constitution of the State of Texas, General Laws of the State, this Charter, and ordinances of the City, in the order named. Municipal elections shall be conducted by the election officials appointed or approved by the Council. Sample ballots identical to the voting ballot format for the specific election shall be posted in the voting place(s) for purpose of voter orientation.

#### Section 2. Filing for Office

- A. Eligibility to File. Each candidate for an elective City office shall meet the following qualifications:
1. Shall be a qualified voter of the City.
  2. Shall have resided for at least twelve months immediately preceding the election within the corporate limits of the City, including territory annexed prior to the filing deadline.
  3. Shall not be in arrears in the payment of any taxes or other liabilities due the City.
  4. An incumbent seeking reelection must file for the same

position presently served, unless such incumbent resigns from his position at least five (5) days prior to the filing deadline for such election.

5. No candidate's name may appear on the ballot for more than one position per election.

### Section 3. Official Ballots

- A. Names on Ballot. The full names of all candidates nominated for office, except those who have withdrawn, died or become ineligible, shall be printed on the official ballots without party designation or symbol. If two or more candidates have the same surname or surnames so similar as to be likely to cause confusion, their residence addresses shall be printed with their names on the ballot.
- B. Order of Listing. The order on the ballot of the names of the candidates shall be determined by lot in a drawing to be held under the supervision of the City Secretary.
- C. Absentee Ballots. Procedures for voting by absentee ballot shall be consistent with current edition of Texas Election Laws.
- D. Ballots for Ordinances, Bond Issues, and Charter Amendments. An ordinance, bond issue or Charter amendment, to be voted on by the City, shall be presented for voting by ballot title. The ballot title of a measure may differ from its legal title and shall be a clear, concise statement, approved by majority of the whole Council, describing the substance of the measure without argument or prejudice. Below the ballot title shall appear the following question: "Shall the above described (ordinance) (bond issue) (amendment) be adopted?" Immediately below or to the left of such question shall appear, in the following order, the words "Yes" and "No", each with a square in which the voter may cast his vote by marking a cross (X).
- E. Write-in Votes. Procedures for write-in votes shall be consistent with current edition of Texas Election Laws.

### Section 4. Canvassing and Election Results: Mayor, and District Positions for District Numbers 1, 2, 3, & 4

The following provisions set forth in this section shall apply with regard to elections to fill the offices of Mayor, Councilman from District No. 1, Councilman from District No. 2, Councilman from District No. 3 and Councilman from District No. 4:

- A. Conducting and Canvassing Elections. The election judges and other necessary election officials for conducting all the elections shall conduct the elections, determine, record and report the results as

provided by the Texas Election Laws. Within five (5) days or as soon as practical after an election, the Council shall meet, open the returns canvass and officially declare the result of the election as to candidates and questions, and the Mayor shall issue certificates of election to candidates elected as hereinbefore provided.

- B. Majority. A majority vote for an elective office is that number of votes which is greater than the number of votes cast for all the other candidates for the same office combined, including votes cast for write-in candidates. Any candidate for these elective offices who received a majority vote shall be declared elected. If none of the candidates for an elective position receives a majority vote, none of such candidates shall be elected.
- C. Run-Off Election. In the event no candidate for these elective offices receives a majority of the votes cast for that position in a regular or special election, a run-off election shall be held between the two candidates receiving the greatest number of votes. Such run-off election shall be held within thirty (30) days following the preceding regular or special election.
- D. Notification and Taking Office. It shall be the duty of the City Secretary to notify all persons elected. A candidate who is elected in the regular City election or special election shall take office and enter upon his duties after qualifying by taking and subscribing to his oath of office at the next regular Council meeting after closing of the polls.

#### Section 5. Canvassing and Election Results: At-Large Position (2)

The following provisions set forth in this section shall apply with regard to elections to fill the offices of the two Councilmen-at-large.

- A. Conducting and Canvassing Elections. The election judges and other necessary election officials for conducting all the elections shall conduct the elections, determine, record and report the results as provided by the Texas Election Laws. Within five (5) days or as soon as practical after an election, the Council shall meet, open the returns, canvass and officially declare the results of the election as to candidates and questions, and the Mayor shall issue certificates of election to candidates elected as hereinbefore provided.
- B. Plurality. A plurality vote for these elective offices is that number of votes cast for one candidate which is greater than the number of votes cast for any other single candidate for the same office. The two (2) candidates receiving the greatest number of votes shall be declared elected to the two (2) At-Large positions. These positions shall be filled on the same election year, and shall not be elected by Place or District.

- C. Run-Off Election. In the event no candidate for these elective offices receives a plurality of the votes cast for that position in a regular or special election, resulting in a tie, a run-off election shall be held between the candidates receiving the greatest number of votes. Such run-off election shall be held within thirty (30) days following the preceding regular or special election.
- D. Notification and Taking Office. It shall be the duty of the City Secretary to notify all persons elected. A candidate who is elected in the regular City election or special election shall take office and enter upon his duties after qualifying by taking and subscribing to his oath of office at the next regular Council meeting after closing of the polls.

## Section 6. Laws Governing City Elections

As to matters not otherwise specifically provided for herein, all City elections shall be governed by the laws of the State of Texas concerning municipal and general elections.

