Home Rule Charter

City of Manvel, Texas

Charter Commission Members

Appointed by City Council
July 27, 2009

Sworn in
August 18, 2009

Doyle Fenn, Chair
John Pyburn, Vice-Chair
Judy Armstrong
James Barham
Marvin Booth
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Mayor and Councilmembers

Delores Martin, Mayor
Bob Long
Gary Garnett
Melody Hanson
Mack Ivy
Buddy Williams

Charter Election: _____
Charter Adoption: _____

MANVEL CHARTER COMMISSION
Manvel, Texas

February 14, 2011

The Honorable Delores Martin, Mayor
and City Council of the City of Manvel, Texas
City Hall
Manvel, Texas

Mayor and Council:

In July 2009 City Council appointed fifteen citizens of Manvel to draft a City Charter. We have completed our work and submit herewith the original copy of a Home Rule Charter for the City of Manvel as drafted by the Charter Commission.

The Charter Commission, in compliance with the applicable State statute, has designated May 14, 2011 as the date on which this Home Rule Charter is to be submitted to qualified voters for adoption. Your attention is directed to Chapter 9 of the Texas Local Government Code, as amended, requiring that not less than thirty (30) days prior to the date designated for submission of the Charter to the voters, the City Secretary shall mail a copy of the Charter to each qualified voter of the City of Manvel.

Manvel is a dynamic community destined for major growth. Manvel currently has fewer than 10,000 people within our boundaries, but the City's Comprehensive Plan estimates the population will grow to over 125,000 people. The current form of government has served the city well but growth will bring the need for a new more responsive form of government. Manvel operates now as a General Law city. As such, City Council can only do what the laws of the State of Texas specifically allow. This restricts our city government, and thus does not provide the flexibility needed to make the kinds of decisions required for our future. Cities over 5,000 population have the option under state law to develop a Charter, submit it to the voters and become a Home Rule city. Home Rule cities are authorized to self-govern, and have the authority to take any action necessary on behalf of its citizens that is not specifically prohibited by state or federal law. The Commission believes that becoming a Home Rule city with a Charter adopted by the citizens of Manvel is not only important, but now is the right time. The ability to self-govern and to have the privileges afforded to Home Rule Cities puts Manvel in a position to meet the needs of its citizens as development and growth continues.

Every single section of this Charter was carefully and thoughtfully deliberated. The Commission was not always unanimous in its decisions on the issues. However, the Commission was and is unanimous in its desire to prepare this document for the future of this community. The City Council and the citizens are urged to review every section of this document with that in mind. It is recognized that not all citizens will be in agreement with every section of this Charter, just as every member was not in full agreement. Citizens are urged to look at the entire document, with an eye toward the good that it will do.

There are a few features of the proposed Charter that bear additional discussion. These features were the subject of considerable research and deliberation. The Commission trusts this explanation will assist Council and the voters in understanding our rationale.

- **Council-Manager form of government.** This Charter provides for Manvel to have a city manager. There are basically two choices for administering cities in Texas: Strong Mayor and Council-Manager forms of government. The Commission reviewed each system, and in the end determined that it would be best for the long-term management of the city to have a full time city manager. In our area there are a number of strong mayor cities, including Houston, Pasadena and Texas City. In these cities the mayor serves as both the chief elected official and the chief administrative officer. All cities have mayors, but with the exception of the ones mentioned most serve as the chief elected official providing leadership as a member of the city council in setting policy. Most cities of any size in Texas have a professional manager providing leadership at the administrative level, relying on the mayor and council to set policy. The Commission is of the opinion that for the long term, Manvel will be well served by the Council-Manager form of government.

- **City Council.** There are a myriad of options related to the election and terms of office for a City Council. These decisions made regarding the number of Council members, terms of office, term limits, and method of election bears additional discussion.

  - **Number of Council members**. There is no set formula to determine the number of Council members to be elected. After reviewing provisions from several cities, the Commission decided that adding a Council member and making the Mayor a voting member of Council is important. Currently, the Mayor does not vote, and cannot even be counted in determining a quorum to conduct business. Under the Charter, the Mayor will do both. He/she will continue to be the head of the Council, but will not have administrative duties, except in the case of an emergency as provided by State Law. Having seven members assures a wider representation in the city and provides for the Mayor to be a voting member of the City Council.

  - **Terms of office**. It is believed that in the long run three-year terms for the Mayor and Council is important and appropriate. Two-year terms are required for general law cities. Home Rule cities have both two and three year terms for their Council members. In today's complex society, with many laws and requirements being imposed on cities, the Commission believes it is better to give our elected members an additional year on their term so that their combined experience, history and knowledge will allow them to better serve all of Manvel.

  - **Election by majority**. Three year terms require election by a majority (over 50%) vote. Currently, members are elected by plurality, that is, the candidate receiving the most votes wins, regardless of whether that candidate receives a majority of votes. In a contested race with only two candidates, the winner is elected by the majority. Likewise, when there are three or more candidates, the Commission believes the candidate who receives the majority vote should win. It is recognized that may require a run-off. The Commission was concerned about the increased cost of elections for run-offs. It is estimated that a run-off election would cost less than $3,000. The Commission believes this added cost would be justified to ensure that our

elected officials are elected by a majority of voters in Manvel, just as candidates are in most Home Rule cities, and all county, state and national elections.

- **Term limits.** The Commission does believe there should be a limit to the number of consecutive terms a Council member can serve. The Charter provides that members can serve no more than four (4) consecutive terms or a total of twelve (12) consecutive years.

- **Method of election.** It is appropriate to continue to elect our Council on an at-large basis rather than from single member districts. Manvel currently has a small population with a large land area. To create districts with equal population would be difficult at best, and as the population grows these districts would have to be adjusted regularly. Although single member districts do ensure council representation over the entire geographical area of the city, the administration of districts will increase the cost of elections. In addition, the creation of districts requires additional legal expertise to ensure compliance with the Voting Rights Act and requires the pre-approval of the Justice Department at the outset and any time the boundaries are adjusted. This is an additional requirement that may be needed someday, but is not justified at this time.

- **Eminent domain.** There are times when city government needs to take private property for a public purpose such as easements and rights of way for water and sewer lines and streets. The State of Texas has placed many restrictions on a city's ability to take property for public purposes, not the least of which is to ensure a property owner is duly compensated for the taking. These laws apply to the City of Manvel now and this Charter likewise allows the Council to use the power of eminent domain within the guidelines established by the State. Further, the Charter provides that when the Council is considering such an action, a two-thirds majority of the entire Council must vote to proceed. This additional requirement is more restrictive than State Law in order to ensure the need and commitment of the Council for such an action.

- **Issuance of bonds**. All cities, both general law and home rule, are authorized to issue bonds and incur debt for public improvements. Cities can issue bonds that have been voted upon by the citizens, or Councils may authorize the issuance of debt called Certificates of Obligation. The Commission had several discussions on whether to further restrict the Council's ability to issues Certificates of Obligation. The Commission is of the opinion there are sufficient restrictions that apply now to the issuance of these type bonds. And it should be noted these restrictions would continue to apply in our city whether this charter is adopted or not. Importantly, the Commission believes that any further restriction on the Council will likely increase the cost of government and may even have an adverse effect on their ability to provide sufficient funds to correct issues related to emergencies such as hurricanes or other natural disasters. In the end, the Commission decided the state laws provide a sufficient protection to the citizens of Manvel and prepared the Charter provisions to be consistent with State Law.

- **Charter amendments.** The Commission hopes this document stands the test of time. However, times and laws do change, and this Charter should be reviewed regularly with the opportunity provided for the citizens to vote on any amendments. The Charter provides that at least every five years, the City Council must appoint a Charter Review Commission to review

and make recommendations for changes. Only the registered voters in the city can vote on any change. As such any of the measures discussed in this letter, or provided in this Charter, can be changed when needed to meet the conditions and issues of the time.

We commend this Charter to the citizens of Manvel and urge its adoption. It is our belief that this Charter will permit our City Government to operate in a more effective and satisfactory manner in the best interest of all citizens now and in the future.

We respectfully request that a copy of this letter of transmittal be attached to each copy of the proposed Charter when mailed to all voters.

Respectfully Submitted,

MANVEL CHARTER COMMISSION

Doyle Fenn, Chairman

John Pyburn, Vice Chairman

Judy Armstrong	James Barham	Marvin Booth	Merl Bradley
Roger Calvert	John Cox	David Davila	Debra Davison
Patty Garnett	Karen Kinlaw	Peggy Marasckin	Stewart Martin
Gwen Richards			

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PREAMBLE

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

ARTICLE I
INCORPORATION, FORM OF GOVERNMENT AND BOUNDARIES

Sec. 1.01. Incorporation, corporate name.

