

## **THE CHARTER OF THE CITY OF PERRY, OKLAHOMA<sup>1</sup>**

As Framed by the Freeholders and Presented to the Voting Electorate of the City of Perry, Oklahoma, for their approval or rejection, at the special nonpartisan election scheduled for the 7<sup>th</sup> day of November 2006.

### **PREAMBLE**

We, the people of the City of Perry, in order to secure the benefits of home rule, encourage efficient and business-like methods in the transaction of municipal affairs, promote civic advancement and general welfare and protect the human rights and personal dignity of all persons do ordain and establish this Charter for the City of Perry.

*NOTE: When the masculine gender is used in this Charter, it shall also include the feminine.*

### **ARTICLE I. ORGANIZATION AND POWERS**

#### **Section 1. Organization.**

We, the People, living within the boundaries hereinafter defined, and their descendants, hereby create, organize and reconstitute a Municipal Corporation and body politic with perpetual succession under the name of the "City of Perry, Oklahoma" that shall succeed to own and possess all the property, rights, privileges, franchises, powers and immunities now belonging to the present corporation known as the City of Perry, and shall be liable for all debts and obligations for which said present corporation is now liable, and having adopted a common seal retain the power to alter the same at pleasure, to sue and be sued in all courts, to make contracts, to take and acquire property by purchase, condemnation or otherwise, and to hold, lease, mortgage, convey or otherwise dispose of any of its property within or without the limits of said City, with such other powers, rights, privileges, franchises and immunities as are granted and conferred by any other parts of this Charter or by the Constitution and the laws of the State of Oklahoma.

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<sup>1</sup> With amendments through the April 4, 2017 Charter Question Election.



The following shall be the City Seal:

## **Section 2. Boundaries.**

The boundaries of said City, and the respective wards thereof shall, until altered as provided by law, be the same as at the time of the adoption of this Charter.

## **Section 3. General Grant of Powers.**

Said City shall also have all other powers that are now, or may hereafter be given it by the Constitution and the laws of this State, and this Charter is and shall be the organic law of the City in all matters pertaining to the local government of the City and prevails over state law on matters relating to purely municipal concerns, and said City shall have the power to enact and enforce all ordinances necessary to protect health, life and property; to define, prevent, and summarily abate and remove nuisances; to preserve and enforce good government and order; and to take any and all other actions necessary to protect the health, safety and welfare of the residents of the City of Perry, Oklahoma.

## **Section 4. Bequests, Gifts and Donations.**

The City of Perry, Oklahoma, may receive bequests, gifts and donations of all kinds of property, both real and personal, or in trust for charitable or public purposes, and perform all acts necessary to carry out the purposes of such bequests, gifts, donations or trusts, with power to operate, manage, sell, lease or otherwise dispose of same, in accordance with the terms of the bequest, gift, donation, or trust.

## **Section 5. General Grant of Powers not Limited.**

The legislative, executive and judicial powers of the City shall extend to all matters of local and municipal government, it being the intent hereof that the specification of particular powers by any other provision of this Charter shall never be construed as limiting or impairing the effect of the general

grant of powers hereby made.

## **Section 6. Former Government in Force.**

All existing ordinances of the City not inconsistent with this Charter or inapplicable under the municipal government provided by this Charter, shall be and continue in full force and effect, until amended or repealed or until they expire by their own limitations, and no existing right, action (civil or penal), suit, proceeding, or contract, shall be affected by the change in the form of government of the City; but all shall continue as though no such change had taken place; and all debts, penalties and forfeitures which have accrued, or which may hereafter accrue by virtue of anything heretofore done or existing, shall inure to the benefit of the City of Perry, Oklahoma, and may be sued for and recovered by the said City as though this Charter had not been adopted. Nothing herein, however, shall legalize or make legal any invalid indebtedness of the City heretofore contracted or incurred or impair any defense against the payment of the same, nor shall the adoption of this Charter in anywise interfere with any proceedings heretofore instituted relating to the levy and collection of taxes, special assessments, or levies of any nature, or with any proceedings to enforce the payment of the same, and all contracts heretofore entered into by the City shall remain in full force and effect and be completed under the ordinances existing at the time of the adoption of this Charter.

## **ARTICLE II. CITY OFFICERS; ELECTIONS**

### **Section 1. Elected Officers: Powers and Duties; Compensation.**

1. There shall be a Council of nine (9) members, which shall consist of a Mayor elected at large, and two (2) Councilmembers from each of the four (4) wards of the City, as the wards are now constituted or as they may be hereinafter constituted from time to time. The Mayor and Councilmembers shall be registered voters and each Councilmember shall be actual residents of their respective wards. Removal of a councilmember from the ward for which he was elected shall cause an immediate vacancy. All members of the Council shall be elected at large. Except in exercising the powers of initiative and referendum, all legislative power shall be vested in the Council. All references in this Charter to "Councilmembers" or "City Councilmembers" shall be construed to mean the Mayor as well as those persons elected or appointed to

Council positions.

