

CITY OF PITTSBURG

PROPOSED HOME RULE CHARTER

ARTICLE I -- INCORPORATION AND FORM OF GOVERNMENT

Section 1.01 Incorporation

The inhabitants of the City of Pittsburg, in Camp County, Texas, within the corporate limits as now established, or hereafter established in the manner prescribed by this Charter, are and shall continue to be a municipal body under the name of the “City of Pittsburg,” herein referred to as “City.”

Section 1.02 Form of Government

The municipal government provided by this Charter shall be known as a “Council-Manager” government. Pursuant to its provisions and subject only to the limitations imposed by the state constitution, by the statutory laws of Texas and by this Charter, all powers of the City shall be vested in an elective council, hereinafter referred to as the “Council,” which shall enact local legislation, adopt budgets, determine policies, appoint the City Attorney and the Judge of the Municipal Court. The Council shall also appoint the City Manager and the City Secretary, who shall execute the laws and administer the government of the City.

Section 1.03 Boundaries

The boundaries of the City at the time this Charter is adopted are those that have previously been legally established. These boundaries may be changed through annexation or deannexation, as described in Article II of this Charter.

ARTICLE II -- POWERS OF THE CITY

Section 2.01 General Powers of the City

The City shall be a home rule city, with full power of local self-government, including the right to amend this Charter. It shall have all the powers possible for a city to have under the constitution and the laws of the State of Texas and the United States, together with all the implied powers necessary to carry unto execution all the powers granted. It may use a corporate seal.

The City shall have and succeed to all the rights, properties, immunities, powers, privileges and franchises now held, possessed and enjoyed by the City or herein granted and be subject to all its present duties and liabilities, subject to the limitations in this Charter. The City may sue and be sued, may plead and be pleaded in all courts, may contract and be contracted with. It may ordain and establish such acts and regulations and ordinances not inconsistent with the constitution and laws of this state, as shall be needful for the government, interest, welfare and good order of the City. It may lease or convey any or all property owned by the City or any of its property within or without the city limits; and it shall have the power to acquire property for any municipal purpose in fee simple or in any lesser interest or estate by purchase, gift, devise, lease or condemnation within or without the city limits and to lease, hold, manage, control or convey the same when no longer required.

Section 2.02 Construction of Powers

The enumeration of particular powers by this Charter shall not be deemed to be exclusive and such powers shall be construed liberally in favor of the City. In addition to the powers enumerated or implied herein, it is intended that the City shall have and may exercise all powers under the constitution and laws of this state and the United States, as fully as though they were specifically enumerated by this Charter.

All powers of the City shall be exercised in the manner prescribed by this Charter, or if the manner is not detailed herein, then in such manner as may be set forth by ordinance, the state constitution or by state statutes.

Section 2.03 Annexation-Extension of Boundaries

The Council shall have the power by ordinance to set the boundary limits of the City to provide for the alteration and the extension of said boundary limits, and the annexation of additional territory lying adjacent to the City, with or without the consent of the territory and inhabitants annexed. During the annexation process, the Council shall provide an opportunity for all interested persons to be heard at public hearing(s), in conformance with state and federal law. Upon the final passage of any such ordinance, the boundary limits of the City shall thereafter be set in such ordinance. When any additional territory has been annexed, the same shall be a part of the City, and the property situated therein shall bear its pro rata part of the taxes levied by the City, and the inhabitants thereof shall be entitled to all the rights, privileges and services afforded all citizens of the City of Pittsburg, and shall be bound by the acts, ordinances, resolutions and regulations of the City and by state and federal law.

Whenever there exists within the City any territory not suitable or necessary for city purposes, the Council may discontinue said territory as a part of the City, in accordance with state and federal law.

Section 2.04 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 may exercise the power of eminent domain in any manner authorized or permitted by the constitution and laws of this state. The City shall have and possess the power of condemnation for any municipal or public purposes even though not specifically enumerated in this charter.

Section 2.05 Intergovernmental Relations

The City 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 State of Texas or any of its political subdivisions or agencies, or the United States or any of its agencies.

ARTICLE III -- CITY COUNCIL

Section 3.01 Powers and Duties

All powers of the City and the determination of all matters of policy shall be vested in the City Council. Without limitation of the foregoing and among the other powers that may be exercised by the City Council, the following are enumerated for greater certainty. The City Council may:

- (1) remove from any office or position in the City government any officer (City Manager, City Secretary, City Attorney or Municipal Judge) or member of any board or commission of the City;
- (2) establish, consolidate or abolish administrative departments;
- (3) adopt the budget of the City;
- (4) authorize the issuance of bonds and other forms of indebtedness, in accordance with state law;
- (5) provide for such boards and commissions, not otherwise provided for in this charter, as may be deemed necessary, and appoint the members of all such boards and commissions. Such boards and commissions shall have all powers and duties now or hereafter conferred and created by this Charter, by City ordinance or by law;
- (6) adopt and modify the zoning plan, fire protection, life safety, and building and environmental codes of the City;

- (7) adopt and modify the official map of the City;
- (8) adopt, modify and carry out plans for improvement and redevelopment of any area of the City which may have been destroyed in whole or part by disaster;
- (9) set the salaries and compensation of the City officers and employees;
- (10) provide for a sanitary sewer and water system, and set fees and charges therefore, and provide penalties for failure to pay such fees and charges;
- (11) provide for garbage disposal, and set fees and charges therefore, and provide penalties for failure to pay such fees and charges;
- (12) exercise dominion, control and jurisdiction in, upon, over and under the public streets, avenues, sidewalks, alleys, highways, boulevards and public grounds of the City and provide for the improvement of same;
- (13) compromise and settle any and all claims and lawsuits of every kind and character in favor of or against the City.

