

**CITY OF NOLANVILLE  
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## **PREAMBLE**

We the citizens of the City of Nolanville, in order to obtain more fully the benefits of self-government, provide the future progress of our city and secure an effective, responsive, and responsible local government, do hereby adopt this home rule charter as the basic foundation of our City government, under the authority granted by the Constitution and Laws of the State of Texas.

## **ARTICLE I**

### **FORM OF GOVERNMENT AND POWERS**

#### **SECTION 1.01 Corporate Name & Establishment**

All of the inhabitants of the City of Nolanville, in Bell County, Texas as the boundaries and limits of said city are herein established, or as hereafter established in the manner provided by this Charter, shall be a body politic, incorporated under, and to be known by the name and style of the "City of Nolanville" with such powers, rights and duties as are herein provided. The City of Nolanville shall have a "Council-Manager" form of government. All powers of the City shall be vested in the Council, hereinafter referred to as the "City Council," which shall enact local legislation, adopt budgets, determine policies and appoint the City Manager. The City Manager shall answer to the City Council for the execution of the laws and the administration of the government of the City. All powers of the City shall be exercised in the manner prescribed by the laws of the State of Texas, this Charter and as may be prescribed by ordinance.

#### **SECTION 1.02 General Powers**

The City of Nolanville shall have perpetual succession and shall have the power of local self-government to the fullest extent permitted by the law and may use a common seal. The City shall have all the powers granted to cities by the Constitution and Laws of the State of Texas together with all of the implied powers necessary to carry into execution those powers and those express and implied powers necessary for the government, interests, health, welfare and good order of the City and its inhabitants. All powers shall be exercised and enforced in the manner prescribed by the laws of the State of Texas, in this Charter and the City's ordinances.

#### **SECTION 1.03 Intergovernmental Relations**

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

#### **SECTION 1.04 Eminent Domain**

The City shall have the full power and right to exercise the power of eminent domain when necessary or desirable to carry out any of the powers conferred upon it by this Charter or by the

Constitution and laws of the State of Texas. The City shall have and possess the power of condemnation for any municipal or public purposes even though not specifically enumerated in this Charter except the power to take private property under the circumstances described in Texas Government Code § 2206.001 as it presently exists or may hereafter be amended.

#### **SECTION 1.05      Wards**

The city council shall have the power to create wards or change the boundaries of wards so created, designating and describing same by metes and bounds or other adequate means, provided that at no time shall there be greater than four (4) wards and when created, each ward shall have as nearly as possible the same number of residents residing therein. The city council may, at its discretion, appoint a commission of citizens of the City to set and or review the ward boundaries in order to maintain a substantial equality of residents in each district.

### **ARTICLE II**

#### **BOUNDARIES**

#### **SECTION 2.01      Boundaries**

The boundaries of the City of Nolanville shall be the same as have heretofore been established and as they existed on the day of ratification of this Charter, which boundaries are more full set out and described by the official city map of the City of Nolanville.

#### **SECTION 2.02      Extension of Boundaries**

Additional territory may be annexed to the City in any manner and by any procedure that may now be provided by law or that may be hereafter provided by law. Same shall be in addition to the following methods:

- A. **Annexation by Ordinance.** The Council shall have the power by Ordinance, to annex territory lying adjacent to the City, to extend and enlarge the city boundaries and exchange area 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. 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.

#### **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, these exist 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 AND MAYOR

#### SECTION 3.01 General Powers and Duties

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

#### SECTION 3.02 Numbers, Selection, and Term

The City Council shall be composed of the Mayor and five (5) Council members. The Mayor and Council members shall be elected from the City at large for two (2), two (2) year terms. Each Council member shall occupy a place on the Council, such places being numbered 1 through 5. Every even numbered year the Mayor and two (2) Council positions shall be voted in; on odd numbered years three (3) Council positions shall be voted in.

#### SECTION 3.03 Qualifications

The Mayor and each Council member shall meet the following:

1. Be a qualified voter in the City and State at the time of taking office;
2. Be a resident of the City;
3. Have resided continuously in the corporate limits of the City for twelve (12) months immediately preceding the date of the election or appointment;
4. Not be in violation of any provision in the Charter;
5. Be 21 years of age or older on the first day of the term to be filled after the election or appointment; and
6. Satisfy any other eligibility requirements prescribed by law for the office for which they are a candidate.

#### SECTION 3.04 Judge of Qualifications

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

**SECTION 3.05 Compensation**

Reserved

**SECTION 3.06 Mayor**

The Mayor shall be the presiding officer of the City Council and shall be recognized as the head of the City government for all ceremonial purposes, for emergency management purposes, and by the governor for purposes of military law. The Mayor may debate and discuss any matters before the City Council and shall only vote on issues resulting in a tie by the City Council. The Mayor shall, when authorized as necessary by the City Council, sign all official documents. The Mayor shall appoint, with the advice and consent of the City Council, the members of citizen advisory boards and commissions, whose conditions of membership shall have been set previously by ordinance.

The Mayor shall have no veto power.

**SECTION 3.07 Mayor Pro-Tem**

The Mayor Pro-Tem shall be a Council member elected by the City Council at the first regular City Council meeting following each regular City election. The Mayor Pro-Tem shall act as Mayor during the absence or disability of the Mayor.

**SECTION 3.08 Vacancies; Forfeiture of Office; Filling of Vacancies**

- A. **Vacancies.** The office of a Council member or Mayor shall become vacant upon the member's death, resignation, removal from office or forfeiture of office in any manner authorized by law.
- B. **Forfeiture of Office.** A Council member or the Mayor shall forfeit the office if that person:
1. Lacks, at any time during the term of office for which elected, any qualifications 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,
  4. Fails to attend three consecutive regular meetings of the Council without being excused by the Council or,
  5. Must vacate the office by the mandate of any other law.
- C. **Filling of Vacancies.** When a vacancy occurs in the City Council, the remaining members of the City Council may appoint a person meeting the requirements of that position to the vacant seat to serve until the next election. Should more than one (1) year

remain on the vacant seat, the candidate who wins the election for the seat shall serve the remainder of the term.

### **SECTION 3.09 Prohibitions**

- A. **Holding Other Office.** Except where authorized by law, no Council member shall hold any other elected public office during the term for which the member was elected to the City Council. No Council member shall hold any other City office or City employment during the term for which the member was elected to the Council. No former Council member shall hold any compensated appointed office or employment with the City until one year after the expiration of the term for which the member was elected to the Council. Nothing in this section shall be construed to prohibit the City Council from selecting any current or former Council member to represent the City on the governing board of any regional or other intergovernmental agency.
- B. **Appointments and Removals.** Neither the City Council nor any of its members shall in any manner control or demand the appointment or removal of any City administrative officer or employee whom the City Manager is empowered to appoint.
- C. **Interference with Administration.** Except for the purpose of inquiries and investigations under Section 3.12, the City Council, either as a body or individually, 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 the City Council, either as a body or individually, shall not give orders to any such officer or employee, either publicly or privately.
- D. **Term Limits.** No person shall serve for more than two (2) consecutive two (2) year terms in any one office, after the adoption of the charter.