2. Five (5) members of the Council shall constitute a quorum, and the affirmative vote of at least five (5) members shall be necessary to adopt any motion, resolution or ordinance or pass any measure, unless a greater number is required by a specific provision of the Charter.

3. The Mayor shall preside at all meetings of the Council, performing legislative and any required ceremonial duties as are necessary in conducting City business. The Mayor shall be recognized as the official head of the City by the courts for the serving of civil processes, and by the Governor for military purposes. In time of public danger or emergency the Mayor may, with the consent of the Council, take command of the police, maintain order and enforce the laws. The Mayor is counted for quorum purposes; shall have all powers, rights, privileges, duties and responsibilities of a Councilmember; and, shall have the right to vote on questions.

4. The Mayor and Councilmembers shall be paid a reasonable compensation as they may determine by majority vote; provided in no case shall the salary or emoluments of the Mayor or any Councilmember be changed after his election or appointment, or during his term of office, unless by operation of law enacted prior to his election or appointment. The Mayor and Councilmembers may also be reimbursed for expenses incurred in the discharge of their official duties.

5. Except as otherwise provided in this Charter, all powers of the City, including the determination of all matters of policy, shall be vested in the Council. The Council shall have the power:

A. To appoint, supervise and remove the City Manager, City Attorney, City Auditor, Chief Financial Officer and such additional temporary and specific appointments as required to conduct the business of the City;

B. To appoint the Municipal Judge, as provided in this charter;

C. To enact municipal legislation by ordinance and perform

all other legislative and policy making functions;

D. To raise revenue and make appropriation, to adopt the budget, to regulate bond elections, the issuance of bonds or other evidences of indebtedness, sinking funds, the refunding of indebtedness, and to approve salaries, wages and benefits as specifically provided herein and oversee all other fiscal affairs of the City;

E. To appoint and remove the members of all Commissions, Boards, agencies, authorities and all other entities, now or when and if established, as provided by ordinance, law, or written instrument, and to prescribe the method of appointing or electing and removing them;

F. To inquire into the conduct of any office, department, or agency of the city government, and to investigate municipal affairs, either en banc or by a duly appointed committee; and for this purpose, to subpoena witnesses, take testimony and require the production of evidence;

G. To regulate elections to carry out the initiative, referendum and recall; and

H. To create, change, and abolish all offices, departments, agencies, commissions, boards, authorities and all other entities of the city government other than the offices, departments, and agencies created by this Charter; and to assign additional powers, duties and functions to offices, departments and agencies created by this Charter or by Council action.

6. All power not otherwise delegated to another by this Charter is reserved to the City Council.

## **Section 2. In General.**

1. The Noble County Election Board shall administer all elections for the City, and unless otherwise provided herein, shall conduct such elections in compliance with the general laws of the State of Oklahoma.

2. The following positions shall be filled at the April 2007 General Election: Mayor, Ward 1, Post 1, Ward 2, Post 1, Ward 3, Post 1, and Ward 4, Post 1, all of whose terms shall be

for a four (4) year period. The following positions shall be filled at the April 2009 General Election: Ward 1, Post 2, Ward 2, Post 2, Ward 3, Post 2, and Ward 4, Post 2, all of whose terms shall be for a four (4) year period. Those persons that hold the positions as Councilmembers from Ward 1, Post 2, Ward 2, Post 2, Ward 3, Post 2, and Ward 4, Post 2, on the day that the Council gives notice to the Noble County Election Board to conduct the April 2007 election, shall continue to hold such positions under the new government and until their successors are appointed or elected and qualified. On the first Monday in May 2007, the elected positions for City Clerk, Street Commissioner, City Treasurer and City Marshal are abolished.

3. The term of office of an elected official shall begin on the third Monday in April following the general municipal election, after being duly sworn, and such official shall serve until his successor is appointed or elected and qualified, unless he is removed or forfeits his office under other provisions of this Charter. If a newly elected official does not qualify within thirty (30) days after his term of office begins, the office shall become vacant and shall be filled in the manner provided by law. In order to complete the unexpired term, the office of an official who is holding over shall be filled at the next general election in accordance with the general election laws of the state.

4. For the purpose of filing for, and election to, the positions of Councilmember, only persons who have (i) been duly registered to vote in accordance with state law within the City and (ii) duly resided in the ward from which they seek election, for a period of one (1) year prior to the first day of the filing period, shall be eligible to seek election as Councilmember.