Section 3.02 Number, Selection and Terms of Office

- (1) As to number, the legislative and governing body of the City shall be composed of a mayor and five (5) members and shall be known as the "City Council of the City of Pittsburg."
- (2) As to selection, the mayor shall be elected to office from the city at large. The other members of the Council shall be elected to office at large, but by specific place which shall be designated as Place One (1), Two (2), Three (3), Four (4) and Five (5).
- (3) As to term, the mayor and each Council member shall be elected to serve a term of three years and until his/her successor is elected and qualified. At the first regular Council meeting following the adoption of this charter, lots shall be drawn by the incumbent Council members in order to establish and stagger anew their terms. Two of those lots shall provide for one-year terms and the drawers thereof shall hold office until at least after the regular city election in 2009; two of those lots shall provide for two-year terms and the drawers thereof shall hold office until at least after the regular city election in 2010; and two of those lots shall provide for three-year terms and the drawers thereof shall hold office until at least after the regular city election in 2011. The staggering of terms thus established, as to the office of mayor and as to each of the five places on the Council, shall remain in effect thereafter.

Section 3.03 Qualifications

At the time of filing of his/her application for a place upon the ballot, each candidate for the six City Council positions shall be a registered voter in the State of Texas; shall be a resident of the City and shall have resided within the corporate limits of the City for at least one year preceding the election at which he/she is a candidate; shall not have been convicted of a felony criminal offense or a crime involving moral turpitude; and shall not be in violation of any other provision in this Charter.

Section 3.04 Judge of Qualifications

The Council shall be the sole judge of the election and whether the qualifications set herein and by law have been met by its members and of the grounds for forfeiture of their offices. For these purposes, the Council shall have the power to subpoena witnesses, administer oaths and require the production of evidence. Decisions by the Council as to election and qualifications of its members shall be considered final.

Section 3.05 Prohibitions

Except where authorized by law, no Council member shall hold any other elected or appointed City office or City employment during the term for which that member was elected to the Council, and no former Council member shall hold any compensated appointive City office or employment by the City until two years after the expiration of the term for which that member was elected to the Council.

Neither the Council nor any of its members shall in any manner dictate the appointment or removal of any City administrative officer or employee whom the City Manager or any of his/her subordinates are empowered to appoint; but the Council may express its views and fully and freely discuss with the City Manager anything pertaining to appointment and removal of such officers and employees.

Except for the purpose of inquiries, and for investigations under Section 3.11 of this Charter, the Council or its members shall deal with City officers and employees who are subject to the direction and supervision of the City Manager solely through the City Manager, and neither the Council nor its members shall give orders to such officer or employee either publicly or privately.

Section 3.06 Vacancies, Forfeiture of Office and Filling of Vacancies

The office of a Council member shall become vacant upon the member's death, resignation, removal from or forfeiture of that office.

A Council member shall forfeit that office if the Council member:

- (1) lacks at any time during the term of office for which elected any qualification for the office prescribed by this Charter or by state law;
- (2) fails to maintain residence within the City;
- (3) intentionally violates any express prohibition of this Charter;
- (4) is convicted of a felony criminal offense or a crime of moral turpitude;
- (5) fails to attend three consecutive regular meetings without being excused by the Council.

Any vacancy in the City Council shall be filled by appointment made by the remaining members of the City Council. Any appointee shall be qualified to serve on the City Council, and shall serve in the vacant place until the next state designated election date, when a special election shall be conducted by the City to fill the remainder of the unexpired term in that vacant place.

Section 3.07 Compensation and Expenses

The Mayor and the other Council members shall be compensated as determined by ordinance adopted by the City Council.

Council members may receive reimbursement for necessary expenses incurred in the performance of their duties of office, according to policies to be determined by the Council.

Section 3.08 Mayor and Mayor Pro Tem

The Mayor shall preside over the meetings of the Council and perform such other duties consistent with the office as may be imposed on the Mayor by this Charter and all ordinances and resolutions passed in pursuance thereof. The Mayor may not vote, except to break a tie or as otherwise provided by this Charter, and shall have no veto power. The Mayor shall be recognized as the chief executive officer and as the head of the City by all courts for the purpose of serving civil process, by the Governor for the purpose of enforcing military law, emergency management, and for all ceremonial purposes.

At the first meeting of the Council following the City's general election, the Council shall elect one of its members to serve a one-year term as Mayor Pro Tem of the City. In the absence or disability of the Mayor to perform the duties of that office, the Mayor Pro Tem shall perform all such duties, and while acting as Mayor Pro Tem may not vote, except to break a tie or as otherwise provided by this Charter.

Section 3.09 City Secretary

The Council shall appoint a City Secretary, and the City Secretary may be removed from office by the Council. The City Secretary and assistants shall give notice of Council meetings, shall keep minutes of its proceedings, shall authenticate by signature and shall record in full in a book kept for that purpose all ordinances and resolutions, shall preserve and keep in order all books, papers, records and files of the Council, shall have custody of the seal of the City and shall affix same to such documents and obligations as legally authorized.

The City Secretary and assistants shall perform such other duties as shall be required by this Charter, the Council or the City Manager.

Section 3.10 City Attorney

The Council shall appoint a City Attorney and such assistant city attorneys as from time to time shall be deemed necessary by the Council and who shall be competent, duly licensed and admitted to the practice of law by the State of Texas. The City Attorney shall be legal advisor to and attorney for all officers of the City acting in their official capacities and shall represent the City and its departments in all legal proceedings.

