HOME RULE CHARTER

TOWN OF FAIRVIEW

Prepared by the Home Rule Charter Commission
March 2, 2006

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CHAPTER ONE

INCORPORATION AND BOUNDARIES

SECTION 1.01 PREAMBLE

We the people of the Town of Fairview, under the authority granted by the constitution and laws of the State of Texas, in order to secure the benefits of self-government and to provide for an effective, responsive, and responsible local government, do hereby adopt this home rule charter as the basic foundation of our Town government.

SECTION 1.02 INCORPORATION

All inhabitants of the Town of Fairview, Collin County, Texas, as the boundaries and limits of said Town have heretofore been established and now exist, or may hereafter be established, shall constitute a municipal body politic incorporated under and known by the name "Town of Fairview" with such powers, rights duties, privileges, and immunities as are herein provided.

SECTION 1.03 BOUNDARIES AND LIMITS

The boundaries and limits of the Town of Fairview shall be those as established and described in ordinances duly passed by the Town Council of the Town of Fairview in accordance with state law. The Town Secretary shall at all times keep a correct map of the boundaries and limits of the Town.

SECTION 1.04 ANNEXATIONS AND DISANNEXATIONS

The Town may from time to time alter its boundaries by annexing any territory adjoining its present or future boundaries in any size or shape desired in any manner provided by state law, with or without consent of the owners of such territory or the inhabitants thereof. The Town may from time to time alter its boundaries by disannexing any territory adjoining its present or future boundaries by passage of an ordinance describing the territory being disannexed. Any additional territory annexed to the Town shall be a part of the Town for all purposes, and the property situated herein shall bear its pro rata part of the taxes levied by the Town as provided by state law. The inhabitants thereof shall be entitled to all rights and privileges of all citizens and shall be bound by the acts, ordinances, and resolutions of the Town.

CHAPTER TWO

FORM OF GOVERNMENT

SECTION 2.01 FORM OF GOVERNMENT

Municipal government for the Town of Fairview shall be a "council-manager government." Except as otherwise provided by this Charter and the Constitution and laws of the State of Texas, all powers conferred on the Town shall be exercised by a Town Council to be composed of a Mayor and six (6) Council Members in Seats 1, 2, 3, 4, 5 & 6 elected by qualified voters for a term of two (2) years.

SECTION 2.02 POWERS OF THE TOWN

The Town of Fairview shall be a Home Rule Town under the Constitution and laws of the State of Texas and shall have all powers, functions, rights, privileges and immunities of every kind and nature granted to a Home Rule Town under Article XI, Section 5, of the Constitution of the State of Texas, known as the Home Rule Amendment, and all other laws passed by the Legislature of the State of Texas relating thereto, or which may hereafter be passed by said Legislature in relation to such matters including, but not limited to the following powers:

(1) To assess, levy, and collect taxes for general and special purposes.

(2) To contract and be contracted with, to buy, sell, lease, lease-purchase, mortgage, manage, and control such property, within or without its boundaries or within boundaries of other municipalities, as its interests require.

(3) To fix and regulate the rates, tolls, or charges and the kind of service of all public utilities of every kind, unless otherwise required by state law.

(4) To pass such ordinances as may be expedient to protect the peace, lives, health, and property of such inhabitants.

(5) To have the exclusive right to erect, own, maintain, acquire, and operate a waterworks system for the use of said Town and its inhabitants.

(6) To lay out, open, close, establish, alter, widen, lower, extend, grade, supervise, maintain, and improve streets, alleys, and parks.

(7) To appropriate the money of the Town for all lawful purposes to create, provide for, construct, regulate and maintain public improvements and to furnish municipal services.

SECTION 2.03 POWERS – GENERAL

The enumeration of particular powers in the Charter shall not be held or deemed to be exclusive, but in addition to the powers enumerated herein, implied thereby or appropriate to the exercise thereof, the Town shall have and may exercise all other powers which under the Constitution and laws of the State of Texas it would be competent for the Charter specifically to enumerate.

CHAPTER THREE

TOWN COUNCIL

SECTION 3.01 MAYOR

The person elected Mayor shall be the governmental and ceremonial head of the Town government and be able to vote on all matters coming before the Town Council.

SECTION 3.02 QUALIFICATIONS

Each candidate for election to the Town Council or office of Mayor shall be a qualified voter of the Town, shall be not less than twenty-one (21) years of age, shall have resided in the Town not less than twelve (12) months immediately preceding election day and shall meet the requirements of the Texas Election Code. Each Council Member and the Mayor must continually reside within the Town during his/her term of office, and any removal of his/her residence from the Town during his/her term of office shall constitute a vacation of his/her office, and such vacancy shall be filled as provided in Section 3.05.