5. For the purpose of filing for, and election to, the position of Mayor, only persons who have been duly registered to vote in accordance with state law within the City and who have been a resident of the City for one (1) year prior to the first day of the filing period, shall be eligible to seek election as Mayor.

6. The person who receives the most votes for any City office shall be certified as having been elected to that office. There shall be no City run-off elections.

### **Section 3. Official Oath, Bond.**

Upon entering the duties of their offices, the Mayor and Councilmembers shall take the oath of office prescribed by the Constitution of Oklahoma. The Council shall require the Chief Financial Officer, other appropriate financial officer, and/or any officer or employee designated by ordinance or resolution, to sign municipal warrants or municipal checks, and any other officers and employees as the Council may designate by ordinance, to give bond for the faithful performance of such officer or employee's duties within ten (10) days after election or appointment, in such amount and form as the Council shall prescribe. The City shall pay the premiums on such bonds.

### **Section 4. Qualifications of Voters.**

In all municipal elections, only registered voters of the City shall be eligible to vote. Registered voters shall be qualified and registered under the law of the State of Oklahoma.

### **Section 5. City Council to Order Special Elections.**

The Council may call special elections in the manner as provided by state law.

### **Section 6. Candidates; Nonpartisan Elections**

1. Qualified candidates for the offices of Mayor and Councilmember may file for office as provided by the general laws of the State.

2. All elections of the City shall be nonpartisan.

### **Section 7. Election of Vice Mayor; Duties of Vice Mayor.**

On the first regularly scheduled Council meeting in May of each odd-numbered year, the Council, by a majority vote of all Councilmembers, shall elect one of the Councilmembers to be Vice Mayor of the City for a term of two years and until his successor is elected and qualified. The Vice Mayor shall act as Mayor in the absence of the Mayor. In case of the absence of both the Mayor and the Vice Mayor, the remaining Councilmembers shall elect one of their number to act as Mayor until the return of the Mayor or Vice Mayor.

## **Section 8. Vacancies in Office.**

1. A vacancy in the office of a member of the Council shall exist whenever the holder thereof:

A. Ceases to possess some qualification for the office, prescribed by this Charter or by applicable law;

B. Dies,

C. Resigns,

D. Is removed from office by proceedings of a Court of competent jurisdiction, including but not limited to a violation and conviction of Article III, Section 6;

E. Is declared legally incompetent by a Court of competent jurisdiction; or

F. Ceases to reside in the ward where elected or appointed, except that no vacancy shall occur whenever a Councilmember is rendered a non-registered voter of the ward represented by reason of reapportionment carried out by the Council;

G. Is absent from more than one-half of all meetings of the Council, regular and special, held within any period of four (4) consecutive months.

2. When a vacancy occurs in an office of an elected municipal official, except the mayor, the governing body shall appoint, by a majority vote of the remaining members, a person to fill the vacancy until the next general municipal election, and to serve until a successor is elected and qualified. Any vacancy shall then be filled at the next general municipal election by election of a person to complete the balance of any unexpired term. If the vacancy has not been filled within sixty (60) days after it occurs, the governing body shall call for a special election for the purpose of filling the vacancy for the duration of the unexpired term, unless said vacancy occurs or said election would occur within one hundred twenty (120) days prior to the first day of the filing period for the next general municipal election. When a vacancy occurs in the office of the Mayor, the governing body shall call for a special election for



the purpose of filling the vacancy for the duration of the unexpired term, unless said vacancy occurs or said election would occur within one hundred twenty (120) days prior to the first day of the filing period for the next general municipal election. If a vacancy is not filled by the special election, it shall be filled by appointment.

3. To be eligible for appointment to fill a vacancy in an elected municipal office, a person must meet the same qualifications required for filing a declaration for candidacy for that office.

### **ARTICLE III. CITY MANAGER**

#### **Section 1. Council to Appoint City Manager.**

. By majority vote of all Councilmembers, the Council shall appoint a City Manager. He shall be chosen by the Council solely upon the basis of his executive and administrative qualifications, without regard to age, gender, race, color, creed, national origin, or disability (provided he is qualified and meets the requirements applicable to his employment), and he need not, when appointed, be a resident of the City or State; but during his tenure of office, he shall reside within one (1) mile of the corporate limits.<sup>2</sup>

2. No member of the Council shall, during the time for which he is elected, be chosen City Manager, nor for two years after he ceases to be a member.