Section 3.11 Investigations

The Council shall have the power to make investigations into City affairs and to inquire into the official conduct of any department, agency, office or employee of the City. For this purpose the Council shall have the power to administer oaths, to subpoena witnesses and to compel the production of books, papers and other evidence material to the inquiry. The 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, and shall have the power to punish any such contempt in the manner provided in the ordinance.

Section 3.12 Meetings

The Council shall meet regularly and at least once each month. The Council may hold as many additional, special meetings during the month as may be necessary for the transaction of the business of the City. Such special meetings may be called as necessary upon written notice to the City Secretary by the Mayor or by any three of the other members of the Council.

All meetings, regular or special, shall be held at the City Hall, except if another location is designated by the Council, pursuant to public notification, as required by this Charter and by state law.

Section 3.13 Rules of Procedure

The Council shall determine its own rules of procedure and order of business. Four members of the Council shall constitute a quorum to do business, and a majority vote of those attending any meeting at which there is a quorum present shall be sufficient to adopt any ordinance or resolution, except as otherwise provided in this Charter. The vote upon the passage of all ordinances and resolutions shall be taken by “ayes” and “nays,” and the vote of each Council member present shall be entered on the minutes of the meeting.

All meetings of the Council, except for executive sessions authorized by state law, shall be open to the public, and minutes of all proceedings of such open meetings shall be kept, to which any citizen may have access at all reasonable times and which shall constitute the archives of the City.

Section 3.14 Action Requiring an Ordinance

In addition to other acts required by law or by specific provision of this Charter to be done by ordinance, all acts of the Council shall be by ordinance which:

- (1) adopt or amend an administrative code or establish, alter, or abolish any city department, office or agency;
- (2) provide for a fine or other penalty or establish a rule or regulation for violations of which a fine or other penalty is imposed;
- (3) levy taxes;
- (4) grant, renew or extend a franchise;
- (5) regulate the rate charged for its services by a public utility;
- (6) authorize the borrowing of money;
- (7) regulate land use and development;
- (8) prescribe standards for issuance of business or other licenses; and
- (9) establish compensation for the Mayor and Council; and
- (10) amend or repeal any ordinance previously adopted.

Acts other than those referred to in the preceding sentence may be done either by ordinance or resolution.

Section 3.15 Conflict of Interest

Should any member of the City Council have a conflict of interest, pursuant to any laws and/or City ordinances regulating conflicts of interest of municipal officers, with an agenda item then before the City Council, such Councilperson is hereby prohibited from discussing the item or voting on the question and is not considered as present and voting for the purposes of the tally.

Section 3.16 Ordinances in General

- (1) As to form, every proposed ordinance shall be introduced in writing and in the form required for final adoption. No ordinance shall contain more than one subject that shall be clearly expressed in its title. The enacting clause shall read, "Be it ordained by the City Council of the City of Pittsburg..."
- (2) As to procedure, an ordinance may be introduced and acted upon at any regular or special meeting of the Council.
- (3) As to effective date, except as otherwise provided in this Charter, or by ordinance, or by state law, all ordinances and resolutions passed by the Council shall take effect on the date of adoption.
- (4) As to publication, any ordinance imposing any fee, penalty, fine or forfeiture shall, after the passage thereof, be published one (1) time in the official newspaper of the City before the same shall go into effect. In lieu of publication of the full text of the ordinance, it shall be sufficient to publish the descriptive caption or title of the ordinance, stating in summary the purpose of the ordinance and the penalty for violation thereof. The ordinance shall take effect and be in force from and after the publication thereof, unless otherwise provided, and the penalty, fine or forfeiture shall apply on the thirtieth day after publication.
- (5) Any ordinance imposing any fee, penalty, fine or forfeiture shall be read and approved by the City Council in two (2) consecutive Council meetings.

Section 3.17 Codes of Technical Regulations

The Council may adopt any standard code of technical regulations by reference thereto in an adopting ordinance. The procedures and requirements governing such an adopting ordinance shall be that prescribed for ordinances generally. A copy of each

adopted code of technical regulations, as well as the adopting ordinance, shall be authenticated and recorded by the City Secretary pursuant to Section 3.18.

Copies of any adopted code of technical regulations shall be made available by the City Secretary for purchase at a reasonable price.

Section 3.18 Authentication and Recording; Codification

- (1) As to authentication and recording, the City Secretary shall authenticate by signing and shall record in full in properly indexed books kept for the purpose all ordinances and resolutions by the Council.
- (2) As to codification, all City ordinances having the force of law shall be codified. The general codification shall be adopted by the Council by ordinance and shall be published in loose-leaf form and shall include this Charter and any amendments thereto. The official copy of the City Code in the office of the City Secretary shall be kept up to date and properly indexed. It shall not be necessary to repeat in this codification any technical codes adopted by reference. Copies of the City Code shall be furnished to City offices, placed in libraries and public offices for free public reference and made otherwise available for purchase by the public at a reasonable price set by the Council. Amendments to the City Code shall also be made available for purchase by the public as they become available.

ARTICLE IV -- ADMINISTRATIVE ORGANIZATION

Section 4.01 Appointment, Qualifications and Compensation of the City Manager

The Council shall appoint a City Manager, who shall be the chief administrative officer of the City, for an indefinite term. The City Manager shall be chosen by the Council by a majority vote of its entire membership and solely on the basis of executive and administrative training, experience, ability and character and without regard to political consideration.

The City Manager need not be a resident of the City at the time of appointment but shall reside within the City while in office.

The City Manager shall receive such compensation as may be set by the Council.

