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CHARTER*

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***Editor's note**—Printed herein is the city Charter as revised March 9, 2015. Amendments to the Charter are indicated by parenthetical history notes following amended provisions. The absence of a history note indicates that the provision remains unchanged from the original Charter. Obvious misspellings have been corrected without notation. For stylistic purposes, a uniform system of numbering, headings, catchlines and citations to state statutes has been used. Additions made for clarity are indicated by brackets.

McALESTER CITY CODE

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PREAMBLE

We the people of the City of McAlester of Pittsburg County, under the constitution and laws of the State of Oklahoma, in order to secure the benefits of local self-government and to provide for an honest and accountable Council-Manager government do hereby adopt this Charter and confer upon the City the following powers, subject to the following restrictions, and prescribed by the following procedures and governmental structure. By this action, we secure the benefits of home rule and affirm the values of representative democracy, professional management, strong political leadership, citizen participation, and regional cooperation.

ARTICLE 1. POWERS OF THE CITY

Section 1.01. Powers of the City.

The City shall have all powers possible for a city to have under the constitution and laws of the State of Oklahoma as fully and completely as though they were specifically enumerated in this Charter.

Section 1.02. Construction.

The powers of the City under this Charter shall be construed liberally in favor of the City, and the specific mention of particular powers in the Charter shall not be construed as limiting in any way the general power granted in this article.

Section 1.03. Intergovernmental Relations.

The City may participate by contract or otherwise with any governmental entity of the State of Oklahoma or any other state or states or the United States in the performance of any activity which one or more of such entities has the authority to undertake.

ARTICLE 2. CITY COUNCIL

Section 2.01. General Powers and Duties.

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

(b) *Fiduciary Responsibility.* The City Council has a fiduciary responsibility to the City of McAlester. It shall carry out its trusteeship duties with the utmost degree of good faith, probity, diligence, and loyalty to the interests of the people of McAlester.

(c) *Policies, Goals, and Performance Monitoring.* The City Council shall define the policies and goals of the City. To ensure that policies are followed and goals are achieved, it shall exercise its oversight responsibilities through regular, systematic and rigorous performance monitoring.

Section 2.02. Eligibility, Terms, and Composition.

(a) *Eligibility.* Only registered voters of the City who are at least 25 years old, who have resided in the City at least two years, shall be qualified for the office of Mayor. Only registered voters of the City who are at least 25 years old, who have resided in the City at least two years, and who have resided for a period of one year in the respective wards from which they are elected or appointed to fill a vacancy, shall be qualified for the offices of Councilmen from the wards. The Council shall not prescribe additional qualifications for the Mayor and other Councilmen.

(b) *Terms.* The term of office of elected officials shall be four years elected in accordance with Article 6.

(c) *Composition.* There shall be a City Council composed of seven members, six of which shall be elected by ward by the voters in that ward and a

Mayor who shall be elected by the voters of the City at large in accordance with the provisions of § 2.03(b).

(d) *Term Limitation.* No more than 12 years may be served as Mayor, Councilman, or a combination thereof. A Mayor or Councilman elected or appointed to serve less than a full term shall not have that partial term counted in the 12 year limitation.

Section 2.03. Mayor and Vice-Mayor.

(a) *Powers and Duties.* The Mayor shall be a voting member of the City Council and shall attend and preside at meetings of the Council, represent the City in intergovernmental relationships, appoint with the advice and consent of the Council the members of citizen advisory boards and commissions, present an annual state of the City message no later than the first regular Council meeting in February, appoint the members and officers of Council committees, assign agenda items to committees subject to the consent of Council, and perform other duties specified by the Council. The Mayor shall be recognized as head of the City government for all ceremonial purposes and by the governor for purposes of military law but shall have no administrative duties.

(b) *Election of Mayor and Selection of Vice-Mayor.* The Mayor will be elected for a term of four years beginning with the 2008 election and every four years thereafter. After every regular election of Councilmen at two-year intervals, the Council shall elect from among its members a Vice-Mayor who shall act as Mayor during the absence, disability, or suspension of the Mayor, or if a vacancy occurs in the office of Mayor, until another Mayor is selected by the Council for completion of the unexpired term and qualifies. If the office of Vice-Mayor becomes vacant, the Council shall select from its membership another Vice-Mayor for completion of the unexpired term.

Section 2.04. Compensation; Expenses.

The salary of the Mayor shall be \$75.00 per month, and the salary of each other Councilman shall be \$50.00 per month. The Mayor and Council members shall receive their actual and necessary expenses incurred in the performance of their duties of office if such expenses are approved in advance by the Council at a public meeting.

Section 2.05. Prohibitions.

(a) *Holding Other Office.* Except where authorized by law, no Council member shall hold any other elected public office during the term for which the member was elected to the Council. No Council member shall hold any other City office or City employment during the term for which the member was elected to the Council. No former Council member shall hold any compensated appointive office or employment with the City until one year after the expiration of the term for which the member was elected to the Council.

Nothing in this section shall be construed to prohibit the Council from selecting any current or former Council member to represent the City on the governing boards of any regional or other intergovernmental agency or on other boards.

(b) *Appointments and Removals.* Neither the City Council nor any of its members shall in any manner control or demand the appointment or removal of any City administrative officer or employee whom the City Manager or any subordinate of the City Manager is empowered to appoint. However, the Council may express its views and fully and freely discuss with the City Manager anything pertaining to appointment and removal of such officers and employees.

(c) *Interference with Administration; Freedom of Communication.* Neither the Council nor its members shall give orders to City officers or employees who are subordinate to the City Manager. However, this prohibition shall not prevent Coun-

cil members from making inquiries of department heads or employees under § 2.08 for the purpose of obtaining information needed by them in the discharge of their duties, including response to constituent requests or requesting assistance that is available to any other citizen, City employees shall use their chain of command for work-related situations and problems, but they have the same rights as any other citizen to communicate with Council members and will not be punished for doing so.

Section 2.06. Vacancies; Forfeiture of Office; Filling of Vacancies.

(a) *Vacancies.* The office of a Council member shall become vacant upon the member's death, resignation, removal from office, or forfeiture of office in any manner authorized by this Charter or the laws of the state of Oklahoma.

(b) *Forfeiture of Office.* A Council member shall forfeit that office if the Council member:

- (1) Lacks at any time during the term of office for which elected any qualification for the office prescribed by this Charter or by the laws of the State of Oklahoma;
- (2) Violates any express prohibition of this Charter;
- (3) Has been found guilty or entered a plea of guilty or nolo contendere to a felony or any other crime involving moral turpitude under the laws of the United States or of any state, even if subsequently followed by the suspended or deferred imposition of the sentence;
- (4) Commits any of those acts set forth in Oklahoma Statutes, Title 22, Section 1181, as may be amended from time to time by the state legislature; or

- (5) Fails to attend more than one-half of all meetings of the Council, regular and special, held within any period of three consecutive months.

(c) *Filling of Vacancies.* The Council, by majority vote of its remaining members, shall fill vacancies in its own membership, including the office of Mayor, for the unexpired terms, provided that should the unexpired term to be so filled be one year or longer, the Council shall call a special election for the purpose of electing a suitable person to fill such vacancy for the remainder of the unexpired term, not less than the period prescribed by state law for notice of an election nor more than 30 days plus said election notice period following declaration of vacancy, all candidates to file upon applications provided for said purpose, and the candidate receiving the greater number of votes to be elected.

Section 2.07. City Clerk.

The City Council shall appoint an officer of the City who shall have the title of City Clerk and serves at the pleasure of the Council. The City Clerk shall give notice of Council meetings to its members and the public, keep the journal of its proceedings and perform such other duties as are assigned by this Charter, the Council, or by State Law.

Section 2.08. Investigations.

The City Council may make investigations into the affairs of the City and the conduct of any City department, division, or other organizational unit.

Section 2.09. Independent Audit.

The City Council shall provide for an independent annual audit of all City financial and accounting activities and may provide for more frequent audits as it deems necessary. Such audits shall be carried out in accordance with § 5.13.

Section 2.10. Procedure.

(a) *Meetings.* The Council shall hold at least two regular meetings every month, at such times as it may prescribe by ordinance or otherwise. The Mayor or any four Councilmen may call special meetings as the Council may prescribe by ordinance or otherwise. All meetings of the Council shall comply with the Oklahoma Open Meeting Law.