3. The City Manager shall be removable at any time, upon a vote of a majority of all the Councilmembers, which action shall be final, it being the intent of this Charter to vest all

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<sup>2</sup> Section 1 was amended by the voters at an election held on November 4, 2008, to provide that the City Manager shall live within five miles of the Perry corporate limits (Ordinance No. 2008-13). Section 1 was amended by the voters at an election held on April 2, 2013, that the City Manager reside within five (5) miles of the corporate limits of the City provided any person appointed city Manager may reside within ten (10) miles of the corporate limits, if such appointee resided at such residence for more than five (5) years prior to the appointment (Ordinance 2013-01). Section 1 was amended by the voters at an election held on April 4, 2017, to provide that the City Manager shall reside within one (1) mile of the corporate limits (Ordinance No. 2017-03).

authority and fix all responsibility for removal of the City Manager with the Council.

4. By letter filed with the City Clerk, the City Manager may appoint a qualified acting City Manager during the temporary absence or disability of the City Manager. The Council may appoint a qualified acting City Manager whenever;

- a. The manager fails to make such designation;
- b. The Council suspends the City Manager; or
- c. There is a vacancy in the office of City Manager.

5. The City Manager shall be a contract employee and all the terms, conditions, wages, and benefits (including any severance consideration) shall be set out in a written employment contract.

## **Section 2. General Powers and Duties of the City Manager.**

The City Manager shall be the chief executive officer of the municipal government responsible only to the Council. The City Manager shall not, during the term of office, be an employee of, or perform any duties for any person, firm, corporation or institution other than the City of Perry or its public authorities and shall not be interested in the profits or emoluments of any contract, job, work, or service of the City or its public authorities.

## **Section 3. Oath and Qualifications.**

Before entering upon the duties of his office, the City Manager shall take the official oath and be bonded, if required by his contract. The City Manager shall be or become a member of national and state professional organizations pertaining to employment and abide by the organizations' ethical codes.

## **Section 4. Special Powers and Duties of the City Manager.**

1. Being at all times directly responsible to the Council for the proper administration of the City Government, the City Manager shall have the following powers and duties:

A. To ensure that all laws and ordinances governing the City are enforced;

B. To appoint and remove all directors or heads of departments and all subordinate officers and employees in such departments. Such appointments shall be made solely upon the basis of merit and fitness, including training, education and experience in the work to be performed, and without regard to age, gender, race, color, creed, national origin, or disability (provided he is qualified and meets the requirements applicable to his employment); provided however, the standard for removal for non-probationary full-time, part-time, temporary, probationary or seasonal employees shall not be upon the basis of merit and fitness, but shall be based upon the good of the service, creating employment "at will", and shall be effective from and after the approval of this amendment by majority vote of the electorate. This amendment will not apply to any non-probationary full-time employees, who have completed their probation period prior to the date this amendment becomes effective whose standard for removal shall remain merit and fitness for employment.<sup>3</sup>

C. To manage and supervise all departments of the City Government, and to exercise all other executive functions, except as this Charter may otherwise provide;

D. To supervise and manage and have general charge over the construction, operation, maintenance and repair of City-owned public works, utilities, streets, sidewalks, bridges, grounds, and buildings within or without the corporate limits of the City, except as otherwise herein provided;

E. To make timely and informative reports to the Council, including a monthly report, and attend all meetings of the Council unless excused therefrom, taking part in discussions, but without voting privileges;

F. To recommend to the Council the adoption of such measures as he may deem necessary or expedient;

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<sup>3</sup> Amendment to Section 4B was approved by the voters at an election held on November 4, 2008 (Ordinance No. 2008-11). Section 4B was further amended by the voters at an election held on April 4, 2017 (Ordinance No. 2017-04).

G. To keep the Council fully advised as to the financial conditions and future needs of the City, making appropriate recommendations;

H. To ensure that all franchise rights and provisions are justly enforced;

I. To prepare and submit to the Council an annual budget as required by this Charter;

J. To prepare, or cause to be prepared, an agenda of business for each Council meeting, including his recommendations;

K. To respond to written and oral requests of Councilmembers pertaining to the City's business;

L. To perform such other duties as may be prescribed by law or ordinance; and

2. If the City Manager gives an order to or requests certain action of an employee or department head, and such order or requested action is disputed by such employee or department head, the City Manager may be requested by said employee or department head to place such order or action in writing.

#### **Section 5. Purchasing Ordinance; City Manager Responsible for Enforcement.**

The Council shall by ordinance duly passed, prescribe a purchasing ordinance setting such limits, terms and requirements including exemptions and exceptions from such requirements, as may be deemed appropriate and efficient for the administration of the City Government, and pertaining to purchases not otherwise controlled by the terms of the Public Competitive Bidding Act of 1974, in effect at the time that this Charter is approved or as hereinafter amended. Such purchasing ordinance and terms thereof shall at all times be considered a local matter or concern. The City Manager shall be responsible for ensuring compliance with the Purchasing Ordinance.

