

# **Home Rule Charter**

**City of Lindale  
Texas**

**Election May 12, 2012 Passed  
Adopted May 15, 2012**

# **PREAMBLE**

We, the citizens of Lindale, Texas, in order to provide for the future progress of our city, establish and maintain a system of self-government based on sound fiscal and operational methods, ensure equal protection and treatment of all persons, and secure fully the benefits of our location and environment, do order the City of Lindale Charter adopted in accordance with the State of Texas. Regular City Council Meeting on May 15, 2012.

# Table of Contents

<b>Preamble</b> .....	1
<b>Article I. Incorporation, Form of Government, Powers</b> .....	1
Section 1.01. Incorporation.....	1
Section 1.02. Form of Government.....	1
Section 1.03. Powers of the City .....	1
Section 1.04. Rights Reserved .....	2
Section 1.05. Local Self-Government .....	2
Section 1.06. Miscellaneous Powers.....	2
<b>Article II. Boundaries</b> .....	3
Section 2.01. Boundaries .....	3
Section 2.02. Extension of Boundaries.....	3
Section 2.03. Disannexation.....	3
<b>Article III. The City Council</b> .....	4
Section 3.01. Composition of the City Council.....	4
Section 3.02. Mayor and Mayor Pro-Tem .....	4
Section 3.03. Mayor and City Council Qualifications .....	5
Section 3.04. Forfeiture of Office.....	5
Section 3.05. Judge of Elections, Qualifications and Grounds for Forfeiture .....	5
Section 3.06. Vacancies.....	6
Section 3.07. Filling of Vacancies in the City Council .....	6
Section 3.08. Prohibiting holding or running for other office.....	6
Section 3.09. City Council Rules .....	7
Section 3.10. The City Council may summon witnesses, etc. ....	7
Section 3.11. Investigations .....	7
Section 3.12. City Council Quorum .....	7
Section 3.13. Regular Meetings .....	7
Section 3.14. Special Meetings .....	8
Section 3.15. Open Meetings.....	8
Section 3.16. Compensation; Expenses .....	8
Section 3.17. Financial loss by elected City Officials.....	8
<b>Article IV. Municipal Elections</b> .....	8

Section 4.01. Holding Municipal Elections .....	8
Section 4.02. Qualifications of Voters .....	8
Section 4.03. General Election .....	9
Section 4.04. Nomination.....	9
Section 4.05. Designation of Official Ballot.....	9
Section 4.06. Canvass of Election.....	9
Section 4.07. Candidates Elected.....	9
Section 4.08. Run-off Election.....	9
<b>Article V. City Manager .....</b>	<b>10</b>
Section 5.01. Appointment, Qualifications, and Compensation of City Manager .....	10
Section 5.02. Removal of City Manager .....	10
Section 5.03. Acting City Manager .....	10
Section 5.04. Powers and Duties of the City Manager.....	10
<b>Article VI. Departments, Offices and Agencies .....</b>	<b>11</b>
Section 6.01. Administrative Departments.....	11
Section 6.02. Personnel System .....	12
Section 6.03. City Secretary .....	12
Section 6.04. City Attorney .....	13
<b>Article VII. Municipal Court.....</b>	<b>13</b>
Section 7.01. Municipal Court.....	13
Section 7.02. Judge of the Municipal Court.....	13
Section 7.03. Clerk of the Municipal Court .....	13
Section 7.04. Authority, Powers and Procedures of Municipal Court .....	14
<b>Article VIII. Financial Procedures .....</b>	<b>14</b>
Section 8.01. Fiscal Year.....	14
Section 8.02. Submission of Budget and Budget Message .....	14
Section 8.03. Budget Message .....	14
Section 8.04. Budget a Public Record .....	14
Section 8.05. Public Hearing on Budget.....	14
Section 8.06. Proceeding on Adoption of Budget.....	15
Section 8.07. Budget, Appropriation and Amount to be Raised by Taxation .....	15
Section 8.08. Amending the Budget .....	15

Section 8.09. Certification; Copies Made Available .....	15
Section 8.10. Capital Program.....	15
Section 8.11. Defects Shall Not Invalidate the Tax Levy .....	16
Section 8.12. Lapse of Appropriations .....	16
Section 8.13. Borrowing.....	16
Section 8.14. Purchasing.....	17
Section 8.15. Administration of Budget.....	17
Section 8.16. Depository.....	18
Section 8.17. Audit of City Books and Accounts .....	18
Section 8.18. Power to Tax.....	18
Section 8.19. Implementation of Power to Tax .....	18
Section 8.20. Taxes when due and payable .....	18
Section 8.21. Tax Liens .....	18
<b>Article IX. Utility and Public Service Franchises and Licenses .....</b>	<b>19</b>
Section 9.01. Authority .....	19
Section 9.02. Franchises .....	19
Section 9.03. Ordinance Granting Franchise.....	19
Section 9.04. Transfer of Franchise.....	19
Section 9.05. Franchise Value Not to be Allowed.....	19
Section 9.06. Right of Regulation.....	19
Section 9.07. Regulation of Rates .....	20
Section 9.08. Licenses .....	21
<b>Article X. Boards and Commissions .....</b>	<b>21</b>
Section 10.01. Boards and Commissions .....	21
<b>Article XI. Initiative, Referendum, and Recall .....</b>	<b>22</b>
Section 11.01. Power of Initiative.....	22
Section 11.02. Power of Referendum .....	22
Section 11.03. Frequency of Election.....	22
Section 11.04. Form of Petition .....	23
Section 11.05. Filing Examination and Certifications.....	23
Section 11.06. Council Consideration and Submission to Voters .....	23
Section 11.07. Results of Initiative and Referendum Elections .....	24

Section 11.08. Power of Recall.....	24
Section 11.09. Public Hearing to be Held.....	25
Section 11.10. Recall Election .....	25
Section 11.11. Results of Recall Election.....	26
<b>Article XII. Land Use Planning .....</b>	<b>26</b>
Section 12.01. Land Use, Development, and Environmental Planning.....	26
<b>Article XIII. General Provisions .....</b>	<b>26</b>
Section 13.01. Personal Financial Interests .....	26
Section 13.02. Official Oath .....	26
Section 13.03. Notice of Claim .....	27
Section 13.04. Assignment, Execution and Garnishment .....	27
Section 13.05. Security or Bond Not Required .....	27
Section 13.06. Nepotism .....	27
Section 13.07. Ordinances, Resolutions, Rules and Regulations .....	28
Section 13.08. Severability Clause .....	28
Section 13.09. Disaster Clause .....	28
Section 13.10. Officers and Employees Transition.....	28
Section 13.11. Departments, Offices and Agencies Transition.....	29
Section 13.12. Pending Matters.....	29
Section 13.13. Judicial Notice.....	29
Section 13.14. Official Newspaper .....	29
Section 13.15. Gender.....	29
Section 13.16. Effective Date of Charter.....	29
<b>Article XIV. Review and Amendment of Charter.....</b>	<b>30</b>
Section 14.01. Charter Review Commission .....	30
Section 14.02. Petition to Amend Charter .....	30
Section 14.03. Form of Petition to Amend Charter .....	31
Section 14.04. Various Papers Constituting Petition to Amend .....	31
Section 14.05. Presentation of Petition to the City Council.....	32
Section 14.06. Calling of Election to Amend Charter .....	32
Section 14.07. Failure of the City Council to Call an Election following Receipt of Valid Petition to Amend.....	32

# **Draft Home Rule Charter**

## **City of Lindale Texas**

### **Preamble**

The people of the City of Lindale, Texas, Incorporated under the general municipal incorporation laws of the State of Texas, under powers conferred by the Constitution and laws of Texas, in order to obtain more fully the benefits of local self-government, encourage better methods in the transaction of municipal business, insure strong political leadership, expand citizen participation, and otherwise promote the common welfare of the citizens of the City of Lindale, do adopt the following Charter, to wit:

### **Article I. Incorporation, Form of Government, Powers**

#### **Section 1.01. Incorporation.**

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

#### **Section 1.02. Form of Government.**

The municipal government provided by this Charter shall be known as the "council-manager" form of government. Pursuant to its provisions and subject only to the limitations imposed by the State Constitution and by this Charter all powers of the City shall be vested in an elective City Council which shall enact local legislation, adopt budgets, determine policies, and appoint the City Manager, who shall execute the laws and administer the government of the City.