(b) *Rules and Journal.* The City Council shall determine its own rules and order of business and shall provide for keeping a journal of its proceedings. This journal shall be a public record and posted on a website or other means of publicly available electronic distribution.

(c) *Voting.* Voting, except on procedural motions, shall be by roll call and the ayes and nays shall be recorded in the journal. Four members of the Council shall constitute a quorum, but a smaller number may adjourn from time to time. No action of the Council, except as otherwise provided in the preceding sentence and in § 2.06(c), shall be valid or binding unless adopted by the affirmative vote of four or more members of the Council.

Section 2.11. Action Requiring an Ordinance.

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

- (1) Adopt or amend an administrative code or establish, alter, or abolish any City department, division, or other organizational unit;
- (2) Provide for a fine or other penalty or establish a rule or regulation for violation of which a fine or other penalty is imposed;
- (3) Levy taxes;
- (4) Grant, renew, or extend a franchise;

- (5) Regulate the rate charged for its services by a public utility;
- (6) Authorize the borrowing of money in accordance with state law;
- (7) Convey or lease or authorize the conveyance or lease of any lands of the City;
- (8) Regulate land use and development;
- (9) Amend or repeal any ordinance previously adopted; or
- (10) Adopt, with or without amendment, ordinances proposed under the initiative power.

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

Section 2.12. Ordinances in General.

(a) *Form.* Every proposed ordinance shall be introduced in writing and in the form required for final adoption. No ordinance shall contain more than one subject, which shall be clearly expressed in its title. The enacting clause shall be, "Be it ordained by the Council of the City of McAlester, Oklahoma" All ordinances proposed by the voters under their power of initiative, "Be it ordained by the People of the City of McAlester, Oklahoma" Any ordinance which repeals or amends an existing ordinance or part of the City Code shall set out in full the ordinance, sections or subsections to be repealed or amended, and shall indicate matters to be omitted by enclosing it in brackets or by strikeout type and shall indicate new matters by underscoring or by italics.

(b) *Procedure.* All proposed ordinances shall appear on the published agenda for regular or special meetings of the Council. Upon introduction of any ordinance, the City Clerk shall distribute a copy to each Council member and to the City Manager, shall file a reasonable number of copies in the office of the City Clerk and such other public places as the Council may designate,

and shall post the ordinance together with a notice setting out the time and place for a public hearing thereon and for its consideration by the Council. The public hearing shall follow the posting by at least seven days, may be held separately or in connection with a regular or special Council meeting and may be adjourned from time to time; all persons interested shall have an opportunity to be heard. After the hearing, the Council may adopt the ordinance with or without amendment or reject it. A majority vote of all Councilmen shall be required for adoption of an ordinance. As soon as practicable after adoption, the Clerk shall have the ordinance and a notice of its adoption published and available at a reasonable price as set by the Council and posted on a website or distributed through other publicly available electronic means.

(c) *Effective Date.* Except as otherwise provided in this Charter, every adopted ordinance shall become effective at the expiration of 30 days after adoption or at any later date specified therein. A franchise for a public utility shall not go into effect until the ordinance granting it has been published in full in a newspaper of general circulation within the City and has been approved at an election by a vote of the qualified electors voting on the question.

(d) *Publish Defined.* As used in this section, the term "publish" means to print in the contemporary means of information sharing, which includes, but is not limited to, one or more newspapers of general circulation in the City, and on a website or other means of publicly available electronic distribution:

- (1) The ordinance in full or by number, title, and a brief summary thereof; and
- (2) The places where copies of it have been filed and the times when they are available for public inspection and purchase at a reasonable price set by the Council.

Section 2.13. Emergency Ordinances.

To meet a public emergency affecting life, health, property or the public peace, the City Council may adopt one or more emergency ordinances, but such ordinances may not levy taxes, grant, renew or extend a franchise, regulate the rate charged by any public utility for its services or authorize the borrowing of money except as provided by State Law. An emergency ordinance shall be introduced in the form and manner prescribed for ordinances generally, except that it shall be plainly designated as an emergency ordinance and shall contain, after the enacting clause, a declaration stating that an emergency exists and describing it in clear and specific terms. The question of the emergency must be voted on separately and approved by the affirmative vote of at least five (5) members of the City Council. An emergency ordinance may be adopted with or without amendment or rejected at the meeting at which it is introduced, but the affirmative vote of at least five (5) members shall be required for adoption. After its adoption, the ordinance shall be published and printed as prescribed for other adopted ordinances. It shall become effective upon adoption or at such later time as it may specify. An emergency ordinance may be repealed by adoption of a repealing ordinance in the same manner specified in this section for adoption of emergency ordinances.

Section 2.14. Codes of Technical Regulations.

The City Council may adopt any standard code of technical regulations by reference thereto in an adopting ordinance. The procedure and requirements governing such an adopting ordinance shall be as prescribed for ordinances generally except that:

- (1) The requirements of § 2.12(b) for distribution and filing of copies of the ordinance

shall be construed to include copies of the code of technical regulations as well as of the adopting ordinance; and

- (2) A copy of each adopted code of technical regulations as well as of the adopting ordinance shall be authenticated and recorded by the City Clerk pursuant to §2.15.

Copies of any adopted code of technical regulations shall be made available by the City Clerk for distribution or for purchase at a reasonable price as set by the Council.

Section 2.15. Authentication and Recording; Codification; and Printing of Ordinances and Resolutions.

(a) *Authentication and Recording.* The City Clerk shall authenticate by signing and shall record in full in a properly indexed book kept for the purpose all ordinances and resolutions adopted by the City Council.

(b) *Codification.* At least every ten years, the City Council shall provide for the preparation of a general codification of all City ordinances and resolutions having the force and effect of law. The general codification shall be adopted by the Council by ordinance and shall be published, together with this Charter and any amendments thereto, pertinent provisions of the constitution and other laws of the State of Oklahoma, and such codes of technical regulations and other rules and regulations as the Council may specify. This compilation shall be known and cited officially as the McAlester City Code. Copies of the Code shall be furnished to City officers and shall be made available for purchase by the public at a reasonable price fixed by the Council. The Code shall be placed in libraries, public offices, and on a website or other means of publicly available electronic distribution for free public reference.

(c) *Printing of Ordinances and Resolutions.* The City Council shall cause each ordinance and resolution having the force and effect of law and each amendment to this Charter to be printed promptly following its adoption, and the printed ordinances, resolutions and Charter amendments shall be distributed or sold to the public at reasonable prices as fixed by the Council. The Charter, all Charter amendments, and each ordinance and resolution having the force and effect of law shall be available on a website or other means of publicly available electronic distribution. Following publication of the first McAlester City Code and at all times thereafter, the ordinances, resolutions and Charter amendments shall be printed in substantially the same style as the code currently in effect and shall be suitable in form for integration therein. The Council shall make such further arrangements as it deems desirable with respect to reproduction and distribution of any current changes in or additions to the provisions of the constitution and other laws of the State of Oklahoma, or the codes of technical regulations and other rules and regulations included in the code.

ARTICLE 3. CITY MANAGER

Section 3.01. Appointment, Qualifications, Compensation, and Periodic Evaluations.

The City Council, by a majority vote of its total membership, shall appoint a City Manager for an indefinite term and fix the Manager's compensation. The City Manager shall be appointed solely on the basis of education and experience in the accepted competencies and practices of local government management. Minimum qualifications are:

- (1) A Master's Degree with a concentration in public administration or a related discipline, and two years of experience in an appointed managerial or administrative position in a local government; or

- (2) A Bachelor's Degree and five years of such experience.

The Manager need not be a resident of the City or state at the time of appointment, but shall reside within the City while in office. The City Council shall thoroughly review the performance of the City Manager at least once every year and deliver a report of this evaluation to the City Manager. A copy of the City Manager's evaluations shall be kept in the personnel records.

Section 3.02. Removal.

If the City Manager declines to resign at the request of the City Council, the City Council may suspend the Manager by a resolution approved by the majority of the total membership of the City Council. Such resolution shall set forth the reasons for suspension and proposed removal. A copy of such resolution shall be served immediately upon the City Manager. The Manager shall have fifteen (15) days in which to reply thereto in writing, and upon request, shall be afforded a public hearing, which shall occur not earlier than ten (10) days, or later than fifteen (15) days after such hearing is requested. After the public hearing, if one is requested, and after full consideration, the City Council, by a majority vote of its total membership, may adopt a final resolution of removal. The City Manager shall continue to receive full salary until the effective date of a final resolution of removal. The position of City Manager shall be excluded from the general provisions of § 4.02 (a), as set forth in this Charter.