## Section 7. Oath of Office

Every officer of the City, whether elected or appointed, before entering upon the duties of office, shall take and subscribe to the appropriate oath or affirmation to be filed and kept in the office of the City Secretary:

- A. For Elected Officers. "I, \_\_\_\_\_, do solemnly swear (or affirm) that I will faithfully execute the duties of the office of \_\_\_\_\_ of the City of Center, State of Texas, and will to the best of my ability preserve, protect and defend the Constitution and Laws of the United States of America and of this State and the Charter and ordinances of this City. I furthermore solemnly swear (or affirm) that I have not directly nor indirectly paid, offered, or promised to pay, contributed, nor promised to contribute any money or valuable thing, or promised any public office or employment, as a reward for the giving or withholding of a vote at the election at which I was elected. So help me God."
- B. For Appointed Officers. "I, \_\_\_\_\_, do solemnly swear (or affirm) that I will faithfully execute the duties of the office of \_\_\_\_\_ of the City of Center, State of Texas, and will to the best of my ability preserve, protect and defend the Constitution and Laws of the United States of America and of this State and the Charter and ordinances of this City. I furthermore solemnly swear (or affirm) that I have not directly nor indirectly paid, offered, or promised to pay, contributed, nor promised to contribute any money or valuable thing, or promised any public office or employment, as a reward to secure my appointment or the confirmation thereof. So help me God."

ARTICLE IV

CITY COUNCIL

## ARTICLE IV

### CITY COUNCIL

#### Section 1. General Powers and Duties

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

#### Section 2. Composition

The Council shall consist of a Mayor, who may reside in any portion of the City; two (2) Councilmen At-Large, each of whom may reside in any portion of the City; a Councilman from District No. 1; a Councilman from District No. 2; a Councilman from District No. 3; and a Councilman from District No. 4, each of whom must be a resident of the District which he represents at the time of his election. District boundaries shall be established by ordinance and shall be reviewed every ten (10) years for possible revision according to the most recent census data as it becomes available.

#### Section 3. Term of Office

The Mayor and Council members shall be elected in the manner provided in Article III of this Charter to serve for two year terms. The first general election after the adoption of this Charter shall be conducted according to the provisions outlined in Article X, Section 5.

On each even-year election, the two (2) At-Large Councilmen and the Councilmen from District No. 2 and District No. 4 shall be elected. On each odd-numbered year, the Mayor and the Councilmen from District No. 1 and District No. 3 shall be elected

#### Section 4. Qualifications

In addition to any other qualifications prescribed by law, the Mayor and each Council member shall meet the conditions of Article III of this Charter while in office, and shall reside within the City while in office.

#### Section 5. Judge of Elections and Qualifications

The Council shall be the final judge of all elections and qualifications of its members and any other elected officials of the City.

## Section 6. Expense Reimbursement

Members of the Council shall receive per diem for each month they serve on the Council as established by ordinance. The Council shall, as well, be entitled to reimbursement for all other expenses incurred in the performance of their official duties upon approval of the Mayor.

## Section 7. Mayor and Mayor Pro-Tem

The Mayor shall be the official head of the City government. He shall be the Chairman, and shall preside at all meetings of the Council. The Mayor may vote on every proposition before the Council, but shall have no power of veto. He shall, when authorized by the Council, sign all official documents such as ordinances, resolutions, conveyances, grant agreements, official plats, contracts, and bonds. He shall appoint special committees as he deems advisable and as instructed by the Council. He shall perform such other duties consistent with this Charter as may be imposed upon him by the Council.

The Mayor pro tem shall be a Council member elected by the Council at the first regular Council meeting following each regular City election. The Mayor pro tem shall act as Mayor during the unavailability of the Mayor, with the approval of the Mayor or a majority of the Council members.

## Section 8. Vacancies, Forfeiture, Filling of Vacancies

- A. Vacancies. The office of a Councilman or office of the Mayor shall become vacant upon his death, resignation, removal from office in any manner authorized by law, or forfeiture of his office.
- B. Forfeiture of Office. A Councilman or the Mayor shall forfeit his office if he:
1. Lacks at any time during his term of office any qualification for the office prescribed by this Charter or by law;
  2. Violates any express prohibition of this Charter;
  3. Is convicted of a crime involving moral turpitude; or
  4. Fails to attend three (3) consecutive regular Council meetings without being excused by the Council.
- C. Filling of Vacancies. When any vacancy develops on the Council for any reason, a special election shall be called by the Council within thirty (30) days following the occurrence of the vacancy to fill the vacancy in the same manner as described herein for regular elections; however, if such vacancy occurs within one hundred twenty (120) days of a regular election, then no special election shall be called and the remaining Council members shall appoint a qualified person to fill the vacancy until the regular election.

Notwithstanding the requirement in Section 11 that a quorum of the Council consists of four (4) members, if at any time the membership of the Council is reduced to less than four (4), the remaining members may by majority action appoint additional members to raise the membership to four(4). These appointees shall serve until the positions can be filled at the next regular or special City election.