All inhabitants of the City of Manvel, Brazoria County, Texas, within the boundaries of said City now established or as hereinafter established in the manner provided by law, shall constitute a municipal body politic incorporated under the name of the "City of Manvel," hereinafter referred to as the "city," with such powers, rights, authority, privileges, obligations, and immunities as are herein provided.

Sec. 1.02. Form of government.

The municipal government provided by this charter shall be known as a "Council-Manager form of Government." Pursuant to the provisions of, and subject only to the limitations imposed by, the state constitution, state laws and this charter, all powers of the city shall be vested in an elective council, hereinafter referred to as the "city council" or the "council."

Sec. 1.03. Corporate boundaries.

The boundaries and limits of the city are hereby established and described as those boundaries heretofore established in the original incorporation proceedings of the city, and those boundaries established and changed thereafter by all annexation ordinances and proceedings of the city, filed in the office of the city secretary.

ARTICLE II
POWERS OF THE CITY

Sec. 2.01. General powers of the city.

(a) The city shall have all powers, functions, rights, privileges, and immunities of every name and nature that are now or hereafter may be granted to municipal corporations by the constitution and laws of this State, together with all implied powers necessary to carry into execution all such powers granted.

(b) Among such powers, the city shall have police powers, the power to adjust its boundaries, to contract and to co-operate with the government of the State of Texas or any agency or subdivision thereof, or with the federal government or any agency thereof, to accomplish any lawful purpose. The City may use a corporate seal; may acquire property within or outside of its corporate limits for any purpose in fee simple, or in any lesser interest or estate, and, subject to the provisions of this charter, may sell, lease, mortgage, hold, manage, improve, exchange, and control property as may now or hereafter be owned by it; may access, levy and collect taxes for general and special purposes on all lawful subjects of taxation; may borrow and appropriate money for all lawful purposes; may furnish municipal services, both within and outside of its corporate limits; may provide for the expenditure of public funds for a retirement system, group health, life and accident insurance coverage, and surety bonds for City employees or officers; may pass ordinances, resolutions, and enact such regulations as may be expedient for the maintenance of good government, order and peace of the city and the interest, welfare, health, morals, comfort, safety, security, and convenience of the city and its inhabitants consistent with the provisions of this charter.

Sec. 2.02. General powers adopted.

The enumeration of the particular powers of this charter shall not be held or deemed to be exclusive, but in addition to the powers enumerated herein or implied hereby or appropriate to the exercise of such powers, the city shall have and may exercise all powers of local self-government and all other powers which, under the Constitution and laws of the State of Texas, it would be competent for this charter specifically to enumerate.

Sec. 2.03. Annexation.

(a) The council shall have the power, by ordinance, to fix boundaries of the city and to provide for the alteration or the extension of said boundaries, pursuant to any laws of the State of Texas now or hereinafter enacted, with or without the consent of the owners or inhabitants of such territory.

(b) The annexation ordinance shall describe the territory to be annexed. Notice shall be published and public hearings held as required by state law. Amendments not enlarging or extending the boundaries set forth in the proposed ordinance may be incorporated therein without the necessity of republication of said notice. The additional territory annexed shall be a part of the city and the property situated therein shall bear its pro rata share of the taxes levied by

the city as provided by state law. The inhabitants thereof shall be entitled to all the rights and privileges of other citizens and shall be bound by the acts, ordinances, resolutions, and regulations of the city.

Sec. 2.04. Disannexation.

The council may, by ordinance, disannex any territory within the corporate boundaries of the city, if the council determines that the territory is not necessary or suitable for city purposes, and may exchange territory with other municipalities. When a disannexation ordinance is passed, the disannexed territory shall cease to be a part of the city.

Sec. 2.05. Eminent Domain.

The city shall have the full right, power and authority to exercise the power of eminent domain when necessary or desirable to carry out any of the powers conferred upon it by this charter, or by the constitution or laws of the State of Texas. The power of eminent domain hereby conferred shall include the right of the city to take fee title and easement interest in the lands so condemned, and such power and authority shall include the right to condemn public or private property for such purposes. The power of eminent domain shall be limited as provided in the constitution and laws of the State of Texas.

It shall take an affirmative vote of two-thirds (2/3) of the entire council (including the mayor) to institute and culminate eminent domain proceedings.

Sec. 2.06. Power to acquire property inside and outside city for any lawful purposes.

The city shall have the power to sell and acquire property either private or public located inside or outside its corporate limits for any lawful purpose.

Sec. 2.07. Other powers.

In addition to the powers granted above, the city may regulate and control the use, for whatever purpose, of the streets and other public places; may make and enforce all police, health, sanitation, and other regulations; and may pass such ordinances as may be expedient for the protection and maintenance of good government, peace and welfare of the city, for the performance of the functions thereof, for the order and security of its residences; and may provide suitable penalties for the violation of any ordinance enacted by the city; and, except as prohibited by the constitution and laws of this state or restricted by this charter, the city may exercise all municipal powers, functions, rights, privileges, and immunities of every name and nature whatsoever.

ARTICLE III
CITY COUNCIL AND MAYOR

Sec. 3.01. Governing body.

The governing and lawmaking body of the city shall consist of a mayor and six (6) councilmembers and shall be known as the city council or the council.

Sec. 3.02. Elective officers.

The mayor and the councilmembers shall be elected and hold office as herein provided:

(a) Each councilmember shall be elected to and occupy a place on the council, such places being numbered 1, 2, 3, 4, 5 and 6.

(b) The mayor and all members of the city council shall be elected by the qualified voters of the entire city, commonly known as "at large." Each councilmember shall be elected at large by place. See Section 3.02(a).

(c) All councilmembers and the mayor shall be elected for terms as follows:

(1) If this charter is adopted, the mayor shall be elected for a three-year term at the regular city election held in May 2011 and, thereafter, elected to three-year terms.

(2) If this charter is adopted, councilmembers who hold positions 3 and 5, which terms expire in 2011, shall be designated as places 3 and 5, and the councilmembers elected to such places at the regular city election held in May 2011 shall be elected for three-year terms and, thereafter, elected to three-year terms.

(3) If this charter is adopted, councilmembers who hold positions 1 and 2, which terms expire in 2012, shall be designated as places 1 and 2, and the councilmembers elected to such places at the regular city election held in May 2012 shall be elected for three-year terms and, thereafter, elected to three-year terms.

(4) If this charter is adopted, the councilmember who holds position 4, which term expires in 2012, shall be designated as place 4, and the councilmember elected to such place at the regular city election held in May 2012 shall be elected for a one-year term and, thereafter, beginning in the regular city election held in May 2013 shall be elected to three-year terms.

(5) If this charter is adopted, councilmember place 6 will be filled at the regular election held in May 2011, for a two-year term and, thereafter, beginning in the regular city election held in May 2013, shall be elected to three-year terms.

(d) The members of city council at the time of adoption of this charter shall have all the powers and duties granted in this charter.

(e) The limitations prescribed in section 3.03 of article III of this charter shall apply to all persons elected or appointed to a three-year term of office in 2011 and thereafter, but will not include terms of office which began prior to adoption of this charter or the initial one-year term of office of councilmember place 4 or the initial two-year term of office of councilmember place 6.

Sec. 3.03. Limitation on consecutive terms for elected officials.

(a) A person who has been elected as mayor or councilmember for four (4) consecutive terms shall not again be eligible to become a candidate for, or to serve in the office of, mayor or councilmember until the second regular election after the fourth consecutive term has expired.

(b) For the purposes of this section, a term of office shall be defined as an elected period of three (3) years (defined as from regular election date to general election date). A person elected to fill an unexpired term or terms of less than three (3) years may serve four additional consecutive terms.

(c) A councilmember shall be considered to serve consecutive terms if serving in different places consecutively; however, it shall not be considered a consecutive term when a councilmember is elected to the office of mayor. However, a person who has served eight (8) consecutive terms as both mayor and councilmember shall not again be eligible to serve in either capacity until the second regular election after the eighth consecutive term has expired.

(d) If an incumbent seeks a different elected office or elected position of the city other than that which he/she then holds, he/she shall submit a letter of resignation to the city council at least seventy-five (75) days prior to the date of election for such desired office or position. Unless otherwise prohibited by operation of law or this charter, the incumbent shall hold over in the office or position subject to resignation until their successor qualifies for the incumbent's vacated position, or until such incumbent qualifies for the different office or position sought, whichever first occurs.

Sec. 3.04. Qualifications.

(a) *Candidates.*

Each person who becomes a candidate for mayor or councilmember shall meet the following qualifications:

(1) Be at least twenty-one (21) years of age on the first day of the term to be filled at the election;

(2) Be a citizen of the United States;

(3) Be a qualified voter of the city;

(4) At the time of the election, and for at least twelve (12) consecutive months preceding the election, shall reside within the corporate limits of the city;

(5) No candidate may file for more than one (1) office or place number per election;

(6) No employee of the city shall be a candidate for a city elective office;

(7) Must not have been convicted of a felony or any offense involving moral turpitude.