#### **Section 1.03. Powers of the City.**

The City of Lindale shall have power to ordain and establish such acts, laws, rules, regulations, and ordinances, not inconsistent with the Constitution and laws of Texas and of this Charter, as shall be needful for the government, interests, health, welfare and good order of the City and its inhabitants. Under the name of the City of Lindale it shall be known in law and have succession and be capable of contracting and being contracted with, suing and being sued, impleading and being impleaded, answering and being answered unto, in all courts and tribunals, and in all amounts whatsoever, subject to the laws of the State of Texas, or which shall hereafter be enacted.

The City of Lindale shall have the power to take, hold, lease, grant, purchase and convey such real property, personal property, mixed property, or estate, situated within, or without the limits thereof, as the purpose of the City may require and shall have and use a municipal seal, and change and renew same at pleasure.

**Section 1.04. Rights Reserved.**

All suits, taxes, penalties, fines, forfeitures, and all other rights, claims and demands, of every kind and character, which have accrued under the laws in favor of the City, heretofore in force governing the same, shall belong to and vest in the City and shall not abate by reason of the adoption of this Charter, and shall be prosecuted and collected for the use and benefit of the City of Lindale and shall not be in any manner affected by the taking effect of this Charter; but as to all such suits, taxes, penalties, fines, forfeitures, and all other rights, claims and demands, of every kind and character, the laws under which they accrued shall be deemed to be in full force and effect.\*

\*Title 28 Chapter 13 Vernons and Statutes Article 1175

**Section 1.05. Local Self-Government.**

The City of Lindale shall possess and may exercise the full power of local self-government. It may hold, by gift, deed, devise, or otherwise, any character of property, including any charitable or trust fund, and subject to and within the limits of superior law may act in perpetual succession as a body politic.

**Section 1.06. Miscellaneous Powers.**

For greater certainty, the following are hereby especially enumerated and referred to as being among the other powers which are hereby conferred upon and which may be exercised by the City of Lindale, to-wit:

(a) All of the powers conferred upon cities and towns by Title 22 of the Revised Civil Statutes of Texas, 1911, except as may hereafter be denied, limited or extended, as fully and completely as if such powers were herein separately enumerated.

(b) All powers, privileges and immunities conferred upon cities of more than five thousand inhabitants, by Section 4 of Chapter 147 Acts of the 33rd Legislature, General Laws Regular Session, at page 310 to 316, entitled, An Act Authorizing Cities Having More Than Five Thousand Inhabitants, by a Majority Vote of the Qualified Voters of said City, at an Election Held for the Purpose to Adopt and Amend their Charters, etc.; as fully and completely as if each of said mentioned powers were herein separately enumerated; but enumeration of special powers herein, or in the Statutes referred to, shall not be held or construed to preclude the City from exercising all powers of local government not inhibited by the Constitution and Laws of the State of Texas, or by special limitations in this Charter, the purpose of this Charter being to

enlarge upon the power extended by the general laws of cities incorporated thereunder, and to secure to the City of Lindale, all the powers conferred by the Constitution and Laws of this State upon cities having more than five thousand inhabitants.

## **Article II. Boundaries**

### **Section 2.01. Boundaries.**

The boundaries of the City of Lindale shall be the same as have heretofore been established and as they exist on the day of adoption of this Charter, which boundaries are more fully set out and described by the official city map of the City of Lindale.

### **Section 2.02. Extension of Boundaries.**

Additional territory may be annexed by the procedures set forth in this Charter and Chapter 43 of the Texas Local Government Code, as amended, or otherwise specified in State law. Same shall be in addition to the following methods:

- A) Annexation by Exchange with other Municipalities. The City Council shall have the power by Ordinance to exchange areas with other municipalities.
  
- B) Annexation by Petition. The owner or owners of any land contiguous or adjacent to the City may, by petition in writing to the City Council, request the annexation into the City. The City Council may grant or refuse such petition as it sees fit. If the City Council grants such petition, it may receive such territory into the City.
  
- C) Involuntary Annexations. The City may involuntarily annex areas adjacent to the City, without the consent of the landowner, if:
  - 1) The City is providing the area with water or sewer services; and
  - 2) The City and affected landowners have not entered an agreement to not annex the area for a certain time period. Provided, however, the City may involuntarily annex the area if the time period has elapsed.

### **Section 2.03. Disannexation.**

Any area of the City may be disannexed pursuant to any procedure allowed under state law and whenever, in the opinion of the City Council, there exists within the corporate limits of the City a territory not suitable or necessary for City purposes, the City Council may by ordinance discontinue said territory as part of the City after notice and a public hearing.

## **Article III.**

### **The City Council**

#### **Section 3.01. Composition of the City Council.**

- A) Except as otherwise provided by the Charter of the City, all powers conferred on the City shall be exercised by a City Council to be composed of a Mayor and five Council Members, numbered Place 1 through Place 5, nominated and elected in the manner provided in Article IV of this Charter, unless otherwise prescribed by law. The Mayor and Council Members shall each be elected for a term of two years. The Mayor and Council Members so elected shall serve until respective successors have been elected and qualify.
- B) In all even numbered years, the Mayor and Place 2 and Place 3 Council Members shall be elected for two (2) year terms; and in all odd numbered years, Place 1, Place 4, and Place 5 Council Members shall be elected for two (2) year terms.
- C) The Mayor and Council Members are limited to four (4) consecutive two (2) year terms, or eight (8) consecutive years. After being out of office for one (1) year, any former Mayor or member of the City Council may again seek election. An individual may serve for eight (8) consecutive years as a member of the City Council and then for eight (8) consecutive years as Mayor without a one (1) year break in service.
- D) The Mayor and Council Members serving on the City Council at the date of the adoption of this Charter or elected in the same election as that adopting this Charter shall serve as the initial City Council of the City of Lindale as a Home Rule City.

#### **Section 3.02. Mayor and Mayor Pro Tem.**

- A) The Mayor of the City of Lindale shall be recognized as the head of the City government for all ceremonial purposes and by the Governor of the State of Texas for the purpose of military law, and shall preside over the meetings of the City Council and perform such other duties consistent with the office as may be imposed upon him by this Charter and ordinances and resolutions passed in pursuance hereof. He may participate in the discussion of all matters coming before the City Council. The Mayor may vote only in the event of a tie vote of the City Council Members voting.
- B) Before the fourth day after an ordinance or resolution is passed by the City Council and placed in the office of the City Secretary, the Mayor must sign it or return it to the City Council with his objections. If the Mayor does not sign or object before the fourth day after the ordinance or resolution is placed in the City Secretary's office, the ordinance or resolution takes effect. If the Mayor objects, the ordinance or resolution may take effect if a majority of the total number of the governing body, excluding the Mayor, approves the ordinance or resolution on reconsideration and enters the votes in the journal proceedings.