#### Section 9. Prohibitions

- A. Holding Other Office. Except where authorized by law, no Mayor or Councilman shall hold any other City office or City employment during his term as Mayor or Councilman, and no former Mayor or Councilman shall hold any compensated appointive City office or City employment until one, year after the expiration of his term as Mayor or Councilman.
- B. Appointments and Removals. Neither the Council nor any of its members shall in any manner dictate the appointment or removal of any City administrative officers or employees whom the City Manager or any of his subordinates are empowered to appoint, but the Council may express its views and fully and freely discuss with the City Manager anything pertaining to appointment and removal of such officers and employees.
- C. Interference with Administration.

The Council or its members shall deal with City officers and employees who are subject to the direction and supervision of the City Manager solely through the City Manager, and neither the Council nor its members shall give orders to any such officer or employee, either publicly or privately.

#### Section 10. Meetings of the Council

The Council shall hold at least two (2) regular meetings each month and as many additional meetings as it deems necessary to transact the business of the City and its citizens. The Council shall fix, by ordinance, the days and time of the regular meetings. All meetings of the Council shall be held at the Center City Hall, and all meetings shall be open to the public; however, the Council may recess to an executive session for any purpose outlined in applicable State laws. Special meetings of the Council shall be held on the call of the Mayor or of four (4) or more Council members, and, whenever practical, upon no less than twelve (12) hours notice to each member. Emergency meetings can be called with as few as two (2) hours notice.

#### Section 11. Rules of Procedure and Quorum Requirements

The Council shall, by ordinance, determine its own rules and order of business and the rules shall provide that citizens of the City shall have a



reasonable opportunity to be heard at any meeting in regard to any matter under consideration. The Council shall provide for minutes to be taken and recorded of all meetings, and such minutes shall be a public record. Voting, except on procedural motions, shall be by roll call and each member's vote shall be recorded in the minutes. Four (4) Council members shall constitute a quorum for the purpose of transaction of business and no action of the Council, except as provided in Section 8 of this Article, shall be valid or binding unless adopted by the affirmative vote of four (4) or more members of the Council.

#### Section 12. Ordinances in General

All ordinances shall be adopted by a majority vote of the Council, except as otherwise provided in this Charter. Any ordinance (or its caption) which deals with budget and/or taxes, franchises, public service companies or the setting of their rates, or which provides a penalty for its violation, must be published one (1) time in the newspaper. The enacting clause for all ordinances shall be: "Be it Ordained by the City Council of the City of Center, Texas".

#### Section 13. Emergency Ordinances

To meet a public emergency affecting life, health, property, or the public peace, the Council may adopt emergency ordinances. Such ordinances shall not levy taxes, grant or renew or extend a franchise, or regulate the rate charged by any public service company for its services. Neither shall they authorize the borrowing of money except as provided elsewhere in this Charter. An emergency ordinance shall be introduced in the form and manner generally prescribed for ordinances, except that it shall be plainly designated in the title as an emergency ordinance and shall contain, after the enacting clause, a declaration stating that an emergency exists and describing it in clear and specific terms. Such emergency clause shall require the affirmative vote of five (5) members of the Council.

#### Section 14. Authentication and Recording, Codification

- A. Authentication and Recording. The City Secretary shall authenticate by his signature and record in full in a properly indexed book kept for the purpose, all ordinances and resolutions adopted by the Council. All ordinances shall be numbered numerically in the order in which adopted. This record shall be open for public inspection.
- B. Codification. The Center City Code shall be reviewed and revised at least every five (5) years. The Council shall repeal or revise any ordinances as may be obsolete or in conflict with this Charter.

#### Section 15. Bonds for City Employees

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

ARTICLE V

ADMINISTRATIVE ORGANIZATION

## ARTICLE V

### ADMINISTRATIVE ORGANIZATION

#### Section 1. Appointment, Term, and Compensation of City Manager

- A. Appointment. The Council shall appoint a City Manager who shall be the administrative and executive officer of the City. He shall be chosen by the Council solely on the basis of his training, experience and ability. He need not, when appointed, be a resident of the City; however, upon acceptance he shall establish his residence within the City.
- B. Term. The City Manager shall not be appointed for a definite term but may be removed at the discretion of the Council, by vote of the majority of the entire Council. The action of the Council in suspending or removing the City Manager shall be final.
- C. Compensation. The City Manager shall receive such compensation as may be fixed by the Council.

#### Section 2. Powers and Duties of the City Manager

The City Manager shall be responsible to the Council for the proper administration of all the affairs of the City. The powers and duties herein conferred upon the City Manager shall include, but shall not be limited to, the following:

- A. Appointment and Removal of Employees. He shall appoint and remove any officer or employee of the City except those officers and employees whose appointment or election is otherwise provided for by law or this Charter.
- B. Preparation of Budget. He shall prepare the budget annually, submit it to the Council and be responsible for its administration after its adoption.
- C. Information for Council. He shall keep the Council informed of the financial condition of the City and make recommendations on current and future needs of the City as may seem desirable.
- D. Other Responsibilities. He shall perform such other duties as may be prescribed by this Charter or required of him by the Council which are not inconsistent with the provisions of the Charter.

### Section 3. Administrative Departments

There shall be such administrative departments as are established by this Charter and as may be established by ordinance, all of which shall be under the control and direction of the City Manager. The Council may abolish or combine one or more departments created by it and may assign or transfer duties of any department of the City from one department to another by ordinance.