Section 4.02 Removal or Suspension of the City Manager

The City Manager may be removed or suspended from office at the will of the Council by a majority vote of its entire membership. The action of the Council in

removing the City Manager shall be final, it being the intention of this Charter to vest authority and place all responsibility for such removal on the Council.

Section 4.03 Acting City Manager

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

Section 4.04 Powers and Duties of the City Manager

As the chief administrative officer of the City, the City Manager shall:

- (1) be responsible for the proper administration of all affairs of the City;
- (2) appoint, discipline and remove all department heads and subordinate employees of the City except as otherwise provided in this Charter; the City Manager may authorize department heads to appoint and remove subordinates.
- (3) direct and supervise the administration of all departments, offices and agencies of the City, except as otherwise provided in this charter;
- (4) attend all Council meetings, with the right to take part in discussions, but shall not vote;
- (5) see that the laws, provisions of this Charter and acts of the Council subject to enforcement by the City Manager, or by officers subject to the City Manager's direction and supervision, are faithfully executed;
- (6) prepare and submit the annual budget to the Council, and administer the budget as adopted by the Council;
- (7) make such other reports as the Council may require concerning the operations of City departments, offices and agencies subject to the City Manager's direction and supervision;
- (8) keep the Council advised as to the financial condition and future needs of the City;
- 9) perform such other duties as are specified in this Charter or may be required or directed by the Council, which are consistent with the provisions of this Charter and state and federal law.

Section 4.05 Administrative Departments

There shall be such administrative departments as are established by this Charter and such other administrative departments as may be deemed necessary by the Council and as are established by ordinance, all of which shall be under the control and direction of the City Manager.

ARTICLE V -- MUNICIPAL COURT

Section 5.01 Municipal Court

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

Section 5.02 Judge of the Municipal Court

The Municipal Court shall be presided over by a Judge. The Judge shall be appointed by the Council for an unspecified term. The Judge shall receive such compensation as shall be set by ordinance. In the absence or disability of the Judge, the Council shall appoint a qualified person to serve in an interim capacity. Such interim appointee shall have all powers and duties of the office and shall be entitled to compensation as set by the Council.

The Municipal Court Judge may be removed from office in accordance with state law.

Section 5.03 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 to the operation of such court.

Deputy Clerks of the Municipal Court may be appointed by the City Manager and shall have authority to act for and on behalf of the Clerk of the Municipal Court.

ARTICLE VI – FINANCIAL PROCEDURES

Section 6.01 Fiscal Year

The fiscal year of the City shall begin on October first of each calendar year and shall end on September thirtieth of the following calendar year. The fiscal year shall also be established as the accounting and budget year.

Section 6.02 Preparation and Submission of the Budget

The City Manager, at least thirty (30) days prior to the commencement of the fiscal year, shall prepare and submit a budget to the Council, which shall contain the following:

- (1) a budget message which shall outline the proposed financial policies for the year with explanations of significant changes in expenditures from previous years and any other major changes of policy and a statement regarding the overall financial condition of the City.
- (2) an estimate of all revenues from taxes and other sources;
- (3) summaries of proposed expenditures by function, department and activity and of proposed expenditures by character and object;
- (4) a description of all outstanding bond indebtedness, showing the amount, date of issue, rate of interest and maturity date, as well as any other indebtedness which the City has incurred and which is unpaid;
- (5) a statement describing any capital expenditures proposed to be undertaken during the year and recommending provisions for financing such expenditures.

Section 6.03 Budget a Public Record

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

Section 6.04 Public Hearing on Budget

At the Council meeting at which time the budget is submitted, the Council shall, in conformance with the requirements of state law, name the date, time and place of a

public hearing and shall cause to be published the date, time and place thereof. At this hearing, interested citizens may express their opinions concerning items of expenditure, giving their reasons for wishing to increase or decrease any such items.

Section 6.05 Proceeding on Adoption of Budget

After public hearing, the Council shall analyze the budget, making any additions or deletions considered appropriate, and shall, at least three (3) days prior to the beginning of the fiscal year, adopt the budget by a favorable vote.

Section 6.06 Budget Appropriation

On final adoption, the budget shall be in effect for the budget year. Final adoption of the budget by the Council shall constitute the official appropriations of proposed expenditures for the year and shall constitute the basis of the official levy of the property tax as the amount of tax to be assessed and collected for that tax year. Estimated expenditures will in no case exceed proposed revenues plus reserves on hand.

Section 6.07 Contingency Accounts

The City Manager may recommend for approval by the Council one or more contingency accounts to be used for unanticipated items of expense which were not included in the budget as original items of expenditure.

Section 6.08 Amending the Budget

Under conditions which may arise and which could not have been foreseen in the normal process of budget preparation, the Council may, by a majority vote, amend or change the budget to provide for additional expenditures. Such amendments shall be by ordinance and shall become an attachment to the original budget, kept on file by the City Secretary.

Section 6.09 Certification and Copies Made Available

A copy of the budget, as finally adopted, shall be filed with the City Secretary. The final budget shall be printed or otherwise reproduced, and sufficient copies shall be made available for the use of all offices and agencies and for the use of interested persons and civic organizations.

Section 6.10 Defect Shall Not Invalidate the Tax Levy

Errors or defects in the form or preparation of the budget nor the failure to perform any procedural requirements shall not nullify the tax levy or the tax rate.

Section 6.11 Independent Audit

At the close of each fiscal year and at such times as it may otherwise be deemed necessary, the Council shall cause an independent audit to be made of all accounts of the City by a certified public accountant. The certified public accountant shall have no personal interest, directly or indirectly, in the financial affairs of the City or any of its officers. Upon completion of the audit, that fact shall be published forthwith in the official newspaper of the City, and copies of the audit shall be placed on file for public inspection in the office of the City Secretary as a public record.