Section 3.03. Acting City Manager.

To perform his duties during his temporary absence or disability, the City Manager, by letter filed with the City Clerk, shall appoint a qualified administrative officer of the City to be Acting City Manager. If the Council suspends the City Manager, if the City Manager's disability or absence is likely to be for more than thirty (30) days,

or if there is a vacancy in the office of City Manager, the Council shall appoint an Acting City Manager within thirty (30) days to serve until his disability, absence or suspension ceases, or until it appoints another City Manager, as the case may be. The City Council shall exert the same authority over the Acting City Manager as it has over the City Manager including the right to evaluate and adjust the salary of the position and the Council may remove an Acting City Manager without cause by vote of a majority of all its members. Hiring or removal of any department head by the Acting City Manager shall require the concurrence of a majority of the City Council.

Section 3.04. Powers and Duties.

The City Manager shall be chief administrative officer and head of the administrative branch of the City government. He shall execute the laws and ordinances and administer the government of the City, and shall be responsible therefore to the Council. He shall:

- (1) Appoint, and when necessary for the good of the service, suspend or remove all City employees and appoint administrative officers provided for by or under this Charter, except as otherwise provided by law, this Charter, or personnel rules adopted pursuant to this Charter. The City Manager may authorize any administrative officer, subject to the City Manager's direction and supervision to exercise these powers with respect to subordinates in that officer's department, office or agency;
- (2) Direct and supervise the administration of all departments, divisions, and other organizational units of the City, except as otherwise provided by this Charter or by law;
- (3) Attend all City Council meetings unless specifically excused by the presiding Council member.

cil member. The City Manager shall have the right to take part in discussion, but shall not vote;

- (4) See that all laws, provisions of this Charter and acts of the City Council, subject to enforcement by the City Manager or by officers subject to the City Manager's direction and supervision, are faithfully executed;
- (5) Prepare and submit the annual budget and capital program to the City Council, and implement the final budget approved by the City Council to achieve the goals of the City;
- (6) Submit to the City Council and make available to the public a complete report on the finances and administrative activities of the City as of the end of each fiscal year;
- (7) Make such other reports as the City Council may require concerning operations;
- (8) Keep the City Council fully advised as to the financial condition and future needs of the City;
- (9) Make recommendations to the City Council concerning the affairs of the City and facilitate the work of the City Council in developing policy;
- (10) Annually assist the Council to develop long-term goals for the City and strategies to implement these goals;
- (11) Promote partnerships among Council, staff, and citizens in developing public policy and building a sense of community; and
- (12) Perform such other duties as are specified in this Charter or may be required by the City Council and are consistent with this Charter, state, or federal law.

Section 3.05. Holding More than One Office.

The City Manager may hold more than one office in City government through appointment by the Council, but he may not receive compensation for service in such other offices.

Section 3.06. Purchases, Competitive Bidding, and Sales.

(a) *Purchases.* The City Manager, subject to any regulations which the Council may prescribe, shall contract for the purchase, or issue purchase authorizations for, all supplies, materials and equipment for the offices, departments and agencies of the City government. Every such contract or purchase exceeding an amount to be established by ordinance, shall require the prior approval of the Council. The City Manager may also transfer to or between offices, departments and divisions, or sell surplus or obsolete supplies, materials, and equipment, subject to such regulations as the Council may prescribe.

(b) *Competitive Bidding.* Before the purchase of, or contract for, any supplies, materials, or equipment, or the sale of any surplus or obsolete supplies, materials, or equipment, ample opportunity for competitive bidding, under such regulations and with such exceptions, as the Council may prescribe, shall be given; but the Council shall not except an individual contract, purchase or sale from the requirement of competitive bidding. A violation of this provision shall be cause for removal of any City employee who knowingly authorized any violation of the City's competitive bidding rules.

(c) *Sale of Property Valued at More Than \$50,000.00.* The sale of any City property, real or personal, including public utilities, or of any interest therein, except real property held by the City for Economic Development, the value of which is more than \$50,000.00, may be made only:

- (1) By authority of an affirmative vote of a majority of the qualified electors of the

City who vote on the question of approving or authorizing the sale at an election; or

- (2) By authority of a special non-emergency ordinance.

Such ordinance shall be published in full in a newspaper of general circulation in the City within ten days after its passage, and shall include a section reading substantially as follows: "Section _____. This ordinance shall be referred to a vote of the electors of the City if a legal and sufficient referendum petition is properly filed within 30 days after its passage; otherwise it shall go into effect thirty (30) days after its passage." The sale of an entire public utility may be authorized only as provided in (1) hereinabove.

(d) *Sale of Economic Development Property.* The sale of City property held for Economic Development such as Taylor Industrial Park, King Property, and other real property owned or acquired in the future for Economic Development by the City shall be subject to approval by an affirmative vote of five (5) Councilmen.

ARTICLE 4. DEPARTMENTS, DIVISIONS, AND OTHER ORGANIZATIONAL UNITS

Section 4.01. General Provisions.

(a) *Creation of Departments and other Organizational Units.* The City Council may establish City departments, divisions, and other organizational units in addition to those created by this Charter and may prescribe the functions of all departments, divisions, and other organizational units. No function assigned by this Charter to a particular department, division, or other organizational unit may be discontinued or, unless this Charter specifically so provides, assigned to any other.

(b) *Direction by City Manager.* All departments, divisions, and other organizational units under the direction and supervision of the City Manager shall be administered by an officer appointed by and subject to the direction and supervision of the Manager. The City Manager may appoint one person as the head of two or more departments, divisions, and other organizational units.

Section 4.02. Personnel System.

(a) *Merit Principle.* All appointments and promotions of City officers and employees shall be made solely on the basis of merit and fitness demonstrated by a valid and reliable examination when applicable, education, experience, or other evidence of competence. Removals, demotions, suspensions, and layoffs shall be made solely for the good of the service.

(b) *Merit System.* Consistent with all applicable federal and state laws, the City Council shall within twelve (12) months after the effective date of this Charter provide by ordinance for the establishment, regulation, and maintenance of a merit system governing personnel policies necessary to effective administration of the employees of the City's departments, divisions, and other organizational units, including, but not limited to, classification and pay plans, examinations, force reduction, removals, working conditions, provisional and exempt appointments, in-service training, grievances and relationships with employee organizations.

(c) *Bonds of City Officers and Employees.* The City Manager, the Chief Financial Officer, and such other officers and employees as the Council may designate, before entering upon their duties, shall provide bonds for the faithful performance of their respective duties, payable to the City, in such form and in such amounts as the Council may prescribe, with a surety company authorized to operate within the state. The City shall pay the

premiums on such bonds. The bonds of the City Manager and the Chief Financial Officer shall be in an amount of at least one percent (1%) of the total current annually budgeted expenditures for the City, but no less than two hundred thousand dollars (\$200,000.00).

(d) *Personnel Matters.* The Council, consistent with this Charter, by ordinance or personnel rules, may regulate personnel matters and provide for proper personnel administration.

(e) *Oath or Affirmation of Office.* Every officer of the City, before entering upon the duties of his office, shall take and subscribe to the oath or affirmation of office prescribed by the State Constitution. The oath or affirmation shall be filed in the City Clerk's office. All officers authorized by federal or state law, the Mayor, the City Manager, the Municipal Judge or Judges, and such other officers as the council may authorize, may administer oaths and affirmations in any matter pertaining to the affairs and government of the City.

(f) *Layoff, Suspend, Demote, or Remove Officers and Employees.* Except as may be otherwise provided by this Charter, the power to layoff, suspend, demote, and remove accompanies the power to elect or appoint; and the Council, the City Manager, or other electing or appointing authority may at any time layoff, suspend, demote, or remove any officer or employee to whom the Council, the City Manager, or the other electing or appointing authority respectively may elect or appoint a successor.

(g) *Acting Officers and Employees.* Except as may be otherwise provided by this Charter, the electing or appointing authority who may elect or appoint the successor of an officer or employee, may elect or appoint a person to act during the temporary absence, disability, or suspension of such officer or employee, or, in case of a vacancy, until a successor is elected or appointed and qualifies, unless the Council provides by general ordi-

nance that a particular superior or subordinate of such officer or employee shall act. The Council may provide by general ordinance for a deputy to act in such cases.