SECTION 3.03 LIMITATION ON SUCCESSIVE TERMS

No person shall serve as Mayor for more than three (3) successive terms, and no person shall serve as Council Member for more than three (3) successive terms. A term of office shall be for a period of two (2) years or any portion thereof. This provision shall apply to all elections held subsequent to the adoption of this Charter.

SECTION 3.04 COMPENSATION

Members of the Town Council shall serve without compensation, except that Council Members shall be entitled to reimbursement of all necessary and reasonable expenses incurred in the performance of their official Town Council duties, upon approval of such expenses by the Town Council.

SECTION 3.05 VACANCIES IN THE TOWN COUNCIL; FILLING OF VACANCIES

A. The office of a Council Member or office of the Mayor shall become vacant upon his/her death, resignation, or removal from office in any manner authorized by law, removal of his/her residence from the Town of Fairview or forfeiture of his/her office.

B. A Council Member or the Mayor shall forfeit his/her office if he/she lacks at any time during his/her term of office any qualification for the office prescribed by this Charter or by State law, or if he/she fails to attend three (3) consecutive regular Town Council meetings without being excused by the Town Council. The Town Council shall be the final judge in matters involving forfeiture of office by a Council Member.

C. If for any reason a vacancy exists on the Town Council, the remaining members of the Council shall select a person qualified for the position, as described in the Charter, within thirty (30) days of the occurrence of the vacancy. Once appointed, the person shall serve until the position can be filled at the next regular town election.

SECTION 3.06 MEETINGS/QUORUM

Regular meetings of the Town Council shall be held at such times as may be prescribed from time to time by resolution of the Town Council. Special meetings shall be called by the Town Secretary upon the written request of the Mayor, the Town Manager or two (2) Members of the Town Council. Notice of any regular or special meetings of the Town Council shall state the subject(s) to be considered at the meeting. All official meetings of the Council and of all committees thereof shall be open to the public as provided by state law. Those meetings involving an attorney and client relationship need not be open to the public. A quorum shall consist of four (4) Members, one of whom may be the Mayor. The Council shall determine its own rules of procedure, may punish its Members for misconduct and may compel the attendance of absent members.

SECTION 3.07 MAYOR PRO TEM

The Town Council shall elect one of its members as Mayor Pro Tem, who shall perform the duties of Mayor in the case of the absence or inability of the Mayor to perform the duties of his/her office, and who shall, during that time, be vested with all the powers belonging to the Mayor.

CHAPTER FOUR

TOWN MANAGER

SECTION 4.01 TOWN MANAGER QUALIFICATIONS, APPOINTMENT AND REMOVAL; DUTIES; COMPENSATION

The Town Manager shall be the chief administrative and executive officer of the Town. The Town Manager is appointed by and serves at the will of the Town Council. The Town Manager shall be appointed solely on the basis of his/her administrative ability, experience, and training. The Town Manager shall administer the business of the Town, and the Town Council shall ensure that such administration is efficient. The Town Council may by ordinance delegate to the Town Manager any additional powers or duties it considers proper for the efficient administration of Town affairs. The Town Manager shall execute a bond conditioned that he/she will faithfully perform the duties of Town Manager. The amount of such bond shall be as prescribed by ordinance adopted by the Town Council. The Town Council shall be authorized to enter into a Contract of Employment with the Town Manager and to prescribe such compensation therein as it may fix. The action of the Town Council in suspending or removing the Town Manager shall be final, it being the intention of this Charter to vest all authority and responsibility for such suspension or removal in the Town Council.

SECTION 4.02 DIRECTION AND SUPERVISION OF EMPLOYEES, NON-INTERFERENCE BY COUNCIL, APPOINTMENTS AND REMOVALS OF DEPARTMENT HEADS

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

Except for the purpose of inquiries and for investigations, the Mayor or Town Council members shall deal with Town officers and employees who are subject to the direction and supervision of the Town Manager solely through the Town Manager, and neither the Mayor nor Town Council members shall give orders to such officers or employees either publicly or privately.

If the Town Manager is temporarily unable to perform appointed duties, the Town Council or Town Manager may designate an alternate.

SECTION 4.03 SPECIFIC POWERS AND DUTIES OF THE TOWN MANAGER

The Town Manager shall be responsible to the Town Council for the proper administration of the affairs of the Town and shall have the power and duty to:

(1) Exercise control over all departments and subdivisions thereof created by this Charter or by ordinance.

(2) Prepare and recommend items for inclusion in the official agenda of all Town Council meetings and meetings of the Boards and Commissions as established by this Charter or ordinance.

(3) Prepare and submit to the Town Council the annual budget and capital program, and administer the budget as adopted by the Town Council.

(4) Be responsible for the proper administration of all Town affairs entrusted to his/her authority.