### **SECTION 3.10 Meetings and Procedures**

- A. **Regular and Special Meetings.** The City Council shall meet at least once each month at a time and place, which the City Council may prescribe by rule. Special meetings may be called by the Mayor on the Mayor's own motion. On written request of three (3) Council members, the Mayor shall call a special meeting. Items to be placed on an agenda for any city meeting may be requested by the Mayor, any Council Member, the City Manager, or any Department Head. At such time the Mayor shall place that item on the next agenda. Notice of the date, place, time and subject of each meeting shall be in accordance with State Law.
- B. The City Council shall by resolution determine its own rules and order of business. Provisions shall be made for the taking of minutes, which shall be a public record. Three members of City Council shall constitute a quorum.

## SECTION 3.11 Ordinances

- A. **Passage.** Ordinances shall be introduced to the City Council only in written or printed form and will require two (2) readings prior to final passage, unless otherwise provided. The subject or subjects of all ordinances shall be clearly expressed in the title. Except as may otherwise be prescribed in this Charter, an ordinance shall then be read, and the City Council will determine whether it shall be passed, rejected or considered at a subsequent City Council meeting. If rejected, no further action shall be required. Upon second reading, the ordinance may be adopted and enacted. The affirmative vote of three or more members of the City Council is required to enact any ordinance, unless state law or this Charter requires a greater number.

During the first reading of an ordinance, the Council may determine that the first reading is sufficient for adequate consideration. A motion for first and only reading of an ordinance may be made and passed upon the affirmative vote of all members of the City Council. The City Council may then proceed to vote, pass, and adopt the ordinance on the first reading.

- B. **Enacting Clauses; Signature and Authentication.** The enacting clause of all ordinances shall be "BE IT ORDAINED BY THE CITY OF NOLANVILLE, TEXAS;" and every ordinance shall be signed by the Mayor or the Mayor Pro-Tem and authenticated by seal and signature of the City Secretary.
- C. **Ordinances.** The caption or title and penalties of every ordinance imposing any penalty, fine, or forfeiture shall, as soon as practical after passage thereof, be published one (1) time in the official newspaper(s) of the City of Nolanville. All ordinances granting, confirming, extending, renewing, or amending a franchise shall be accepted in writing by the grantees and shall be published as otherwise provided in this Charter.
- D. **Effective Date.** Every ordinance shall become effective upon adoption or at any later time(s) specified in the ordinance, except that every ordinance imposing any penalty, fine, or forfeiture shall become effective only after having been published once in its entirety, or a caption that summarizes the purpose of the ordinance and the penalty for violating the ordinance in a newspaper designated as the official newspaper(s) of the City. An ordinance published under this section shall take effect when the publication requirement is satisfied unless provided otherwise in the ordinance.
- E. **Codification of Ordinances.** The City Council shall have the power to cause the ordinances of the City to be corrected, amended, revised, codified and printed in code form as often as the City Council deems advisable, and such printed code, when adopted by the Council, shall have full force and effect without the necessity of publishing the same or any part thereof in a newspaper. All printed ordinances or codes of ordinances shall be admitted as evidence in all courts

without proof, and shall have the same force and effect, as did the original ordinance.

### **SECTION 3.12 Council Investigations**

The City Council shall have the power to inquire into the official conduct of any department, agency, appointed boards, office, officers, employees or appointed board members of the City. For this purpose, the City Council shall have the power to administer oaths, subpoena witnesses, and compel the production of books, papers, and other evidence material to the inquiry. The City Council shall provide, by ordinance, penalties for contempt in failing or refusing to obey any such subpoena or to produce any such books, papers, or other evidence. The City Council shall have the power to punish any such contempt in the manner provided by such ordinances.

## **ARTICLE IV**

### **ELECTIONS**

#### **SECTION 4.01 Elections**

The general City election shall be held annually on the uniform election date in May, or at such other times as may be specified by State Law, at which time officers will be elected to fill those offices which become vacant that year. The City Council shall fix the place for holding such election. The City Council may, by ordinance or resolution, order a special election, fix the date and place for holding same, and provide all means for holding such special election. Notice of the election shall be published in a newspaper of general circulation of the City of Nolanville. Such publication shall follow the requirements of the Texas Election Code and any applicable law.

#### **SECTION 4.02 Regulation of Elections**

All elections shall be held in accordance with the laws of the State of Texas regulating the holding of municipal elections and in accordance with the ordinances adopted by the City Council for the conduct of elections.

#### **SECTION 4.03 Filing for Office**

Any person having the qualifications set forth for City officers under Section 3.03 of this Charter shall have the right to file an application to have their name placed on the official ballot as a candidate for any elective office. Any such application shall be in writing, signed by such candidate, and filed with the City Secretary in accordance with the Texas Election Code and this Charter. An application filed in accordance herewith shall entitle such applicant to a place on the official ballot. A candidate for City Council shall specify the place number on his candidate application that he seeks.

#### **SECTION 4.04      Official Ballots**

The names of all candidates for office, except such as may have withdrawn, died or become ineligible, shall be printed on official ballots without party designations specifying the council place for which each is seeking election. All official ballots shall be prepared and printed in accordance with the Texas Election Code and any other applicable law.

#### **SECTION 4.05      Run-Off Elections**

- (1) The candidate for elective office receiving a majority, meaning more than fifty (50) percent of the votes cast, shall be declared the winner. In the event that no candidate receives a majority of all votes cast at such election, the City Council shall, upon completion of the official canvass of the ballots, issue a call for a runoff election to be held within thirty (30) days following the issuance of such call, or in accordance with the Texas Election Code.
- (2) The returns of every municipal election shall be handled in accordance with the Texas Election Code. The city Council shall canvass and declare the results of the election, which shall be recorded in the Council minutes.

#### **SECTION 4.06      Taking of Office**

- (1) Each newly elected person to the City Council shall be inducted into office at the first regular City Council meeting following the canvass of the votes.
- (2) At such meeting, the oath shall be administered in accordance with the City Charter.

### **ARTICLE V**

#### **ADMINISTRATIVE ORGANIZATION**

#### **SECTION 5.01      City Manager**

- A. **Appointment and Qualifications.** The City Council shall appoint a City Manager who shall be the chief administrative and executive officer of the City and shall be responsible to the City Council for the administration of all the affairs of the City. The City Manager shall be chosen by the City Council solely on the basis of the City Manager's executive and administrative training, experience and ability. No member of the City Council shall, during the term to which they elected and for one year after thereafter, be appointed City Manager.
- B. **Term and Compensation.** The City Manager shall be appointed for an indefinite term, and may be removed at the discretion of the City Council by an affirmative vote of four (4) members of the City Council. The action of the City Council in suspending or removing the City Manager shall be final, it being the intention of this Charter to vest all authority and fix all responsibility of such suspension or

removal in the City Council. The City Manager shall receive compensation as may be fixed by the City Council.