- C) The Mayor Pro Tem shall be elected for a one (1) year term by the City Council from its membership at a meeting of the City Council. The Mayor Pro Tem shall act as mayor in the case of the absence or inability of the Mayor to perform the duties of the office and in this capacity shall be vested with all of the powers conferred upon the Mayor.

**Section 3.03. Mayor and City Council Qualifications.**

- A) The Mayor and each Member of the City Council shall have the following qualifications:
- 1) be at least 21 years at age;
  - 2) be a registered voter;
  - 3) be a resident of the City for at least one (1) year immediately preceding the filing for office; and
  - 4) remain as a resident of the City during the term of office for which elected.

**Section 3.04. Forfeiture of Office.**

The Mayor or any Member of the City Council shall forfeit his office if he:

- A) lacks at any time during his term of office any qualification for the office prescribed by this Charter or by law;
- B) is convicted of a felony or of a misdemeanor involving moral turpitude or is convicted of violating any state laws regulating conflicts of interest of municipal officers;
- C) no longer resides within the City;
- D) violates any express prohibition of this Charter;
- E) fails to attend three regular City Council meetings in any calendar year without being excused by the Council.

**Section 3.05. Judge of Elections, Qualifications and Grounds for Forfeiture.**

The City Council shall be the judge of the election and qualifications of its Members and of the grounds for forfeiture of their office. In order to exercise these powers, the City Council shall have power to subpoena witnesses, administer oaths and require the production of evidence. A Member charged with conduct constituting grounds for forfeiture of office shall be entitled to a public hearing on demand, and notice of such hearing shall be published in one or more newspapers of general circulation in the City one week in advance of the hearing.

### **Section 3.06. Vacancies.**

The office of Mayor or of a Member of the City Council shall become vacant upon the death, resignation, or removal from office of the office holder or upon the forfeiture of the office in any manner authorized by law.

### **Section 3.07. Filling of Vacancies in the City Council.**

- A) If a single vacancy occurs in the office of Mayor or on the City Council, a majority of the remaining Members of the City Council may fill the vacancy by appointment or the remaining Members of the City Council may call a special election to fill the vacancy.
- B) If more than one vacancy occurs in the office of Mayor or on the City Council, a special election shall be held to fill the vacancies.
- C) A person appointed to serve in the office of Mayor or on the City Council shall serve until the next general municipal election. A person elected at a special election to fill a vacancy in the office of Mayor or on the City Council shall serve the unexpired term of the Mayor or City Council Member whose place has been declared vacant.
- D) If a candidate duly elected either to the office of Mayor or to the City Council at the general election fails to take the oath of office on or before the tenth day after the official canvass of the election, then his place shall be considered a vacancy and filled as herein provided for other vacancies. In the event such a candidate, elected either to the office of Mayor or to the City Council at a special election, fails to take the oath of office on or before the tenth day after the official canvass of the election, then his place shall be considered a vacancy and filled as herein provided for other vacancies.

### **Section 3.08. Prohibiting holding or running for other office.**

- A) No Mayor or any Member of the City Council shall hold any compensated appointive office or employment with the City of Lindale; and no former Mayor or former Member of the City Council shall hold any compensated appointive office or employment with the City of Lindale for a period of one (1) year after serving as Mayor or Member of the City Council.
- B) The Mayor or any Member of the City Council shall forfeit his place on the Council if he becomes a candidate for nomination or election to any public office other than on the City Council.
- C) Notwithstanding anything to the contrary in this Chapter, the Mayor or any Member of the City Council affected by subsection B) shall carryover or holdover in his service in the position as permitted by Article 16, Section 17 of the Texas Constitution.

### **Section 3.09. City Council Rules.**

The City Council shall determine its own rules of procedures, and may punish its Members for misconduct, and may compel the attendance of absent Members.

### **Section 3.10. The City Council may summon witnesses, etc.**

The City Council shall have power to summon and compel the attendance of witnesses and the production of books and papers before it whenever it may be necessary for the more effective discharge of its duties, and shall have the power to punish for contempt before it with the same fines and penalties as the county judge may punish for contempt before the county court. All process shall be signed by the Mayor and attested by the City Secretary and shall be served by the Chief of Police or any police officer of the City.

### **Section 3.11. Investigations.**

The City Council shall have power to inquire into the conduct of any department, office, agency, or officer of the City, and may appoint a committee, the City Manager, and other person to conduct such investigation on its behalf. For such purposes, the City Council may subpoena witnesses, administer oaths, and compel the production of books, papers and other evidence material to said inquiry. The City Council may provide by ordinance penalties for contempt in refusing to obey any such subpoenas or failure to produce books, papers and other evidence, and shall have the power to punish any such contempt in the manner provided by ordinance, including punishment by fine not exceeding \$500.00.

### **Section 3.12. City Council Quorum.**

A quorum shall consist of four Members, which may include the Mayor. Where the number of City Council Members, including the Mayor, due to vacancies, is reduced to less than five, a quorum shall consist of all the remaining Council Members; but a less number than a quorum may adjourn from time to time and compel the attendance of absent Members in such manner and under such penalties as may be prescribed by ordinance.

### **Section 3.13. Regular meetings.**

On the day the Members of the City Council take office, they shall meet at the building designated as the official city hall and thereafter all regular meetings of the City Council shall be held in the city council chamber in such building at such times and dates as may be prescribed by ordinance or resolution; but not less than one regular meeting shall be held each month unless postponed or cancelled for valid reasons, to be recorded in the minutes.

**Section 3.14. Special meetings.**

Special meetings shall be called by the City Secretary upon the written request of the Mayor, City Manager or three Members of the City Council. All City Council Members shall be given notice of the time and the location of such meeting at least 12 hours prior thereto whenever practicable and therein shall be stated the subject to be considered at the special meeting and such may provide for the taking up of any other business provided at such meeting.

**Section 3.15. Open meetings.**

All official meetings, including all regular and special meetings, of the City Council, and all boards, commissions and committees thereof shall be open to the public. Provided however, a closed session may be held as permitted by the Texas Open Meetings Act, as amended, or as otherwise specified by State law. The City Council shall provide for reasonable opportunity for citizens to be heard at all open meetings concerning any subject considered thereat under such rules as the Council may provide.

**Section 3.16. Compensation; Expenses.**

Neither the Mayor nor the Members of the City Council shall receive compensation for their service on the Council; however, the Mayor and the Members of the City Council shall receive reimbursement for their actual and necessary expenses incurred in the performance of their duties of the office, subject to approval by the remaining Members of the Council.

**Section 3.17. Financial loss by elected City Officials.**

Duly elected city officials acting in their official capacity shall be protected by the City from personal financial loss resulting from Council decisions made while in official sessions as a result of claims made or law suits filed pertaining to such decisions.

**Article IV.  
Municipal Elections**

**Section 4.01. Holding Municipal Elections.**

All city elections shall be held under the provisions of the Texas Election Code.

**Section 4.02. Qualifications of Voters.**

All residents of the City of Lindale who shall have qualified to vote in accordance with the provisions of the Texas Election Code shall have the right to vote in all city elections for Mayor and City Council.