### Section 4. Directors of Departments

At the head of each department, there shall be a director who shall be appointed, and who may be removed, by the City Manager. Such directors shall have supervision and control over their respective departments. Two (2) or more departments may be headed by the same individual, and the City Manager may head one (1) or more departments.

### Section 5. City Attorney

The Council shall appoint an attorney, or attorneys, licensed to practice law in the State of Texas, to serve as legal advisor to the City and to all officers and departments of the City. He shall represent the City or be responsible for the representation of the City in all cases. He shall either draft, approve, or file his written legal objections to every ordinance adopted by the Council and he shall pass upon all documents, contracts, and legal instruments in which the City may have an interest.

### Section 6. City Secretary

The City Manager shall appoint the City Secretary and such Assistant City Secretaries as may be necessary and advisable. The duties of the City Secretary, or an Assistant City Secretary, shall include, but not be limited to, the following:

- A. Notice of Meetings. He shall give notice of Council meetings.
- B. Records. He shall keep the Minutes of the proceedings of such meetings.
- C. Authenticate Documents. He shall authenticate by his signature and record all ordinances and resolutions.
- D. Other Duties. He shall perform such other duties as the City Manager shall assign and those elsewhere provided for in this Charter.

## Section 7. Municipal Court

- A. Powers and Duties. There shall be a Municipal Court of the City which shall have such jurisdictions, powers and duties as are prescribed by the laws of the State of Texas.
- B. Judge of the Court. The Judge of the Municipal Court shall be appointed and removed by the Council and shall receive compensation as may be fixed by the Council.
- C. Clerk of the Court. The City Secretary or an Assistant City Secretary may be ex-officio Clerk of the Municipal Court.
- D. Appointment of Relief Judges. The Council may also appoint one or more relief judges to act for the regular judge when the regular judge is unable to act for any reason.

## Section 8. Volunteer Organizations

The City may allow volunteer organizations to serve to accomplish the purposes of the City. These organizations shall work under the authority of the department most appropriate to their function as assigned by the City Manager.

Authority to act in the name of the City and to use City equipment and appropriations shall be outlined in a contract between the City and the volunteer organization.

The City shall reserve the right to limit the number and/or scope of volunteer organizations as the City deems necessary.

ARTICLE VI

TAX ADMINISTRATION

## ARTICLE VI

### TAX ADMINISTRATION

#### Section 1. Levy of Taxes

The Council shall have the power to levy such taxes and to grant such exemptions not prohibited by the laws of the State of Texas.

#### Section 2. Collection of Delinquent Taxes

The Council shall have the power to provide for the collection of delinquent taxes in any manner not inconsistent with the laws of the State of Texas.

#### Section 3. Payment of Taxes

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

#### Section 4. Tax Collector

There shall be a tax collector responsible for the collection of taxes levied by the City. This person or designated entity shall be bonded.

ARTICLE VII

FINANCIAL ADMINISTRATION



## ARTICLE VII

### FINANCIAL ADMINISTRATION

#### Section 1. Fiscal Year

The fiscal year shall begin on October 1 each year and end on the following September 30. The fiscal year may be changed by the Council by ordinance, provided that no change shall be effective until six (6) months after final passage of such ordinance, and that no more than one (1) change in the fiscal year shall be made in any period of three (3) calendar years. All funds collected by the City during any fiscal year, including both current and delinquent revenues, shall belong to such fiscal year and, except for funds derived to pay interest and create a sinking fund on the bonded indebtedness of the City, may be applied to the payment of expenses incurred during such fiscal year, except as provided in this Charter. Any revenues uncollected at the end of any fiscal year, and any unencumbered funds actually on hand, shall become resources of the next fiscal year.

#### Section 2. Budget

The Department Heads of the City shall prepare annual departmental budget requests for the ensuing fiscal year as directed by the City Manager and submit said requests to him for his review. It shall be the duty of the City Manager to submit a balanced annual budget not later than forty-five (45) days prior to the end of the current fiscal year to the Council for review, consideration and revision, if desired. The Council shall call a public hearing on the budget in accordance with the State Laws.

The budget shall be finally adopted not later than three (3) calendar days prior to the end of the fiscal year by the favorable votes of at least a majority of all members of the Council. Should the Council take no final action on or prior to such day on a proposed budget which has been timely and duly submitted by the City Manager, the budget, as submitted, shall be deemed to have been adopted by the Council. In the event the City Manager fails to timely submit a proposed budget as provided herein, the Council may cause the same to be prepared by someone else and may consider and adopt the same.

#### Section 3. Disposition of Funds

All checks, vouchers or warrants for the withdrawal of money from the City depositories shall have affixed thereto the legal signatures of both the Mayor or Mayor pro tem and the City Manager or the City Secretary.

#### Section 4. Purchasing

All purchases made and contracts executed by the City shall be made in accordance with the requirements of the Constitution and Statutes of the State of Texas and such other rules as the City may deem necessary.

#### Section 5. Emergency Appropriations

At any time in the fiscal year the Council, by the favorable votes of at least a majority of all members of the entire Council, may make emergency appropriations for other than regular or recurring budget requirements to meet a pressing need for public expenditures in order to protect the public health, safety or welfare.