(b) When any member of the council or the mayor no longer possesses all of the qualifications specified in this section, or is convicted of a felony or any offense involving moral turpitude while in office, the office shall immediately and automatically become vacant. The council shall be the judge of the qualifications of its members in accordance with Section 3.08(b) and for these purposes shall have the power to conduct a tribunal, subpoena witnesses and require the production of records.

Sec. 3.05. Compensation.

Unless approved by the voters, city council shall not be compensated. Members of the city council may, however, be reimbursed for approved expenses incurred during the course of their duties. Reimbursement guidelines and requirements for members of the city council shall be the same as for city employees.

Sec. 3.06. Presiding officer; duties of mayor.

The mayor shall preside over the meetings of the council, and perform such other duties consistent with the office as may be imposed upon him/her by this charter, and by ordinances and resolutions passed in pursuance thereof. He/She shall participate in the discussion of all matters coming before the council, may make or second motions on all matters before the council, and shall have a vote. He/She shall be recognized as the official head of the city by the courts for the purpose of enforcing martial law and for all ceremonial purposes.

Sec. 3.07. Mayor pro tem.

At the first meeting after each regular election or regular runoff election, if any, or as soon thereafter as practicable, the city council shall appoint one (1) of its councilmembers as mayor pro tem who shall hold said office for one (1) year. The mayor pro tem shall perform the duties of mayor in case of the absence or disability of the mayor.

Sec. 3.08. Vacancies; forfeiture of office; filling of vacancies.

(a) *Vacancies.*

The office of the mayor or a councilmember shall become vacant upon the mayor or councilmember's death, resignation, removal from office (in any manner authorized by law), or forfeiture of office.

(b) *Forfeiture of office.*

The mayor or a councilmember shall forfeit his/her office if, during a term of office, the mayor or councilmember:

(1) is no longer a US citizen or qualified voter of the city or lacks any qualification for the office prescribed by this charter or by other law;

(2) violates any express prohibition of this charter;

(3) is convicted of a felony or is convicted of a crime involving moral turpitude; or

(4) Fails to attend three (3) consecutive regular meetings of the council without being excused by the council.

When any member of the council or the mayor no longer possesses all of the qualifications specified in this section, the office shall immediately and automatically become vacant. The council shall be the judge of the qualifications of its members and for these purposes shall have the power to conduct a tribunal, subpoena witnesses and require the production of records. The council shall, by an affirmative vote of a majority of the entire membership, be the final judge in matters involving forfeiture of office by a councilmember or the mayor.

(c) *Filling of vacancies.*

If a vacancy or vacancies occur on the council, then the remaining councilmembers shall call a special election for the purpose of filling the unexpired term in accordance with state law.

Sec. 3.09. Meetings of the city council.

The city council shall hold at least one (1) regular meeting each month and as many additional special meetings as they deem necessary to transact the business of the city. Special meetings may be held on the call of the mayor or four (4) or more councilmembers. The city council shall fix, by resolution, the days and times of the regular meeting. All meetings of the city council shall be held at the city hall, or at such other public place as may be approved by city council, and all meetings of the city council shall be open to the public, except as authorized by state law. Each member of city council, if present, shall vote upon all matters before the city council, except when the matter involves the consideration of that member's own official conduct or where that member's participation in the vote is prohibited by state law.

Sec. 3.10. Rules of procedure.

The city council shall, by resolution, determine its own rules and order of business. The city council shall provide for minutes being taken and recorded of all its public meetings, and such minutes shall be a public record. Four (4) members of city council shall constitute a quorum for the purpose of transaction of business, and no action of the city council shall be valid or binding unless approved by the affirmative vote of a majority of the entire city council. If, at any meeting of four (4) or more members of the city council, neither the mayor nor mayor pro tem is

present, then those councilmembers present shall elect one of their numbers to be the chairman for conducting the meeting as provided herein.

Sec. 3.11. Code of ethics and conduct.

The city council shall adopt, by ordinance, a code of ethics and conduct that is consistent with the provisions of this charter and the laws of the State of Texas. The code of ethics and conduct shall be applicable to all elected officers, appointed board, commission, and committee members, and employees of the city.

ARTICLE IV
RESPONSIBILITIES OF THE CITY COUNCIL

Sec. 4.01. Powers of the council.

All powers and authority, including determination of all matters of policy, which are expressly or by implication conferred on or possessed by the city, shall be vested in and exercised by the council; provided, however, the council shall have no authority to exercise those powers that are expressly conferred upon other city officers by this charter.

Sec. 4.02. Appointment of members of boards and commissions.

The members of all boards and commissions created by this charter or by the council shall be appointed by the council. Members of all boards shall be residents of the city, unless otherwise provided by law.

Sec. 4.03. Investigative powers of the council.

The council as a whole shall have the power to inquire into or investigate the official conduct of any department, agency, officer, or employee of the city and, for that purpose, shall have the power to administer oaths, subpoena witnesses, compel the production of books, papers, records, or other evidence, conduct a tribunal, and as shall be provided by ordinance, to punish and fix penalties for contempt for failure or refusal to obey any such subpoena or to produce any such books, papers, records, or other evidence. All powers granted by this section shall be exercised only in a meeting of a quorum of the council held in compliance with state law.

Sec. 4.04. Depository of city funds.

The council shall select a depository, according to state law, for city funds.

Sec. 4.05. Interference in administrative matters.

The city manager shall be the chief administrative officer and the head of the administrative branch of the city. Except for the purpose of inquiry or investigation, the council and its members shall deal with the administrative departments and personnel solely through the city manager, and no member of the council shall give orders to any subordinate of the city manager, either publicly or privately.

Sec. 4.06. Appointive offices.

In addition to the elected officers, the other officers of the city shall be the city manager, city secretary, municipal court judge, and city attorney, and such other officers as the council may from time to time establish. The council may abolish or consolidate such offices and positions as it may deem to be in the best interest of the city and may divide the administration of such offices or positions as it may deem advisable, create new offices and positions, and discontinue any office or position at its discretion, except the offices of city manager, city secretary, municipal court judge, and city attorney. Removal of officers appointed by the city council shall be at the discretion of the council, by vote of the majority of the entire council.

Sec. 4.07. State of emergency.

(a) A state of emergency shall be deemed to exist during periods of impending or actual public crisis or disaster. A state of emergency may be declared by the vote of the council, or by order of the mayor as authorized by state law, or, in his/her absence or disability, the mayor pro tem, and in the absence or disability of the mayor and mayor pro tem, by three (3) members of the council, if a meeting of the council cannot be called within the time available, and conditions threaten to render the normal procedures of the city inadequate for the protection of persons or property. During a state of emergency, the mayor, or, in his/her absence or disability, the mayor pro tem shall have all the powers that would be vested in the council by state law to the extent he/she considers reasonable or necessary for the protection of persons or property.

(b) The emergency powers herein provided shall be exercised only to the extent made necessary by the nature of the emergency and during the continuation of the state of emergency.

(c) The mayor, or person authorized by this charter to carry out the duties of the mayor, or the council by a majority vote, shall be authorized to declare the emergency terminated.

Sec. 4.08. Validation of all ordinances, rules and regulations.

All ordinances, resolutions, rules and regulations of the city heretofore ordained, passed, adopted, or enacted, that are in force at the time this charter becomes effective, and which are not in conflict with this charter, shall remain in full force and effect until altered, amended or repealed by the council after this charter takes effect.

Sec. 4.09. Form of ordinances.

Every proposed ordinance shall be introduced in writing and in substantially the form required for final adoption. The subject of the ordinance shall be clearly expressed in its title. The enacting clause of every ordinance shall be: "Be it ordained by the city council of the city of Manvel," but the same shall be omitted when the ordinances of the city are codified and published in a book or pamphlet form by the city. Any ordinance that repeals or amends an existing ordinance or part of the city code shall clearly set forth the provision or provisions being repealed or amended and, if amended, shall further clearly set forth the amendment being made.

Sec. 4.10. Procedure for enacting ordinances and resolutions; publication.

(a) Ordinances and resolutions may be passed at any regular or special meeting called for that purpose provided notice has been given in accordance with the Texas Open Meetings Act.

(b) All ordinances, except those defined in Section 4.10(f), shall be considered and passed at two (2) separate council meetings. On second presentation, the council may consider and approve any changes it deems necessary from the ordinance presented at first reading, unless otherwise provided by state law.

(c) The descriptive caption or title of an ordinance that imposes a penalty, fine or forfeiture and the penalty for violating the ordinance shall be published at least once in the official newspaper of the city.

(d) An ordinance required to be published takes effect when the publication requirement is satisfied, unless the ordinance provides otherwise, and an ordinance that is not required to be published takes effect when adopted, unless the ordinance provides otherwise.