(h) *Officers to Continue.* Except as may be otherwise provided by this Charter, every officer who is elected or appointed for a term ending at a definite time, shall continue to serve thereafter until his successor is elected or appointed and qualifies unless his services are sooner terminated by resignation, removal, disqualification, death, abolition of the office, or other legal manner.

Section 4.03. City Attorney.

(a) *Appointment.* The City Attorney shall be appointed or removed only by a majority vote of the City Council, not including vacant positions within the City Council. The City Attorney shall be an attorney licensed to practice law in the State of Oklahoma.

(b) *Role.* The City Attorney shall serve as chief legal advisor to the City Council, the City Manager and all City departments, divisions, and other organizational units, shall normally represent the City in all legal proceedings and shall perform any other duties prescribed by state law, by this Charter or by ordinance; provided, however, that in all proceedings under Section 3.02 of this Charter, the City Attorney shall represent only the City Council and not the City Manager, nor shall the City Attorney represent any entity with which the City contracts, any City employee or City Council member charged with or under investigation for a crime.

Section 4.04. Chief Financial Officer.

(a) *Appointment and Qualifications.* The Chief Financial Officer (CFO) shall be appointed for an indefinite term by the City Manager. The CFO shall be appointed solely on the basis of education

and experience in the accepted competencies and practices of accounting and financial management. Minimum qualifications are:

- (1) A Bachelor's Degree in accounting or finance; and
- (2) Progressively responsible experience in accounting and financial management.

The CFO shall have the demonstrated ability to communicate effectively via oral or written reports. Experience in local government or not-for-profit accounting and financial management is preferred. Certified Public Accountant or Certified Government Finance Officer is preferred.

(b) *Role.* The Chief Financial Officer is responsible for all accounting and financial management functions except for those otherwise provided for in this Charter. Subject to and in accordance with this Charter, applicable law, and such ordinances and other policies as the Council may adopt, the Chief Financial Officer or personnel under his supervision and control shall:

- (1) Be responsible for investment of City money. Collect or receive revenue and other money for the City and shall be responsible for its custody, safekeeping, deposit, disbursement, and investment in accordance with the City's investment policy and applicable state and federal law.
- (2) Ensure that the City has an accurate and comprehensive financial accounting, management, and reporting system to meet the requirements of this Charter and state law.
- (3) Provide all financial information and reports requested by the City Council and the City Manager.
- (4) Establish and maintain a system of internal control to ensure the effectiveness and efficiency of operations, the reliability of financial reporting, and compliance with

all applicable laws and regulations. The internal control system shall be designed to provide reasonable assurance regarding prevention or prompt detection of unauthorized acquisition, use, or disposition of assets.

- (5) Provide open and timely communication, both written and oral, to the Council, City Manager, City Attorney, other City employees, City Boards and Committees, and to the general public on matters of accounting, auditing, budgeting, financial management and internal control.
- (6) Perform such other duties as are specified in this Charter, prescribed by ordinance or applicable law, or may be required by the City Council or City Manager.

Section 4.05. Land Use, Development, and Environmental Planning.

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

- (1) Designate an agency or agencies to carry out the planning function and such decision-making responsibilities as may be specified by ordinance;
- (2) Adopt a comprehensive plan that is to be reviewed annually and determine to what extent zoning and other land use control ordinances must be consistent with the plan;
- (3) Determine to what extent the comprehensive plan and zoning and other land use ordinances must be consistent with regional plan(s); and
- (4) Adopt development regulations, to be specified by ordinance, to implement the plan.

The designated agency, the City Manager, and the Mayor and Council shall seek to act in coopera-

tion with other jurisdictions and organizations in their region to promote integrated approaches to regional issues.

ARTICLE 5. FINANCIAL MANAGEMENT

Section 5.01. Fiscal Year.

The fiscal year of the City shall begin on the first day of July and end on the last day of June.

Section 5.02. Submission of Budget and Budget Message.

Each year the City Manager shall submit to the City Council and the Audit and Finance Advisory Committee a budget for the ensuing fiscal year and an accompanying message. These submissions will be due forty-five (45) days prior to the last day of the fiscal year.

Section 5.03. Budget Message.

The City Manager's message shall explain the budget both in fiscal terms and in terms of the work programs, linking those programs to organizational goals and community priorities. It should outline the proposed financial policies of the City for the ensuing fiscal year and the impact of those policies on future years. It should describe the important features of the budget, indicate any major changes from the current year in financial policies, expenditures, and revenues together with the reasons for such changes, summarize the City's debt position, including factors affecting the ability to raise resources through debt issues, and include such other material as the City Manager or City Council deem desirable.

Section 5.04. Budget.

The budget shall provide a complete financial plan of all City funds and activities for the ensuing fiscal year and, except as required by law or this Charter, shall be in such form as the City Manager

deems desirable or the City Council may require for effective management and an understanding of the relationship between the budget and the City's strategic goals, consistent with state law. The City Manager shall also provide a list of all current City positions by department and division, their current annual pay, any additional pay such as longevity or incentive pay, the value of all benefits, and any proposed changes to positions, assignments, or pay. The budget shall begin with a clear general summary of its contents, shall show in detail all estimated income, indicating the proposed property tax levy if any, and all proposed expenditures, including debt service for the ensuing fiscal year; and shall be so arranged as to show comparative figures for actual and estimated income and expenditures of the current fiscal year and actual income and expenditures of the preceding fiscal year. Current year "actual" figures shall be authentic figures through the date they are available and estimated figures for the remaining portion of the fiscal year. It shall indicate in separate sections:

- (1) The proposed goals and expenditures for current operations during the ensuing fiscal year, detailed for each fund by department and division or by other organization unit, activity, or objectives, or other means as state law permits, method of financing such expenditures, and methods to measure outcomes and performance related to the goals. An Emergency Fund will be included in the budget and every reasonable attempt shall be made to maintain this fund at a minimum of ten percent (10%) of the total operating budget including capital improvements. A separate account shall be maintained for the Emergency Fund and the City Council shall define by ordinance under what circumstances withdrawals may be made from the Emergency Fund account;

- (2) Proposed longer-term goals and capital expenditures during the ensuing fiscal year, detailed for each fund by department and division or by other organization unit when practicable, the proposed method of financing each such capital expenditure, and methods to measure outcomes and performance related to the goals; and
- (3) The proposed goals, anticipated income and expense for the ensuing year for each utility or other enterprise fund or internal service fund operated by the City, and methods to measure outcomes and performance related to the goals. For any fund, the total of proposed expenditures shall not exceed the total of estimated income plus carried forward fund balance exclusive of reserves.

Nothing in this section shall be construed to prevent the use of "purpose-based" budgeting or any other budget format acceptable to the State of Oklahoma.

Section 5.05. City Council Action on Budget.

(a) *Notice and Hearing.* Within one (1) week of receiving the proposed budget from the City Manager, the City Council shall publish in one or more newspapers of general circulation in the City the general summary of the budget and a notice stating:

- (1) The times and places where copies of the message and the entire detailed budget are available for inspection by the public and purchase at a reasonable price set by the Council; and
- (2) The time and place, not less than two weeks after such publication, for a public hearing(s) on the budget.

The entire budget shall also be available on a website or other means of publicly available electronic distribution.

(b) *Amendment before Adoption.* After the public hearing(s), the City Council may adopt the budget with or without amendment. In amending the budget, it may add or increase programs or amounts and may delete or decrease any programs or amounts, except expenditures required by law or for debt service, provided that no amendment to the budget shall increase the authorized expenditures to an amount greater than total estimated income plus carried forward fund balance.

(c) *Adoption.* The City Council shall adopt the budget no later than seven (7) days before the end of the current fiscal year or any other applicable deadline of state law. If it fails to adopt the budget by this date, the budget for the amounts appropriated for operations in the current fiscal year will be deemed adopted.

(d) *Publish defined.* As used in this article, the term "publish" means to print in the contemporary means of information sharing, which includes, but is not limited to, one or more newspapers of general circulation in the City and in a website or other means of publicly available electronic distribution.

Section 5.06. Appropriation and Revenue Ordinances.

To implement the adopted budget, the City Council shall adopt, prior to the beginning of the fiscal year:

- (1) An appropriation ordinance making appropriations by department, division, or other organizational unit, activities or objectives;
- (2) Ordinances required to authorize new revenues or to amend the rates or other features of existing taxes or other revenue sources.