#### **Section 6. Council Not to Interfere in Appointments, Removals or Administration.**

Except for purpose of inquiry or comment, neither the

Council, nor any of its members, shall direct or request the appointment of any person to, or his removal from office or employment by the City Manager or any of his subordinates, or in any manner take part in the appointment or removal of officers and employees in the administrative services of the City, (which appointments are reserved to the City Manager), except that the Council may direct the City Manager, by resolution, to investigate charges of misconduct or incompetence against any City employee and to report the result thereof. The Councilmembers shall deal with the administrative service solely through the City Manager, and no Councilmember, individually or collectively, shall give orders to any subordinate of the City Manager, either publicly or privately. Violation of any of the provisions of this section by any Councilmember shall constitute grounds for removal by a court of competent jurisdiction.

#### **Section 7. Political Activity of City Employees**

Political activity of City employees shall be covered by general state statutes. However, no person employed by the City may file a declaration of candidacy for, nor serve as, Councilmember or Mayor.

### **ARTICLE IV. CHIEF FINANCIAL OFFICER**

#### **Section 1. Chief Financial Officer**

##### **1. Purpose.**

In order to ensure compliance with the financial internal control policies of the City and provide for professional fiscal management of the public funds, it is deemed necessary for the Council to provide for a Chief Financial Officer.

**2. Chief Financial Officer: Appointment and Removal; Principles; Requirements.**

The Council shall appoint and remove the Chief Financial Officer, subject to the recommendation of the City Manager. He shall perform his duties in accordance with generally accepted accounting principles for local governments. He shall be a certified public accountant with experience in governmental accounting, auditing, and financial procedures, with experience as an auditor or comptroller with the responsibility for

financial statement preparation and financial system oversight.

3. Duties. The Chief Financial Officer shall:

A. Prepare all annual financial statements, including (i) the preparation of the notes to the financial statements and management discussion and analysis, (ii) the review of general ledger (at least a monthly review for obvious posting and account balancing errors) and preparation of subsidiary schedules for the City Auditor, and (iii) the presentation of such financial statements to the Council each month or whenever requested<sup>4</sup>;

B. Resolve all material accounting and posting questions that arise, as well as being available to consult with the City Auditor during the audit;

C. Assist in the preparation of the budget;

D. Monitor and implement other necessary or required internal controls as well as supervise financial system operations;

E. Prepare and maintain an accounting policy and procedures manual in accordance with City's financial operation to assure compliance with generally accepted accounting procedures;

4. Although the Chief Financial Officer is appointed by the Council and responsible to ensure adequate internal controls, he shall perform such work as directed by the City Manager.

5. Nothing herein should be construed to prevent the City Manager from employing person(s) to perform financial related services.

## **ARTICLE V. CITY CLERK**

### **Section 1. City Clerk Appointment and Removal**

The City Clerk shall be appointed and removed by the City Manager. The City Clerk shall:

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<sup>4</sup> Section 1, Subsection 3B was amended by the voters at an election held on April 4, 2017, to eliminate the phrase "or at the Finance Committee meeting (Ordinance 2017-05).

1. Be the Clerk for the Council;
2. Keep the journal of the proceedings of the Council;
3. Enroll the ordinances and resolutions passed by the Council in a book or set of books kept for the purpose;
4. Have custody of documents, records, and archives, as may be provided for by law or by ordinance, and have custody of the seal of the City;
5. Attest and affix the seal of the City to documents as required by law or by ordinance; and
6. Have such other powers and functions related to his duties as may be prescribed by law or by ordinance.

#### **ARTICLE VI. MUNICIPAL COURT**

##### **Section 1. Appointment, removal and compensation of Municipal Judge.**

As provided by the Constitution and laws of the State of Oklahoma, the Municipal Court of the City of Perry is hereby continued. The Mayor, with the consent and approval of the Council, shall appoint a qualified person, as provided by state law, and whose other qualifications may be set by ordinance, as Judge of said Court with the official title of Municipal Judge. The Judge shall serve for a term of two (2) years beginning on May 1 of each odd numbered year, and until his successor is appointed and qualified. Said Municipal Judge shall be entitled to such compensation as may be prescribed by City Council.

#### **ARTICLE VII. CITY ATTORNEY**

##### **Section 1. Appointment and removal of City Attorney.**

The Mayor, with the consent and approval of a majority of all the members of the Council, shall appoint the City Attorney. The City Attorney may be removed by a majority vote of all the members of the City Council.