(e) The city attorney shall review and approve as to form all proposed ordinances prior to adoption and shall make any suggestions and/or objections to said ordinance in writing to the city council.

(f) The requirement of reading an ordinance at two (2) council meetings shall not apply to ordinances relating to the adoption or amendment of a budget, the assessment, levy, or collection of taxes, the calling of an election, or the canvassing of the returns and declaration of results of an election, the incurring of indebtedness, including, specifically, the issuance or sale of bonds or certificates of obligation, or an emergency if so declared by council.

(g) An ordinance requiring two (2) readings shall be deemed rejected if approval on second reading is not obtained within ninety (90) days of the date approval on first reading is obtained.

Sec. 4.11. Emergency ordinances.

The council may adopt emergency ordinances only to meet public emergencies affecting the life, health, property, or the public peace. Such ordinances shall not grant, renew, or extend a franchise, or regulate the rate charged by any public utility for its services. An emergency ordinance shall be introduced in the form and manner generally prescribed for ordinances, except that it shall be plainly designed in the title as an emergency ordinance and shall contain, after the enacting clause, a finding stating that an emergency exists and describing such emergency in clear and specific terms. An emergency ordinance can be adopted with or without amendment or rejected at the meeting at which it is introduced. The affirmative vote of four (4) members of the council shall be required for adoption. After adoption, the ordinance shall be published as required for other adopted ordinances, but may become effective immediately upon enactment.

Sec. 4.12. Codification of ordinances.

The city council shall cause all general ordinances of the city to be compiled and printed in code form. For the purpose of this section, general ordinances shall be deemed to be those ordinances of a permanent nature which affect the residents of the city at large. Every general ordinance enacted subsequent to the original codification required above shall be enacted as an amendment to the code. When adopted by the city council, the printed codes of general ordinances contemplated by this section shall be known and cited officially as the "Manvel City Code" and shall be in full force and effect without the necessity of such code or any part thereof being published in any newspaper, unless otherwise required by law. The caption, descriptive clause, and other formal parts of the ordinances of the city may be omitted without affecting the validity of such ordinances when they are published as a code. Copies of the code shall be furnished to the city officers, placed in any city library for free reference, and made available for purchase by the public at a reasonable price.

Sec. 4.13. Proof of ordinance.

An ordinance of the city may be proved prima facie by a printed code of ordinances purporting to be printed by authority of the city, or by a copy of the ordinance certified by the city secretary to be a true copy of the same, or by the city secretary's record thereof.

ARTICLE V
CITY ADMINISTRATION

Sec. 5.01. Administrative departments.

(a) There shall be such administrative departments as are established by this charter and as may be established by ordinance. Except as otherwise provided in this charter, the administrative departments shall be under the direction of the city manager. The council shall have power, by ordinance, to establish administrative departments or offices not herein provided by this charter. The council may discontinue, redesignate, or combine any of the departments and/or administrative offices. No changes shall be made by the council in the organization of the administrative services of the city until recommendations by the city manager thereon shall have been heard by the council.

(b) The head of each department shall be a director, who shall have supervision and control over his/her department. Directors include persons who hold the positions of chief, superintendent or coordinator, if they report directly to the city manager. Two (2) or more departments may be headed by the same individual, and the city manager may head one or more departments.

Sec. 5.02. City manager.

(a) *Appointment and qualifications.*

(1) The council, by majority vote of the entire council, shall appoint a city manager, who shall be the chief administrative officer of the city.

(2) The method of selection shall be left to the discretion of the council so long as the method ensures orderly, non-partisan action toward securing a competent and qualified person to fill the position. The city manager shall be chosen solely upon the basis of the person's administrative training, experience, ability, and character.

(3) Neither the mayor nor any councilmember may be appointed as city manager or acting city manager while holding office or for a period of two (2) years thereafter.

(4) The city manager shall establish residency within the city unless excused by city council.

(b) *Compensation.*

The city manager shall receive compensation as may be fixed by the council.

(c) *Term and removal.*

(1) The city manager shall be appointed for a definite term, but may be removed at the discretion of the council, by a majority vote of the entire council.

(2) The action of the council in suspending or removing the city manager shall be final. It is the intention of this charter to vest all authority and fix all responsibilities of such suspension or removal in the council.

(3) The council is authorized to enter into a contract with a city manager to establish additional terms of employment.

(d) *Bond of city manager.*

The council shall require the city manager, before entering upon the duties of his/her office, to execute a good and sufficient surety bond, in such amount as the council may demand, payable to the city, and conditioned for the faithful performance of the duties of his/her office. The premium of such bond shall be paid by the city.

(e) *Powers and duties.*

The city manager shall be the chief administrative officer and head of the administrative branch of the city. He/She shall be responsible to the council for the proper administration of all the affairs of the city and to that end shall have the power and be required to:

(1) in cooperation with the city attorney, see that all state laws and city ordinances are effectively enforced;

(2) except as prohibited by this charter, appoint, suspend, and/or remove all or any one of the directors of departments of the city, with the concurrence of the city council, and shall have the authority to appoint, suspend, and/or remove all other employees of the city;

(3) exercise control and supervision over all departments and subdivisions thereof created by this charter, or that may hereafter be created by the council, except as hereinafter provided;

(4) attend all meetings of the council, except when excused by the council;

(5) prepare a proposed budget annually and submit it to the council each year and be responsible for the administration of such budget after its adoption;

(6) prepare and submit to the council at the end of the fiscal year a complete report on the finances and administrative activities of the city for the preceding year;

(7) keep the council advised of the financial condition and future needs of the city and make such recommendations as he/she deems advisable; and

(8) perform such other duties as may be prescribed by this charter or required by the council not inconsistent with this charter.

(f) *Acting city manager.*

The city manager, or the council, shall designate a qualified person of the city to perform the duties of the city manager in case of his/her absence or disability. Such designation by the city manager shall be subject to approval by the council. Upon resignation or termination of the city manager, the acting city manager shall perform the duties of the city manager until a new city manager or acting city manager is appointed by the council.

Sec. 5.03. Municipal court.

(a) There shall be established and maintained a court, designated as the "Municipal Court" for the trial of misdemeanor offenses, with all such powers and duties as are now or may hereafter be prescribed by the laws of the State of Texas relative to municipal courts.

(b) The municipal court shall be presided over by a magistrate who shall be known as the "Judge of the Municipal Court." The council may, by ordinance, divide the municipal court into two (2) or more panels or divisions, one of which shall be presided over by the presiding judge. Each additional panel or division shall be presided over by an associate judge, who is a magistrate with the same powers as the presiding judge. The judge or judges for said court shall be appointed by council for a term of three (3) years to run concurrent with the term of the mayor, but any Judge may be removed or replaced at any time at the discretion of the council, with or without cause, by a majority vote of the entire council. Each judge shall receive such salary as may be fixed by council and shall be a licensed attorney in the State of Texas.

(c) There shall be a court administrator of said court appointed by the city manager. Said administrator, and such deputies as may be authorized by the council and appointed by the city manager, shall have the power to administer oaths and affidavits, make certificates, keep records of the proceedings of the court, affix the seal of said court thereto, and generally do and perform any and all acts usual and necessary as performed by clerks and deputy clerks of courts. The city shall require the court administrator, before entering upon the duties of the office, to execute a good and sufficient surety bond, in such amount as the city may demand, payable to the city, and conditioned for the faithful performance of the duties of the office. The premium of such bond shall be paid by the city.

(d) In case of the disability or absence of the judge of the municipal court, the council shall appoint a qualified person to act as judge of the municipal court.

Sec. 5.04. City secretary.

There shall be a city secretary, who shall be appointed by and serve at the pleasure of the city manager, with the concurrence of council. There shall be an assistant city secretary, if authorized by council who shall act in the absence of the city secretary. The city secretary and assistant city secretary, if any, shall act as the secretary to the council.

The city secretary shall:

(1) attend all meetings of the council and keep accurate records of all actions taken by the council;

(2) maintain the official records and files of the city;

(3) administer oaths;

(4) attest contracts, certificates, and other legal instruments when executed by the authorized officers of the city;

(5) serve as the election official for all city elections; and

(6) perform such other duties as may be required of the city secretary by this charter, the council, or state law.

Sec. 5.05. City attorney.

(a) The council shall appoint a competent, duly qualified, licensed, and practicing attorney in the State of Texas, to be an attorney for the city, hereinafter referred to as the "City Attorney." He/she shall serve at the discretion of the council and shall receive for his/her services such compensation as may be fixed by the council. The city attorney shall be the adviser to, and attorney for, all of the offices and departments of the city, and shall represent the city in all litigation and legal proceedings; provided, however, the council may retain special counsel at any time it is deemed appropriate and necessary. The city attorney shall review and concur or dissent upon all documents, contracts, and legal instruments in which the city may have an interest. The city attorney shall perform such other duties prescribed by this charter, by ordinance, or as directed by the council.