Section 5.07. Midyear Budget Review and Amendments after Adoption.

(a) *Midyear Budget Review.* The City Manager shall submit a midyear review of the budget to the Council on or before the last day of January. This shall include the evaluation and modification, if necessary, of revenues and expenses.

(b) *Supplemental Appropriations.* If during or before the fiscal year the City Manager certifies in writing that there are available for appropriation revenues in excess of those estimated in the budget or unappropriated fund balances, the City Council by ordinance may make supplemental appropriations for the year up to the amount of such excess.

(c) *Reduction of Appropriations.* If at any time during the fiscal year it appears probable to the City Manager that the revenues or fund balances available will be insufficient to finance the expenditures for which appropriations have been authorized, the Manager shall report to the City Council without delay, indicating the estimated amount of the shortfall, any remedial action taken by the Manager and recommendations as to any other steps to be taken. The Council shall then take such further action as it deems necessary to prevent or reduce any shortfall and for that purpose it may by ordinance reduce or eliminate one or more appropriations.

(d) *Transfer of Appropriations.* The City Council may by resolution give the City Manager authority during the fiscal year to transfer part or all of the unencumbered appropriation balance from one department, to the appropriation for other departments or to a new appropriation.

(e) *Limitation; Effective Date.* No appropriation for debt service may be reduced or transferred, except to the extent that the debt is refinanced and less debt service is required, and no appropriation may be reduced below any amount required by law to be appropriated or by more

than the amount of the unencumbered balance thereof. The supplemental appropriations and reduction or transfer of appropriations authorized by this section may be made effective immediately upon adoption.

Section 5.08. Lapse of Appropriations.

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

Section 5.09. Administration and Fiduciary Oversight of the Budget.

The City Council shall provide by ordinance the procedures for administration and fiduciary oversight of the budget.

Section 5.10. Overspending of Appropriations.

No payment shall be made or obligation incurred against any allotment or appropriation except in accordance with appropriations duly made and unless the City Manager or his designee first certifies that there is sufficient unencumbered balance in such allotment or appropriation and that sufficient funds therefrom are or will be available to cover the claim or meet the obligation when it becomes due and payable. Any authorization of payment or incurring of obligation in violation of the provisions of this Charter shall be void and any payment so made illegal. A violation of this provision shall be cause for removal of any officer who knowingly authorized or made such payment or incurred such obligation. Such officer may also be liable to the City for any amount so paid. Except where prohibited by law, however, nothing in this Charter shall be construed to prevent the

making or authorizing of payments or making of contracts for capital improvements to be financed wholly or partly by the issuance of bonds or to prevent the making of any contract or lease providing for payments beyond the end of the fiscal year, but only if such action is made or approved by a majority of the City Council.

Section 5.11. Capital Program.

(a) *Submission to City Council.* The City Manager shall prepare and submit to the City Council and the Audit and Finance Advisory Committee a five (5)-year or longer capital program no later than the fifteenth (15th) day of March.

(b) *Contents.* The capital program shall include:

- (1) A clear general summary of its contents;
- (2) Identification of the long-term goals of the community;
- (3) A list of all capital improvements and other capital expenditures which are proposed to be undertaken during the five (5) fiscal years or longer next ensuing, with appropriate supporting information as to the necessity for each, regardless of whether funding is available for any such capital expenditure or improvement;
- (4) Cost estimates and recommended time schedules for each improvement or other capital expenditure;
- (5) Method of financing upon which each capital expenditure is to be reliant;
- (6) The estimated annual cost of operating and maintaining the facilities to be constructed or acquired;
- (7) Methods to measure outcomes and performance of the capital plan related to the long-term goals of the community.

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

(c) *Debt Limitations.* Any resolution or ordinance adopted by the council permitting or approving the creation of any indebtedness or obligation by a municipal beneficiary trust in excess of \$1,000,000 must be approved by a majority of the qualified electors of the City of McAlester; provided that for purposes of this provision, the terms "indebtedness or obligation" shall include the aggregate rental required to be paid for the entire term of a lease. Any indebtedness issued by any public trust having its principal purpose, and which is primarily engaged in, the ownership and operation of a hospital or related institution shall not be subject to this Section, if the indebtedness does not exceed five percent (5%) of the greater of:

- (1) The then existing total indebtedness of such trust; or
- (2) The value of all assets of such trust.

(d) *Public Improvements.* Public improvements may be made by the City government itself or by contract. The Council shall award all contracts for such improvements; provided that the Council may authorize the City Manager to award such contracts not exceeding an amount to be determined by the Council and subject to such regulations as the Council may prescribe. The City will follow State Law on bidding.

Section 5.12. City Council Action on Capital Program.

(a) *Notice and Hearing.* Within one (1) week of receiving the capital budget from the City Manager, the City Council shall publish in one or more newspapers of general circulation in the City and on a website or other publicly available means of electronic distribution, the general summary of the capital program and a notice stating:

- (1) The times and places where copies of the entire detailed capital program are avail-

able for inspection by the public and purchase at a reasonable price set by the Council; and

- (2) The time and place, not less than two (2) weeks after such publication, for a public hearing(s) on the capital program.

Public discussion and suggestions on the capital program will be actively solicited until the fifteenth (15th) day of April.

(b) *Adoption.* The City Council by resolution shall adopt the capital program with or without amendment after the public hearing(s) on or before the last day of April of the current fiscal year. If the City Council fails to adopt the capital program by such date, the current capital program will continue in effect.

Section 5.13. Independent Audit.

Independent Audit. The City Council shall provide for an independent annual audit of all City accounts and may provide for more frequent audits as it deems necessary. The City Council may direct the character or type of audits to be performed consistent with this Charter and state law. An independent certified public accountant or firm of such accountants shall make such audits. Such audits should be performed in accordance with Generally Accepted Auditing Standards (GAAS) and Generally Accepted Governmental Auditing Standards (GAGAS). This audit should be completed within five and one-half months (5½) after the end of the fiscal year.

The Council shall, using competitive bidding, designate such accountant or firm for a period not to exceed three years, but the annual audit agreement or designation for any particular fiscal year shall be made no later than thirty (30) days after the beginning of such fiscal year.

Section 5.14. Audit and Finance Advisory Committee.

(a) *Appointment and Compensation.* The Committee shall consist of at least five (5) members with a majority being citizen members. The Mayor may appoint himself and other Council members to serve on the Committee. The Mayor shall appoint and the Council shall approve citizen members. The chairperson of the Committee, who must be a citizen member, shall be determined by a majority vote of the citizen members. Elected officials and employees of the City of McAlester are ineligible for citizen membership. All members shall serve without compensation.

(b) *Terms, Credentials, and Qualifications.* The terms, credentials, and qualifications of the Committee members shall be set by ordinance

(c) *Role and Responsibilities.* The Committee shall advise and assist the City Council in fulfilling its corporate governance and oversight responsibilities relating to the integrity of the City's financial statements and other financial reporting, the adequacy and effectiveness of the systems of internal control, and the independence and performance of the external audit function. The detailed responsibilities of the Committee shall be listed in the Audit and Finance Advisory Committee Mission Statement. These Mission Statement responsibilities may be changed from time to time by a super majority vote (simple majority plus one (1)) of the Committee and the approval of the City Council.

(d) *Meetings.* The Audit and Finance Advisory Committee shall establish its own rules.

(e) *Removal.* A member of the Audit and Finance Advisory Committee shall be removed from the Committee if the member:

- (1) Lacks at any time any qualification for Committee membership prescribed by City ordinance; or

- (2) Fails to attend more than one-half of all meetings of the Audit and Finance Advisory Committee, regular and special, held within any period of twelve (12) consecutive months.

Section 5.15. Public Records.

Copies of the budget, capital program, independent audits, and appropriation and revenue ordinances shall be public records and copies will be available to the public at a reasonable price set by the Council. These documents will also be available on a website or through other means of electronic distribution available to the public.

ARTICLE 6. ELECTIONS

Section 6.01. City Elections.

(a) *Conduct of City Elections.* The provisions of the State Constitution and general election laws of the State of Oklahoma shall govern such elections in this City insofar as they are applicable and are not superseded by this Charter or by ordinance. Candidates shall run for office without party designation. For the conduct of City elections, for the prevention of fraud in such elections, and for the recount of ballots in cases of doubt or fraud, the City Council shall adopt ordinances consistent with law and this Charter. Such ordinances and regulations pertaining to elections shall be publicized in the manner of City ordinances generally. If there are no candidates and no questions to be voted upon at a primary or general election, the election shall not be held.