(5) See that all terms and conditions imposed in favor of the Town or its inhabitants in any public utility franchise are faithfully kept and performed.

(6) See that all laws and ordinances are enforced.

(7) Keep the Town Council at all time fully advised as to the financial condition and needs of the Town, and prepare and submit to the Town Council an annual report on the finances and administrative activities of the Town, including the report of the annual audit required by state law.

(8) Appoint, suspend, and or remove employees not otherwise provided for in this Charter.

(9) Attend all Town Council meetings and take part in the discussion of any Town business.

(10) Recommend to the Town Council for adoption such measures as he/she deems necessary or expedient; to execute deeds, deeds of trust, easements, releases, contracts, and all other legal instruments on behalf of the Town when authorized by ordinance or resolution of the Town Council, and approved as to form by the Town Attorney.

(11) Perform such other duties as are specified in this Charter or as required by the Town Council by ordinance or resolution, not inconsistent with this Charter.

CHAPTER 5

TOWN DEPARTMENTS/FISCAL ADMINISTRATION

SECTION 5.01 ADMINISTRATIVE DEPARTMENTS

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

SECTION 5.02 TAX ADMINISTRATION

A. There shall be a Department of Taxation to assess and collect taxes, the Director of which shall be the Town Tax Assessor and Collector who shall be appointed by the Town Council; however, in the alternative, the Town Council may provide for such services by contract.

B. The Town Council shall have the power, and is hereby authorized, to levy, assess, and collect annual taxes not to exceed the maximum limit set by the Constitution and laws of the State of Texas, as they now exist or as they may be amended, on each one hundred dollars ($100.00) assessed valuation of all property having a location within the corporate limits of the Town and not exempt from taxation by the Constitution and laws of the State of Texas.

C. All taxes due the Town shall be payable at the office of the Town Assessor and Collector and may be paid at any time after the tax rolls for the year have been completed and approved, which completion and approval shall be not later than October 1st. Taxes shall be paid before February 1st of each year succeeding the year for which the taxes are levied. All such taxes not paid prior to such date shall be deemed delinquent and shall be subject to such penalty and interest as may be provided by law. Failure to levy and assess taxes through omission in preparation of the approved tax rolls shall not relieve the person, firm or corporation so omitted from the obligation to pay such current or past due taxes shown to be payable by recheck of the rolls and receipts for the years in question, unless otherwise provided by law.

D. All property having its location in the Town on January 1st of each year shall stand charged with a lien in favor of the Town from said date for the taxes due thereon. The lien provided hereby shall be superior to all other liens except other tax liens, regardless of when such other liens were created. All persons purchasing any of said property on or after January 1st in any year shall take the property subject to the lien herein provided. In addition to the lien herein provided on January 1st of any year, the owner of property subject to taxation by the Town shall be personally liable for the taxes due thereon for such year. The Town shall have the power to sue for and recover personal judgment for taxes without foreclosure, or to foreclose its lien or liens, or to recover both personal judgment and foreclosure. In such suit where it appears that the description of any property in the Town assessment rolls is insufficient to identify such property, the Town

shall have the right to plead a good description of the property to be assessed, to prove the same, and to have its judgment foreclosing the tax lien and/or for personal judgment against the owner for such taxes as such ownership and property appears on the certified tax roll.

SECTION 5.03 FISCAL YEAR

The fiscal year of the Town shall begin on October 1st and end on the following September 30th of each year, but the fiscal year may be changed by the Town Council by ordinance.

SECTION 5.04 ANNUAL BUDGET

It shall be the duty of the Town Manager to submit an annual budget not later than thirty (30) days prior to the end of the current fiscal year to the Town Council for its review, consideration and revision. The Town Council shall call a public hearing or hearings on the budget. The Town Council may adopt a budget with or without amendments. The Town Council may increase or decrease amounts or programs and may delete any programs or amounts except expenditures required by law or for a debt service, provided that no amendment shall increase the authorized expenditures to an amount greater than the total of the estimated income for the current fiscal year plus funds available from prior years. At the close of each fiscal year, the unencumbered balance of each appropriation shall revert to the fund from which it was appropriated and shall be subject to future appropriations, but appropriations may be made in furtherance of improvements or other objects of work of the Town that will not be completed within the current year.

SECTION 5.05 FAILURE TO ADOPT ANNUAL BUDGET

If the Town Council fails to adopt the budget by September 30th, the amounts appropriated for the current fiscal year shall be deemed adopted for the ensuing fiscal year on a month to month basis with all items in it prorated accordingly until such time as the Town Council adopts a budget for the ensuing fiscal year. The levy of property tax will be set to equal the total current fiscal year tax receipts, unless the ensuing fiscal year budget is approved by September 30th of the current fiscal year.