**C. Powers and Duties.** The City Manager shall have the following powers and duties:

1. The City Manager or City Council shall appoint and, when the City Manager or City Council deems it necessary for the good of the City, may suspend or remove any City Department head, except as otherwise provided by law, this Charter, or personnel rules adopted pursuant to this Charter. The City Manager or City Council may authorize any employee, who is subject to the City Manager or City Council's discretion and supervision, to exercise these powers with respect to their subordinates in the officer's respective department, office or agency.
2. The City Manager shall direct and supervise the administration of all Department heads, and agencies of the City, except as otherwise provided by this Charter or by law.
3. The City Manager shall attend all City Council meetings, except when excused by the Mayor or Mayor Pro-Tem, and shall have the right to take part in discussion but may not vote.
4. The City Manager shall see that all laws, provisions of this Charter and acts of the City Council, subject to enforcement by the City Manager or by employees subject to the City Manager's direction and supervision, are faithfully executed.
5. The City Manager shall prepare and submit the annual budget and capital program to the City Council.
6. The City Manager shall administer the annual budget and capital program.
7. The City Manager shall ensure that the City Comprehensive Plan is maintained and all changes approved by the City Council.
8. The City Manager shall 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.
9. The City Manager shall make such other reports as the City Council may require concerning the operations of the City departments, offices, and agencies subject to the City Manager's direction and supervision.
10. The City Manager shall keep the City Council fully advised as to the financial condition and future needs of the City and make such

recommendations to the City Council concerning the affairs of the City, as the City Manager deems desirable.

11. The City Manger shall keep a written inventory of all real property and all permanent equipment belonging to the City, said inventory to be subject to annual audit. A system shall be established to control the use and replacement of expendable items.
12. The City Manager shall have the authority to execute on behalf of the City, standard form documents, including but not limited to deeds, releases of liens, rental agreements, easements, right-of-way agreements, joint use agreements, and other similar documents, under the following conditions:
  - a. The execution of the document is necessary to carry out a public works project; utilize, maintain or improve a City facility, street, right-of-way, easement, park or other City property, or to implement other City policies; provided that such project, program or policy has been approved by the City Council;
  - b. That all blanks are filled in on any document correctly and that such document is consistent with the objectives approved by the City Council.
13. The City Manager shall perform such other duties as are specified in this Charter or may be required by the City Council.

**D. Acting City Manager.** By letter filed with the City Secretary the City Manager shall designate, subject to approval of the City Council, a qualified employee to exercise the powers and perform the duties of City Manager during the City Manager's temporary absence or disability. The City Council may revoke such designation at any time and appoint another employee of the City to serve until the City Manager shall return or his disability shall cease.

## **SECTION 5.02 Other Departments, Offices, and Agencies**

### **A. General Provisions.**

1. **Creation of Departments.** The City Council may continue or establish City departments, offices or agencies in addition to those created by this Charter and may prescribe the functions of all departments, offices and agencies, except that no function assigned by this Charter to a particular department, office or agency may be discontinued or unless this Charter specifically so provides, assigned to another department.

2. **Direction by City Manager.** All department, offices and agencies under the direction and supervision of the City Manager shall be administered by an employee appointed by the City Manager or City Council and subject to the direction and supervision of the City Manager. With the consent of Council, the City Manager may serve as the head of one or more such departments, offices or agencies or may appoint one person to serve as the head of two or more of them in accordance with state and federal laws.
  
- B. **City Attorney.** The City Manager shall make recommendations to the council for a City Attorney. The City Council shall determine who shall be appointed as the City Attorney, and shall fix the City Attorney's compensation. The City Attorney shall represent the City in all legal proceedings and shall perform any other duties prescribed by this Charter, ordinance or state laws.
  
- C. **Municipal Court; Judges(s).** The City Council shall establish a municipal court and shall appoint a presiding judge(s) and any such other associate judge(s) as are deemed necessary and fix the compensation therefore. The judge(s) of the municipal court shall serve at the will and pleasure of the City Council, unless otherwise provided by law.
  
- D. **City Secretary.** The City Manager shall appoint the City Secretary. The City Secretary, or their designee, shall give notice of City Council meetings, shall keep the minutes of the proceedings of such meetings, shall authenticate by signature all ordinances and resolutions, and shall perform such other duties as the City Manager shall assign and those elsewhere provided for in this Charter.
  
- E. **Department of Taxation.** There shall be established a Department of Taxation to assess and collect taxes, the head of which shall be the City Tax Assessor-Collector, which office shall be filled by appointment by the City Manager with concurrence of the City Council.

The City Tax Assessor-Collector shall give a surety bond for faithful performance of his duties, including compliance with all controlling provisions of State Law bearing upon the functions of his office, in a sum, which shall be fixed by the City Council at not less than fifty thousand dollars (\$50,000.00)

The City Council may, in the interest of economy and efficiency, contract with another political subdivision to handle the assessment and/or collection of taxes. The City Tax Assessor-Collector may be removed from office by the City Manager with the concurrence of the City Council.

### **SECTION 5.03      Personnel Rules**

The City Manager shall be responsible for the preparation of personnel rules, which rules shall be submitted by the City Manager to the City Council. The City Council may accept and adopt such rules as proposed or may adopt them with such amendments as the City Council deems

necessary or may reject them in their entirety and direct the City Manager to further consider the rules and present new proposals at a subsequent meeting.

**SECTION 5.04 Freedom From Interference**

It shall be unlawful for the City Council or any of its members to dictate to the City Manager the appointment of any person to an office or employment, except as provided in Article V. The City Council or its members will not interfere in any manner with the City Manager in the performance of the duties of that office or of officers and employees whose employment, appointment, and supervision are reserved by this Charter for the City Manager, except as provided in Article V. Except for the purpose of inquiry and investigations, the City Council and its members shall deal with the City Staff solely through the City Manager, and neither the City Council, as a body or any individual member, nor any individual not having administrative or executive functions under this Charter shall give orders to any of the subordinates of the City Manager, either publicly or privately.

**ARTICLE VI**

**FINANCIAL PROCEDURES**

**SECTION 6.01 Fiscal Year**

The fiscal year of the City shall begin on the first day of October and end on the last day of September.

**SECTION 6.02 Preparation and Submission of Budget**

The City Manager shall submit a proposed budget containing a complete financial plan for each fiscal year. Such a budget shall be submitted to the City Council not more than one hundred twenty (120) days but not less than sixty (60) days prior to the beginning of each fiscal year. The budget shall contain the following:

- (a) A financial policies of the City for the fiscal year, shall set forth the reasons for any major changes in expenditure and revenue items from the previous fiscal year, and shall explain any major change in financial policies.
- (b) Revenue Summary
- (c) Departmental Expenditure Summary
- (d) Departmental Budget
- (e) Schedule of Outstanding Debt
- (f) Schedule of Capital Outlays by Department

- (g) Review of Properly Valuations
- (h) An Analysis of Tax Rates
- (i) Tax Levies and Tax Collection by Year for the Last Three (3) Years
- (j) A Provision for Financing the Current Capital Improvement Program

In preparing the budget, the City Manager shall place in parallel columns opposite the several items of revenues and expenditures, the actual amount of each item for the last complete fiscal year, the estimated amount for the current fiscal year, and the proposed amount for the ensuing fiscal year.