#### Section 6. Independent Audit

At, or within thirty (30) days of, the close of each fiscal year, and at such other times as it may be deemed necessary, the Council shall cause an independent audit to be made of all accounts of the City by a certified public accountant, and each member of the Council may receive a copy. The certified public accountant so selected shall have no personal interest, directly or indirectly, in the financial affairs of the City or any of its officers. Upon completion of the audit, the results thereof shall be reported in writing to the Council as soon as reasonably possible, which report shall be a public record.

#### Section 7. Budget Amendments

During the fiscal year the Council shall have the power to transfer funds allocated by the budget from one activity, function or department, to another activity, function or department, or to re-estimate revenues and expenditures.

#### Section 8. Borrowing

The Council shall have the power, except as prohibited by law, to borrow money by whatever method it may deem to be in the public interest.

#### Section 9. General Obligation Bonds

The City shall have the power to borrow money on the credit of the City and to issue its general obligations for permanent public improvements or for any other public purpose not prohibited by the Constitution and laws of the State of Texas, and to issue refunding bonds to refund outstanding obligations of the City previously issued. All such obligations shall be issued in conformity with the laws of the State of Texas.

## Section 10. Revenue Bonds

The City shall have the power to borrow money for the purpose of constructing, purchasing, improving, extending, or repairing of public municipal facilities, recreational public municipal facilities, or any other self-liquidating municipal facilities not prohibited by the Constitution and laws of the State of Texas, and to issue revenue obligations to evidence the revenue or property pledged. With respect to obligations payable solely from the revenue or property pledged, the holders thereof shall never have the right to demand payment thereof out of monies raised or to be raised by taxation. All such obligations shall be issued in conformity with the laws of the State of Texas.

## Section 11. Bonds: Incontestable

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

## Section 12. Depository

The Council shall designate a bank as its official depository and the depository bank shall invest or cause funds of the City, under the direction of the City Manager, to be invested in a manner that will produce income to the City. The Council shall review the terms and conditions of the City depository every two (2) years. The Council may solicit applications for a depository, as it deems necessary, in accordance with applicable State laws.

ARTICLE VIII

FRANCHISES AND PUBLIC SERVICE COMPANIES

## ARTICLE VIII

### FRANCHISES AND PUBLIC SERVICE COMPANIES

#### Section 1. Powers of the City

In addition to the City's power to buy, own, construct, maintain, and operate utilities and to manufacture and distribute electricity, gas or anything else that may be needed or used by the public, the City shall have further powers as may now or hereafter be granted under the Constitution and laws of the State of Texas.

#### Section 2. Franchises: Power of the Council

- A. Requirement for Franchise and Power to Grant. The Council shall have the power by ordinance to grant, renew and extend any franchise to any person, company, corporation or other entity furnishing, supplying and/or selling any type of service or product ordinarily required or used by the public generally, which person, company, corporation or entity uses public streets, alleys and/or rights of way within the City for the purpose of locating or maintaining overhead or underground lines, pipelines, cables, or other conduits for the purpose of transmitting and/or distributing its service and/or product. Any such person, company, corporation or entity shall be required to have a franchise from the City in order to so use the public streets, alleys and rights of way. No franchise shall be granted for an indeterminate term, and no franchise shall be granted for a term of more than twenty-five (25) years from the date of grant, renewal or extension.
- B. Ordinance Granting Franchise. Every ordinance granting, renewing, extending, or amending a public service company franchise shall be presented at three (3) regular consecutive meetings of the Council, and shall not be finally acted upon until twenty-eight (28) days after the first presentation thereof. Within seven (7) days following the first presentation of the ordinance, the full text of the ordinance shall be published once each week for three (3) consecutive weeks in the official newspaper of the City, and the expense of such publication shall be borne by the prospective franchise holder.
- C. Grant Not to be Exclusive. No grant or franchise to construct, maintain or operate a public service company and no renewal or extension of such grant shall be exclusive.
- D. Transfer of Franchise. No public service company franchise shall be transferable except with the approval of the Council as expressed by ordinance. The term "transferable", as used herein, shall not be

construed in such a manner as to prevent the franchise holder from pledging said franchise as security for a valid debt or mortgage.

### Section 3. Franchise Value Not to be Allowed

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

### Section 4. Right of Regulations

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

- A. Repeal of Franchise. To repeal the same by ordinance at any time for failure to begin construction or operation within the time prescribed or for failure to otherwise comply with the terms of the franchise, such power to be exercised only after due notice and hearing;
- B. Require Highest Quality Service. To require an adequate and reasonable extension of plant and service, and the maintenance of the plant and fixtures at the standard necessary to render the highest reasonable quality of service to the public;
- C. Establish Standards of Service. To establish reasonable standards of service and quality of products and prevent unjust discrimination in service or rates;
- D. Prescribe Accounting Procedures. To prescribe the form of accounts kept by each such public service company. If the franchise or ordinance does not prescribe the form of accounts kept by such public service company, then such accounts shall be kept in accordance with the system of accounts for said public service company prescribed by the appropriate State and/or Federal regulatory agencies;
- E. Audit Records and Reports. To examine and audit the accounts and other records of any such public service company at any time and to require annual and other reports, including reports on local operations by each such public service company;
- F. Protect the Public. To impose such reasonable regulations and restrictions as may be deemed desirable or conducive to the safety, welfare and accommodation of the public.