(b) *Registered Voter Defined.* All citizens legally registered under the constitution and laws of the State of Oklahoma to vote in the City shall be registered voters of the City within the meaning of this Charter.

(c) *Council Members: Method of Electing.* At the general election in 2006, all Council members and the Mayor were elected. Following that election, the Council members from odd-numbered wards and the Mayor shall serve for terms of two years, and Council members from even-numbered wards shall serve for terms of four years. Commencing at the next general election and at all subsequent elections, the Mayor and other Council members shall serve for terms of four years.

(d) *Mayor and Council Member Terms and Failure to Qualify.* The Mayor and other Councilmen shall serve for the terms indicated in § 6.01(c) and until their respective successors are elected and qualify. Their terms shall begin at the first regular Council meeting after their election is certified. If a Mayor-elect or other Councilman-elect fails to qualify within one month after the beginning of his term, his office shall become vacant and the vacancy shall be filled as other vacancies in the Council are filled.

Section 6.02. General Elections.

The general City election shall be held on the first Tuesday of April of even-numbered years and every two years thereafter to elect the Mayor and other Councilmen to succeed those whose terms are expiring. An elector may vote for only one candidate for an office to be filled. The candidates for each office receiving the greater number of votes shall be elected. In case of failure to elect because of a tie, the election shall be determined from among those tying, fairly by lot, by the county election board in a public meeting.

Section 6.03. Primary Elections.

(a) *Primary Elections: Filing.* Any person qualified for the office for which he is filing may have his name placed on the ballot for the primary election as a candidate for Mayor or Councilman by filing no earlier than 8:00 a.m. on the last Monday in January and no later than 5:00 p.m. on

the next succeeding Wednesday, with the secretary of the county election board, his sworn statement and his candidacy, specifying the office for which he is a candidate.

(b) *Primary Elections: Time and Voting.* A primary election shall be held on the first Tuesday of March of even-numbered years and every two (2) years thereafter to nominate candidates for Mayor and other Councilmen to succeed those whose terms are expiring. If only one person is a candidate for an office to be filled, he shall be not only nominated, but also elected ipso facto, and his name shall not appear on the primary or general election ballot. Every registered voter of the City shall be entitled to vote for one candidate for Mayor, and every registered voter of a vacated ward shall be entitled to vote for one candidate for Councilman from his ward.

(c) *Primary Elections: Who Nominated or Elected.* In a primary election, the two candidates for each office to be filled receiving the greatest number of votes for that office, shall be nominated. If one of the candidates for an office receives a majority of all votes cast for all candidates for that office, he alone shall be not only nominated, but also elected ipso facto; and his name shall not appear on the ballot for the general election. In case of failure to nominate because of a tie, the nominee or nominees shall be determined from among those tying, fairly by lot, by the county election board in a public meeting. If one of the two candidates for an office nominated in a primary election dies or withdraws before the general election, the remaining candidate shall be elected ipso facto; and his name need not appear on the ballot for the general election.

Section 6.04. Council Wards; Adjustment of Ward Boundaries.

(a) *Number of Wards.* There shall be six City Council wards.

(b) *Ward Commission; Composition; Appointment; Terms; Vacancies; Compensation.*

- (1) There shall be a Ward Commission consisting of seven (7) members. Each City Council person shall appoint one (1) member to the Commission. These six (6) members shall, with the affirmative vote of at least four (4), choose the seventh (7th) member who shall be chairperson.
- (2) No member of the Commission shall be an elected official or be employed by the City.
- (3) The City Council shall appoint the Commission no later than one year and five months before the first (1st) general election of the City Council after each federal decennial census, or no later than one year and five months before the first (1st) general election in a non-census year selected by the City Council upon a three-fourths (¾) majority vote. The Commission's term shall end upon adoption of a ward plan, as set forth in § 6.04(c).
- (4) In the event of a vacancy on the Commission by death, resignation or otherwise, the City Council shall appoint a new member to serve the balance of the term remaining.
- (5) No member of the Ward Commission shall be removed from office by the City Council except for cause and upon notice and hearing.
- (6) The members of the Commission shall serve without compensation.
- (7) The Commission may require agencies of City government to provide technical assistance. The Commission shall have a budget as provided by the City Council.

(c) *Powers and Duties of the Commission; Hearings, Submissions, and Approval of Plan.*

- (1) Following each decennial census, or otherwise as provided in section 6.04(b)(3) above, the Commission shall consult the City Council and shall prepare a plan for dividing the City into wards for the election of Council members. In preparing the plan, the Commission shall be guided by the criteria set forth in § 6.04(d). The report on the plan shall include a map and description of the wards recommended.
- (2) The Commission shall hold one or more public hearings not less than one month before it submits the plan to the City Council. The Commission shall make its plan available to the public for inspection and comment not less than one month before its public hearing. At that time the plan shall be available for purchase by the public at a reasonable price set by the Council. The plan shall also be posted on a website or available to the public by other electronic means.
- (3) The Commission shall submit its plan to the City Council not less than one year before the first general election of the City Council after each decennial census.
- (4) The plan shall be deemed adopted by the City Council unless disapproved within three (3) weeks by the vote of the majority of all members of the City Council. If the City Council fails to adopt the plan, it shall return the plan to the Commission with its objections and with the objections of individual members of the Council.
- (5) Upon rejection of its plan, the Commission shall prepare a revised plan and shall submit such revised plan to the City Council no later than nine months before the first general election of the City Council

after the decennial census. Such revised plan shall be deemed adopted by the City Council unless disapproved within two weeks by the vote of two-thirds of all of the members of the City Council and unless, by a vote of two-thirds of all of its members, the City Council votes to file a petition in the District Court, Pittsburgh County, for a determination that the plan fails to meet the requirements of this Charter. The City Council shall file its petition no later than ten days after its disapproval of the plan. Upon a final determination upon appeal, if any, that the plan meets the requirements of this Charter, the plan shall be deemed adopted by the City Council and the Commission shall deliver the plan to the City Clerk. If the District Court finds the plan does not comply with the requirements of this Charter, the plan shall be revised by the Commission to satisfy the court's objections within ten (10) days. The plan delivered to the City Clerk shall include a map and description of the wards.

- (6) If in any year population figures are not available at least one year and five months before the first general election following the decennial census, the City Council may, by ordinance, shorten the time periods provided for Ward Commission action in paragraphs (2), (3), (4), and (5) of this subsection.

(d) *Ward Plan; Criteria.* In preparation of its plan for dividing the City into wards for the election of Council members, the Commission shall apply the following criteria which, to the extent practicable, shall be applied and given priority in the order in which they are herein set forth.

- (1) Wards shall be equal in population except where deviations from equality result from the application of the provisions hereinafter set forth, but no such deviation may

exceed five percent (5%) of the average population of a City Council ward, calculated by dividing the total city population according to the most recent census by six (6). The calculations and population totals required herein shall exclude state, federal and private prison inmate populations, and any person serving a period of detention or confinement in any correctional facility in the city.

- (2) Wards shall consist of contiguous territory unless such is physically impossible given City boundaries.
- (3) Consistent with the foregoing provisions, the aggregate length of all district boundaries shall be as short as possible.
- (4) Ward boundaries will be set in alleyways or closed alleyways whenever possible with the aim of placing houses across the street from each other in the same ward.

(e) *Effect of Enactment.* The new City Council wards and boundaries as of the date of enactment shall supersede previous Council wards and boundaries for all purposes of the next regular City election, including nominations. The new wards and boundaries shall supersede previous wards and boundaries for all other purposes as of the date on which all Council members elected at that regular City election take office.

Section 6.05. Initiative, Citizen Referendum, and Recall.

(a) *General Authority for Initiative, Citizen Referendum, and Recall.*

- (1) *Initiative.* The registered 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, but such power shall not extend to the budget or capital pro-

gram or any ordinance relating to appropriation of money, levy of taxes, or salaries of City officers or employees.

- (2) *Citizen Referendum.* The registered voters of the City shall have power to require reconsideration by the Council of any adopted ordinance and, if the Council fails to repeal an ordinance so reconsidered, to approve or reject it at a City election, but such power shall not extend to the budget or capital program or any emergency ordinance or ordinance relating to appropriation of money or levy of taxes.
- (3) *Recall.* The registered voters of the City shall have power to recall elected officials of the City, but no recall petition shall be filed against any official within six months after the official takes office, nor, in case of a member subjected to a recall election and not removed, until at least six months after the election.