**SECTION 6.03 Council Action on Budget**

- A. **Notice of Hearings.** The City Council shall have published in the official newspaper(s) of the City a notice stating:
  - (1) The time and place where copies of the budget are available for inspection by the public, and
  - (2) The time and place, not less than two (2) weeks after such publication, for a public hearing on the budget.
- C. **Amendment of Budget before Adoption.** After the public hearing, the City Council may adopt the budget with or without amendment. In amending the budget, it may add or increase programs or amounts and may delete or decrease any programs or amounts, except expenditures required by law or for debt service, provided that no amendment to the budget shall increase expenditures to an amount greater than the estimated income.
- D. **Adoption.** The City Council shall adopt the budget on or before the 20<sup>th</sup> day of the last month of the fiscal year currently ending. If it fails to adopt the budget by this date, the amounts appropriated for current operation for the current fiscal year shall be deemed adopted for the ensuing fiscal year on a month-to-month basis, with all items in it pro-rated accordingly, until such time as the City Council adopts a budget for the ensuing fiscal year. Adoption of the budget shall constitute appropriations of the amounts specified therein as expenditures from the funds indicated and shall constitute a levy of the property tax therein proposed.

**SECTION 6.04 Budget Amendments after Adoption**

- A. **Supplemental Appropriations.** If, during the fiscal year, the City Manager certifies that there are available for appropriation revenues in excess of those

estimated in the budget, the City Council may make supplemental appropriations for the year up to the amount of such excess.

- B. **Emergency Appropriations.** To meet a public emergency affecting life, health, property or the public peace, the Council may make emergency appropriations. To the extent that there are no available inappropriate revenues to meet such appropriations, the Council may by such ordinance authorize the issuance of emergency notes, which may be renewed as necessary.
- C. **Reduction of Appropriations.** If at any time during the fiscal year it appears probable to the City Manager that the revenues available will be insufficient to meet the amount appropriated, he shall report to the City Council without delay, indicating the estimated amount of the deficit, any remedial action taken by him and his recommendations as to any other steps to be taken. The City Council shall then take such further action as it deems necessary to prevent or minimize any deficit and for that purpose it may reduce one or more appropriations.
- D. **Transfer of Appropriations.** At any time during the fiscal year the City Manager may transfer part or all of the unencumbered appropriation balance among programs within a fund department, office or agency and, upon writing request by the City Manager, the City Council may transfer part or all of any unencumbered appropriation balance from one fund department, office or agency to another.
- E. **Limitations; Effective Date.** No appropriation for debt service may be reduced or transferred, and no appropriation may be reduced below any amount required by law to be appropriated or by more than the amount of the unencumbered balance thereof. The supplemental and emergency appropriations and reduction or transfer of appropriations authorized by the section may be made effective immediately upon adoption.

**SECTION 6.05      Balanced Budget**

The total of proposed expenditures shall not exceed the total of estimated income.

**SECTION 6.06      Lapse of Appropriations**

Every appropriation, except an appropriation for a capital expenditure, shall lapse at the close of the fiscal year to the extent that it has not been expended or encumbered. An Appropriation for a capital expenditure shall continue in force until the purpose for which it was made has been accomplished or abandoned; the purpose of any such appropriation shall be deemed abandoned if three (3) years pass without any disbursement from or encumbrance of the appropriation.

**SECTION 6.07      Payments and Obligations Prohibited**

No payment shall be made or obligation incurred against any allotment or appropriation unless the City Manager or his designee first certifies that there is a sufficient unencumbered balance in

such allotments or appropriations and that sufficient funds there from are or will be available to cover the claim or meet the obligation in violation of the provisions of this Charter shall be void and any payment so made illegal. Such action shall be cause for removal of any officer who knowingly authorized or made such payment or incurred such obligation, and he shall also be liable to the City for any amount so paid. However, except where prohibited by law, nothing in this Charter shall be construed to prevent the making or authorizing of payments or making of contracts for capital improvements to be financed wholly or partly by the issuance of bonds or to prevent the making of any contract or lease providing for payments beyond the end of the fiscal year, provided that such action is made or approved by ordinance.

#### **SECTION 6.08      Contracts and Purchase Procedure**

The City Council may by ordinance set a maximum amount for which the City Manager shall be authorized to execute contracts and/or to expend funds for budgeted items; provided however, that all contracts and expenditures must comply with state laws requiring competitive bids. The City Council may by ordinance establish an amount above which all contracts or purchases must be approved in advance by the City Council. All Contract and purchases shall be handled in a manner to obtain the best value for the City.

#### **SECTION 6.09      General Obligation Debt and Certificates of Obligation**

The City shall have the power to borrow money on the credit of the City and to issue general obligation bonds and certificates of obligation 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 refunds outstanding bonds of the City Previously issued. All such bonds shall be issued in conformity with the Laws of the State of Texas.

#### **SECTION 6.10      Revenue Bonds**

The City shall have power to borrow money for the purpose of constructing, purchasing, improving, extending or repairing of public utilities, recreational facilities or any other self-liquidating municipal function not prohibited by the Constitution and Laws of the State of Texas, and to issue revenue bonds to evidence the obligation created thereby. Such bonds shall be a charge upon and payable solely from the properties, or interest therein pledged, or the income there from, or both, and shall never be a debt of the City. All such bonds shall be issued in conformity with the Laws of the State of Texas.

#### **SECTION 6.11      Audit of City Books and Accounts**

The City Council shall appoint a Certified Public Accountant to make a complete audit of the books and accounts of every City Department at the close of every fiscal year 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 6.12      Power to Tax**

The City Council shall have the power under the provisions of state law to levy, assess and collect an annual tax upon taxable property within the City, and to establish a tax on sales within the City, to the maximum extent provided by the Constitution and General Laws of the State of Texas.

**SECTION 6.13 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 6.14 Taxes, When Due and Payable**

All taxes due to the City of Nolanville 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 6.15 Tax Liens**

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

**ARTICLE VII**

**PLANNING AND ZONING**

**SECTION 7.01 Planning and Zoning Commission; Planning and Zoning Authority**

The City Council shall appoint a City Planning and Zoning Commission in accordance with the General Laws of the State of Texas. The City Council shall have all of the rights, privileges, powers and authority; given, permitted and granted under the Laws of the State of Texas relative to planning and zoning in, for and of municipalities and their environs.

**SECTION 7.02 Platting of Property**

Every tract of land situated within the corporate limits of the City of Nolanville and its Extraterritorial Jurisdiction shall be platted pursuant to the requirements and procedures of the Constitution and Laws of the State of Texas, and any ordinance, resolution or motion by the City Council not inconsistent with such constitution and laws.

**SECTION 7.03 Comprehensive Plan**

The Planning and Zoning Commission shall prepare a Comprehensive Plan for the City of Nolanville for submission to the City Council for adoption. The City Council shall consider the recommendations of the Planning and Zoning Commission for growth, development and beautification of the City. The City Council may adopt this plan as a whole or in parts and may adopt any amendment thereto after at least one (1) public hearing on the proposed adoption. The Planning and Zoning Commission shall review the Comprehensive Plan every five (5) years and submit any recommended changes, amendments or modifications to the City Council for approval, or disapproval.