SECTION 5.06 BONDS AND OTHER EVIDENCES OF INDEBTEDNESS

The Town shall have the power to borrow money on the faith and credit of the Town. The Town shall also have the authority to issue or sell bonds, warrants, certificates of obligation, notes or other securities authorized by the laws of the State of Texas for permanent public improvements or for any other public purpose not prohibited by the Constitution and laws of the State of Texas and to issue refunding bonds to refund outstanding bonds and other evidences of indebtedness of the Town previously issued. All such bonds shall be issued in conformity with the laws of the State of Texas.

The Town shall further have the power to borrow money for the purpose of constructing, acquiring, improving, extending or repairing of public utilities, recreational facilities or any other self-liquidating municipal function not prohibited by the Constitution and laws of the State of Texas, and to issue revenue bonds to evidence the obligations created thereby. Such bonds shall be a charge upon and payable from the properties, or interest therein pledged, or the income there from, or both. The holders of the revenue bonds of the Town shall not have the

right to demand payment thereof out of monies raised or to be raised by taxation. All such bonds shall be issued in conformity with the laws of the State of Texas. The Town shall have the power to borrow money for public improvements in any other manner provided by law, including certificates of obligation as authorized by Chapter 271 of the Texas Local Government Code. All bonds and evidences of indebtedness of the Town having been approved by the Attorney General and registered by the Comptroller of Public Accounts shall thereafter be incontestable in any court or other forum for any reason, and shall be valid and binding obligations of the Town in accordance with their terms for all purposes.

CHAPTER SIX

TOWN SECRETARY

SECTION 6.01 APPOINTMENT, REMOVAL AND COMPENSATION

The Town Secretary shall be appointed by the Town Manager, with the advice and consent of the Town Council. The Town Secretary shall receive such compensation as shall be fixed by the Town Council. If the Town Secretary is temporarily unable to perform appointed duties, the Town Secretary or Town Manager may designate an alternate.

SECTION 6.02 DUTIES OF THE TOWN SECRETARY

The Town Secretary shall:

(1) Attend all meetings of the Town Council and keep accurate records of all actions taken by the council.

(2) Maintain the official records and files of the Town.

(3) Administer oaths required by law.

(4) Attest contracts, assessment certificates, ordinances, resolutions, and other legal instruments when executed by the authorized officers of the Town.

(5) Serve as the election official for all Town elections.

(6) Hold and maintain the Town seal and affix it to all appropriate documents as required.

(7) Perform such other duties as may be required by the Town Manager, this Charter, or the laws of the State of Texas.

CHAPTER SEVEN

TOWN ATTORNEY

SECTION 7.01 APPOINTMENT

The Town Council shall appoint a competent licensed attorney of recognized ability and he/she shall be known as the Town Attorney, who shall report to the Town Council.

SECTION 7.02 COMPENSATION

The Town Attorney shall receive for his/her services such compensation as may be fixed by the Town Council.

SECTION 7.03 DUTIES OF TOWN ATTORNEY

The Town Attorney shall be the legal adviser of, and attorney for, all of the offices and departments of the Town, and shall represent the Town in all litigation and legal proceedings. The Town Council may retain special counsel at any time it deems appropriate and necessary. He/she shall review and approve as to form all documents, contracts, resolutions, ordinances, and legal instruments in which the Town may have an interest. The Town Attorney shall perform other duties prescribed by the Charter, by ordinance or by resolution of the Town Council.

CHAPTER EIGHT

MUNICIPAL COURT

SECTION 8.01 CREATION

The Town Council shall, by ordinance, create and provide for a Municipal Court to be known as the Municipal Court of the Town of Fairview, Texas, and may appoint one or more Municipal Judges to serve in such Court. The Court shall have all the powers and duties as are now or as may hereafter be prescribed by the laws of the State of Texas in connection with the trial of misdemeanor offenses within its jurisdiction.

SECTION 8.02 MUNICIPAL COURT JUDGE

The Judge of the Municipal Court, and all alternates, shall be competent, duly qualified, and licensed attorneys in the State of Texas. The Judge of the Municipal Court shall be appointed to a term of two (2) years and may be appointed to additional and consecutive terms at the will and pleasure of the Town Council. The Judge shall receive such compensation as may be determined by the Town Council. This compensation shall be fixed and commensurate with the duties performed by the Judge.

SECTION 8.03 CLERK OF THE COURT

There shall be a Clerk of the Municipal Court appointed by the Town Manager. The Clerk of the Court and any Deputies appointed by the Town Manager shall have the power to administer oaths and affidavits, make certificates, affix the seal of said court as necessary and as required by law, and in general do and perform any and all acts usual and necessary to be performed by clerks and deputy clerks of municipal courts of the State of Texas.