(b) *Commencement of Proceeding; Petitioners' Committee; Affidavit.* Any five (5) registered voters may commence initiative, citizen referendum, or recall proceedings by filing with the City Clerk an affidavit stating they will constitute the petitioners' committee and be responsible for circulating the petition and filing it in proper form, stating their names and addresses and specifying the address to which all notices to the committee are to be sent, and setting out in full the proposed initiative ordinance, citing the ordinance sought to be reconsidered, or stating the name and title of the officer sought to be recalled accompanied by a statement, not to exceed two hundred (200) words, of the reasons for the recall. The reason or reasons for recall shall be in conformity with or more stringent than the reasons as set out in Title 51 Oklahoma Statutes (1981), Section 93, namely:

- (1) Any willful failure or neglect to diligently and faithfully perform any duty enjoined upon such officer by the laws of this state;

- (2) Intoxication or incapacitation in any public place within the state produced by alcohol or an illegal substance voluntarily taken; and
- (3) Committing any act constituting a violation of any penal statute involving moral turpitude. Such an act has been committed, in the sense of this section, when the official involved has been convicted thereof by a court of record.

Grounds for recall should relate to and affect the administration of the official's office, and be of a substantial nature directly affecting the rights and interests of the public. Promptly after receipt of a recall petition, the Clerk shall serve, personally or by certified mail, a copy of the affidavit on the elected officer sought to be recalled. Within ten (10) days of service of the affidavit, the elected officer sought to be recalled may file a statement with the City Clerk, not to exceed two hundred (200) words, in response. Promptly after the affidavit of the petitioners' committee is filed, and the response, if any, of the elected official sought to be recalled is filed, the Clerk shall issue the appropriate petition blanks to the petitioners' committee.

(c) *Petitions.*

- (1) *Number of Signatures.* Initiative and citizen referendum petitions must be signed by registered voters of the City equal in number to at least twenty-five percent (25%) of the total number of votes cast at the preceding general City election. Recall petitions must be signed by registered voters of the City equal in number to at least twenty-five percent (25%) of the total number of votes cast for governor in the City or ward at the last general state election at which a governor was elected.
- (2) *Form and Content.* All papers of a petition shall be uniform in size and style and shall be assembled as one instrument for filing.

Each signature shall be executed in ink or indelible pencil and shall be followed by the address of the person signing. Initiative and citizen referendum petitions shall contain or have attached thereto throughout their circulation the full text of the ordinance proposed or sought to be reconsidered. Recall petitions shall contain the name and title of the official sought to be recalled, the statement of grounds for the recall, and the response of the official sought to be recalled, if any. If no response was filed, the petition shall so state.

- (3) *Affidavit of Circulator.* Petitions may be circulated only by registered qualified electors of the City or ward concerned. The person who circulates each copy of the petition shall sign an affidavit on each page of the copy stating:
 - A) The number of signatures thereon;
 - B) That he personally circulated the paper;
 - C) That each signer signed the petition in his presence;
 - D) That he believes them to be genuine signatures of the persons whose names they purport to be;
 - E) That he believes each signer to be a registered qualified elector of the City or ward concerned; and
 - F) That each signer had an opportunity before signing to read the full text of the ordinance proposed or sought to be considered or the reason for recall and response, if any.
- (4) *Time for Filing Referendum and Recall Petitions.* Referendum petitions must be filed within thirty (30) days after adoption by the Council of the ordinance sought to be reconsidered. Recall petitions must be

filed within thirty (30) days of the filing of the petitioners' affidavit initiating the recall procedure.

(d) *Procedure after Filing.*

(1) *Certificate of Clerk; Amendment.* Within thirty (30) days after the petition is filed, the City Clerk shall complete a certificate as to its sufficiency, specifying, if it is insufficient, the particulars wherein it is defective and shall promptly send a copy of the certificate to the petitioners' committee by registered mail. A petition certified insufficient for lack of the required number of valid signatures may be amended once if the petitioners' committee files a notice of intention to amend it with the Clerk within five (5) business days after receiving the copy of the insufficiency certificate and files a supplementary petition upon additional papers within ten (10) business days after receiving the copy of such certificate. Such supplementary petition shall comply with the requirements of § 6.05(c), and within ten (10) business days after it is filed the Clerk shall complete a certificate as to the sufficiency of the petition as amended and promptly send a copy of such certificate to the petitioners' committee by registered mail as in the case of an original petition. If a petition or amended petition is certified sufficient, or if a petition or amended petition is certified insufficient and the petitioners' committee does not elect to amend or request Council review under paragraph (2) of this subsection within the time required, the Clerk shall promptly present his or her certificate to the Council and the certificate shall then be a final determination as to the sufficiency of the petition.

(2) *Court Review; New Petition.* A final determination as to the sufficiency of a petition

shall be subject to court review. A final determination of insufficiency, even if sustained upon court review, shall not prejudice the filing of a new petition for the same purpose.

(e) *Referendum Petitions; Suspension of Effect of Ordinance.* When a referendum petition is filed with the City Clerk, 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 petitioners' committee withdraws the petition; or
- (3) The Council repeals the ordinance; or
- (4) The election in which the voters fail to reject the ordinance is certified.

(f) *Action on Petitions.*

(1) *Action by Council.* When an initiative or referendum petition has been finally determined sufficient, the Council shall promptly consider the proposed initiative ordinance in the manner provided in Article 2 or reconsider the referred ordinance by voting its repeal. If the Council fails to adopt a proposed initiative ordinance without any change in substance within sixty (60) days or fails to repeal the referred ordinance within thirty (30) days after the date the petition was finally determined sufficient, it shall submit the proposed or referred ordinance to the voters of the City. The Council shall promptly order a recall election to be held not less than forty (40) days, nor more than fifty (50) days of the date the recall petition was finally determined sufficient.

(2) *Submission to Voters of Proposed or Referred Ordinances.* The vote of the City on a proposed or referred ordinance shall be

held not less than thirty (30) days and not later than one (1) year from the date of the final Council vote thereon. If no regular City election is to be held within the period prescribed in this subsection, the Council shall provide for a special election; otherwise, the vote shall be held at the same time as such regular election, except that the Council may in its discretion provide for a special election at an earlier date within the prescribed period. Copies of the proposed or referred ordinance shall be made available at the polls.

- (3) *Withdrawal of Petitions.* An initiative, referendum, or recall petition may be withdrawn at any time prior to the fifteenth (15th) day preceding the day scheduled for a vote of the City by filing with the City Clerk a request for withdrawal signed by at least two-thirds (2/3) of the petitioners' committee. Upon the filing of such request the petition shall have no further force or effect and all proceedings thereon shall be terminated.
- (g) *Results of Election.*
 - (1) *Initiative.* If a majority of the registered voters voting on a proposed initiative ordinance vote in its favor, it shall be considered adopted upon certification of the election results and shall be treated in all respects in the same manner as ordinances of the same kind adopted by the Council. If conflicting ordinances are approved at the same election, the one receiving the greatest number of affirmative votes shall prevail to the extent of such conflict.
 - (2) *Referendum.* If a majority of the registered voters voting on a referred ordinance vote against it, it shall be considered repealed upon certification of the election results.

- (3) *Recall.* The recall election shall be an election to fill the office held by the incumbent sought to be recalled. There shall be no primary. Any qualified person, including the incumbent, may file as a candidate for the office. The candidate receiving the greatest number of votes in the recall election shall be elected. If a candidate other than the incumbent is elected, the incumbent shall be recalled from office effective as of the time when the result of the election is certified. The successful candidate must qualify within one (1) month thereafter; and if he fails to do so, the office shall be vacant, and the vacancy shall be filled in accordance with § 2.06(c). A candidate thus elected and qualifying shall serve for the unexpired term. If the incumbent is a candidate and receives the greatest number of votes, he shall continue in office without interruption. A person who has been recalled from an office, or who has resigned from such office while recall proceedings were pending against him, may not hold any office or position of employment in the City government within three (3) years after his recall or resignation.
- (4) *General Election Provisions.* The provisions of this Charter relating to City elections shall also govern initiative, referendum, and recall elections insofar as they are applicable and are not superseded by the provisions of this Article.