#### **Section 4.03. General Election.**

Elections for the purpose of electing the Mayor and Members of the City Council shall be held as otherwise prescribed by the Texas Election Code, as amended. Individuals running for the position of Mayor and all offices of the City Council shall run at large and may be voted for by all qualified voters residing in the City.

#### **Section 4.04. Nomination.**

A person desiring to become a candidate for Mayor or for any place on the City Council shall be entitled to have his name placed on the official ballot if he files with the City Secretary, within the period of time prescribed by the Texas Election Code, as amended, a sworn application verifying his qualifications as provided in Section 3.03 of this Charter and stating that he is a candidate for Mayor or the City Council and the place for which he is running.

#### **Section 4.05. Designation of Official Ballot.**

The Mayor shall be designated on the official ballot as "Mayor."

The place numbers on the official ballot shall be designated as "Member of Council, Place No. \_\_\_\_\_," designating the place numbers, such to be in numerical order, and the candidate's name shall appear in the place for which he filed his application. The City Secretary shall make up the official ballot from the names so presented to him in the manner hereinabove set out. The order in which the names of the candidates for Mayor and each place shall appear on the ballot shall be determined by lot in a drawing held under the supervision of the City Secretary.

#### **Section 4.06. Canvass of Election.**

The City Council shall convene in a meeting of the council chambers and canvass and certify the results of such election on a date authorized by the Texas Election Code.

#### **Section 4.07. Candidates Elected.**

A candidate in said election receiving a majority of the votes cast for the position of Mayor and for the position of Councilperson for the place for which he is a candidate, as the case may be, shall be declared elected.

#### **Section 4.08. Run-off Election.**

If no candidate receives a majority of the votes, a run-off election shall be conducted for the Mayor's position or City Council place pursuant to the Texas Election Code.

## **Article V. City Manager**

### **Section 5.01. Appointment, Qualifications, and Compensation of City Manager.**

The City Council shall upon majority vote of the full Council appoint a City Manager for an indefinite term and fix the City Manager's compensation. The City Manager shall be appointed solely on the basis of education and experience in the accepted competencies and practices of local government management. The City Manager need not be a resident of the City or State at the time of appointment, but shall become a resident of the City within six (6) months.

### **Section 5.02. Removal of City Manager.**

If the City Manager declines to resign at the request of the City Council, the City Council may immediately suspend the City Manager by resolution approved by the City Council. Such resolution shall set forth the reasons for suspension and proposed removal. A copy of such resolution shall be served immediately upon the City Manager. The City Manager shall have fifteen days in which to reply thereto in writing, and upon request, shall be afforded a public hearing, which shall occur within fifteen days after such hearing is requested. After the public hearing, if one is requested, and after full consideration, the City Council by a majority vote may adopt a final resolution of removal. The City Manager shall continue to receive full salary until the effective date of a final resolution of removal.

### **Section 5.03. Acting City Manager.**

By letter filed with the City Secretary, the City Manager shall designate a city officer or employee to exercise the powers and duties of the City Manager during the City Manager's temporary absence or disability; the City Council may revoke such designation at any time and appoint another officer of the City to serve until the City Manger returns. The City Council may designate a city officer or employee to exercise the powers and duties of the City Manager during any suspension of the City Manager.

### **Section 5.04. Powers and Duties of the City Manger.**

The City Manager shall be the chief executive officer of the City, responsible to the City Council for the management of all City affairs placed in the City Manager's charge by or under this charter. The City Manager shall:

- A) Appoint the administrative officers or directors of the City's departments which are provided for under this Charter, or by ordinance except as otherwise provided by law, this Charter or personnel rules not inconsistent with this Charter, and shall make all appointments of lesser positions in the City's service on recommendations of the administrative officer or director of the department affected. When he deems it necessary for the good of the City, he may suspend or remove any City employee.

- B) Direct and supervise the administration of all departments, offices and agencies of the City, except as otherwise provided by this Charter or by law;
- C) Attend all City Council meetings, unless excused by the Mayor or Council. The City Manager shall have the right to take part in discussion but shall not vote;
- D) See that all laws, provisions of this Charter and acts of the City Council, subject to enforcement by the City Manager or by officers subject to the City Manager's direction and supervision, are faithfully executed;
- E) Prepare and submit the annual budget to the City Council, and implement the final budget approved by the City Council to achieve the goals of the City;
- F) Submit to the City Council and make available to the public a complete report on the finances and administrative activities of the City as of the end of each fiscal year;
- G) Make such other reports as the City Council may require concerning operations;
- H) Keep the City Council fully advised as to the financial condition and future needs of the City;
- I) Make recommendations to the City Council concerning the affairs of the City and facilitate the work of the City Council in developing policy;
- J) Provide staff support services for the Mayor and Council Members;
- K) Assist the City Council to develop long-term goals for the City and strategies to implement these goals;
- L) Encourage and provide staff support for regional and intergovernmental cooperation;
- M) Promote partnerships among the City Council, staff, and citizens in developing public policy and building a sense of community; and
- N) Perform such other duties as are specified in this Charter or may be required by the City Council.

**Article VI.**  
**Departments, Offices and Agencies**

**Section 6.01. Administrative Departments.**

- A) There shall be such administrative departments as are established by this Charter and may be established by ordinance and, excepting as otherwise provided in this Charter, these administrative departments shall be under the direction of the City Manager.
- B) The City Council shall have power by ordinance to establish administrative departments or offices not herein provided by this Charter. The City Council may discontinue, redesignate or combine any of the departments and/or administrative offices. No changes shall be made by the City Council in the organization of the administrative services of the City until the recommendations of the City Manager thereon shall have been heard by the Council.
- C) The head of each department shall be a director who shall have departmental supervision and control. Two (2) or more departments may be headed by the same individual and the City Manager may head one (1) or more departments.

**Section 6.02. Personnel System.**

- A) All appointments and promotions of city officers and employees shall be made solely on the basis of merit and fitness.
- B) The City Council may further this principle by the adoption of personnel rules that provide:
  - 1) Guidelines for the classification and pay scale for city positions;
  - 2) Methods for determining the fitness and merit of candidates for employment or promotion;
  - 3) Policies for training; and
  - 4) Rules for reductions in force, removal, or discipline of employees, and grievances.

**Section 6.03. City Secretary.**

- A) The City Manager shall appoint a City Secretary who shall receive such compensation as shall be fixed by the City Council.
- B) The City Secretary shall:
  - 1) Attend all meetings of the City Council, unless excused by the Mayor or Council, and keep accurate records of all actions taken by the Council.
  - 2) Maintain the official records and files of the City;
  - 3) Administer oaths in any matter pertaining to municipal affairs;

- 4) Attest contracts, assessment certificates and other legal instruments when executed by the authorized officers of the City;
- 5) Serve as the election official for all City elections;
- 6) Perform such other duties as may be required by this Charter, the City Council, or State law; and
- 7) Countersign all commissions issued to city officers and licenses issued by the mayor and keep a record of same.

**Section 6.04. City Attorney.**

The City Council shall appoint an attorney, licensed by the State of Texas, to be the City Attorney. The City Attorney shall be entitled to compensation for services as established by the City Council and shall serve at the pleasure of the Council. At the request of the City Manager the City Attorney shall draft or approve as to legal form or file written objections to ordinance proposed by the City Council and shall review contracts and other documents in which the City has an interest. The City Attorney, or other attorneys selected by the City Attorney with the approval of the City Council, shall represent the City in all litigation. The City Attorney shall be the legal advisor to the City and counsel for the City and all its officers and departments in the conduct of City business.