SECTION 8.04 JURISDICTION, POWER AND FINES

The Municipal Court shall have jurisdiction:

(1) Over the forfeiture and collection of bonds given in proceedings therein, to order the forfeiture of cash appearance bonds upon the failure of the defendant to appear, and to accept the same in lieu of a fine.

(2) Concurrent with the appropriate State court, of all criminal cases arising under the criminal laws of the State of Texas, where the offense is committed within the Town limits and the penalty does not exceed that which is established for municipal courts by State law.

(3) Over all criminal cases arising under the ordinances of the Town within the Town limits and outside the Town limits to the extent authorized by State law.

(4) To punish for contempt, admit to bail, and forfeit bonds under such circumstances as provided by law.

(5) To enforce all process of the courts in accordance with State law and Town ordinances, punish witnesses for failing to obey subpoenas, and compel their attendance by process of attachment.

SECTION 8.05 COSTS, FINES AND PENALTIES

All costs, fines, and penalties imposed by the municipal court shall be paid into the Town treasury for the use and benefit of the Town, as may be consistent with present and future State laws.

CHAPTER NINE

BOARDS AND COMMISSIONS

SECTION 9.01 PLANNING AND ZONING COMMISSION

The Town Council shall create a Planning and Zoning Commission of the Town of Fairview and shall appoint seven (7) members, each of whom shall be a citizen of the Town of Fairview. Members shall be appointed for two (2) year staggered terms. Such appointees shall serve without compensation and may not hold any elective office of the State of Texas or any other political subdivision thereof during their terms. A vacancy in an un-expired term shall be filled by the Town Council for the remainder of the term. The majority of the appointed members shall constitute a quorum, and decisions may only be made with the affirmative vote of a majority of those members present and voting. The Town Council shall select from any of the Commission members a Chairperson and the Commission shall select a Vice Chairperson.

SECTION 9.02 BOARD OF ADJUSTMENT

The Town Council shall appoint a Board of Adjustment comprised of five (5) regular members and four (4) alternate members for two (2) year staggered terms, all of whom shall be citizens of the Town of Fairview. Such appointees shall serve without compensation. The Board of Adjustment shall be governed by Chapter 211, Texas Local Government Code, and have such additional duties as may be prescribed by ordinance or applicable State law. A vacancy on the board shall be filled by the Town Council for the un-expired term. The Board shall select from any of its members a Chairperson and Vice Chairperson.

SECTION 9.03 OTHER BOARDS AND COMMISSIONS

The Town Council shall have the power and is hereby authorized to create, abolish, establish, and appoint such other boards, commissions and committees, as it deems necessary to carry out the functions of the Town, and to prescribe the purpose, composition, functions, and tenure of each board, commission, or committee.

CHAPTER TEN

ORDINANCES

SECTION 10.01 VALIDATION OF ORDINANCES

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

SECTION 10.02 PROCEDURE FOR PASSING ORDINANCES AND RESOLUTIONS

The Town Council shall evidence its official actions by written ordinances, resolutions, or oral motions. The style of all ordinances shall be: *"Be it ordained by the Town Council of the Town of Fairview, Texas"* and the style of all resolutions shall be *"Be it resolved by the Town Council of the Town of Fairview, Texas."* Each proposed ordinance shall not be amended or repealed except by adoption of another ordinance. All ordinances and resolutions passed by the Town Council shall become effective immediately from and after passage except where publication of a caption is required or where the ordinance, State law, or other provisions of this Charter provide otherwise, in which case the effective date shall be as prescribed in the ordinance.

SECTION 10.03 PUBLICATION OF ORDINANCES

The descriptive caption or title of each ordinance containing a penalty shall be published at least once in the official newspaper of the Town, unless otherwise provided by State law or this Charter.

SECTION 10.04 CODE OF ORDINANCES

The Town Council shall have the power to cause the ordinances of the Town to be printed, in code form, and shall have the same arranged and digested as often as the Council may deem advisable, provided that failure to print the ordinances as herein provided shall not affect the validity of the same.

CHAPTER ELEVEN

ELECTIONS

SECTION 11.01 TOWN ELECTIONS

Beginning on the 2nd Saturday in May, 2007, each qualified voter shall be entitled to vote for the office of Mayor and Council Member for Seats 1, 3 and 5 for a term of two years. On the 2nd Saturday in May 2008, Council Members for Seats 2, 4 and 6 shall be elected for a term of two years. Thereafter, the Mayor and Council Members shall be elected for a term of two years. Candidates for each seat, including the Mayor, shall be elected at large. If a candidate for Mayor or Council Member fails to receive a majority of the votes cast at the regular election, the Town Council shall order a run-off election to be held between the two (2) candidates receiving the most votes, to be held on a date as prescribed by the Texas Election Code.