Section 6.12 Purchasing Procedure

The City Manager shall direct that purchases of supplies, materials or equipment by the City be made in accordance with policies adopted by the Council and as provided by state law.

Section 6.13 Investment Policy

The City Manager may invest any City monies in accordance with policies adopted by the Council and as provided by state law, and such policies shall be reviewed by the Council annually.

ARTICLE VII -- BONDS, WARRANTS AND OTHER EVIDENCE OF INDEBTEDNESS

Section 7.01 Powers to Issue

In keeping with state law, the City shall have the power to borrow money on the credit of the City for any public purpose not now or hereafter prohibited by state law and shall have the right to issue all general obligation bonds, revenue bonds, funding and refunding bonds, time warrants and other evidence of indebtedness as now authorized or as may be authorized to be issued by cities in Texas.

Section 7.02 Interest and Sinking Fund

It shall be the duty of the Council to levy an annual tax sufficient to pay the interest on and provide the necessary sinking fund required by law on all outstanding general obligation bonds of the City. The interest and sinking fund shall not be diverted

to or used for any other purpose than to pay the interest and principal on all such bonds issued by the City. The interest and sinking fund maintained for the redemption of any debt may be invested in accordance with policies adopted by the Council and as provided by state law.

Section 7.03 Revenue Bonds

The City shall have the power to borrow money for the purpose of constructing, purchasing, improving, extending or repairing of public utilities, recreational facilities or facilities for any other self-liquidating municipal function not now or hereafter prohibited by state law and to issue revenue bonds to evidence the obligations created thereby. Such bonds shall be a charge upon and payable solely from the properties or interest therein acquired, and the income from such properties or interest, and shall never be a debt of the City. The Council shall have the authority to provide for the terms and conditions of any purchase agreement, contract, mortgage, bond or document desired or necessary for the issuance of revenue bonds and the acquisition and operation of any such property or interest.

ARTICLE VIII -- TAXATION

Section 8.01 Powers and Limitations

The Council shall have the power under the provisions of state law to levy, assess and collect an annual tax on taxable property within the City not to exceed the maximum limits set for a general law city by the Constitution and laws of the state of Texas. The Council shall have the further power to levy, assess and collect all other types of taxes as provided and permitted by state law.

ARTICLE IX -- ELECTIONS

Section 9.01 Regular and Special Elections

Regular City elections shall be held on the date set for state wide elections in May of each year or as otherwise required by the Texas election code, at which time members of the Council, including the Mayor, shall be elected to fill those positions which become vacant that year. The Council may, by resolution, order special elections. The Council shall set the hours, place and procedures for holding regular and special elections. Elections shall be held in compliance with applicable state law.

Section 9.02 Qualified Voters

All citizens qualified by state law to vote in the City and who satisfy the requirements for voter registration prescribed by state law shall be qualified voters of the City within the meaning of this Charter.

Section 9.03 Regulation of Elections

The Council shall make all regulations considered to be necessary or desirable which are not inconsistent with this Charter or state law, for the conduct of City elections, or for the prevention of fraud in such elections, and shall make provisions for a recount of the ballots in case of doubt or fraud. The Council shall appoint election officials who shall conduct the City elections consistent with this Charter and with regulations made by the Council and by state law. The Council shall provide for the compensation of all election officials in City elections and for all other expenses of holding such elections.

Section 9.04 Filing for Office

Any person having the qualifications required by this Charter for holding office as a member of the City Council who desires to become a candidate for election to the Council shall have the right to file an application to that effect, in writing, with the City Secretary. The application must provide information in accordance with the Texas election code. Applications may not be filed earlier than the thirtieth (30th) day before the date of the filing deadline provided by the Texas election code.

Section 9.05 Official Ballot

An official ballot shall be prepared by the City Secretary and it shall contain the names of all candidates for office, except those who may have been withdrawn, have died or have otherwise become ineligible. Names will be placed on the ballot without party designation and each candidate's position on the ballot shall be determined by drawing lots, under the supervision of the City Secretary.

Procedures for voting by absentee ballot shall be consistent with the Texas election code and applicable state and federal law.

Section 9.06 Conducting and Canvassing Elections

The returns of each City election shall be delivered to the City Secretary by the election judges. The Council shall canvass the returns, investigate the qualifications of the candidates and declare the official results of the election in the manner and within the

time periods provided by state law. Returns of each City election shall be recorded in the minutes of the Council.

ARTICLE X -- INITIATIVE, REFERENDUM AND RECALL

Section 10.01 Power of Initiative

The people of the City reserve the power to direct legislation by initiative and, in the exercise of such power, may propose any ordinance not in conflict with this charter or state or federal law, except an ordinance appropriating money or authorizing the levy of taxes or an ordinance repealing an ordinance appropriating money or levying taxes. Any initiated ordinance may be submitted by a petition signed by registered voters of the city equal in number to at least ten (10%) percent of the number of registered voters residing in the city at the time of the last regular city election or two hundred (200), whichever is greater.

Section 10.02 Power of Referendum

The people of the City reserve the power to approve or reject at the polls any legislation enacted by the Council which is subject to the initiative process under this Charter. Within thirty (30) days after the final adoption or publication, whichever date is later, of any ordinance which is subject to referendum, a petition, signed by registered voters of the city equal in number to at least ten (10%) percent of the number of registered voters residing in the City at the time of the last regular City election or two hundred (200), whichever is greater, may be filed with the City Secretary requesting that any such ordinance be either repealed or submitted to a vote of the people. When such a petition has been certified as sufficient by the City Secretary, the ordinance so specified in the petition shall not go into effect, or further action thereunder shall be suspended if it shall have gone into effect, until and unless it is approved by the voters as herein provided.