(b) The council may contract with an attorney or with a firm of attorneys to perform the duties of the city attorney. If the council contracts with a firm, the firm shall designate a primary attorney for providing legal services to the city. A contract attorney shall not be considered as a city official but shall qualify as the city attorney under 5.05(a).

(c) There may be assistant city attorneys as may be authorized and appointed by the council and who shall receive such compensation as may be fixed by the council.

ARTICLE VI
ELECTIONS

Sec. 6.01. City elections.

The regular city officers' election shall be held annually in May, or on the date established by State law, at which time officers will be elected to fill those offices, the terms of which expire that year. The council shall fix the place for holding such election and notice of such election shall be published according to state law. In the order, ordinance, or resolution of the council calling any election at which more than one (1) councilmember shall be elected, the council shall, in calling such election, provide for a separate place on the ballot for each vacancy to be filled at such election, designating such positions as Place 1, Place 2, etc.; and in case an unexpired term is to be filled at such election, the place number for the unexpired term shall be so designated. The city council may elect to hold its election jointly with one or more other taxing jurisdictions. All city elections shall be nonpartisan.

Sec. 6.02. Special elections.

The council, by ordinance or resolution, may call such special elections as are authorized by state law, this charter, or for any other reason the council deems necessary, fix the date and place of holding same, and provide all means for holding such special elections in accordance with state law. The city council may elect to hold a special election jointly with one or more other taxing jurisdictions.

Sec. 6.03. Regulation of elections.

All general and special elections shall be held in accordance with the laws of the State of Texas regulating the holding of municipal elections and in accordance with this charter and all ordinances or resolutions adopted by the council for the conduct of elections. The council shall appoint the election judges and shall provide for the compensation of all election officials in the city elections and for all other expenses in holding said elections.

Sec. 6.04. Exception of Election Code.

In the event there is a conflict between any of the provisions of this charter and the Texas Election Code, or an omission of any elements or provisions necessary for the conduct of an election, then the provisions of the Texas Election Code then existing shall prevail.

Sec. 6.05. Filing for office; procedures.

(a) Each candidate for an elective office shall meet the qualifications set forth in Section 3.04.

(b) Any person so qualified who desires to become a candidate for election shall file an application with the city secretary, in accordance with the Texas Election Code.

Sec. 6.06. Holding other office.

(a) No person elected to the council shall, during the term for which he/she is elected to the council, hold or be appointed to any office, position, or employment in the service of the city, and no former member of the council shall hold any compensated, appointive city office or employment until one (1) year after the expiration of the term for which he/she is elected to the council. This section shall not prohibit a member of the council from serving on the board of an economic development corporation, crime control and prevention district, or other instrumentality of the city.

(b) If any member of a board or commission appointed by the council shall become a candidate for election to any public office of the city, he/she shall immediately upon his/her being elected, forfeit his/her office or place as a member of such board or commission.

(c) If any employee of the city becomes a candidate for election to any public office of the city he/she shall, immediately upon becoming a candidate, forfeit the employment held with the city.

Sec. 6.07. Official ballots.

(a) *Candidates names on ballots.*

The names of all candidates who have filed for office shall be printed on the official ballot, without party designation. The order on the ballot of the names of the candidates for each office or position shall be determined by lot in a drawing to be held under the supervision of the city secretary, or as otherwise required by state law.

(b) *Early voting.*

Early voting procedures shall be governed by the Texas Election Code.

Sec. 6.08. Canvassing of election results.

Returns of every municipal election shall be delivered forthwith by the election judges to the city secretary with a copy of the returns being sent to the mayor. The council shall canvass the returns and declare the official results of the election in accordance with the Texas Election Code. The qualified person receiving a majority of the votes cast for any office shall thereupon be declared elected by said council. The council shall be the final judge of the qualifications of its own members. The decision of the council, as to qualifications of candidates, shall be conclusive and final for all purposes.

Sec. 6.09. Runoff election.

In the event no candidate for office receives a majority of all votes cast for such office at such election, the council shall call a runoff election within the time and manner required by law. In such runoff election, the two (2) candidates receiving the highest number of votes for such office shall be voted on again, and the candidate who receives a majority of the votes for such office in

the runoff election shall be elected to such office. The runoff election shall be held in accordance with state law.

Sec. 6.10. Notification of city officers.

The city secretary, with the concurrence of the council, shall promptly notify all persons elected to office. A candidate who is elected in a regular, special, or runoff election shall, after taking the oath of office as prescribed herein, take office and enter upon his/her duties.

Sec. 6.11. Oath of office.

Every officer of the city, whether elected or appointed, shall take the oath of office prescribed by the Texas Constitution prior to assuming office.

ARTICLE VII
INITIATIVE, REFERENDUM AND RECALL

Sec. 7.01. Initiative, referendum and recall.

(a) *The power of initiative.*

The qualified voters of the city shall have power to propose ordinances to the council and, if the council fails to adopt an ordinance so proposed without any change in substance, to adopt or reject it at a city election; provided, however, such power shall not extend to the budget or a capital program or any ordinance relating to appropriation of money, levy of taxes, issuance of bonds and notes, borrowing of money, salaries of city officers or employees, or matters related to administration of municipal employees, annexation or municipal boundary adjustments, or in any instance where a court of proper jurisdiction determines that the initiated ordinance has been removed from the field of initiative. With respect to zoning, the city will follow state law. Such initiative power may be used to enact a new ordinance or to repeal or to amend sections of any existing ordinances.

(b) *The power of referendum.*

The qualified voters of the city shall have power to require reconsideration by the council of any adopted ordinance and, if the council fails to repeal an ordinance so reconsidered, to approve or reject it at a city election provided that such power shall not extend to the budget or a capital program or any ordinance relating to appropriation of money, levy of taxes, issuance of bonds and notes, borrowing of money, salaries of city officers or employees, or matters related to administration of municipal employees, annexation or municipal boundary adjustments, or in any instance where a court of proper jurisdiction determines that the referred ordinance has been removed from the field of referendum. With respect to zoning, the city will follow state law.

(c) *The power of recall.*

The qualified voters of the city reserve the power to recall any elected official and may exercise such power by filing a petition in accordance with this article.

(d) *Qualified voter defined.*

As used in this charter, a qualified voter is a person who possesses the voter qualifications established by the Texas Election Code, and is a registered voter as defined by said Code.

(e) *Business day defined.*

As used in this charter, business day shall mean every day except Saturdays, Sundays, and official municipal holidays.

Sec. 7.02. Commencement of proceedings for initiative and referendum; of petitioners' committee; affidavit.

(a) Any fifteen (15) qualified voters may commence initiative or referendum 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, 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 ordinance sought to be reconsidered.

(b) Promptly after the affidavit of the petitioners' committee is filed, the city secretary shall verify that the applicants are qualified voters and, if they are, shall issue the appropriate petition blanks to the petitioners' committee.

Sec. 7.03. Petitions for initiative and referendum.

(a) *Number of signatures.*

Initiative and referendum petitions must be signed by qualified voters of the city equal in number to at least fifty-one (51) percent of the total number of votes cast in the last regular city election.

(b) *Form and content.*

All papers of a petition shall be uniform in size and style and shall be assembled as one instrument for filing. Each signature shall be executed in blue ink and shall be followed by the signer's printed name, the signer's date of birth or voter registration number, the signer's residence address, and date of signing. Petitions shall contain or have attached thereto throughout their circulation the full text of the ordinance proposed or sought to be reconsidered.

(c) *Affidavit of circulator.*

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

(d) *Time for filing petitions.*

Referendum petitions must be filed within 120 days after adoption by the council of the ordinance sought to be reconsidered. Initiative petitions must be filed within 120 days after issuance of the appropriate petition blanks to the petitioners' committee; additional time, as specified in 7.04, shall be allowed for supplemental petitions. All petitions shall be filed with the city secretary.

Sec. 7.04. Procedure after filing petition for initiative or referendum.

(a) *Review by city secretary and city attorney.*

Upon the filing of a petition, the city secretary shall review the petition to determine the existence of the requisite number of signatures of qualified voters and whether the form of the petition complies with the provisions of this charter. The city secretary shall also review the petition to determine the genuineness of the signatures. The city attorney shall review the petition for legal sufficiency. The council may provide, by ordinance, the punishment and penalties for contempt for failure or refusal to obey any subpoena or request for production of evidence issued by the city secretary or city attorney.

(b) *Certificate of city secretary.*

Within fifteen (15) business days after the petition is filed, the city secretary, with advice from the city attorney, shall complete a certificate as to its sufficiency or, if insufficient, shall set forth the particulars wherein it is defective and shall promptly send a copy of the certificate to the petitioners' committee by certified mail, return receipt requested.