SECTION 11.02 SPECIAL ELECTIONS

The Town Council by ordinance or resolution, may call such special elections as are authorized by State law or this Charter, fix the time and place of holding the same, and provide all means for holding such special elections. Every special election shall be called and held as nearly as practicable, according to the provisions governing regular elections.

SECTION 11.03 REGULATION OF ELECTIONS

All Town elections shall be conducted in accordance with the applicable provisions of the Texas Election Code. The Town Council shall appoint the clerks, judges and other election officials and shall provide for their compensation and other expenses incurred in holding said election.

SECTION 11.04 CANDIDATES; FILING FOR OFFICE

Any qualified person as prescribed by Section 3.02 of this Charter may make application to have his/her name placed on the official ballot for the position of Council Member or Mayor. The application shall be made in accordance with all applicable laws and shall state that the candidate agrees to serve if qualified and elected. Each candidate shall execute such oath and other official form or affidavit as required by the Texas Election Code. The Town Secretary shall review the application and notify the candidate whether or not the application satisfies the requirements of this Charter and the Texas Election Code. If an application is insufficient, the Town Secretary shall return it immediately to the candidate with a statement of such insufficiency. The candidate may file a new application within the regular time for filing applications. The Town Secretary shall keep on file all applications found sufficient at least until the expiration of the term of office for which such candidates filed.

SECTION 11.05 OFFICIAL BALLOT

The order of the names of the candidates on the ballot shall be determined by the Town Secretary in accordance with the procedures set out in the Texas Election Code. The name of each candidate seeking an elective office, except those who have withdrawn, died, or become ineligible prior to the time permitted for withdrawal, shall be printed on the official ballot in the

name designated by the candidate in accordance with the Texas Election Code. Early voting shall be conducted pursuant to the Texas Election Code.

SECTION 11.06 CANVASSING AND ELECTION RESULTS

Returns of every municipal election shall be delivered forthwith by the election judges to the Town Secretary, with a copy of the returns being sent to the Mayor. The Town Council shall canvass the returns and declare the official results of the election as provided by the Texas Election Code.

CHAPTER TWELVE

INITIATIVE, REFERENDUM AND RECALL

SECTION 12.01 POWER OF INITIATIVE

The people of the Town reserve the power to direct legislation by initiative and, in the exercise of such power, may propose any ordinance not in conflict with this Charter or State law, except state law prohibits initiative for an ordinance appropriating money or authorizing the levy of taxes, an ordinance amending an ordinance appropriating money or levying taxes, or an ordinance repealing an ordinance appropriating money or levying taxes. Any initiated ordinance may be submitted by a petition signed by registered voters of the Town equal in number to at least thirty (30) percent of the number of registered voters residing in the Town at the time of the last regular Town election. Said petition shall be filed with the Town Secretary no later than sixty (60) days after the filing of an affidavit with the Secretary indicating an intention to circulate a petition.

SECTION 12.02 POWER OF REFERENDUM

The people of the Town reserve the power to approve or reject at the polls any legislation enacted by the Town Council, which is subject to the initiative process under this Charter. Within thirty (30) days after the final adoption or publication, whichever date is later, of any ordinance which is subject to referendum, a petition, signed by registered voters of the Town equal in number to at least thirty (30) percent of the number of registered voters residing in the Town at the time of the last regular Town election, may be filed with the Town Secretary requesting that any such ordinance be either repealed or submitted to a vote of the people. Said petition shall be filed with the Town Secretary no later than sixty (60) days after the filing of an affidavit with the Secretary indicating an intention to circulate a petition. When such a petition has been certified as sufficient by the Town Secretary, the ordinance so specified in the petition shall not go into effect, or further action shall be suspended if it shall have gone into effect, until and unless it is approved by the voters as herein provided.

SECTION 12.03 FORM OF PETITION FOR INITIATIVE AND REFERENDUM

All petition papers circulated for the purpose of an initiative or referendum shall be uniform in size and style, and in accordance with the petition requirements of the Texas Election Code.

SECTION 12.04 FILING, EXAMINATION AND CERTIFICATION OF PETITIONS

All papers comprising a petition for initiative or referendum shall be assembled and filed with the Town Secretary as one instrument. Within thirty (30) days after the petition is filed, the Town Secretary shall determine whether each paper of the petition has a proper statement of the circulator and whether the petition has been signed by a sufficient number of qualified electors and shall hold any petition paper entirely invalid which does not have attached thereto the statement signed by the circulator thereof. The Town Secretary shall certify the result of this examination to the Town Council at its next regular meeting. If the Town Secretary shall certify that the petition is insufficient, the certificate shall specify the particulars in which it is defective and shall at once notify in writing the person filing the petition of this finding. A petition may be

amended at any time within ten (10) days after a notice of insufficiency has been sent by the Town Secretary, by filing a supplementary petition. In such event, the same procedures shall then be followed by the Town Secretary and Town Council as in the case of the original petition for the same purpose.