Section 10.03 Form of Petition for Initiative and Referendum

All petition papers circulated for the purpose of an initiative or referendum shall be uniform in size and style. Initiative petition papers shall contain the full text of the proposed ordinance. The signatures to initiative and referendum petitions need not all be appended to one paper, but to each separate paper there shall be attached a statement of the circulator that he/she personally circulated the foregoing paper, that all the signatures appended thereto were made in his/her presence and that he/she believes them to be the genuine signatures of the persons whose names they purport to be. Each signer of any such petition shall sign his/her name in ink, shall indicate after his/her name his/her place

of residence by street, street number and zip code, shall indicate his/her telephone number and shall record the date of signature.

Section 10.04 Filing, Examination and Certification of Petitions

All papers comprising a petition for initiative or referendum shall be assembled and filed with the City Secretary as one instrument. Within thirty (30) 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 has been signed by a sufficient number of qualified electors and shall hold any petition paper entirely invalid which does not have attached thereto the statement signed by the circulator thereof. The City Secretary shall certify the result of this examination to the Council at its next regular meeting. If the City Secretary shall certify that the petition is insufficient, the certificate shall specify the particulars in which it is defective and shall at once notify in writing the person filing the petition of this finding. A petition may be amended at any time within ten (10) days after a notice of insufficiency has been sent by the City Secretary, by filing a supplementary petition. In such event, the same procedures shall then be followed by the City Secretary and Council as in the case of the original petition for the same purpose.

Section 10.05 Council Consideration and Submission to Voters

When the Council receives an authorized initiative petition, certified by the City Secretary to be sufficient, the Council shall either (a) pass the initiated ordinance without amendment within thirty (30) days after the date of the certification to the Council; or (b) submit the initiated ordinance without amendment to a vote of the qualified voters of the City at a regular or special election to be held on a uniform election date of the state of Texas, but not more than ninety (90) days from the date that the City Secretary certifies the submission to the Council.

When the Council receives an authorized referendum petition, certified by the City Secretary to be sufficient, the Council shall reconsider the referred ordinance. If, upon such reconsideration, such ordinance is not repealed, it shall be submitted to the voters of the City at a regular or special election to be held on a uniform election date of the state of Texas, but not more than ninety (90) days from the date that the City Secretary certifies the submission to the Council.

Special elections on initiated or referred ordinances shall not be held more frequently than once each six (6) months, and no ordinance on the same subject as an initiated ordinance which has been defeated at any election may be initiated by the voters within two (2) years from the date of such election.

Section 10.06 Ballot Form and Results of Election

Ordinances submitted to the electors in accordance with the initiative and referendum provisions of this Charter shall be submitted by ballot title, which shall contain a clear, concise statement, without argument, of the substance of such ordinance. The ballot used shall have below the ballot title the following proposition, 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.

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

Section 10.07 Power of Recall

The people of the City reserve the power to recall the Mayor or any other member(s) of the Council and may exercise such power by filing with the City Secretary a petition, signed by qualified voters of the City equal in number to at least ten (10%) percent of the number of registered voters residing in the City at the time of the last regular municipal election or two hundred (200), whichever is greater, of the City demanding the removal of the Mayor or other member(s) of the Council. The petition shall be signed and verified in the manner required for an initiative petition, shall contain a general statement of the grounds upon which the removal is sought and one of the signers of each petition paper shall make an affidavit that the statements made therein are true.

Section 10.08 Recall Election

All papers comprising a recall petition shall be assembled and filed with the City Secretary. Within thirty (30) days after the petition is filed, the City Secretary shall determine its sufficiency and, if found to be sufficient, shall certify this fact to the Council at its next regular meeting. If a recall petition is found to be insufficient, it may be amended within ten (10) days after notice of such insufficiency by the City Secretary, by filing a supplementary petition. In that event, the same procedures shall then be followed by the City Secretary and the Council as in the case of an original petition. The finding of insufficiency of a recall petition shall not prejudice the filing of a new petition for the same purpose.

The Council member whose removal is sought by a recall petition may, within five (5) days after such petition has been certified and presented to the Council, request in writing that a public hearing be held to permit him/her to present facts pertinent to the charges specified in the petition. In this event, the 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.

If the Council member whose removal is sought does not resign, the Council shall order a recall election and set a date for such election, the date of which shall not be more than ninety (90) days from the date the petition was submitted to the Council or from the date of the public hearing if one was held, whichever is later, or at the earliest date thereafter permitted by the state election code.

Section 10.09 Recall Ballot

Ballots used in recall elections shall read as follows: “SHALL (name of person or persons) BE REMOVED FROM THE CITY COUNCIL BY RECALL?” Below such question there shall be printed the following as to each person named:

“FOR THE REMOVAL OF (name of person.)”

“AGAINST THE REMOVAL OF (name of person.)”

Section 10.10 Results of a Recall Election

If a majority of the votes cast at a recall election shall be against removal of a Council member named on the ballot, that member shall continue in office. If a majority of the votes cast at such election be for the removal of the Council member named on the ballot, the Council shall immediately declare the office vacant and such vacancy shall be filled in accordance with the provisions of this Charter. A Council member thus removed shall not be a candidate to succeed himself/herself in an election called to fill the vacancy created.

Section 10.11 Limitations on Recall

No recall petition shall be filed against the Mayor or any other Council member(s) within six (6) months after he/she first takes office, nor within six (6) months after an election for his/her recall, nor within six (6) months of the end of his/her term.