(c) *Supplemental petition.*

A petition certified insufficient for lack of the required number of valid signatures, or due to inadequate form or content of the affidavit of certification, may not be supplemented, modified, or amended on or after the date it is received, except where expressly authorized by law.

(d) *Submission to city council.*

If a petition or supplemental petition is certified sufficient, or if a petition or supplemental petition is certified insufficient and the petitioners' committee does not elect to supplement as provided in subsection (c) above within the time required, the city secretary shall present this certificate to the council at the next scheduled city council meeting and the certificate shall then be a final determination as to the sufficiency of the petition.

Sec. 7.05. Withdrawal of signatures.

No signature shall be withdrawn from any petition after such petition has been filed with the city secretary. Before that date, a signer may withdraw his/her signature in the manner authorized by law.

Sec. 7.06. Referendum petitions; suspension of effect of ordinance.

When a referendum petition is filed with the city secretary, the ordinance sought to be reconsidered shall be suspended from taking effect. Such suspension shall terminate when:

(1) there is a final determination of insufficiency of the petition, or

(2) the council repeals the ordinance, or

(3) the ordinance is approved by the qualified voters of the city.

Sec. 7.07. Consideration by council and submission to electors.

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 sixty (60) days after the date of the certification to the council;

(b) submit said initiated ordinance without amendment to a vote of the qualified voters of the city at a regular or special election to be held on the next authorized uniform election date; or

(c) at such election, submit to a vote of the qualified voters of the city such initiated ordinance without amendment, and an alternative ordinance proposed by the council on the same subject.

When the council receives an authorized referendum petition certified by the city secretary to be sufficient, the council shall reconsider the referred ordinance and, if upon such reconsideration such ordinance is not repealed within forty-five (45) days after receipt of such certification, it shall be submitted to the qualified voters of the city at a regular or special election to be held on the next authorized uniform election date. 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 within two (2) years from the date of such election.

Sec. 7.08. Form of ballot for initiated and referred ordinances.

The ballot used in voting upon initiated or referred ordinances shall, as provided by the Texas Election Code, state the caption of the ordinance and to the left of the caption shall set forth on separate lines the words, "for" and "against."

Where an initiated ordinance and an alternative ordinance proposed by the council are submitted, the ballot shall state the captions of each ordinance, clearly designating them "Ordinance No. 1" and "Ordinance No 2," respectively, and shall set forth to the left of each caption on separate lines the words "for" and "against." Any number of ordinances may be voted on at the same election in accordance with the provisions of this article. If a majority of the votes cast is in favor of a submitted ordinance, it shall thereupon be effective as an ordinance of the city.

Sec. 7.09. Results of election.

If a majority of the qualified voters vote in favor of a proposed initiative ordinance, it shall thereupon be an initiative 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 or alternative ordinances are approved by the electors at the same election, the one receiving the greatest number of affirmative votes shall prevail.

Sec. 7.10. Repealing ordinances.

Initiative and referendum ordinances adopted or approved by the qualified voters may be amended or repealed by the council as in the case of other ordinances; provided, however, no ordinance adopted at the polls under the initiative shall be amended or repealed by the council within one (1) year of the adoption of said ordinance; and no ordinance repealed at the polls under the referendum shall be reenacted by the council within one (1) year of the repeal of said ordinance.

Sec. 7.11. Commencement of recall proceedings; petitioners' committee; affidavit.

Any fifteen (15) qualified voters may commence 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, specifying the address to which all notices to the committee are to be sent, and setting out the name of the councilmember to be removed and a clear and concise statement of the grounds for his/her removal. As used herein for purposes of recall, "councilmember" shall include the office of mayor.

Sec. 7.12. Recall petitions.

(a) *Number of signatures.*

Recall petitions must be signed by qualified voters equal in number to at least fifty-one (51) percent of the total number of votes cast in the last regular city election.

(b) *Form and content.*

The recall petition shall be signed and verified in the same manner as required for an initiative petition and shall contain the name of the councilmember whose removal is sought, contain a clear and concise statement of the grounds on which this removal is sought, and one of the signers of each petition paper shall make an affidavit that the statements therein are true and correct. There shall be a separate petition for each councilmember whose removal is sought.

(c) *Time for filing petitions.*

No signature to a recall petition shall remain effective or be counted if it was placed upon the petition more than forty-five (45) days prior to filing of the recall petition with the city secretary.

Sec. 7.13. Procedure after filing petition for recall.

(a) *Review by city secretary and attorney.*

The recall petition shall be reviewed, supplemented, and certified in the same manner as required for an initiative petition.

(b) *Submission to city council.*

If a petition or supplemental petition is certified sufficient and in compliance with the terms of this article, the city secretary shall promptly present this certificate to the council at its next regular council meeting, or at a specially called meeting, and immediately shall notify the councilmember whose removal is sought and provide him with a copy of the petition.

(c) *Calling of election.*

If the councilmember whose removal is sought does not resign within seven (7) days after the certified petition is presented to the council, the council, at its next regular meeting, or at a specially called meeting, shall order a recall election to be held on the first uniform election date occurring on or after the 62nd day after the date the election is ordered.

Sec. 7.14. Public hearing.

The elected official whose removal is sought may, within five (5) days after such recall petition has been certified to the council, request that a public hearing be held to allow him/her to present facts pertinent to the charges specified in the recall petition. In this event, the council shall order such public hearing to be held not more than thirty (30) days after the request for a public hearing is considered by city council.

Sec. 7.15. Recall ballot.

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 (name of person) be removed from the office of (name of office) by recall?"

(2) With each such question there shall be printed the following words, one above the other, in the order indicated:

"For the recall of (name of person)"

"Against the recall of (name of the person)"

Sec. 7.16. Results of recall election.

If a majority of the votes cast at a recall election shall be against the recall of the elected official named on the ballot, he/she shall continue in office. If the majority of the votes cast at the election be for the recall of the elected official named on the ballot, the council shall immediately declare his/her office vacant and such vacancy shall be filled in accordance with Section 3.08 of this charter for the filling of vacancies.

Sec. 7.17. Limitation on recall.

(a) No recall petition shall be filed against an elected official within six (6) months after he/she takes office, or within one (1) year after a failed recall election.

(b) No recall petition shall be filed against an elected official within six (6) months of the end of his/her term.

(c) No person removed by recall may run again until the next regular election.

Sec. 7.18. Failure of city council to call an election.

In case all of the requirements of this charter shall have been met and the council shall fail or refuse to receive the initiative, referendum or recall petition, or order such initiative, referendum or recall election, or discharge other duties imposed upon said council by the provisions of this charter with reference to such initiative, referendum or recall, then the County Judge of Brazoria County, Texas, shall discharge any such duties herein provided to be discharged by the city secretary or by the council. In addition, any qualified voter in the city may seek judicial relief in the District Court of Brazoria County, Texas, to have any of the provisions of this charter pertaining to initiative, referendum or recall carried out by the proper official.

ARTICLE VIII
BUDGET, FINANCE AND TAXATION

Sec. 8.01. Fiscal Year.

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

Sec. 8.02. Annual budget.

The budget shall provide a complete financial plan of all city funds and activities. The city manager shall submit an operating budget message which shall explain the budget in fiscal terms and in terms of work programs for the ensuing fiscal year. It shall outline the proposed financial policies of the city, and shall include such other materials, as the city manager deems necessary. The source or basis of the estimates shall be part of the forecast.

The budget shall contain the following:

(1) Comparative figures for the actual and estimated tax rate, revenues, and other income and expenditures to compare the current and prior fiscal years.

(2) The proposed expenditures of each office, department, or function, and reasons for proposed increases or decreases;

(3) A schedule showing the debt service requirement due on all outstanding indebtedness and on any proposed debt;

(4) The source or basis of the estimates;

(5) A total of the proposed expenditures, which shall not exceed the total estimated income and the balance of available funds; and

(6) Such other information as may be required by state law or the council or deemed appropriate by the city manager.

Sec. 8.03. Capital improvements program and budget.

The city manager shall propose annually a five-year capital improvements program and budget, which may be revised and extended each year, to indicate capital improvements pending or in the process of construction or acquisition, and which shall provide the following items:

(a) A summary of proposed programs;

(b) A list of all capital facilities and property improvements that are proposed to be undertaken during the five (5) fiscal years next ensuing, with appropriate supporting information as to the necessity for such improvements;

(c) Cost estimates, method of financing and recommended time schedules for each such improvement with the estimated effect on the tax levy and;

(d) The estimated annual cost of operating and maintaining the facilities to be constructed or acquired over the five-year period.

Sec. 8.04. Submission.

The city manager shall submit to the council a proposed budget and accompanying message on or before the first day of August of each year. The council shall review the proposed budget and revise it as deemed appropriate prior to general circulation for public hearing.

Sec. 8.05. Public notice and hearing.