SECTION 12.05 COUNCIL CONSIDERATION AND SUBMISSION TO VOTERS

When the Town Council receives an authorized initiative petition, certified by the Town Secretary to be sufficient, the Town Council shall either (a) pass the initiated ordinance without amendment within twenty (20) days after the date of the certification to the Town Council; or (b) submit the initiated ordinance without amendment to a vote of the qualified voters of the Town at a regular or special election to be held on a uniform election date of the State of Texas, but not less than ninety (90) days from the date that the Town Secretary certifies the submission to the Town Council.

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

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

SECTION 12.06 BALLOT FORM AND RESULTS OF ELECTION

Ordinances submitted to the electors in accordance with the initiative and referendum provisions of this Charter shall be submitted by ballot title, which shall contain a clear, concise statement, without argument, of the substance of such ordinance. The ballot used shall have below the ballot title the following proposition, one above the other in the order indicated: "FOR THE ORDINANCE" and "AGAINST THE ORDINANCE." Any number of ordinances may be voted on at the same election and may be submitted on the same ballot.

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

SECTION 12.07 POWER OF RECALL

The people of the Town reserve the power to recall the Mayor or any other member of the Town Council and may exercise such power by filing with the Town Secretary a petition, signed by qualified voters of the Town equal in number to at least thirty (30) percent of the number of registered voters residing in the Town at the time of the last regular municipal election of the Town demanding the removal of the Mayor or other member of the Town Council. The petition shall be signed and verified in the manner and within the time restrictions

required for an initiative petition, shall contain a general statement of the grounds upon which the removal is sought and one of the signers of each petition paper shall make an affidavit that the statements made therein are true.

SECTION 12.08 RECALL ELECTION

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

The Town Council Member whose removal is sought by a recall petition may, within five (5) days after such petition has been certified and presented to the Town Council, request in writing that a public hearing be held to permit him to present facts pertinent to the charges specified in the petition. In this event, the Town Council shall order such public hearing to be held not less than five (5) days nor more than fifteen (15) days after receiving such request for a public hearing.

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

SECTION 12.09 RECALL BALLOT

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

"FOR THE REMOVAL OF (name of person.)"

"AGAINST THE REMOVAL OF (name of person.)"

SECTION 12.10 RESULTS OF A RECALL ELECTION

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

SECTION 12.11 LIMITATIONS ON RECALL

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

CHAPTER THIRTEEN

FRANCHISES

SECTION 13.01 POWER TO GRANT FRANCHISE

The Town Council shall have the power, subject to the provisions hereof, by ordinance to confer upon any person, firm, corporation or other legal entity the franchise or right to use the public property of the Town for the purpose of furnishing to the public any general public service or benefit, including, but not limited to, heat, light, power, telephone service, transportation, or other telecommunication providers for compensation or hire. The Town shall have the power by ordinance to grant, renew, and extend all franchises of all public utilities of every character operating within the Town. No such franchise shall be granted until after a public hearing shall have been called and held and until such ordinance shall have been passed and accepted by the franchisee.

SECTION 13.02 TRANSFER OF FRANCHISE

No public utility or other franchise shall be transferable except with the approval of the Town Council expressed by ordinance.

SECTION 13.03 OWNERSHIP, USE AND CONTROL OF STREETS

No franchise or easement involving the right to use the streets, alleys, highways, parks, and public ways shall be valid unless granted in compliance with the terms of this chapter. No granting of a franchise by ordinance pursuant to this chapter shall convey any ownership or interest in any property of the Town other than the right to use the public property for purposes of such franchisee's operations as expressed in the ordinance granting such franchise.

SECTION 13.04 RIGHT OF REGULATION

In granting, amending, renewing and extending public service and utility franchises, the Town shall retain the right to:

(1) Repeal such franchise by ordinance for failure to comply with the terms thereof, such power to be exercised only after due notice and hearing;

(2) Require an adequate extension of plant and service as is necessary to provide adequate service to the public and require maintenance of the plant and fixtures at the highest reasonable standard of efficiency, based upon applicable state and federal regulations;

(3) Establish reasonable standards of service and quality of products and prevent unjust discrimination in service or rates;

(4) Impose regulations to ensure safe, efficient and continuous service to the public. The franchise holder in opening and refilling all earth openings shall re-lay the pavement and do all other work necessary to complete restoration of streets, sidewalks or grounds to a condition equally as good as or better than when disturbed; and

(5) Upon notice to franchisee and a reasonable opportunity to be heard, to regulate, locate, or prohibit the erection of any and all poles, wires, or other utility equipment, conveyance, or structure, on the streets, alleys and public places of said Town, and to cause the same to be changed, removed, altered, increased, diminished, placed underground, or be supported by poles of such material, kind, quality and class as may be determined by the Town Council whether the same be telegraph, telephone, electric, cable television, or otherwise, and to enforce the provisions hereof by appropriate action in any court of competent jurisdiction.