#### **SECTION 7.04      Legal Effects of Comprehensive Plan**

The Comprehensive Plan adopted by the City Council shall be used as a guide by the City Council to establish codes and ordinances determined to be essential in providing for the public health, safety, and welfare of the citizens of Nolanville, Texas, and by the Planning and Zoning Commission to facilitate development. The Comprehensive Plan shall not be nor be considered a zoning map nor constitute zoning regulations or establish zoning boundaries and shall not be site nor parcel specific and shall be used to illustrate generalized locations. The depiction of thoroughfare alignments in the Comprehensive Plan is subject to modification by the Planning and Zoning Commission and City Council to fit local conditions and is subject to refinement as development occurs.

#### **SECTION 7.05      Zoning Board of Adjustment**

The City Council shall appoint a Zoning Board of Adjustment in accordance with the General Laws of the State of Texas. The Zoning Board of Adjustments shall have such powers as granted under the General Laws of Texas and any additional powers which may, at the discretion of City Council, be granted.

### **ARTICLE VIII**

#### **PUBLIC UTILITIES AND FRANCHISES**

#### **SECTION 8.01      Power of the City**

The City of Nolanville shall have the full power, to the extent the same is conferred by the Constitution and Laws of the State of Texas, to own, lease, operate, prohibit, regulate, and control any public utility within or without the limits of the City and to provide for the compensation and rental to be paid to the City by any public utility for the of its streets, highways, and public areas.

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

#### **SECTION 8.02      Board of Directors**

The City Council shall be and act as the Board of Directors of all utilities owned and operated by the City.

### **SECTION 8.03      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. Any ordinance granting, renewing or extending franchises shall not take effect until at least thirty (30) days after its passage; and during such thirty (30) day period the descriptive caption of the ordinance shall be published at least twice in the official newspaper(s) of the City, the expense of the publication being borne by the proponents of the franchise.

### **SECTION 8.04      Franchise Value not to be Allowed**

Franchises granted by the City under this Charter shall be considered to be of no value in fixing reasonable rates and charges for utility service within the City, and in determining the just compensation to be paid by the City for public utility property with the City may acquire by condemnation or otherwise.

### **SECTION 8.05      Right of Regulation**

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

- (a) To repeal the same by the ordinance at any time upon the failure of the grantee to comply with the terms of the franchise, the ordinance, this Charter, any applicable statute of the State of Texas, or the rule of any applicable governmental body, such power to be exercised only after written notice to the franchise holder stating wherein the franchise holder has failed to comply with the terms of the franchise, and if said default is not cured within a reasonable time such power shall be exercised only after the grantee has been given the opportunity for hearing.
- (b) To establish reasonable standards of service and quality of products and prevent unjust discrimination in service or rates.
- (c) To require such expansion, extension, and improvement of plants and facilities as are necessary to provide adequate service to the public; and to require that maintenance of facilities be performed at the highest reasonable standard of efficiency.

- (d) To prescribe the accounts and accounting system to be used by a franchise holder so that they will accurately reflect the value of the property used in rendering its service to the public; and the expenses, receipts, and profits of all kinds of such franchises. (It shall be deemed sufficient compliance with this paragraph if the franchisee keeps its accounts in accordance with the uniform system established by an applicable Federal or State agency for such service.) To examine and audit, at any reasonable time during regular business hours, the accounts and other records of any franchise holder; and to require annual and other reports including reports on operations with the City of Nolanville.
- (e) To impose such reasonable regulations and restrictions as may be deemed desirable or conducive to the health, safety, welfare, and accommodation of the public.
- (f) To require such compensation and rental as may be permitted by the Laws of the State of Texas.
- (g) To require that the franchise holder restore to the applicable City standards at the time, at his expense, all public and private property damaged or destroyed by construction, maintenance, or removal by such franchise holder.

**SECTION 8.06 Extensions**

All extensions of public utility service shall become a part of the aggregate property of the public utility, shall be operated as such, and shall be subject to all the obligations and reserved rights contained in this Charter. The Extension of any public utility shall be considered as a part of the original grant and shall be terminable at the same time and under the same conditions as the original grant.

**SECTION 8.07 Other Franchise Conditions**

All franchises heretofore granted are recognized as contracts between the City of Nolanville 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 utility property is in all things reserved; and except that the general power of the City, heretofore existing and herein provided for a regulate the rates and service and the maintenance of the plan and equipment at the highest reasonable standard of efficiency. All franchises hereafter granted should be held to all terms and conditions contained in the various sections of this article whether or not such terms are specifically mentioned in the franchise.

**SECTION 8.08 Regulation of Rates and Service**

The City Council subject to State and Federal laws shall have full power, after due notice and hearing, to regulate by ordinance the rates, charges, and fares of every public utility franchise holder operating in the City. Every franchise holder who shall request an increase in rates, charges or fares shall have, at a hearing of the Council called to consider such request, the

burden of establishing by clear, competent, and convincing evidence the value of its investment property allocable to service in the City, the amount and character of its expenses and revenues connected with the rendering of such service, and any additional evidence required by the Council. If no agreement between the Council and the franchise holder can be reached on such request for an increase in rates, charges, or fares, the Council may select and employ rate consultants, auditors and attorneys to investigate and, if necessary, litigate such request. The franchise holder shall reimburse the City for its reasonable and necessary expenses so incurred and may be allowed to recover such expenses through its rates during the period of recovery if authorized to do so by the City Council.

#### **SECTION 8.09      Accounts of City-Owned Utilities**

Accounts shall be kept for each public utility owned or operated by the City in such manner as to show the true and complete financial results of each such City ownership and operation. The accounts shall show the actual capital cost to the City of each public utility owned, the cost of all extensions, additions, and improvements; and the source of the funds expended for such capital purposes. The accounts shall also show all assets and all liabilities of each utility appropriately subdivided by classes, depreciation reserve, other reserves and surplus, and revenues, operating expenses including depreciation, interest payments, rentals, and other disposition of annual income including the cost of any service furnished to any other City department. The City Council shall annually cause an audit report to be made, by a Certified Public Accountant, of such accounts.

#### **SECTION 8.10      Sale of City-Owned Utilities**

Prior to the consideration of a sale of any city-owned public utility, the City Council shall hold a public hearing during which the City's financial advisor shall present a report to the City Council concerning the revenue that has been earned by the City's public utility throughout the City's ownership thereof, and an analysis of the revenue to be lost by the City through the proposed sale of the utility.

There shall be two (2) Council votes twelve (12) months apart to call a referendum election concerning the sale of the public utility. The City shall then hold a referendum election, which must be favorably passed by a majority of the voters voting at the election.

#### **SECTION 8.11      Sales of Electricity, Water and Sewer Services**

(a) The City Council shall have the power and authority to sell and distribute electricity and water and to sell and provide for sewer services and any other utilities to any person, firm or corporation outside the limits of the City of Nolanville, and to permit them to connect with said system under contract with the City, under such terms and conditions as may appear to be for the best interests of the City.