The council shall post in the city hall and publish in the city's official newspaper, as required by State law, prior to any required public hearing on the budget a notice stating the time and place where copies of the message and budget are available for inspection by the public, and the time and place of each public hearing on the budget.

Sec. 8.06. Amendment before adoption.

The council may adopt the budget with or without amendment at a regular or special meeting. In amending the budget, it may add or increase any programs or amounts and may delete or decrease any programs or amounts, except expenditures required by law or for debt service or for estimated cash deficit, provided that no amendment to the budget shall increase the authorized expenditures to an amount greater than the total of estimated income, plus funds available from prior years.

Sec. 8.07. Adoption.

The council shall adopt the budget, by ordinance, not later than the 30th day of September. Adoption of the budget shall constitute appropriations of the amount specified therein as expenditures from the fund indicated.

Sec. 8.08. Defect shall not invalidate tax levy.

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

Sec. 8.09. Failure to adopt a budget.

If the council fails to adopt the budget by the beginning of the fiscal year, the amounts appropriated for the current fiscal year shall be deemed adopted for the ensuing fiscal year on a

month-to-month basis with all items in it prorated accordingly until such time as the council adopts a budget for the ensuing fiscal year.

Sec. 8.10. Public records.

Copies of the approved operation budget, capital improvements program budget, and supporting papers shall be filed with the city secretary and shall be public records available to the public for inspection upon request in accordance with state law.

Sec. 8.11. Specified reserve fund.

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

Sec. 8.12. Amendment of budget.

The council may amend the budget for any municipal purpose or as otherwise permitted by law.

Sec. 8.13. Emergency appropriations.

To meet a public emergency, the council may make emergency appropriations, and may authorize the issuance of emergency debt or notes to the extent permitted by law.

Sec. 8.14. 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 council, by ordinance, may make supplemental appropriations for the year up to the amount of such excess.

Sec. 8.15. 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/she shall report to the council without delay, indicating the estimated amount of the deficit, any remedial actions taken by him/her, and his/her recommendations as to any other steps to be taken. The council shall then take such further action as it deems necessary to prevent or minimize any deficit and, for that purpose, the council may, by ordinance, reduce one or more appropriations.

Sec. 8.16. Transfer of appropriations.

At any time during the fiscal year the city manager may transfer part or all of any unencumbered appropriation balance for operations only (excluding capital projects and capital equipment) among programs within a department, division, or office. Upon written request by the city manager, the council may, by ordinance, transfer part or all of any unencumbered appropriation balance from one department, office, or agency to another. The city manager shall within thirty (30) days of the transfer make written reports of all transfers to the city council or as directed by order of the city council.

Sec. 8.17. Limitations.

(a) 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.

(b) No funds of the city shall be expended nor shall any obligation for the expenditure of money be incurred unless there is an appropriation therefore in the budget as duly adopted and unless the city manager or his/her designee first certifies that there is a sufficient unencumbered balance in such budget line item, and that sufficient funds therefrom are or will be available to cover the claim or meet the obligation when it becomes due and payable. However, this prohibition shall not be construed to prevent the making or authorize the making of any contract or lease providing for payments beyond the end of the fiscal year, provided that such action is authorized by law and approved by council.

Sec. 8.18. Effective date.

The supplemental and emergency appropriations authorized by this article may be made effective immediately upon adoption of the ordinance or budget amendments.

Sec. 8.19. Authority to incur indebtedness.

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 the constitution and laws of the State of Texas, and shall have the right to issue all tax bonds, revenue bonds, funding and refunding bonds, time warrants, certificates of obligation and other evidence of indebtedness as now authorized or as may hereafter be authorized to be issued by any city under and in accordance with the restrictions, conditions, and laws of the State of Texas. Such power shall include the authority to issue bonds, warrants, certificates of obligation, and other evidence of indebtedness payable from revenues other than taxation for any purpose permitted by the laws of the State of Texas.

Sec. 8.20. Use of bond funds.

Any and all bond funds approved by a vote of the citizens of the city will be expended only for the purposes stated in the bond issue.

Sec. 8.21. Financial reports.

The city manager shall submit to the council a report of the financial condition of the city budget items for the fiscal year-to-date, monthly, as directed by the Council, or as required by law.

Sec. 8.22. Independent audit.

At the close of each fiscal year, and at such times as it may be deemed necessary, the council shall cause an independent audit to be made of all accounts of the city by a certified public accountant. 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, the results

thereof in a summary form shall be presented to the council. A copy of the audit shall be made available to the public for inspection upon request.

Sec. 8.23. Power to tax.

The council shall have the power to levy, assess and collect taxes within the jurisdiction of the city for any municipal purpose.

Sec. 8.24. Tax rate.

The tax rate shall be calculated, publicized and adopted in accordance with state law.

Sec. 8.25. Other rules and regulations.

Except as otherwise provided by law or this charter, the council shall have the power to establish such rules, regulations and procedures to enforce and facilitate the collection and payment of all taxes due to the city as it may deem expedient, and may provide such penalty and interest as prescribed by state law for the failure to pay such taxes.

ARTICLE IX
FRANCHISES AND PUBLIC UTILITIES

Sec. 9.01. Inalienability of control of public property.

The sole right of control, easement, use, ownership of, and title to the public streets, sidewalks, highways, bridges, alleys, public places, and other real property of the city is hereby declared to be inalienable, except by ordinance adopted by a majority of the city council.

Sec. 9.02. Powers of the city.

The city shall have the power to buy, sell, construct, lease, maintain, operate, and regulate public services and utilities within or outside of the city limits, and to distribute and sell such utility services, including, but not limited to, water, gas, electric, telephone, cable, waste management, and transportation services. The city shall have such regulatory powers as may now or hereafter be granted under the constitution and laws of the State of Texas.

Sec. 9.03. Power to grant franchise.

The council shall have the power, by ordinance and after public hearing, to grant, renew, and extend all franchises for all utilities of every character operating within the city and to amend the same; provided, however, that no franchise shall be granted for an indeterminate term, and that no franchise shall be granted for a term exceeding twenty (20) years from the date of the grant, renewal or extension. Council action on all ordinances granting, renewing, extending, or amending a utility franchise shall comply with the applicable provisions set forth in Section 4.10 of this charter. No grant or franchise to construct, maintain, or operate a public utility and no renewal or extension of such grant shall be exclusive. All required publication costs shall be paid by the utility.

Sec. 9.04. Transfer of franchise.

No utility franchise shall be transferable except with the approval of the council expressed by ordinance following a public hearing. The term "transferable" as used herein, shall not be construed in such a manner as to prevent the franchise holder from pledging said franchise as security for a valid debt or mortgage.

Sec. 9.05. Right of franchise.

All grants, renewals, extensions, or amendments of utility franchises shall be subject to the following rights of the city:

(a) To repeal the same, by ordinance, at any time for failure to begin construction or operation within the time prescribed or otherwise to comply with the terms of the franchise, such power to be exercised only after due notice and hearing.

(b) To require an adequate extension of plant and service as is necessary to provide adequate service to the public, and maintenance of the plant and fixtures at the highest reasonable standard of efficiency.

(c) To require at any time compensation and rental for use of public streets, sidewalks, highways, bridges, alleys, and public places.

(d) To require the franchisee to locate, move, or remove its facilities when needed for the installation, maintenance or repair of city facilities.

(e) To require the franchisee to restore, at the franchisee's expense, all public or private property to a condition equally as good as or better than before disturbed by construction, repair or removal. The franchise holder in opening and refilling of all earth openings shall repair the pavement and do all other work necessary to complete restoration of streets, sidewalks or grounds to a condition equally as good or better as when disturbed.

(f) To require every franchisee to furnish to the city, in January of each year and without cost to the city, a general map, with updates outlining the location, character, size, length, and terminals of all facilities of such franchise in, over, and under ground of property in the city and to provide detailed information on request in a format as specified by the city.

(g) To impose other regulations, requirements, and conditions as may be deemed necessary to promote the health, safety, welfare, or accommodation of the public and to ensure safe, efficient and continuous service to the public.

Sec. 9.06. Regulation of rates.

The council shall have full power after due notice and hearing to regulate by ordinance the rates, charges and fares of all public utility franchise holders operating in the city as authorized by state and federal law.

Sec. 9.07. Records and accounts.

The city council may periodically examine and, if deemed appropriate, request and audit the records of all franchise holders and municipally owned public utilities. The city council shall also demand that all franchise holders and municipally-owned public utilities keep a standard system of accounting and furnish reports on the local operations of the utility. Such reports shall be prepared in such form and contain such information as the city council shall prescribe.

Sec. 9.08. Municipally-owned utilities.

The council shall have the right to:

(a) set rates of city-owned public services; and

(b) require any city-owned public services to keep accounts of financial operations. Accounts must show actual cost of each service to the city, including costs of extensions and

improvements and source of funds extended for these purposes. Costs and revenues of services furnished to other cities of government agencies must be included.