- G. Follow Appropriate Procedural Rules. To ensure that procedural rules and regulations dealing with public service companies conform to the requirements of the appropriate State regulatory agencies.

#### Section 5. Consent of Certain Property Owners Not Required

The consent of abutting and adjacent property owners shall not be required for the construction, extension, maintenance or operation of any public service company, 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 property as now or hereafter provided by law.

#### Section 6. Extensions

All extensions of a public service company's services within the City limits shall become a part of the aggregate property of the public service company, shall be operated as such, and shall be subject to all the obligations and reserved rights contained in this Charter and in any original grant hereafter made. In case of an extension of a public service company operated under a franchise hereafter granted, such right shall be terminable at the same time and under the same conditions as the original grant.

#### Section 7. Accounts of Municipally Owned Public Service Company

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

#### Section 8. Regulation of Franchise Rates

The Council shall have full power after notice and hearing to regulate by ordinance the rates, charges and fares of any franchise holder operating in the City. Any franchise holder requesting an increase in its rates, charges, or fares shall have, at the hearing on such request, the burden of

establishing by clear and convincing evidence the value of its investments and the amount or character of its expenses and revenues. No franchise holder shall institute any legal action to contest any rate, charge, or fare fixed by the Council until such franchise holder has filed a motion for rehearing with the Council specifically setting out each ground of its complaint against the rate, charge or fare fixed by the Council, and until the Council shall have acted upon such motion. To the extent that the application of this Section is in conflict with the Public Utility Regulatory Act of Texas or any other State statute as applied to any franchise holder, then to the extent of such conflict, the matter of regulation of such franchise holder's rates shall be governed by said Public Utility Regulatory Act or other State statute.

#### Section 9. Franchise Records

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

#### Section 10. 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 any public service company property is in all things reserved, and except the general power of the City heretofore existing and herein provided for to regulate the rates and services of a public service company, which shall include the right to require adequate and reasonable extension of plant and service and the maintenance of the plant fixtures at the standard necessary to render the highest reasonable quality of service to the public. Every public service company franchise hereafter granted shall be held subject to all the terms and conditions contained in the various Sections of this Article whether or not such terms are specifically mentioned in the franchises. Nothing in this Charter shall operate to limit in any way, as specifically stated, the discretion of the Council or the voters of the City in imposing terms and conditions as may be reasonable in connection with any franchise grant, including the right to require such compensation or rental as may be permitted by the laws of the State of Texas.



ARTICLE IX

INITIATIVE, REFERENDUM AND RECALL

## ARTICLE IX

### INITIATIVE, REFERENDUM AND RECALL

#### Section 1. Power of Initiative

The qualified and registered voters shall have power to propose any ordinance except an ordinance appropriating money or authorizing the levy of taxes, and to adopt or reject the same at the polls, such power being known as Initiative. Such ordinances may be passed by the Council without change, or submitted to the voters at an election called for that purpose.

#### Section 2. Power of Referendum

The qualified and registered voters shall have power to approve or reject at the polls any ordinance passed by the Council, or submitted by the Council to a vote of the electors, such power being known as Referendum. The qualified and registered voters of the City shall have power to require reconsideration by the Council of any adopted ordinance, and if the Council fails to repeal an ordinance so reconsidered, to approve or reject it at a City election, provided that such power shall not extend to the budget or capital program or any emergency ordinance or ordinance relating to appropriation of money or levy of taxes, or to bonds issued pursuant to the authority of an election or elections heretofore held, or as to any subject of municipal legislation which has been established by the courts of this State not to be subject to the power of Referendum.

#### Section 3. Power of Recall

The Mayor or any member of the Council, whether elected or appointed, may be removed from office by Recall.

#### Section 4. Frequency of Elections for Initiated or Referred Ordinances

Special elections for Initiated or Referred ordinances shall not be held more frequently than once each six (6) months, and no ordinance on the same subject as an Initiated ordinance which has been defeated, or on the same subject as a Referred ordinance which has been approved at any election, may be proposed by the voters within one (1) year from the date of such election.

#### Section 5. Commencement of Proceedings: Petitioners' Committee and Affidavit

Any five (5) qualified and registered voters may commence Initiative or Referendum proceedings by filing with the City Secretary an affidavit stating they will constitute the Petitioners' Committee and shall become circulators of the petition, and will be responsible for filing it in proper form, stating their names and addresses, and specifying the addresses to which all notices

to the Committee are to be sent, and setting out in full the proposed Initiative ordinances or citing the ordinance sought to be reconsidered.

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

#### Section 6. Petitions

- A. Number of Signatures. Initiative and Referendum petitions must be signed by qualified and registered voters of the City equal in number to at least twenty five (25%) percent of the number of votes cast in the last regular municipal election of the City, or two hundred (200), whichever is greater.
- B. Form and Content. All papers of a petition shall be uniform in size and style and shall be assembled as one instrument for filing. Each signature shall be executed in ink or indelible pencil and shall be followed by his place of residence by street and number or other description sufficient to identify the place. Petitions shall contain or have attached thereto throughout their circulation the full text of the ordinance proposed or sought to be reconsidered.