**Article VII.  
Municipal Court**

**Section 7.01. Municipal Court.**

There shall be a court known as the Municipal Court of the City of Lindale, with such jurisdiction, powers and duties as are given and prescribed by the laws of the State of Texas.

**Section 7.02. Judge of the Municipal Court.**

The municipal court shall be presided over by a magistrate who shall be known as the Judge of the Municipal Court. The Judge shall be appointed by the City Council to serve at the discretion of the Council.

**Section 7.03. Clerk of the Municipal Court.**

There shall be a Clerk of the Municipal Court who shall be appointed by the City Manager. The Clerk shall have the power to administer oaths and affidavits, make certificates, affix the seal of the court thereto, and otherwise perform any and all acts necessary in issuing process of such court and conducting the business thereof.

#### **Section 7.04. Authority, Powers and Procedures of Municipal Court.**

The authority, powers, and procedures specified by Chapter 29, Subsection A of Government Code, as amended or as may be hereafter amended, are hereby incorporated herein and made part of this Charter for all purposes.

### **Article VIII. Financial Procedures**

#### **Section 8.01. Fiscal Year.**

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

#### **Section 8.02. Submission of Budget and Budget Message.**

On or before the fifteenth (15th) day of August of the fiscal year, the City Manager shall submit to the City Council a budget for the ensuing fiscal year and an accompanying budget message.

#### **Section 8.03. Budget Message.**

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

#### **Section 8.04. Budget a Public Record.**

The budget and all supporting schedules shall be filed with the person performing the duties of City Secretary when submitted to the City Council and shall be open to public inspection by anyone interested.

#### **Section 8.05. Public Hearing on Budget.**

At the City Council meeting when the budget is submitted, the City Council shall name the date, time, and place of the public hearing and shall have published in the official newspaper of the City, at least twice, the date, time, and place, which will be not less than ten (10) days nor more than thirty (30) days after the date of notice. At this hearing, interested citizens may express their opinions concerning the budget, including giving their reasons for wishing to increase or decrease any items of expense.

**Section 8.06. Proceeding on Adoption of Budget.**

After public hearing, the City Council shall analyze the budget, making any additions or deletions which they feel appropriate, and shall adopt the budget by the affirmative vote of a majority of the full membership of the City Council. Should the City Council take no final action on or prior to such day, the current budget shall be in force on a month-to-month basis until a new budget is adopted.

**Section 8.07. Budget, Appropriation and Amount to be Raised by Taxation.**

On final adoption, the budget shall be in effect for the budget year. Final adoption of the budget by the City Council shall constitute the official appropriations as proposed by expenditures for the budget year and shall constitute the basis of official levy of the property tax as the amount of tax to be assessed and collected for the corresponding tax year. Estimated expenditures will in no case exceed proposed revenue plus the undesignated fund balance from the previous fiscal year. Unused appropriations may be transferred to any item required for the same general purpose.

**Section 8.08. Amending the Budget.**

Under conditions which may arise, and for municipal purposes, the City Council may, by the affirmative vote of a majority of the full membership of the City Council, amend or change the budget to provide for any additional expense in which the general welfare of the citizenry is involved. These amendments shall be by ordinance, and shall become an attachment to the original budget.

**Section 8.09. Certification; Copies Made Available.**

A copy of the budget, as finally adopted, shall be filed with the person performing the duties of City Secretary and such other places required by state law or as the City Council shall designate. The final budget shall be printed or otherwise reproduced and sufficient copies shall be made available for the use of all offices, agencies, and for the use of interested persons and civic organizations.

**Section 8.10. Capital Program.**

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

- A) A clear general summary of its contents;
- B) A list of all capital improvements which are proposed to be undertaken during the five (5) fiscal years succeeding the budget year, with appropriate supporting information as to the necessity for such improvements;

- C) Cost estimates, method of financing, and recommended time schedules for each improvement; and
- D) The estimated annual cost of operation and maintaining the facilities to be constructed or acquired.

The above information may be revised and extended each year with regard to capital improvements still pending or in process of construction or acquisition.

**Section 8.11. Defect Shall Not Invalidate the Tax Levy.**

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

**Section 8.12. Lapse of Appropriations.**

Every appropriation, except an appropriation for a capital expenditure, dedicated grant awards, or program specific enterprise funds, 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, dedicated grant awards, or program specific enterprise funds shall continue in force until the purpose for which it was made has been accomplished or abandoned. The purpose of any such appropriation shall be deemed abandoned if three (3) years pass without any disbursement from or encumbrance of the appropriation. Any funds not expended, disbursed or encumbered shall be deemed excess funds.

**Section 8.13. Borrowing.**

The City shall have the power to borrow money on the credit of the City and to issue or incur bonds and other evidences of indebtedness to finance public improvements or for any other public purpose not prohibited by the Constitution and the laws of the State of Texas and to issue refunding bonds to refund outstanding bonds and other evidences of indebtedness of the City previously issued.

All such bonds and other evidences of indebtedness shall be issued in conformity with the laws of the State of Texas and may be secured by or paid, in whole or in part, from ad valorem tax revenues, revenues derived from other taxing powers of the City, revenues derived by the City from any fee or service charge, including recreational facilities or any other municipal function to the extent not prohibited by the Constitution and laws of the State of Texas. Such bonds or evidences of indebtedness may be a charge upon and payable from the properties, or interest therein pledged, or the income therefrom, or both to the extent not prohibited by the Constitution or laws of the State of Texas. The proceeds of bonds or other evidences of indebtedness issued or incurred by the City shall be used only for the purpose for which the bonds or other indebtedness was issued or incurred.

#### **Section 8.14. Purchasing.**

- A) The City Council may by ordinance, give the City Manager general authority to contract for expenditures without further approval of the City Council for all budgeted items not exceeding limits set by the City Council within the ordinance.
- B) All contracts for expenditures or purchases involving more than the limits given by the City Council to the City Manager must be expressly approved by the City Council.
- C) Emergency contracts as authorized by law and this Charter may be negotiated by the City Council or City Manager if given authority by the City Council, without competitive bidding, and in accordance with state law. Such emergency may be declared by the City Manager and approved by the City Council or declared by the City Council.
- D) Spending, purchasing, and sale of real or personal property guidelines shall be set by policy approved by the City Council and shall be consistent with state law.

#### **Section 8.15. Administration of Budget.**

- A) No payment shall be made or obligation incurred against any allotment or appropriation, unless the City Manager, or the City Manager's designee, first certifies that there is a sufficient unencumbered balance. The City Manager may transfer any part of the unencumbered appropriation balance of expenditures within an office, department, agency, or organizational unit. At any time during the fiscal year, at the request of the City Manager, the Council may by resolution transfer any part of the unencumbered appropriation balance or the entire balance thereof from one office, department, agency, or organizational unit to another.
- B) Any authorization of payment or incurring of obligation in violation of the provisions of this Charter shall be void . Such action which was taken with knowing violation of this Article, may be cause for removal of any officer, subject to the affirmative vote of a majority of the full membership of the Council, and the officer shall also be liable to the City for any amount so paid.
- C) This prohibition shall not be construed to prevent the making or authorizing of payments, or making of contracts for capital improvement to be financed wholly or partly by the pledge of taxes, 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, providing that such action is made or approved by ordinance.
- D) The City Manager shall submit to the City Council each month a report covering the revenues and expenditures of the City in such form as requested by the City Council.