Sec. 909. Franchise records.

The city shall compile and maintain a public record of utility franchises.

Sec. 9.10. Extensions.

All extensions of service of utilities within the city limits shall become a part of the aggregate property of the utility, shall operate as such, and shall be subject to all the obligations and reserved rights contained in this charter and in any original grant hereafter made. The right to use and maintain any extension shall terminate with the original grant and shall be terminable as provided in this article. In case of extension of a utility operated under a franchise hereafter granted, such right shall be terminable at the same time and under the same conditions as the original grant.

Sec. 9.11. Franchises granted before ratification of this charter.

All franchises granted before ratification of this charter are recognized as contracts between the city and the grantee, and the contractual rights contained in any such franchise shall not be impaired by the provisions hereof.

ARTICLE X
GENERAL AND TRANSITIONAL PROVISIONS

Sec. 10.01. Effect of charter on existing law.

All ordinances, resolutions, rules, and regulations in force in the city on the effective date of this charter, shall remain in force until altered, amended or repealed. All taxes, assessments, liens, encumbrances, and demands of or against the city, fixed or established before such date, or for the fixing or establishing of which proceedings have begun at such date, shall be valid when properly fixed or established either under the law in force at the time of beginning of such proceedings or under the law after adoption of this charter.

Sec. 10.02. Continuation of present offices.

All persons holding administrative office at the time this charter takes effect shall continue in office and in the performance of their duties until provision shall have been made in accordance herewith for the performance of such duties or the discontinuance of such office. The powers conferred and the duties imposed upon any office, department or agency of the city by the laws of the state shall, if such office, department or agency be abolished by this charter or under its authority, be thereafter exercised and discharged by the office, department or agency designated by the council unless otherwise provided herein.

Sec. 10.03. Public meetings.

All meetings of the council and all boards and commissions appointed by the council shall be governed by the provisions of the Texas Open Meetings Act, Texas Government Code, and any amendments thereto. This section shall not be construed to require any action or measure beyond that required by state law.

Sec. 10.04. Public records.

Access to the records of every office, department or agency of the city shall be subject to public inspection as provided by the Texas Public Information Act, Texas Government Code, and any amendments thereto. This section shall not be construed to require any action or measure beyond that required by state law.

Sec. 10.05. Official newspaper.

The council may designate, by resolution, one or more newspapers of general circulation within the city as the official newspaper of the city, and shall cause to be published therein all ordinances, notices and other matters which are required to be published by this charter, the ordinances of the city, or the constitution or laws of the State of Texas.

Sec. 10.06. Notice of injury or damage.

Before the city shall be liable for any claim for damages for the death or personal injuries of any person or for damages to property, the complainant or his/her authorized representative shall notify the city secretary in accordance with this section. The notification shall be in writing and shall state specifically how, when and where the death, injury or damage occurred; the amount of loss claimed; and the identity of any witnesses upon whom it is relied to establish the claim. The notification shall be filed within six (6) months of the date of injury or damage or in the case of death, within six months (6) of the date of death.

Sec. 10.07. Bond or security not required.

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

Sec. 10.08. Judicial notice.

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

Sec. 10.09. Continuance of contracts and succession of rights.

All contracts entered into by the city or for its benefit prior to the taking effect of this charter shall continue in full force and effect. Public improvements for which legislative steps have been taken under laws or ordinances existing at the time this charter takes effect may be carried to completion in accordance with the provisions of such existing laws or ordinances. All suits, taxes, penalties, forfeitures and all other rights, claims, and demands, which have accrued under the laws, heretofore in force governing the city shall belong to and be vested in and shall be prosecuted by and for the use and benefit of the city, and shall not in any way be diminished, affected or prejudiced by the adoption and taking effect of this charter.

Sec. 10.10. Continuance of present governing body.

All members of the council, including the mayor, holding office at the time of passage of this charter shall continue to hold their respective place and office until their respective term of office for which they were elected expires, in accordance with Article III of this charter.

Sec. 10.11. Property not subject to execution.

No property owned or held by the city shall be subject to any execution of any kind or nature.

Sec. 10.12. Garnishment.

No funds of the city shall be subject to garnishment, and the city shall never be required to answer in any garnishment proceedings.

Sec. 10.13. Persons serving on boards or commissions.

Persons serving on any city board or commission at the time of the adoption of this charter shall continue to serve until their term shall have expired or until their successors shall have qualified.

Sec. 10.14. Assignment of wages.

The city shall never be liable, unless otherwise provided by law, to the assignee of any wages of any officer, agent or employee of said city, whether earned or unearned, upon any claim or account whatsoever, and as to the city such assignment shall be absolutely void.

Sec. 10.15. Severability clause.

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

Sec. 10.16. Meaning of words.

The provisions of this charter shall be liberally construed for the purpose of effecting the objects and ends thereof. Unless some other meaning is manifest the word "CITY" shall be construed to mean the "CITY OF MANVEL." All references to state law or laws of the State of Texas, however expressed, shall mean "as presently enacted or hereinafter enacted or amended."

Sec. 10.17. Amendment of charter.

Amendments to this charter may be framed and submitted to the voters of the city in the manner provided in the Texas Local Government Code, as now or hereafter enacted, or amended.

Sec. 10.18. Charter review commission.

The council shall appoint at its first regular meeting in July of every fifth (5^{th}) year after approval of this charter, a charter review commission composed of eleven (11) citizens of the city.

(a) *Duties of the commission*:

(1) Inquire into the operation of the city government under the charter provisions and determine whether any such provisions require revision. To this end, public hearings may be held;

(2) Propose, if it deems desirable, amendments to this charter to improve the effective application of the charter to current conditions; and

(3) Report its findings and present its proposed amendments, if any, to the council.

(b) *Action by the council*:

The council shall receive the final report of the charter review commission, shall consider any recommendations made, and if deemed appropriate by the council, may submit proposed charter amendments to the voters of the city at a special election to be held for such purpose in accordance with state law. The council shall cause such proposed amendments to be published in accordance with state law. Notice of and the conduct of such election shall be in accordance with State law.

(c) *Term of office*:

The term of office of such charter review commission shall be six (6) months and, at the completion of such term, a report shall be presented to the council, and all records of the proceedings of such commission shall be filed with the city secretary and shall become a public record.

Sec. 10.19. Submission of charter to voters.

The charter commission in preparing this charter concludes that it is impracticable 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 it should be adopted in its entirety. For these reasons, the charter commission directs that the said 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 for that purpose on May 14, 2011. Before the thirtieth (30^{th}) day prior to such election, the council shall cause the city secretary to mail a copy of this charter to each qualified voter of the city as appears from the latest certified list of registered voters. If a majority of the qualified

voters voting in such election shall vote in favor of the adoption of this charter, it shall immediately become the governing law of the city, until amended or repealed.

We, the undersigned members of the City of Manvel Charter Commission, heretofore duly appointed to prepare a Charter for the City of Manvel, Texas, do hereby certify that this publication constitutes a true copy of the proposed Charter for the City of Manvel, Texas, as adopted by the members thereof.

CERTIFICATION OF COMPLETION
OF THE
CITY OF MANVEL
CHARTER COMMISSION

BE IT REMEMBERED that on the 1st day of February, 2011, at a meeting of the duly elected Charter Commission of the City of Manvel, Texas, a quorum being present, the meeting was called to order and the following business was transacted, to wit:

Upon a Motion duly made and seconded, the Charter Commission unanimously approved the home rule charter framed by said Charter Commission for submission to the qualified voters of the City of Manvel, Texas, a true and correct copy of which is attached hereto and incorporated herein for all purposes.

It is hereby ordered that the attached home rule charter be submitted to the qualified voters of the City of Manvel, Texas at an election to be held on May 14, 2011, which date is the first uniform election date after the fortieth (40th) day after the Charter Commission completed its work on the Charter.

It is further ordered that not less than thirty days prior to such election, the City Council of the City of Manvel, Texas, cause the City Secretary to mail a copy of the proposed home rule charter to each qualified voter in the City as appears from the list of registered voters maintained as required by law by the registrar of voters of each county in which the City is located in accordance with Chapter 9 of the Texas Local Government Code, as amended.

This Certificate of Completion shall be effective immediately from and after its passage and approval.

DULY PASSED AND APPROVED this 1st day of February 2011.

APPROVED:

Doyle Fenn

Doyle Fenn, Chairman

John L. Pyburn

John Pyburn, Vice Chairman

Other Charter Commission members:

Judy Armstrong	James Barham	Marvin Booth	Merl Bradley
Roger Calvert	John Cox	David Davila	Debra Davison
Patty Garnett	Karen Kinlaw	Peggy Marasckin	Stewart Martin
Gwen Richards			