ARTICLE XI -- FRANCHISES OF PUBLIC UTILITIES

Section 11.01 Power to Grant Franchise

The ownership, right of control and use of streets, highways, alleys, parks, public places, rights-of-way and all other real property of the City is declared to be inalienable to the City. No entity or individual shall have the right to occupy such public property without the express permission of and under an express written agreement with the City concerning such occupancy. Utilities and/or public utilities shall only be granted the right to occupancy under the terms of a franchise agreement with the City. All grants, removals, extensions or amendments of public utility franchises on, under or beneath such public places shall be the right of the Council. The City may, by ordinance, sell, lease, transfer or otherwise alter its control and use of such public properties, in accordance with the provisions of this Charter.

No franchise shall be granted for an indefinite term, nor may a franchise be granted for a term in excess of twenty (20) years.

Section 11.02 Franchise Extensions

All extensions of a public utility within the City shall become a part of the aggregate property of the public utility, shall be operated as such and shall be subject to all the obligations and reserved rights contained in this Charter and in state law. The right to use and maintain any extension shall terminate with the original grant made to the utility.

Section 11.03 Exclusivity and Transfer of Franchise

The City shall not grant an exclusive franchise to any public utility.

No public utility franchise may be transferred or assigned by the holder except with the approval of the Council.

Section 11.04 Regulation of Franchises

All grants, renewals, extensions or amendments of public utility franchises shall be subject to the right of the City to:

- (1) to repeal the same by ordinance at any time for failure to begin construction or operation within the time prescribed or for failure otherwise to comply with terms of the franchise, such power to be exercised only after due notice and hearing;
- (2) require an adequate and reasonable extension of plant and service and the maintenance of plant and fixtures at a standard by which to render the highest reasonable quality of service to the public;
- (3) establish reasonable standards and quality of service and prevent unjust discrimination in service and/or rates;
- (4) prescribe, for each franchisee, the form of accounts to be kept or, alternately, require the system of accounts conform to that required by the appropriate state and/or federal regulatory agencies;
- (5) impose such reasonable regulations and restrictions as may be deemed desirable or conducive to the safety, welfare and accommodation of the public;
- (6) require franchisees to furnish the City, without cost to the City, full information regarding the location and precise description of all facilities of the franchisees in, over or under the City, and to regulate and control the location, relocation and removal of such facilities;
- (7) examine and audit at any time during normal business hours the accounts and records of the franchisee;
- (8) require compensation and rental fees, except as limited by state law.

Section 11.05 Franchise Records

The City shall compile and maintain a public record of all franchises granted by the City, including any extensions or amendments to such franchise grants.

ARTICLE XII -- PLANNING

Section 12.01 Planning and Zoning Commission

There shall be established a Planning and Zoning Commission which shall consist of five (5) members and two (2) alternate members, who shall be residents of the City. All members and alternate members shall have terms as established in the City's zoning

ordinance. Any vacancy on the Commission shall be filled by the Council for the remainder of the unexpired term in question. Members of the Commission shall serve without compensation and may be removed by the Council at its sole discretion.

The Commission shall annually elect a Chair and a Vice Chair from among its membership. A majority of members shall constitute a quorum. The Commission shall keep minutes of its proceedings and such minutes shall be of public record.

Section 12.02 Powers and Duties of the Planning and Zoning Commission

The Commission shall:

- (1) recommend a comprehensive plan for the physical development of the City, and thereafter review that plan every five (5) years;
- (2) recommend to the Council approval or disapproval of proposed changes in the zoning plan;
- (3) have and perform such additional duties as may be prescribed by ordinance.

Section 12.03 Comprehensive Plan

The comprehensive plan shall serve as a guide for the physical development of the City and shall contain the Commission's recommendations for growth, development and beautification of the City. A copy of the comprehensive plan, or any part thereof, shall be submitted to the Council, which may adopt such plan in whole or in part, after at least one (1) public hearing on the proposed action. The Council shall act on such plan, or part thereof, within one hundred twenty (120) days following its submission. If such plan, or part thereof, shall be rejected by the Council, the Commission may modify such plan, or part thereof, and resubmit it to the Council for reconsideration.

All amendments to the comprehensive plan recommended by the Commission shall be submitted and considered by the Council in the same manner as provided above.

ARTICLE XIII – ETHICS-RESPONSIBLE GOVERNMENT

Section 13.01 Nepotism

No person related within the second degree by affinity or within the third degree by consanguinity to the Mayor or any Council Member or the City Manager shall be employed by or contracted with the City. This shall not apply to any person employed by the City prior to the person related in the above degree filing to run for elective office or being nominated for an appointment.

Section 13.02 Equality of Rights

Equality of rights under state and federal law shall not be denied or abridged with respect to appointment to or removal from any position because of race, gender, age, national origin, political or religious opinions or affiliations.

Section 13.03 Wrongful Influence

No person, who seeks appointment or promotion with respect to any City position, shall, directly or indirectly, give, render or pay any money, service, or other valuable thing to any person for, and in connection with, his/her test, appointment or promotion.

Section 13.04 Penalties

Any person, who willfully engages in and is found in violation of any of the activities prohibited in Sections 13.02 and 13.03 of this Article, shall be ineligible for appointment or election to a position in the City for a period of five (5) years from that time. If the person is an officer or employee of the City at the time of the violation, such individual shall immediately forfeit that individual's office or position, if found in violation.

Section 13.05 Indebtedness to City

No person who, after notice of any delinquency, is in arrears in the payment of taxes or any other liabilities due the City, shall be qualified to hold an elective, appointive or compensative position of the City.