### **Section 8.16. Depository.**

All monies except petty cash received by any person, department or agency of the City for or in connection with the affairs of the City shall be deposited promptly in the City depository or depositories. The City depositories shall be designated by the City Council in accordance with such regulations and subject to the requirements as to security for deposits and interest thereon as may be established by ordinance and State law. Procedures for withdrawal of money or the disbursement of funds from the City depositories shall be prescribed by ordinance.

### **Section 8.17. Audit of City Books and Accounts.**

At the close of each fiscal year, and at such other times as may be deemed necessary, the City Council shall appoint a Certified Public Accountant to complete an independent audit of all accounts of the City and present his report to the City Council. Such audit report shall be filed with the City Secretary and shall be available for public inspection.

### **Section 8.18. Power to Tax.**

- A) The City shall have the power to levy, assess and collect taxes of every character and type for any municipal purpose not prohibited by the Constitution and laws of the State of Texas.
- B) The City shall have the power to grant tax exemptions in accordance with the laws of the State of Texas.

### **Section 8.19. Implementation of Power to Tax.**

The City Council shall prescribe by ordinance the methods, procedures, rules and regulations by which its power to tax may be implemented, and by which any taxes thereby imposed may be enforced and collected.

### **Section 8.20. Taxes, when due and payable.**

All taxes due to the City of Lindale shall be payable at a location designated by the City Council. Taxes shall be due and shall become delinquent as provided in the Texas Tax Code, as amended, which code further provides for delinquent taxes, interest, penalty and procedures for the collection of taxes.

### **Section 8.21. Tax Liens.**

The City shall have all the rights granted by State Law to collect taxes and to enforce collections by lien foreclosures and other procedures set forth by State Law pertaining to Real and Personal property.

**Article IX.**  
**Utility and Public Service Franchises and Licenses**

**Section 9.01. Authority.**

The City shall have the power to buy, own, sell, construct, lease, maintain, operate and regulate public services and utilities and to manufacture, distribute and sell the output of such services and utility operations. The City shall not supply any utilities service outside the City limits, except by a written contract and/or by ordinance. The City shall have such regulatory and other power as may now or hereafter be granted under the Constitution and laws of the State of Texas.

**Section 9.02. Franchises.**

The City Council shall have power by ordinance to grant, renew and extend all franchises of public utilities of every character operating within the City and for such purposes is granted full power. The term "public utility" as used herein is construed to mean any person, firm or corporation furnishing to the public any general public service, including, but not limited to heat, light, gas, power, telephone service, communication services, community antenna or cable television service, sewer service, and the treatment thereof, water, wrecker service, the carrying of passengers for hire, or any other public service whereby a right to, in part, appropriate or use the streets, highways or other property of the City, as necessary or proper is granted.

**Section 9.03. Ordinance Granting Franchise.**

No franchise shall be granted for a term of more than twenty (20) years from the date of the grant, renewal or extension of any franchise. Approval of any franchise requires a majority vote of the full membership of the City Council.

**Section 9.04. Transfer of Franchise.**

No public service or utility franchise is transferable, except with the approval of the City Council. However, the franchisee may pledge franchise assets as security of a valid debt or mortgage.

**Section 9.05. Franchise Value Not to be Allowed.**

Franchises granted by the City are of no value in fixing rates and charges for public services or utilities within the City and in determining just compensation to be paid by the City for property which the City may acquire by condemnation or otherwise.

**Section 9.06. Right of Regulation.**

In granting, amending, renewing and extending public service and utility franchises, the City reserves unto itself all the usual and customary rights, including, but not limited to, the following rights:

- A) To repeal the franchise by ordinance for failure to begin construction or operation within the time prescribed, or for failure to comply with terms of the franchise;
- B) To require all extensions of service within the City limits to become part of the aggregate property of the service and operate subject to all obligations and reserved rights contained in this Charter. Any such extension is considered part of the original grant and terminable at the same time and under the same conditions as the original grant;
- C) To require expansion and extension of facilities and services and to require maintenance of existing facilities to provide adequate service at the highest level of efficiency;
- D) To require reasonable standards of service and quality of product and prevent rate discrimination;
- E) To impose reasonable regulations and restrictions to insure the safety and welfare of the public;
- F) To examine and audit accounts and records and to require annual reports on local operations of the public service or utility;
- G) To require the franchisee to restore, at franchisee's expense, all public or private property to a condition as good as or better than before disturbed by the franchisee for construction, repair or removal;
- H) To require the franchisee to furnish to the City, from time to time within a reasonable time following request of the City, at franchisee's expense a general map outlining current location, character, size, length, depth, height and terminal of all facilities over and under property within the City and its extraterritorial jurisdiction; and
- I) To require compensation, rent or franchise fees to be paid to the City unless prohibited by the laws of the State of Texas.

**Section 9.07. Regulation of Rates.**

- A) The City Council has the power to fix and regulate the rates and charges of all utilities and public services, unless prohibited by state statutes.
- B) Upon receiving written request from a utility or public service requesting a change in rates, or upon a recommendation from the City that rates for services provided by or owned by

the City be changed, the City Council shall call a public hearing for consideration of the change.

- C) A holder of a franchise to provide a public service or utility in the City must show the necessity for the change in rates by any evidence required by the City Council, including but not limited to, the following:
- 1) Cost of its investment for service to the City;
  - 2) Amount and character of expenses and revenues connected with rendering the service;
  - 3) Copies of any reports or returns filed with any state or federal regulatory agency within the last three (3) years; or
  - 4) Demonstration that the return on investment, if any, is within state and federal limitations.
- D) If not satisfied with the sufficiency of evidence, the City Council may hire rate consultants, auditors and attorneys to investigate and, if necessary, litigate requests for rate changes, the expense of which shall be reimbursed to the City by the franchisee.

#### **Section 9.08. Licenses.**

The City shall have the power to license, levy and collect fees in order to license any lawful business, occupation or calling subject to control pursuant to the police powers of the State of Texas and/or for any other purpose not contrary to the Constitution and laws of the State of Texas.

### **Article X. Boards and Commissions**

#### **Section 10.01. Boards and Commissions.**

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

consistent with the express provision of this Charter and applicable provisions of the State Constitution and laws of this State.

**Article XI.**  
**Initiative, Referendum and Recall**

**Section 11.01. Power of Initiative.**

The voters shall have power to propose any ordinance, except an ordinance appropriating money, issuing bonds or authorizing the levying of taxes, and to adopt or reject the same at the polls, such power being known as the initiative. Any initiative ordinance may be submitted to the Council by a petition signed by currently qualified voters of the City equal in number to at least 15% of the total number of the qualified voters registered to vote at the last regular municipal election. To be valid, a petition submitted for the purpose of complying with an initiative election process shall comply with the Texas Election Code, as amended, and shall be for a subject for which the initiative election process is authorized by State law.

**Section 11.02. Power of Referendum.**

The voters shall have power to approve or reject at the polls any ordinance passed by the Council or submitted by the Council to a vote of the voters, such power being known as the referendum, except in cases of an ordinance appropriating money, issuing bonds or authorizing the levying of taxes. Ordinances submitted to the Council by initiative petition and passed by the Council without change shall be subject to the referendum in the same manner as other ordinances. A petition, signed by currently qualified voters of the City equal in number to at least 15% of the total number of the qualified voters registered to vote at the last regular municipal election, must be filed with the City Secretary within 30 days after the enactment by the Council of the ordinance which is the subject of the referendum, requesting that such ordinance be submitted to a vote of the voters. To be valid, a petition submitted for the purpose of complying with a referendum election process shall comply with the Texas Election Code, as amended, and shall be for a subject for which the referendum election process is authorized by State law.