#### Section 7. Affidavit of Circulator

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

#### Section 8. Time for Filing Initiative or Referendum Petitions

Initiative or Referendum petitions must be filed within thirty (30) days after issuance by the City Secretary of the appropriate blanks for initiating adoption of an ordinance or for reconsideration of any ordinance adopted by the Council.

#### Section 9. Filing, Examination and Certification of Petitions

Petitions for Initiative and Referendum shall be filed with the City Secretary. Within twenty (20) days after a petition is filed, the City Secretary shall examine such petition and determine its sufficiency, and shall certify the result of such examination to the Council at its next regular meeting. If such petition is insufficient, the City Secretary shall notify the Petitioners' Committee of his findings by certified mail, return receipt requested, to the addresses of the circulators shown on the petition.

## Section 10. Amendment of Petitions

An Initiative or Referendum petition may be amended at any time within ten (10) days after the notification of insufficiency has been sent by the City Secretary, by filing a supplementary petition upon additional papers being signed and filed as provided in the case of an original petition. The City Secretary shall, within five (5) days after such an amendment is filed, make examination of the amended petition, and, if the petition is still insufficient, the City Secretary shall file his certificate to that effect in his office and notify the Petitioners' Committee of his findings by certified mail, return receipt requested, to the addresses of the circulators shown on the petition. No further action shall be had on such insufficient petition. The finding of insufficiency of a petition shall not prejudice the filing of a new petition for the same purpose.

## Section 11. Consideration by Council of Initiative or Referendum Petitions

Whenever the Council receives a certified Initiative or Referendum petition from the City Secretary, it shall consider such petition at the next regular meeting. A proposed Initiative ordinance shall be read and provision shall be made for a public hearing upon the proposed ordinance. The Council shall take final action on such ordinance not later than sixty (60) days after the date on which it was submitted to the Council by the City Secretary. A Referred ordinance shall be reconsidered by the Council and its final vote upon such consideration shall be upon the question "Shall the ordinance specified in the Referendum petition be repealed?"

## Section 12. Submission to Voters of Initiative or Referred Petitions

If the Council shall fail to pass an ordinance proposed by Initiative petition in the exact form proposed, or it fails to repeal a Referred ordinance, the Initiated or Referred ordinance shall be submitted to the voters not less than thirty (30) days nor more than ninety (90) days from the date the Council takes its final vote thereon, or upon the next official election date, as authorized by State law, should an official election date not fall within the designated time specified.

## Section 13. Form of Ballots

The ballots used when voting upon such Initiated and Referred ordinances 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".

## Section 14. Results of Election

A. Implementation. If a majority of the registered electors voting on a

proposed Initiative ordinance vote in its favor, it shall be considered adopted upon certification of the election results and shall be treated in the same manner as ordinances of the same kind adopted by the Council.

- B. Conflicting Ordinances. If conflicting ordinances are approved at the same election, the one receiving the greater number of affirmative votes shall prevail.
- C. Repeal or Amendment of an Initiated Ordinance. An ordinance adopted by Initiative may be repealed or amended at any time after the expiration of two (2) years by a vote of five (5) or more of the Council members qualified and serving.
- D. Referendum. If a majority of the registered electors voting on a Referred ordinance vote against the ordinance, it shall be considered repealed upon certification of the election results. If a majority of the registered electors voting on a Referred ordinance vote for the ordinance, it shall be considered in effect and the petition shall become void.
- E. Adoption of an Ordinance Repealed by Referendum. An ordinance repealed by Referendum may be reenacted at any time after the expiration of two (2) years by a vote of five (5) or more of the Council members qualified and serving.

#### Section 15. Publication of Ordinances

Initiative and Referendum ordinances adopted or approved by the electors shall be published in the official newspaper of the City within thirty (30) days after certification of the election.

#### Section 16. Recall Procedure

The qualified and registered voters shall have the power to recall any elected or appointed member of the Council, and may exercise such power by filing with the City Secretary a petition which shall be signed and verified by the same number of signers with the same qualifications and in the same manner required in this Charter for an Initiative petition. If the petition is certified by the City Secretary to be sufficient, the Council shall order and hold an election to determine whether such officer shall be recalled.

#### Section 17. Results of Recall Election

If the majority of the legal votes cast at a Recall election be for the recall of the officer named on the ballot, the Council shall immediately declare his office vacant and such vacancy shall be filled in accordance with the provisions of this Charter. An officer thus removed shall not be eligible to hold office again in the City within a period of four (4) years from the date of his recall.

Section 18. Limitation of Recall

No Recall petition shall be filed against an officer within six (6) months after he takes office, and no officer shall be subjected to more than one (1) Recall election during a term of office.

Section 19. Failure of Council to Call an Election for Initiative, Referendum or Recall

Should the Council fail or refuse to order any of the elections as provided for in this Article, when all the requirements for such elections have been complied with, the petitioners may thereafter petition any District Judge having jurisdiction over Shelby County for appropriate legal remedies to enforce this provision.

ARTICLE X  
GENERAL PROVISIONS

# ARTICLE X

## GENERAL PROVISIONS

### Section 1. Submission of Charter to Electors and Election for Adoption

The Charter Commission for the City finds that it is impracticable to segregate each topic to permit a "yes-no" vote on same and that the Charter is constructed for it to work and function in its entirety. For this reason, the Charter Commission directs that the Charter be voted upon as a whole and that it be submitted to the voters of the City at an election to be held in accordance with terms and provisions of the applicable laws of the State of Texas. Within five (5) days after such election, the Council shall meet to canvass the returns of the election and if a majority of the voters vote in favor of the adoption of this Charter, it shall then and there become effective as the Charter of the City of Center, Texas.