Section 13.06 Conflict of Interest

No officer, whether elected or appointed, or any employee, whether full or part-time, of the City shall have a substantial financial interest, direct or indirect, in any contract, other than employment contracts, with the city; or have a substantial financial interest, direct or indirect, in the sale to the City of any land, materials, supplies or services, except on behalf of the City as an officer or employee, except as allowed by

state law. Any willful violation of this Section shall constitute malfeasance in office, and any officer or employee found guilty thereof shall thereby forfeit that individual's office or position. Any violation of this Section with the knowledge, express or implied, of the person or the corporation contracting with the governing body of the City shall render the contract involved voidable by the City Manager, unless reinstated by the City Manager or the affirmative vote of the majority of the full membership of the City Council.

Section 13.07 No Officer or Employee to Accept Gifts

- (1) No officer or employee of the City shall ever accept, directly or indirectly, any gift, favor or privilege during the term of office of such officer, or during the employment of such employee, if that gift, favor or privilege is made, or can be perceived to be made, to obtain benefit or favor for the donor of such gift, favor or privilege.
- (2) No officer is prohibited from receiving campaign contributions as provided by the Texas Election Code.
- (3) No officer or employee of the City is prohibited from receiving nominal gifts, expense reimbursement or compensation for participation in speaking engagements or continuing education events while representing the City.
- (4) Any officer or employee of the City who shall violate the provisions of this Section shall be referred to law enforcement for prosecution, and may immediately be removed from office or employment.

ARTICLE XIV -- GENERAL PROVISIONS

Section 14.01 Oaths of Office

Every person elected or appointed to any office shall, before entering upon the duties of that office, take and subscribe to the oath of office prescribed by state law.

Section 14.02 Claims Against the City

Before the City shall be liable for damages, for personal injury of any kind, or for damage to property, the person who is injured or whose property is damaged or someone on behalf of that person shall give the City Manager notice of the alleged claim in writing within six (6) months after the date of the alleged injury or damage. The notice shall state specifically when, where, and how the injury or damage was sustained, setting forth the extent of the injury or damage as accurately as possible. The party also shall, whenever possible, give the names and addresses of all witnesses known to the claimant and upon whose testimony claimant is relying to establish the injury or damage. In case of injury resulting in death, the person or persons claiming damage shall within six (6)

months after the death of the injured person give notice as required above. Failure to notify the City of such a claim within six (6) months from the date of the claim shall exonerate, exempt and excuse the City from any liability whatsoever. Nothing in this section shall be construed to mean the City waives any rights, privileges, defenses or immunities in tort action, or otherwise, which are provided under common law and state law.

Section 14.03 Liens, Assignment, Execution and Garnishment

The real and personal property belonging to the City shall not be liable for sale or appropriation under any writ or execution or cost bill, and no lien of any kind shall ever exist against any such property owned by the City except that the lien be created or authorized by this Charter or by state law.

The funds belonging to the City in the hands of any person, firm or corporation shall not be liable to garnishment, attachment or sequestration. The City 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 or garnishment on any account whatsoever. The City shall not be obligated to recognize any assignment of wages or funds by its employees, agents or contractors except by court order or as otherwise required by state law.

Section 14.04 References to State and Federal Law

Wherever in this Charter reference is made to “state law” or “federal law” unless explicitly provided otherwise, such reference shall mean state or federal law currently in effect and shall not be limited to state or federal law as it existed at the time of adoption of this Charter, or any relevant portion hereof.

Section 14.05 Severability

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

Section 14.06 Charter Amendment

Proposed amendments to this Charter shall be framed and submitted to the voters of the City in the manner prescribed by state law.

The Council shall, at intervals not to exceed five (5) years, formally consider the need for revision(s) to the Charter. This review shall be based on a written report from the City Manager, with special attention given to conflicts, if any, between the Charter and state law, and recommending such amendments to the Charter as may seem necessary for legal, administrative or other reasons.

ARTICLE XV -- TRANSITIONAL PROVISIONS

Section 15.01 Officers and Employees

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.

Persons, who on the date this Charter is adopted, are filling appointive positions with the City which are retained under this Charter, shall continue to fill these positions for the term for which they were appointed, unless removed by the Council or by other means provided for in this Charter.

Section 15.02 Effect on Existing Laws

All City ordinances, rules and regulations in force at the time of adoption of this Charter and not in conflict with it shall remain in force until altered, amended or repealed by the Council. All rights of the City under existing franchises and contracts are preserved in full force and effect.

Any ordinances, rules or regulations inconsistent with this Charter are repealed as of the date of adoption of the Charter.

Section 15.03 Submission of Charter to Election

The Charter Commission, in preparing this Charter, finds and declares that it is impracticable to segregate each subject so that the voter may vote “yes” or “no” on the same, for the reason that the Charter is so constructed that in order to enable it to properly function it is necessary that it should be adopted in its entirety. For this reason, the Charter Commission directs that this Charter be voted upon as a whole, and that it shall be submitted to the qualified voters of the City at an election to be held on the fourth day of November, 2008. If this Charter is approved by a majority of the qualified voters, voting at this election, it shall become the Charter of the City of Pittsburg on the date the Council enters an order in the records of the City declaring that the Charter is adopted.

APPROVED FOR SUBMISSION ON MAY ____, 2008.

CHARTER COMMISSION

David Abernathy, Chairman

Patti Ayers

Angela Hammonds, Vice-Chairman

Kendal Burns

Dorothy Drayton

Willie Edwards

B Gooding

Jim Jordan

Douglas Kirkham

Debbie Knox

John Livingston

Burt Marans

Sue Sharp

Tomasia Torres

Scottie Traylor