## **Section 2. Duties of the City Attorney.**

The City Attorney shall have such qualifications, powers and duties as are prescribed by law. It shall be the City Attorney's duty to advise the Council and each member thereof, and the City Manager, upon all legal questions and the City Attorney shall give opinions in writing when requested and shall represent the City as counsel in all litigation, in all courts and shall perform such other legal services on behalf of the City, its officers or employees, as may be required by the Council. Although the City Attorney is appointed by the Council, he shall also perform the work as may be directed by the City Manager. The foregoing provision shall not be deemed to prevent the City Manager, with the approval of a majority of the City Council, from employing private counsel as it is deemed necessary.

## **ARTICLE VIII. REMOVAL**

### **Section 1. Method of Removal.**

Any member of an:

1. Appointive board or commission created by this Charter;
2. Appointive board or commission created by any amendment to this Charter; or
3. Appointive board or commission created by municipal ordinance;

may be removed if five (5) City Councilmembers approve a motion to remove.

## **ARTICLE IX. LEGISLATIVE DEPARTMENT**

### **Section 1. Resolutions, Ordinances and Motions.**

A roll call vote shall be called and recorded on every motion, resolution or ordinance. Every motion, resolution or ordinance shall be reduced to writing and the title of all resolutions and ordinances shall be read aloud before the final vote is taken. The Mayor shall have no power to veto any measure, and he shall have a vote on all questions. Every resolution or ordinance shall bear the approval of the City Manager as to



content, the City Attorney as to form, and upon approval by a majority of Councilmembers, be signed by the Mayor or by the Vice Mayor, acting in that capacity, and every ordinance shall be published in full or by number, title, and brief gist in a newspaper of general circulation within the city within ten (10) days following adoption except as otherwise hereinafter provided. The procedures set out in State law shall govern the adoption, publication, codification and enforcement of municipal ordinances.

## **Section 2. Open Meetings.**

The regular meetings of the Council shall be held on the first and third Mondays of each month unless a different regular meeting date is otherwise set by the Council; provided that regular meetings must be held at least semi-monthly. The Council may be called in special session by the City Manager, Mayor or by three (3) Councilmembers. All meetings, regular or special, of the City Council or other public bodies (as defined by the Oklahoma Open Meeting Act ("Act") or as the Act may be hereinafter amended) shall be open to the public, as provided by the Act, subject to such exceptions and exemptions as provided by the Act.

## **Section 3. Removal of Mayor and or Councilmembers.**

The Mayor or any Councilmember shall be subject to removal from office in the same manner and for the same cause or causes as provided by the laws of the State of Oklahoma for the removal of public officers.

# **ARTICLE X. RECALL OF ELECTIVE OFFICERS**

## **Section 1. Time of Commencing Proceedings.**

The holder of any elective office, either by election or appointment to fill a vacancy, may be removed at any time after six (6) months from the date of his accession to said office, by the registered voters qualified to vote for a successor to such incumbent, as provided by this Article.

## **Section 2. Filing of Petition; Validation of Signatures.**

1. A petition bearing the signatures, names and addresses

of twenty-five per cent (25%) of the registered voters qualified to, and who actually voted in the last mayoral election, shall be necessary to initiate recall proceedings against any elected official. The City Clerk shall maintain on file and for public use proper petition forms to initiate such proceedings.

2. The petition form shall be furnished by the City Clerk. The date and time that the petition is furnished by the City Clerk shall be considered the "initiation date" and shall be so certified to in writing by the City Clerk. Each petition shall be filed against a specific office. No petition shall be effective against more than one (1) officer of the City. Those persons circulating the petition shall sign a statement, provided by the City Clerk, that each person will circulate the petition in accordance with state law and actually witness and verify each signature placed on each petition submitted by such circulator. The petition circulators must possess the same characteristics as a petition signer as provided in subsection 1 hereinabove.

3. At the top of each page of said petition there shall be a brief statement of the basis for recalling the elected officer.

4. The petition must be returned to the City Clerk within thirty (30) calendar days of the initiation date in order for the petition to be valid ("petition receipt date"). If the 30<sup>th</sup> day falls on a weekend or holiday, the petition may be submitted on the next business day. Failure to return the petition(s) within the proper time limits shall render that recall petition procedure null and void.

5. Upon the timely receipt of the petition(s), the City Clerk shall inspect said petition(s) to see that all the signatures are valid and that both the signatories and circulators meet the other qualifications set out in subsection A hereinabove. All invalid signatures shall not be counted. If any circulator has not met the qualifications set out in subsection 1 hereinabove, his petitions shall be null and void. Such inspection by the City Clerk shall be completed in not more than thirty (30) calendar days from the petition receipt date and the results of such City Clerk's inspection published in a newspaper of general circulation in the community (which document shall be titled "Sufficiency of Recall Petition dated as of the Petition Receipt Date") and shall be sent by certified mail, return receipt requested, to the officer whose recall is sought.