ARTICLE 7. GENERAL PROVISIONS

Section 7.01. Conflicts of Interest, Board of Ethics, and Code of Conduct.

- (a) *Conflicts of Interest.* The use of public office for private gain is prohibited. The City Council shall implement this prohibition by ordinance, the terms of which shall include, but not be limited to:

ited to: acting in an official capacity on matters in which the official has a private financial interest clearly separate from that of the general public; the acceptance of gifts and other things of value; acting in a private capacity on matters dealt with as a public official; the unethical or illegal use of confidential information; and appearances by City officials before other City agencies on behalf of private interests. This ordinance shall include a statement of purpose and shall provide for reasonable public disclosure of finances by City officials with major decision-making authority over monetary expenditures and contractual and regulatory matters and, insofar as permissible under state law, shall provide for fines and imprisonment for violations.

(b) *Board of Ethics.* The City Council shall, by ordinance, establish an independent Board of Ethics to administer and enforce the conflict of interest and financial disclosure ordinances. No member of the Board may hold elective or appointed office under the City or any other government or hold any political party office. Insofar as possible under state law, the City Council shall authorize the Board to issue binding advisory opinions, conduct investigations on its own initiative and on referral or complaint from officials or citizens, subpoena witnesses and documents, refer cases for prosecution, impose administrative fines, and to hire independent counsel, subject to notification to the City Council. The City Council shall appropriate sufficient funds to the Board of Ethics to enable it to perform the duties assigned to it and to provide annual training and education of City officials and employees, including candidates for public office, regarding the Code of Ethics. All City boards and committees shall promptly report in writing any findings of unethical activity by an elected or appointed official to the Board of Ethics.

(c) *Code of Conduct.*

- (1) The City Council shall create and approve a written Code of Conduct for the City of

McAlester. This Code shall describe, in general terms, ethical and unethical behavior and shall give examples of specific acts or failures to act that shall be considered violations of this policy, while not precluding non-specified items. This Code shall be reviewed at least annually, amended as necessary, and re-approved by the Council.

- (2) All City Council members, City officers, and employees shall be supplied with a copy of the Code of Conduct upon taking office or being employed by the City and at least annually thereafter. After each receipt of the Code, they shall certify in writing that they have read and understand the Code, have adhered to the Code, and are not aware of any violation of the Code by any Council member or City employee. Any exceptions shall be noted in writing. These certifications will be maintained in the City's administrative and personnel files.
- (3) City officers and employees who violate any provision of the Code of Conduct shall be subject to disciplinary action up to and including dismissal. Persons who violate the Code may also be subject to prosecution under State or Federal Law.

(d) *Nepotism.* Neither the City Manager, the Council, nor any other authority of the City government, may appoint or elect any person related to the Mayor or any other Councilman, to the City Manager, or to himself, or, in the case of a plural authority, to one of its members, by affinity or consanguinity within the third degree, to any office or position of profit in the City government; but this shall not prohibit an officer or employee already in the service of the City from continuing and being promoted therein.

Section 7.02. Prohibitions

(a) *Activities Prohibited.*

- (1) No person shall be appointed to or removed from, or in any way favored or discriminated against with respect to any City position or appointive City administrative office because of race, gender, age, sexual orientation, disability, religion, country of origin, or political affiliation.
- (2) No person shall willfully make any false statement, certificate, mark, rating or report in regard to any test, certification or appointment under the provisions of this Charter or the rules and regulations made thereunder, or in any manner commit or attempt to commit any fraud preventing the impartial execution of such provisions, rules and regulations.
- (3) No person who seeks appointment or promotion with respect to any City position or appointive City administrative office shall directly or indirectly give, render or pay any money, service or other valuable thing to any person for or in connection with his or her test, appointment, proposed appointment, promotion or proposed promotion.

(b) *Penalties.* Any person convicted of a violation of this section shall be ineligible for a period of five (5) years following such conviction to hold any City office or position and, if an officer or employee of the City, shall immediately forfeit his or her office or position. The City Council shall establish by ordinance such further penalties as it may deem appropriate.

Section 7.03. Political Activity, Coercion of City Officers and Employees.

(a) *Political Activities.* Municipal employees may attend and express their views at City Council meetings, or any other public meetings of municipal

employees. Any municipal employee may actively participate in partisan and nonpartisan political activities, provided the political activity in which the employee participates shall be exercised only during off-duty hours and while not in uniform. Any federal statutes restricting the political activities of certain municipal employees shall supersede the provisions of this section as to such employees.

(b) *Coercion.* It shall be unlawful for the City Council, officers, supervisors, or any employee of the City to directly or indirectly coerce or attempt to coerce any municipal employee to participate or refrain from participation in municipal political activities or public meetings.

ARTICLE 8. CHANGES TO THE CHARTER

Section 8.01. Proposal of Charter Changes.

A proposition to change this Charter may be either in the form of a proposed amendment to a part or parts of the Charter or of a proposed new Charter.

Changes to this Charter may be framed and proposed:

- (a) In the manner provided by the laws and Constitution of the State of Oklahoma; or
- (b) By ordinance of the Council containing the full text of the proposed amendment or new Charter and effective upon adoption; or
- (c) By the voters of the City.

The Council may create a Charter Commission by ordinance to propose amendments to the Charter or propose a new Charter. The Charter Commission shall submit its proposals to the Council. If after Council and public review and editing of the proposals, a majority of the Council approves

the proposed changes, the proposed Charter amendments or new Charter shall be submitted to a vote of the people.

Proposal of an amendment by the voters of the City shall be by petition containing the full text of the proposed amendment and shall be governed by the same procedures and requirements prescribed in Article 6 for initiative petitions until such time as a final determination as to the sufficiency of the petition is made, except that there shall be no limitation as to subject matter and that the petition must be signed by registered voters of the City equal in number to at least twenty-five percent (25%) of the total number of votes cast at the preceding general election. The petitioners' committee may withdraw the petition at any time before the fifteenth (15th) day immediately preceding the day scheduled for the City vote on the amendment.

Section 8.02. Election.

The election authorities shall submit the proposed amendment or new Charter to the voters of the City at an election, which shall be announced by a notice containing the complete text of the proposed Charter amendment or the new Charter in one or more newspapers of general circulation in the City as provided by the laws of the State of Oklahoma. Copies of the proposed amendment or new Charter shall be available at a reasonable price set by the Council and the amendment or new Charter shall be posted on a website or available through other publicly accessible electronic means. The election on the proposed Charter amendment or new Charter shall be conducted according to the laws and Constitution of the State of Oklahoma.

Section 8.03. Adoption of Amendment or New Charter.

If a majority of those voting upon a proposed Charter amendment or new Charter vote in favor

of it, the amendment or New Charter shall become effective at the time fixed in the amendment or new Charter or, if no time is therein fixed, thirty (30) days after its adoption by the voters and approval by the governor as provided by the State Constitution.

ARTICLE 9. TRANSITION AND SEVERABILITY

Section 9.01. When Charter goes into Effect.

This Charter shall go into effect immediately upon its ratification by a vote of a majority of the qualified electors of the City voting upon the question at an election and its approval by the governor as provided by the State Constitution; and this Charter shall supersede the heretofore existing Charter as of that time and become the organic law of the City of McAlester.

Section 9.02. Officers and Employees to Continue.

When this new Charter goes into effect, the Mayor and other Councilmen under the previous Charter shall remain in office and be respectively Mayor and Councilmen of their respective wards, as the case may be, and shall continue in office until their respective terms expire. All other City officers and employees under the previous Charter including members of boards and commissions shall continue in their respective offices and positions of employment under this Charter until their respective terms expire or until their services are terminated in accordance with the provisions of this Charter and ordinances relating to the creation, change, and abolition of offices and removal of officers and employees, as the case may be.

Section 9.03. Ordinances Continued.

All ordinances, insofar as they are not inconsistent with this Charter, shall continue in effect until they are repealed or until they expire by their own limitations.

Section 9.04. Pending Actions and Proceedings.

The adoption of this Charter shall not abate or otherwise affect any action or proceeding, civil or criminal, pending when it takes effect, brought by or against the municipality or any office, department, division, agency, or officer thereof.

Section 9.05. Severability.

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

(b) If a court of competent jurisdiction holds a part of this Charter invalid, or if a change in the State Constitution or Law renders a part of this Charter invalid or inapplicable, the Council, by ordinance, may take such appropriate action as will enable the City government to function properly.