(b) The City Council shall have the power and authority to prescribe the kind of materials used within or beyond the limits of the City of Nolanville where it furnishes the service, and to inspect the same and require them to be kept in good order and condition at all times and to make

such rules and regulations as shall be necessary and proper, and prescribe penalties for noncompliance with same.

#### **SECTION 8.12 Other Conditions**

All franchises heretofore granted are recognized as contracts between the City of Nolanville 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 of Nolanville to exercise the right to eminent domain in the acquisition of utility property is in all things reserved, and except the general power of the City heretofore existing and herein provided for, to regulate the rates and services of a grantee which shall include the right to require proper and adequate extension of plant and service and in the maintenance of the plant and fixtures at the highest reasonable standard of efficiency. Every public utility franchise hereafter granted should 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 franchise. Nothing in this Charter shall operate to limit in any way, as specifically stated, the discretion of the City Council or voters of the City in imposing terms and conditions as may be reasonable in connection with any franchise grant.

### **ARTICLE IX**

#### **INITIATIVE, REFERENDUM AND RECALL**

##### **SECTION 9.01 General Authority**

- A. **Initiative.** The qualified voters of the City shall have power to propose ordinances to the City Council. Such power shall not extend to the budget or any capital program, or relating to the appropriation of money, issuing of bonds, setting of utility rates and levy of taxes or salaries of City Officers or employees, or any other ordinance not subject to initiative as provided by state statute or case law.
- B. **Referendum.** The qualified voters of the City shall have power to require reconsideration by the City Council of any adopted ordinance. Such power shall not extend to the budget or any capital program, or relating to the appropriation of money, issuing bonds, setting of utility rates and levy of taxes or salaries of City officers or employees, or any other ordinance not subject to referendum as provided by state statute or case law.
- C. **Recall.** The qualified voters of the City shall have the power to petition for recall of the Mayor or any member of the City Council.

##### **SECTION 9.2 Commencement of Recall Petition; Petitioners' Committee; Affidavit Required**

Any three (3) qualified voters may commence initiative, referendum, or recall proceedings by filing with the City Secretary an affidavit stating they will constitute the petitioners' committee and be responsible for circulating the petition and filing it in proper form, stating their names and

addresses and specifying the address to which all notices to the committee are to be sent and setting out in full the proposed initiative ordinance or citing the ordinances sought to be reconsidered, or the name of the Council member(s) or Mayor to be recalled.

**SECTION 9.03      Scope of Recall**

Any elected City official, whether elected to office by qualified voters or appointed by the City Council to fill a vacancy, shall be subject to recall and removal from office by the qualified voters of the City on those grounds as set forth in Section §22.077 of the Texas Local Government Code as it may be amended.

**SECTION 9.04      Petitions for Recall**

Before the question of recall of such officer(s) shall be submitted to the qualified voters of the City, a petition demanding such question to be so submitted shall first be filed with the person performing the duties of City Secretary, which said petition must contain the number of valid signatures of qualified voters totaling at least thirty percent (30%) of the number of qualified voters registered to vote at the last general City election. Each signer of such recall petition shall personally sign their name thereto in ink or indelible pencil and shall write after their name their place of residence, giving the name of the street and the number, and shall also write thereon the day, the month and the year their signature was affixed.

**SECTION 9.05      Form and Content of Recall Petition**

All papers of a petition shall be uniform in size and style and shall be assembled as one instrument for filing. Each signature shall comply with Chapter 277 of the Texas Election Code as it may be amended from time to time. The petition shall be addressed to the City Council of the City and the content shall distinctly and specifically point to the ground upon which such petition for removal is predicated. Further, said petition shall state distinctly and specifically the alleged action(s) and the factual circumstance(s) surrounding such action(s) taken by the official (s) that warrant the charge as to give the officer(s) sought to be removed notice to the matter(s) and thing(s) with which the officer(s) is charged. If there be more than one (1) ground, said petition shall distinctly and specifically state each ground upon which such petition for removal is predicated and shall distinctly and specifically state the alleged action(s) and the factual circumstances(s) surrounding such action(s) taken by the official(s) that warrant the charges as to give the officer(s) sought to be removed notice of the matter(s) and things(s) with which the officer(s) is charged. The signatures shall be verified by oath in the following form:

**STATE OF TEXAS**

**COUNY OF BELL**

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\_\_.

\_\_\_\_\_  
NOTARY PUBLIC, STATE OF TEXAS

My commission expires: \_\_\_\_\_

**SECTION 9.06 Certificate of City Secretary; Amendment; Presentation to Council; Council Review**

- A. **Certificate of City Secretary.** Within thirty (30) business days after the petition is filed, the City Secretary shall complete a certificate as to its sufficiency or insufficiency as mandates herein, specifying, if it is insufficient, the particulars wherein it is defective and shall within that thirty (30) business day period send a copy of the certificate to the petitioners' committee by certified mail or by hand delivery to the committee member.
- B. **Amendment.** A petition certified insufficient for lack of the required number of valid signatures may be amended once if the petitioners' committee files a notice of intention to amend it with the City Secretary within two (2) business days after receiving the copy of the certificate and files a supplementary petition upon additional papers within ten (10) business days after receiving a copy of such certificate. Such supplementary petition shall comply with the requirements of Section 9.05, and within five (5) business days after the supplement is filed, the Secretary shall complete a certificate as to the sufficiency of the petition as amended and send a copy of such certificate to the petitioners' committee by certified mail or by hand delivery to a committee member as in the case of an original petition.
- C. **Presentation to Council.** If a petition or amended petition is certified as sufficient, after the City Secretary's review, the City Secretary shall, at the next regular Council meeting present such certificate to the Council. If a petition or amended petition is certified insufficient and the petitioners' committee does not elect to amend under Subsection B of this Section within the time required, the City Secretary shall at the next regular Council meeting present such certificate to the Council and the certificate shall then be a final determination as to the sufficiency of the petition.

**SECTION 9.07 Public Hearing to be Held for Recall**

The officer whose removal is sought in accordance with this Article may, within five (5) business days after such recall petition has been presented to the City Council, request that a public hearing be held to permit him/her to present the facts pertinent to the charges specified in the recall petition. In this event, the City Council shall order such public hearing to be held, not less than five (5) business days but not more than fifteen (15) business days after receiving such request for a public hearing.

**SECTION 9.08      Calling of Recall Election**

If the officer whose recall is sought does not voluntarily resign, then the City Council shall, for the next available election date, order an election for holding such recall election. If, after the recall election date is established, the officer vacates his/her position, the election shall be cancelled, in accordance with State Law.

**SECTION 9.09      Ballots in Recall Election**

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

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

"Yes"

"No"

**SECTION 9.10      Result of Recall Election**

If a majority of the votes cast at the recall election are against the recall of the person named on the ballot, the officer shall continue in office for the remainder of his/her unexpired term, subject to recall as provided herein. If a majority of the votes cast at recall election are for the recall of the person named on the ballot, the officer shall, regardless of any technical defects in the recall petition, be deemed removed from office upon passing the canvassing of the election, and the vacancy shall be filled by the City Council as provided in Section 3.08 subsection C of this Charter.