### **Section 3. Election.**

Upon determination by the City Clerk that the petition(s) are legally sufficient, said petition(s) shall be presented to the City Council. The City Council shall within thirty (30) days of receiving such legally sufficient determination, in accordance with state election laws, order a recall election. The recall election shall require the officer to stand election for such office and any other qualified person may file as a candidate. The election shall be held in accordance with state law and the procedure used shall be the same as required to fill a vacancy in such elected office. The candidate receiving the greatest number of votes shall be certified as elected and shall serve for the remaining term of the office for which recall was sought.

### **Section 4. Persons Recalled or Resigning.**

A person who fails to win re-election after being subject to this recall procedure, or who has resigned from office while recall proceedings were pending against him, may not hold office or any position of employment in the City Government within four (4) years after his recall or resignation.

## **ARTICLE XI. MISCELLANEOUS PROVISIONS**

### **Section 1. Compensation.**

A. The Council shall fix the compensation of all officers and employees that it is charged with appointing.

B. Subject to fiscal budgetary appropriations, the City Manager shall fix the number, salaries and compensation of all officers and employees that he is charged with appointing.

C. No full-time employee shall be permitted under any circumstances to draw more than one salary from the City for any and all purposes.

### **Section 2. No Appointment for Definite Time.**

No employee shall be appointed to an office or position in the City for any definite time.

### **Section 3. Conflict of Interest.**

1. Neither the Mayor, Councilmember nor the City Manager, shall sell or barter anything to the City or to a public authority with the City as beneficiary (for purpose of this section to be collectively referred to as the "City") or to a contractor to be supplied to the City; or to make any contract with the City (excepting a City Manager employment agreement); or purchase anything from the City other than those things that the City offers generally to the public (i.e., at auctions or competitive sales or utility services or airport hangar or similar leases) and then only on the same terms as are offered to the public. Any officer or employee violating this section, upon conviction thereof, shall, in addition to any other penalty or fine, thereby forfeit his office or employment. Any violation of this section, with the knowledge, express or implied, of the person, firm or corporation contracting with the City, shall render the contract voidable by the City Manager or the Council. This subsection shall not apply in cases where the City acquires property by condemnation or threat of condemnation.

2. The Council, by ordinance, or the City Manager, by personnel rules, may further regulate conflict of interest and ethics of officers and employees of the City.

3. The general laws contained in Title 11 of the Oklahoma Statutes, as amended, which pertain to conflict of interest for municipal officers and employees are hereby re-adopted as if fully set out herein.

### **Section 4. Officers to Continue Until their Successors are Elected or Appointed and Qualify.**

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, disability, abolition of office or other legal manner.

### **Section 5. Amendment; Proposal, Ratification, Approval.**

This Charter may be amended by proposals thereof submitted by the Council or by the Mayor upon initiative petition of the

electors as provided by the State Constitution, at a general or special election, ratified by a majority of the qualified electors voting thereon, and approved by the Governor as provided by the State Constitution. If more than one amendment is proposed, all of them, except those which are so interrelated that they should be ratified or rejected together, shall be submitted in such a manner that the electors may vote on them separately. A proposition to amend 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.

**Section 6. Councilmembers Cannot Accept newly created Office or Employment.**

No Councilmember shall be appointed to any office or employment created by the Council during that member's term until the expiration of two (2) years after that member's term of office on the Council shall have ended.

**Section 7. Officers may Administer Oaths.**

The Mayor, Municipal Judge and the City Clerk shall have the power to administer oaths.

**Section 8. Auditing of Accounts and Publication of Same.**

At the end of each fiscal year, and at such other time as it may deem necessary, the Council shall cause a full and complete examination of all the books and accounts of the City, including the accounts of municipally owned utilities, to be made by a competent, independent Certified Public Accountant who shall be the City Auditor.

**Section 9. Land Use Powers**

The City of Perry shall have full power to promote the public health, safety, morals, and general welfare by regulating the use of real property and by controlling and directing the development of the City, through the exercise of the complete powers necessary and proper to carry out and maintain these and all powers into full effect, within the City limits, to the fullest extent permissible under the Constitution of the United States and the Constitution of this State. The exercise of the powers of planning, zoning, development and subdivision

regulation within the City shall be always in pursuance of this grant of authority and not under state statutes or law, except with respect to those matters of general state concern as to which state law controls under the State Constitution. The City also may exercise powers of planning, zoning, development and subdivision regulation granted by the State in respect to matters of general state concern, as aforesaid, and also in respect to property situated outside the City limits, including but not limited to real property owned, leased or controlled by the City. The City shall have the power to exercise its power to protect the health, safety and welfare of the public on real property owned by the City and located outside of the City's corporate limits, including but limited to the power to enforce municipal ordinances.