**Section 11.03. Frequency of Election.**

Special elections on initiated or referred ordinances shall be held on one of the uniform election dates as specified in the Texas Election Code, as amended, and no ordinance on the same subject as an initiated ordinance which has been defeated or on the same subject as a referred ordinance which has been approved at any election may be initiated by the voters within twenty-four (24) months from the date of such election.

#### **Section 11.04. Form of Petition.**

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

#### **Section 11.05. Filing Examination and Certifications.**

All petition papers comprising an initiative or referendum petition shall be assembled and filed with the City Secretary as one instrument. Within 20 days after the petition is filed, the City Secretary shall determine whether each paper of the petition has a proper statement of the circulator, and whether the petition is signed by a sufficient number of qualified voters. The City Secretary shall declare any petition paper entirely invalid which does not have attached thereto an affidavit signed by the circulator thereof.

After completing his examination of the petition, if the City Secretary certifies that the petition is sufficient, he shall then notify the Council of the results of his examination at its next meeting.

After completing his examination of the petition, if the City Secretary certifies that the petition is insufficient, he shall file his certificate to that effect in his office, and notify the committee of petitioners of his findings. The City Secretary shall then notify the Council of the results of his examination at its next regular meeting. The finding of the insufficiency of a petition by the City Secretary shall not prejudice the filing of a new petition for the same purpose, however, such filing is still subject to the requirements of this Charter, including timetable restrictions.

#### **Section 11.06. Council Consideration and Submission to Voters.**

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

shall be upon the question, "Shall the ordinance specified in the referendum petition be repealed?"

If the Council shall fail to pass an ordinance proposed by the initiative petition, or shall pass it in a form different from that set forth in the petition therefore, or if the Council fails to repeal a referred ordinance, the proposed or referred ordinance shall be submitted to the voters on one of the uniform election dates as specified in the Texas Election Code, as amended, from the date the Council takes its final vote thereon.

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

#### **Section 11.07. Results of Initiative and Referendum Elections.**

If a majority of the voters voting on a proposed initiative ordinance shall vote in favor thereof, it shall thereupon be an ordinance of the City. If a majority of the voters voting on a referred ordinance shall vote in favor of the referendum, then the referred ordinance shall be deemed repealed. If conflicting ordinances are approved by the voters at the same election, the one receiving the greatest number of affirmative votes shall prevail to the extent of such conflict.

Initiative and referendum ordinances adopted or approved by the voters shall be published, and may be amended or repealed by the Council after a public hearing held no later than thirty (30) days prior to the proposed Council action.

#### **Section 11.08. Power to Recall.**

The people of the City reserve the power to recall any elected officer of the City. Such power may be exercised by filing with the City Secretary a petition signed by currently qualified voters of the City equal in number to at least 15% of the total number of registered voters as of the last regular municipal election, demanding the removal of such elected officer. If the petition is certified by the City Secretary to be sufficient, the Council shall order and hold an election

forthwith to determine whether such officer shall be recalled. No recall petition shall be filed against an officer within six month after such elected officer takes office.

Any member of the City Council may be removed from office by recall. To be valid, a petition submitted for the purpose of complying with a recall election process shall comply with the Texas Election Code, as amended.

**Section 11.09. Public Hearing to be Held.**

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

**Section 11.10. Recall Election.**

The City Secretary shall at once examine the recall petition and if he finds it sufficient and in compliance with the provisions of this article of the Charter, he shall within five days submit it to the City Council with the City Secretary's certificate to that effect, and notify the officer sought to be recalled of such action. To be valid, a petition submitted for the purpose of complying with a recall election process shall comply with the Texas Election code, as amended. If the officer whose removal is sought does not resign within five days after such notice, the City Council shall thereupon order and fix a date for holding a recall election. Any such election shall be held not less than thirty (30) nor more than ninety (90) days after the petition has been presented to the City Council or after the public hearing provided in Section 12.09 is held, if such hearing is requested, at the same time as any municipal election held within such period; but if no such municipal election be held within such period, the City Council shall call a special election to be held within the time aforesaid.

All qualified voters of the City shall be entitled to cast ballots in a recall election.

Ballots used at recall elections shall conform to the following:

- A) With respect to each person whose removal is sought, the question shall be submitted:  
    Shall (name of person) be removed from the office of [Councilmember/Mayor] by recall?
  
- B) Immediately below each such question there shall be printed the two following propositions, one above the other, in order indicated: "For the recall of (name of person)"  
    "Against the recall of (name of person)"

**Section 11.11. Results of Recall Election.**

If a majority of the votes cast at a recall election shall be against the recall of the officer named in the ballot, he shall continue in office for the remainder of his unexpired term. If a majority of the votes cast at such election be for the recall of the officer named on the ballot, he shall be deemed removed from office, and the vacancy shall be filled by the City Council as herein provided.

**Article XII.  
Land Use Planning**

**Section 12.01. Land Use, Development, and Environmental Planning.**

Consistent with all applicable federal and State laws with respect to land use, development, and environmental planning, the City Council shall:

- A) Designate an agency, agencies, or commission to carry out the planning function and such decision-making responsibilities as may be specified by ordinance;
- B) Adopt a comprehensive plan and determine to what extent zoning and other land use control ordinances must be consistent with the plan;
- C) Determine to what extent the comprehensive plan and zoning and other land use ordinances must be consistent with regional plan(s); and
- D) Adopt development regulations, to be specified by ordinance, to implement the plan.

The designated agency, agencies, or commission, the City Manager, and the Mayor and Council shall seek to act in cooperation with other jurisdictions and organizations in their region to promote integrated approaches to regional issues.

**Article XIII.  
General Provisions**

**Section 13.01. Personal Financial Interests.**

The Mayor, Council Members and other officers and employees of the City are subject to conflict of interest provisions as provided in Texas Local Government Code Chapter 171, as amended. Any violations of this Section shall result in the forfeiture of office, position or job as well as any penalties provided by State law.

**Section 13.02. Official Oath.**

All elected officers of the City shall, before entering upon the duties of their respective offices, take and subscribe the official oath prescribed by the Constitution of the State of Texas. The

oath of office shall be administered by the City Secretary or any other person authorized by law to administer oaths.

**Section 13.03. Notice of Claim.**

- A) 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 six months after the time at which it is claimed such damages were inflicted upon such person or property, file with the City a written statement under oath, stating the nature and character of such damages or injuries, the extent of the same, the place where same happened, the circumstances under which same happened and the conditions causing same, with a detailed statement of each item of damages and the amount thereof, and if it be for personal injuries, giving a list of any witnesses known by affiant to have seen the accident.
- B) Notwithstanding anything to the contrary in the Charter, neither the City nor its agencies, boards, commissions, departments, offices, officers, employees or officials shall be deemed to have waived any protection afforded by Chapter 101 of the Texas Civil Practice and Remedies Code, as amended.

**Section 13.04. Assignment, Execution and Garnishment.**

The property, real and personal, belonging to the City shall not be liable for sale or appropriation under any writ or 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 13.05. 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 13.06. Nepotism.**

The Mayor, City Council Members, officers and employees are subject to applicable nepotism provisions of Chapter 573 of the Texas Government Code, as amended.