### Section 2. Effect of Charter on Existing Law

All ordinances, resolutions, rules and regulations in force within the City on the effective date of this Charter, and not in conflict with this Charter, shall remain in force until altered, amended or repealed by the Council. All taxes, assessments, liens, encumbrances or demands, of or against the City, fixed or established before such date, shall be valid when properly fixed or established under the law in force at the time or under the law upon the adoption of this Charter.

### Section 3. Budget

The last currently adopted budget for the City immediately prior to the adoption of this Charter shall be and become the budget for the same fiscal year under the terms and provisions of this Charter and shall be in force as such.

### Section 4. Separability Clause

If any Section or part of a Section of this Charter is held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity shall not invalidate or impair the validity, force or effect of any other Section or part of a Section of this Charter.

### Section 5. Interim Municipal Government

Upon the adoption of this Charter, those persons holding elective offices shall continue to serve until an election can be held at the earliest time following approval of the division of the City into districts as provided in Article IV, Section 3 of this Charter, and upon approval by the appropriate officials as may be required by law. At that time, the Council shall determine the most expedient



method of electing the Council members under the provisions of this Charter.

During such interim, persons who, on the date this Charter is adopted, are employed or filling appointive positions with the City which are retained under this Charter, may continue to fill those positions for the term for which they were employed or appointed.

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

#### Section 6. Amending the Charter

Amendments to this Charter may be framed and submitted to the voters of the City in the manner provided by Chapter 13 of Title 28 of the Revised Civil Statutes of Texas, 1982, as now or hereafter amended.

#### Section 7. Personal Financial Interests

The Mayor, Council members and other officers and employees of the City shall not be interested either directly or indirectly in the profits or emoluments of any contract, job, work or service for the City, nor shall any of them be interested either directly or indirectly in the profits or emoluments of any sale to the City of any supplies, equipment, material or articles purchased, nor shall any of them be the owner of stock to exceed five (5%) percent of total shares issued in any public service company operating under franchise or license of the City.

Any contract in which any officer or employee of the City has an interest or shall acquire an interest in said profits or emoluments may be declared void by the Council. Any violations of this Section may, upon determination by the Council (in the case of a Council member or appointive office violation) or City Manager (in the case of a regular employee) that the violation occurred with the knowledge of the affected officer or employee, result in the forfeiture of office, position or job.

#### Section 8. Nepotism

No person related within the second degree of affinity, or within the third degree of consanguinity to any elected officer of the City, or to the City Manager, shall be elected, appointed, or employed in any office, position or clerkship or other service to the City. This prohibition shall not apply to any person who shall have been employed by the City prior to and at the time of the election of the Mayor or Councilmember or the appointment of the City Manager so related to him.

## Section 9. Unauthorized Gifts

No employee of the City nor any member of the Council shall ever accept any free service, or anything of value, directly or indirectly, from any person, firm or corporation upon terms more favorable than are granted to the general public, and any employee of the City who shall violate this Section shall forfeit such employment and any member of the Council who shall violate this Section shall, ipso facto, forfeit his position as a member of the Council.

## Section 10. Public Records

All public records of every office, department or agency of the City shall be open to inspection by any citizen at all reasonable times. Public records, as used in this Section, do not include any personnel records, police records, litigation data or other matters, the confidentiality of which has been established by law. Nothing in this Section shall preclude the City from charging a reasonable fee for furnishing copies of such public records.

## Section 11. Official Newspaper

The Council shall contract annually with, and by resolution designate, a public newspaper of general circulation in the City as official organ thereof, to continue as such until another is designated, and shall cause to be published therein all ordinances, notices and other matters required by this Charter, by the ordinances of the City, or by the Constitution and/or laws of the State of Texas to be published.

## Section 12. Notice of Claim

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

## Section 13. Assignment, Execution and Garnishment

The property, real and personal, belonging to the City shall not be liable for sale or appropriation under any writ of execution. The funds belonging to the City in the hands of any person, firm or corporation shall not be liable to garnishment on account of any debt it may owe or funds or property it may have on hand or owing to any person. Neither the City nor any

of its officers or agents shall be required to answer any such writ of garnishment on any account whatever. The City shall not be obligated to recognize any assignment of wages or funds by its employees, agents or contractors.

#### Section 14. Security or Bond Not Required

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

#### Section 15. Streets, Parks, Cemeteries and Public Grounds

The Council shall provide by ordinance for the control and improvement of all public streets, alleys, sidewalks, parks, cemeteries, public buildings and public grounds, and shall cause the same to be kept in repair and free from nuisance.

#### Section 16. Public Meetings

All meetings of any elected or appointed bodies of the City shall be held in compliance with the Open Meetings Act, Article 6252-17, V.T.C.S., as now or hereafter amended.

#### Section 17. Gender Terms

A word importing the masculine gender, only, shall extend and be applied to include females, firms, partnerships and corporations as well as males.



**city of center**

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