#### **Section 10. Right to Engage in Business and Other Powers**

The City shall have the right to:

1. Engage in any lawful business or enterprise and to do all things necessary and proper in the discretion of the Council pursuant to the authority granted to it by the Constitution, state laws and this Charter, to maintain said business, or enterprise for the benefit of the City.

2. Acquire, own and maintain, within or without its corporate limits, real estate for sites and rights-of-way for any municipal purpose, including but not limited to public utility and public parks, and other public purposes, and for the location thereon of buildings, appurtenances and facilities associated with electricity, natural gas, telecommunications, waterworks, sanitary sewer, drainage and any and all other utilities owned, leased or controlled by the City, and for the purpose of any other lawful business or enterprise of the City. The City may acquire, erect, construct and own all necessary poles, wire, lines, pipelines, mains, channels, together with necessary appurtenances, apparatus and substations, and acquire right-of-ways, and do all other things necessary and proper in carrying on the business both inside and outside the corporate limits of the City. The City may construct or acquire lines, pipelines, mains or channels together with necessary appurtenances by purchase or otherwise and may sell such service to any person, firm or corporation located inside or outside of its corporate limits.

3. Exercise the power and right of eminent domain for any municipal or proper public purpose, within and without its corporate limits.

4. Engage in economic and tourism development, historic preservation, the promotion of aesthetics, and beneficial environmental efforts, and to expend public monies in pursuit of the same, provided that all such efforts are pursuant to written agreements providing for adequate consideration, safeguards and accountability.

5. Engage in all other activities and exercise all such additional powers as permitted by the general laws of the State of Oklahoma, and as currently provided or as hereinafter amended.

#### **Section 11. Sale of Water, Sewer or Electric Utilities.**

The City may not sell, lease, convey or otherwise dispose of, in whole or in part, its water, sewer or electric utilities unless such sale, lease, conveyance, or other disposal of such utility shall be authorized by vote of a 2/3<sup>rd</sup> of the registered voters of the City voting on the question at an election to be held for such purpose. This section shall not apply to any sale or lease to a public trust with the City as sole beneficiary. The sale in whole of any of the foregoing public utilities, if authorized by the vote as provided hereinabove, must be at least equal to or greater than the fair market value price determined by an independent appraisal expert selected by the City. Unless restricted by written instrument, the sale or lease of any real or personal property not constituting or a part of the aforementioned public utilities, upon which a public use has previously been made, may be sold or leased, in whole or in part, without such vote and election.

#### **Section 12. When the Charter Goes into Effect.**

1. Upon ratification by a majority vote of the qualified electors of the City voting upon the question at the election and its approval by the Governor:

A. The provisions of this Charter pertaining to offices and officers, both existing and to be elected and appointed, shall go into effect as provided by this Charter.

B. This form of government shall be effective as of the date of the election of officers for this new government to be had in April 2007.

### **Section 13. Reapportionment.**

1. As soon as practicable, following each federal census, the Council shall review the wards and ward boundaries of the City. Any change in the boundaries of wards shall be made by ordinance with due regard to the convenience and contiguity of the wards. The effective date of a change in the names or boundaries of wards shall be the effective date of the ordinance making the change, unless the Council provides otherwise.

2. When territory is annexed to the City, the Council shall by resolution incorporate it into the adjacent ward or wards or shall readjust the wards and boundaries in the manner provided hereinabove, as it deems appropriate.

### **Section 14. Review of Charter.**

The City Charter shall be reviewed from time to time to ensure its efficiency and relevancy to current events and needs of the residents. The City Clerk shall record and separately segregate all public comments and other suggestions concerning potential charter changes or amendments. At a minimum, the City Charter shall be reviewed at least every ten (10) years. The Council shall appoint a committee of residents to perform this function. Suggested amendments, deletions and additions shall be recommended by the committee to the City Council if deemed appropriate. The Council should consider whether to place such recommendations to a vote of the people at the next general or special election.

### **Section 15. Ordinance Continued; Pending Actions and Proceedings; Financings**

1. 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.

2. 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, agency or officer thereof.

3. The adoption of this Charter shall not abate or otherwise affect, in any manner, any City (or public trust authority with the City as beneficiary) financing, indebtedness, note, obligation or any other financial matter in effect at the time of the adoption of this Charter.

#### **Section 16. Saving Clause.**

1. If any section or a part of a section of this Charter is determined by a Court of competent jurisdiction to be invalid, it shall not invalidate or impair the force or effect of any other section or part of a section of this Charter, except insofar as such other section or part of a section is dependent for its operation upon the section so held to be invalid.

2. If a Court of competent jurisdiction holds a part of this Charter invalid, or a change in the State Constitution or state 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.