**Section 13.07. Ordinances, Resolutions, Rules and Regulations.**

- A) The City Council shall evidence its official actions by written ordinances, resolutions or oral motion. The use of one method or the other shall not affect the validity of the action, except in those instances where one or the other is required by State law or this Charter.
- B) All Ordinances, resolutions, rules and regulations of the City of Lindale heretofore ordained, passed or enacted, that are in force at the time this Charter becomes effective, and which are not in conflict with such Charter, shall remain in full force until altered, amended or repealed by the City Council after such Charter takes effect. All city ordinances, resolutions, orders and regulations which are in force when this Charter becomes effective, which are in conflict with, inconsistent with or interfere with the effective operation of this Charter are repealed to the extent such ordinance, resolutions, order or regulation is in conflict with , is inconsistent with or interferes with the effective operations of this Charter, but not otherwise.

**Section 13.08. Severability Clause.**

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

**Section 13.09. Disaster Clause.**

In case of disaster when a legal quorum of elected Councilmen cannot otherwise be assembled due to multiple deaths or injuries, the surviving member or members of the elected Council, or highest surviving City official, if no elected official remains, must within twenty-four (24) hours of such disaster, request the highest surviving officer of the local Chamber of Commerce and the Board of Trustees of the local school district, and the County Judge of Smith County to appoint a commission to act during the emergency and call a City election within fifteen (15) days of such disaster for election of a required quorum, if for good reasons it is known a quorum of the present Council will never again meet.

**Section 13.10. Officers and Employees Transition.**

- A) 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 at the time of its adoption.
- B) Except as specifically provided by this Charter, if at the time this Charter takes full effect a city administrative officer or employee holds any office or position which is or can be abolished by or under this Charter, he shall continue in such office or position until the

taking effect of some specific provision under this Charter directing that he vacate the office or position. Any elected officer whose office becomes appointive or is or may be abolished by this Charter shall continue in office to which he was elected until his term expires, at which time such elective office is abolished as such.

**Section 13.11. Departments, Offices and Agencies Transition.**

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

**Section 13.12. Pending Matters.**

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

**Section 13.13. Judicial Notice.**

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

**Section 13.14. Official Newspaper.**

The City Council shall declare annually an official newspaper of general circulation in the City. All captions of ordinances, notices and other matters required by this Charter, City ordinance, or the Constitution and laws of the State of Texas shall be published in the official newspaper.

**Section 13.15. Gender.**

Wherever the context shall so require, the words "he," "him," "his," "Councilman" and all other words herein in the male gender shall be deemed to include the female gender, all singular words shall include the plural, and all plural words shall include the singular.

**Section 13.16. Effective Date of Charter.**

This Charter shall become effective and its provisions shall be in force on and after the date of the canvass of the election.

**Article XIV.  
Review and Amendment of Charter**

**Section 14.01. Charter Review Commission.**

In a manner consistent with state law;

- A) The City Council shall appoint a Charter Review Commission at least once every five (5) years. The Charter Review Commission shall consist of a minimum of nine (9) citizens of the City who shall:
  - 1) Review the various provisions of the City Charter and determine whether any provisions require revision. To this end, public hearings may be held. The Commission may compel the attendance of any officer or employee of the City and require submission of any City records;
  - 2) Propose any recommendations it deems desirable to ensure compliance with the Charter of the City government; and
  - 3) Report its findings and present its recommendations to the City Council.
- B) The City Council shall receive and have published in the official newspaper of the City a comprehensive summary of the report presented by the Commission, shall consider any recommendations made, and may order any amendments suggested to be submitted to the voters of the City in the manner provided by state law as now written or hereafter amended.
- C) The term of office of the Commission shall be for not more than six (6) months, at the end of which time a report shall be presented to the City Council and all records of proceedings of the Commission shall be filed with the City Secretary and become a public record.
- D) The City Council on its own motion may submit a proposed charter amendment to the qualified voters of the City for their approval at an election.

**Section 14.02. Petition to Amend Charter.**

Amendments to this Charter may be framed and submitted to the qualified voters of the City in the manner provided by the Constitution and laws of the State of Texas; including upon the City Council's own motion or upon petition by twenty-five percent (25%) of the total number of the qualified voters registered to vote at the last regular municipal election. Each signer of such petition to amend shall be a qualified voter and personally sign his or her name thereto in ink or

indelible pencil. For a petition signature to be valid it must comply with the requirements for a valid signature set forth in Chapter 277 of the Texas Election Code.

**Section 14.03. Form of Petition to Amend Charter.**

The petition to amend mentioned above must be addressed to the City Council of the City, must distinctly and specifically list each amendment to the Charter proposed to be voted on at an election. The petition shall be verified by oath in the following form:

"State of Texas"

County of Smith

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

\_\_\_\_\_  
Signature

Sworn and subscribed before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

Signed

\_\_\_\_\_  
Notary Public in and for State of Texas

**Section 14.04. Various Papers Constituting Petition to Amend.**

The petition to amend may consist of one (1) or more copies, or subscription lists, circulated separately, and the signatures thereto may be upon the paper or papers containing the form of petition, or upon other paper attached thereto. Verifications provided for in Section 14.03 of this Article may be made by one (1) or more petitioners, and the several parts of copies of the petition may be filed separately and by different persons, but no signatures to such petition shall remain effective or be counted which were placed thereon more than one hundred eighty (180) days, or such other length of time as may be allowed by the Texas Election Code, prior to the filing of such petition or petitions with the City Secretary. All papers comprising a petition to amend shall be filed with the City Secretary. The City Secretary shall immediately notify the City Manager and City Mayor of receipt of the petition.

#### **Section 14.05. Presentation of Petition to the City Council.**

All petition papers comprising a petition to amend the City Charter shall be assembled and filed with the City Secretary as one instrument. Within 20 days after the petition is filed, the City Secretary shall determine whether each paper of the petition has a proper statement of the circulator, and whether the petition is signed by a sufficient number of qualified voters. The City Secretary shall declare any petition paper entirely invalid which does not have attached thereto an affidavit signed by the circulator thereof.

After completing his examination of the petition, if the City Secretary certifies that the petition is sufficient, he shall then notify the Council of the results of his examination at its next meeting.

After completing his examination of the petition, if the City Secretary certifies that the petition is insufficient, he shall file his certificate to that effect in his office, and notify the committee of petitioners of his findings. The City Secretary shall then notify the Council of the results of his examination at its next regular meeting. The finding of the insufficiency of a petition by the City Secretary shall not prejudice the filing of a new petition for the same purpose, however, such filing is still subject to the requirements of this Charter, including timetable restrictions.

#### **Section 14.06. Calling of Election to Amend Charter.**

An election to amend the Charter shall not be held more often than once every two (2) years. Upon its own motion, or following presentation by the City Secretary of a proper petition to amend with a sufficient number of valid signatures, the City Council shall, by ordinance, order an election and set the date for holding such election. The date selected for the election and the ordinance ordering the election shall be in accordance with the Texas Election Code and the Texas Local Government Code.

#### **Section 14.07. Failure of the City Council to Call an Election Following Receipt of Valid Petition to Amend.**

In case that all the requirements of this Charter shall have been met and the City Council shall fail or refuse to receive the petition to amend, or order such election, or discharge any other duties imposed on the City Council by the provisions of this Charter or state law with reference to such election to amend, then a District Judge of Smith County, Texas, shall discharge any of such duties herein provided to be discharged by the City Secretary or by the City Council.