**SECTION 9.11      Recall Restrictions**

No recall petition shall be filed against any officer of the City within six (6) months after the officer's election, or within six (6) months after an election for such officer's recall.

**SECTION 9.12      Initiative; Petition; Procedure**

- (1) Following a review by the City Attorney for enforceability and legality, qualified voters of the City may initiate legislation by ordinance by submitting a petition addressed to the City Council, which requests the submission of the proposed ordinance to a vote of the qualified voters of the City. Said petition must contain the number of valid signatures totaling at least twenty percent (20%) of the total number of qualified voters registered to vote at the last general City election. Each copy of the petition shall have attached to it a copy of the full text of the proposed ordinance and an affidavit of the petition circulator(s). The petition, its form and content, shall be the same as for recalls as provided in this Article. The certification of the City Secretary, and any amendment to the petition and its presentation to City Council shall be the same as for recalls as provided in this Article.
- (2) When an initiative petition has been fully determined sufficient, the Council shall at their next regular Council meeting, consider the proposed initiative ordinance in the manner provided in Article III. Upon representation to the City Council, it shall become the duty of the City Council, within sixty (60) days after the date of petition was finally determined sufficient, to pass and adopt such ordinance without alteration as to meaning or effect, or to call for an election, to be held on a date allowed under the Texas Election Code, at which the qualified voters of the City shall vote on the question of adopting or rejecting the proposed ordinance. Unless otherwise provided by law, any election for an initiative under this Charter shall be held on the first authorized uniform election date that occurs after the sixtieth (60<sup>th</sup>) calendar day after the City Council's decision to submit the ordinance to the voters.
- (3) If a majority of the qualified 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 all respects in the same manner as ordinances of the same kind adopted by the Council. If conflicting ordinances are approved at the same election, the one receiving the greatest number of affirmative votes shall prevail to the extent of such conflict.

### **SECTION 9.13 Referendum; Petition; Procedure; Effect Prior to Election**

- (1) Qualified voters of the City may require that any ordinance, with the exception of ordinances dealing with any budget or any capital program, or relating to the appropriation of money, issuing of bonds, setting of utility rates and levy of taxes or salaries of City officers or employees, or any other ordinance not subject to referendum as provided by state statute or case law, passed by the City Council be submitted to the voters of the City for approval or disapproval, by submitting a petition for this purpose within sixty (60) days after the date the ordinance sought to be reconsidered was adopted.

Said petition must contain the number of valid signatures totaling at least twenty percent (20%) of the total number of registered voters qualified to vote at the last general City election. The petition, its form and content, shall be the same as for

Recalls as provided in this Article. The certification of the City Secretary, any amendment to the petition and its presentation to City Council shall be the same as for Recalls as provided in this Article.

City Council shall either repeal the referendum ordinance or submit the referendum ordinance to the qualified voters of the City within thirty (30) days after the date the petition was finally determined sufficient, or at the next uniform election date, if a uniform election date does not exist within thirty (30) days after the petition is finally determined sufficient.

- (2) Pending the holding of such election, each ordinance or resolution shall be suspended from taking effect and shall not later take effect unless a majority of the qualified voters voting at such election shall vote in favor of the proposed referendum ordinance. Unless otherwise provided by law, any election for a referendum under this Charter shall be held on the first authorized uniform election date that occurs after the sixtieth (60<sup>th</sup>) day after the decision by the City Council.
- (3) If a majority of the qualified electors voting on the proposed referendum ordinance vote against it, it shall be considered repealed upon certification of the election results.

#### **SECTION 9.14 Voluntary Submission of Legislation by the City Council**

The City Council, upon its own motion and by the affirmative vote of a majority of the full membership of the City Council, may submit to popular vote at an election for adoption or rejection any proposed ordinance or resolution or measure, or may submit for repeal any existing ordinance, or resolution, or measure, in the same manner and with the same force and effect as provided in this Article for submission of initiative and referendum petitions, and may, at its discretion, call for an election for this purpose on an authorized uniform election date as provided by State Law.

#### **SECTION 9.15 Form of Ballots**

The ballots used when voting upon initiative or referendum shall be set forth in their nature to sufficiently identify them and shall also set forth, upon separate lines, the words:

“For the Ordinance”

Or

“Against the Ordinance”

#### **SECTION 9.16 Ordinances Passed by Popular Vote, Repeal or Amendment**

No ordinance which may have been passed by the City Council upon a petition or adopted by popular vote under the provisions of this Article may be repealed or amended by the City Council for a period of three (3) years from the date said ordinance became effective. An ordinance which may have been passed by the City Council upon a petition or adopted by popular vote under the provisions of this Article may be repealed or amended at any time in response to a referendum petition or by submission as provided by Section 9.14 of this Charter.

#### **SECTION 9.17 Franchise Ordinances**

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

### **ARTICLE X**

#### **GENERAL PROVISIONS**

#### **SECTION 10.01 Personal Financial Interest**

The City Council and City Officials shall follow the rule and regulations regarding personal financial interests as set out in the Texas Local Government Code, Chapter 171.

#### **SECTION 10.02 Prohibitions**

##### **A. Activities Prohibited:**

1. No person shall be appointed to or removed from or in any way favored or discriminated against with respect to the City position or appointive City administrative office because of race, national origin, sex, political or religious opinions or affiliations.
2. No person shall willfully make any false statement, certificate, mark, rating or report in regard to any test. Certification or appointment under the personnel provisions of this Charter or the rules and regulations made there under, or in any manner commit or attempt to commit any fraud preventing the impartial execution of such provision, rules and regulations.
3. No Person who seeks appointment or promotion with respect to any City position or appointive City administrative office shall directly or indirectly give, render or pay any money, service or other valuable thing to any person for or in connection with his test, appointment, proposed appointment, promotion or proposed promotion.

- B. Penalties.** Any person who by himself or with others willfully violates any of the provisions of paragraphs one (1) through four (4) shall be guilty of misconduct and shall be subject to immediate forfeiture of his office or position.

### **SECTION 10.03 Charter Review Committee**

- A. The City Council shall appoint a Charter Review Committee in the third (3<sup>rd</sup>) year after this Charter is adopted and every sixth (6<sup>th</sup>) year thereafter. The Charter Review Committee shall consist of nine (9) citizens of the City who shall:
1. Inquire into the operation of the City government under the Charter and determine whether any provision requires revision. Order public hearings to be held in accordance with the Texas Open Meetings Act to discuss proposed revisions, inquiries by the public, or for any other reason related to the revision of the Charter. The Committee may request the attendance of any officer or employee of the City and the production of any City records that may be needed;
  2. Propose any recommendations it deems desirable to insure compliance with the Charter and changes in state law; and
  3. Report its findings and present its recommendations to the City Council in the form of a report or presentation; and
  4. File a copy of its report or presentation with the office of the City Secretary where it shall be a public record.
- B. The term of office of the members serving on the Charter Review Committee shall be for not more than nine (9) months.
- C. Upon finalization of the Charter Review Committee's report the City Council shall receive the report and have published in the official newspaper of the City public notice that a copy of the report is available in office of the City Secretary.
- D. City Council shall consider any recommendations made and may order any recommendations be submitted to the voters of the City in the manner provided by state law.
- E. Nothing in this section prohibits the City Council from forming a Charter Review Committee at any time or from submitting any amendments to the Charter to election on its own initiative as provided by Section 10.07 of this Charter at any time in compliance with state law.

### **SECTION 10.04 Regulation of Alcohol**

The sale of liquor and beer is prohibited in all residential sections or areas of the City, as designated by any zoning ordinance or Comprehensive Plan of City. The City Council may enact any and all other regulations regarding the sale, consumption, and distribution, of alcoholic beverages, as permitted by law.

**SECTION 10.05      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 10.06      Oaths**

All elected and appointed officers of the City shall take and sign an oath of office based on those prescribed for state elective and appointive offices, respectively, in the Constitution and laws of the State of Texas.

**SECTION 10.07      Amendment**

Amendments to this Charter may be framed, proposed, and adopted in the manner provided herein by the laws of the State of Texas.

**ARTICLE XI**

**LEGAL PROVISIONS**

**SECTION 11.01      Assignment, Execution and Garnishment**

- (1) Property, real and personal, belonging to the City shall not be liable to be sold or appropriated under any writ of execution or cost bill. Funds belonging to the City in the hands of any person, firm or corporation, shall not be liable to garnishment, attachment or sequestration; nor shall the City be liable to garnishment, attachment or sequestration; not shall the City be liable to garnishment on account of any debt it may owe or duns or property it may have on hand 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 whatsoever.
- (2) The City shall not be obligated to recognize any assignment of wages or funds by its employees, agents, or contractors, except as provided by the laws of this State or the United States of America.

**SECTION 11.02      Security and Bond**

It shall not be necessary in any action, suit or proceeding in which the City is a party for any bond, undertaking or security to be demanded or executed by or on behalf of the City. All such actions shall be conducted in the same manner as if such bond, undertaking or security had been given as required by law.

**SECTION 11.03      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 one hundred-twenty (120) days after the time at which it is claimed such damages were inflicted upon such person or property, file with the City a written statement, under oath, stating the nature and character of such damages or injuries, the extent of the same, the place where same happened, the circumstances under which same happened and the condition causing same, with a detailed statement of each item of damages and the amount thereof, giving a list of any witnesses known by affiliate to have seen the accident.

**SECTION 11.04 Power to Settle Claims**

The City Council shall have the power to compromise and settle any and all claims and lawsuits of every kind character, in favor of, or against, the City, including suits by the City to recover delinquent taxes.

**SECTION 11.05 Service of Process Against the City**

All legal process against the City shall be served upon the City Manager.

**SECTION 11.06 Judicial Notice**

This Charter shall be deemed in a public act, may be read in evidence without pleading or proof, and judicial notice shall be taken thereof in all courts and places provided that the City Secretary certifies the most current City Charter with any amendments.

**SECTION 11.07 Property not Exempt from Special Assessments**

No property of any kind, by whomsoever owned or held or by whatsoever institution, agency, political subdivision or organization, owned or held, whether in trust or by non-profit organization, or corporation, or by foundation, or otherwise (except property of the City), shall be exempt in any way from any of the special taxes, charges, levies, and assessments, authorized or permitted by this Charter, for local improvements, for the public welfare except where provided by state law.

**SECTION 11.08 City Council may Require Bonds**

In addition to any provisions contained herein, the City Council may require any City official, department director, or City employee, before entering upon his/her duties, to execute a good and sufficient bond with a surety company doing business in the State of Texas and approved by the City Council. The City shall pay the premium of such bond.

**SECTION 11.09 Disaster Clause**

In case of disaster when a legal quorum of the elected City Council cannot otherwise be assembled due to multiple deaths or injuries, the surviving persons of the City Council, or

highest surviving City official, if no elected official remains, must, within twenty-four (24) hours of such disaster, request the highest surviving officers of the local Economic Development Corporation and the County Judge of Bell County to appoint a commission to act during the emergency as the City Council and call a City election within fifteen (15) days of such disaster, or as provided in the Texas Election Code, for election of a required quorum, if for good reasons it is known a quorum of the present City Council will never again meet.

#### **SECTION 11.10 Construction of Charter**

The Charter shall not be construed as a mere grant of enumerated powers, but shall be construed as a general grant of power and as a limitation of power on the government of the City of Nolanville in the same manner as the Constitution of Texas is construed as a limitation of the powers of the Legislature. Except where expressly prohibited by this Charter, each and every power under Article XI, Section 5 of the Constitution of Texas, which it would competent for the people of the City of Nolanville to expressly grant to the City, will be construed to be granted to the City by this Charter.

#### **SECTION 11.11 Severability Clause**

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

#### **SECTION 11.12 Wording Interpretation**

The gender of the wording throughout this Charter shall always be interpreted to mean either sex. All singular words shall include the plural and all plural words shall include the singular. All references to the state law or laws of the State of Texas, however expressed in this Charter, shall mean "as presently enacted or as may be amended or superseded." The use of the word "City" in this Charter shall mean the City of Nolanville, Texas, and the use of the word "Charter" shall mean this Home Rule Charter. The term "qualified voter" shall mean a person who meets all legal requirements of state law and this Charter for becoming a registered voter and is also registered to vote.

### **ARTICLE X11**

#### **TRANSITIONAL PROVISIONS**

#### **SECTION 12.01 Construction of Charter**

The Charter shall not be construed as a mere grant of enumerated powers, but shall be construed as a general grant of power and as a limitation of power on the government of the City of Nolanville in the same manner as the Constitution of Texas is construed as a limitation on the powers of the Legislature. Except where expressly prohibited by this Charter, each and every

power under Article XI, Section 5 of the Constitution of Texas, which it would be competent for the people of the City of Nolanville to expressly to the City, will be granted to be construed to the City by this Charter.

**SECTION 12.02      Officers and Employees**

- A.    **Rights and Privileges Preserved.** Nothing in this Charter except as otherwise specifically provided should affect or impair the rights or privileges of person who are City officers or employees at the time of its adoption.
  
- B.    **Continuance of Office or Employment.** Except as specifically provided by this Charter, if at the time this Charter takes full effect, a City administrative officer or employee hold any office or position which is or can be abolished by or under this Charter, he shall continue in such position or office until the taking effect of some specific provision under this Charter directing that he vacate the office or position.

**SECTION 12.03      Pending Matters**

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

**SECTION 12.04      Manner of Submission to Electors**

In preparing this Charter, The Charter Commission finds and decides that it is impractical to segregate each subject so as to permit a vote of "yes" or "no" on the same, for the reason that the Charter is so constructed that in order to enable it to work and function, it is necessary that is should be adopted in its entirety.

**SECTION 12.05      Transitional Elections**

Reserved