SECTION 13.05 COMPENSATION FOR FRANCHISE

All persons, corporations, or association of persons, to whom a franchise or privilege may hereafter be granted shall pay to the Town for such privilege such compensation as may be fixed by the Town Council in the grant of such franchise or privilege. Such compensation as fixed by contract or provided by State law(s) shall become due and payable at such time as the Town Council shall fix in the granting of such franchise or privilege. The failure of any franchisee to pay said compensation when due may result in forfeiture of the franchise or privilege.

SECTION 13.06 COUNCIL TO FIX AND REGULATE CHARGES, FARES OR RATES

If applicable State law so provides, the Town Council shall determine, fix, and regulate the charges, fares or rates of any person, firm, or corporation enjoying a franchise or privilege granted under the provisions of this chapter, and shall prescribe the kind of service to be furnished to the public by such person, firm, or corporation, and the manner in which it shall be rendered and may from time to time alter or change such rules, regulations, and compensation after reasonable notice and public hearing. The rates, charges and fares so fixed shall at all times be reasonable and permit the franchisee a reasonable opportunity to earn a reasonable return on the franchisee's invested capital used and useful in providing service to the public in excess of its reasonable and necessary operating expenses. In this connection, the Town Council may require any utility or franchise holder to furnish such financial reports and information as the Town Council may request including reports of actual operating costs and the financial conditions of its operations within the Town. The Town Council may employ, at the expense of such franchisee, necessary outside experts to examine and audit the accounts and records of the franchisee to determine the reasonableness of such charges, fares, and rates.

CHAPTER FOURTEEN

GENERAL AND TRANSITIONAL PROVISIONS

SECTION 14.01 CONTINUATION OF PRESENT OFFICES

All persons holding elective offices that are retained under this Charter will continue to fill those offices for the terms to which they were elected and shall be elected prospectively in accordance with Section 2.01, "Form of Government".

All persons holding administrative offices at the time this Charter takes effect shall continue in office and in the performance of their duties in the capacities to which they have been appointed until provisions shall have been made in accordance with the terms of this Charter for the performance of such duties or the discontinuance of such office, if any. The powers conferred and the duties imposed upon any office, department or agency of the Town by the laws of the State shall, if such office, department or agency be abolished by this Charter or under its authority, be thereafter exercised and discharged by the office, department or agency designated by the Town Council, unless otherwise provided herein.

SECTION 14.02 ETHICS

The proper operation of democratic local government requires that Town officials are independent, impartial, and responsible only to the residents of the town; all governmental decisions and policies are made using the proper procedures of the governmental structure; no Town official has any personal financial interest that is in conflict with the proper discharge of his/her duties in the public interest; public office shall not be used for personal financial gain; the Town Council shall be maintained as a nonpartisan body; and Town officials fully comply with all federal and state statutes, laws, and regulations concerning conflicts of interest.

SECTION 14.03 CONFLICT OF INTEREST

No member of the Town Council, the Mayor, or any other officer, whether elected, appointed, paid or unpaid, who exercises responsibilities beyond those that are advisory in nature, shall participate in a vote or decision on a matter involving a business entity or real property in which such officer has a substantial interest distinguishable from the public generally if it is reasonably foreseeable that an action on the matter would have an economic effect on the business entity or on the value of the property.

No member of the Town Council, the Mayor, or any other officer, whether elected, appointed, paid or unpaid, who exercises responsibilities beyond those that are advisory in nature, shall have a financial interest, direct or indirect, in any contract with the Town, or shall be financially interested, directly or indirectly, in the sale to the Town of any land, materials, supplies or service. Any willful violation of this section shall constitute malfeasance in office, and any officer or employee violating this section shall forfeit his office or position. Any violation of this section, with the knowledge expressed or implied of a person or corporation contracting with the Town, shall render the contract involved voidable by the Town Council. For a period of twenty-four (24) months after leaving office, no member of the Town Council or the Mayor may

conduct any type of personal business with the Town that would have been prohibited by state law or this Charter if that officer were still in office.

For a period of twelve (12) months after leaving office, no member of the Town Council or the Mayor may be employed by the Town as a paid employee.

SECTION 14.04 NEPOTISM

No officer of the Town of Fairview shall appoint, vote for, or confirm the appointment to any paid office, position, clerkship, employment or duty, of any person related within the second degree by affinity or within the third degree by consanguinity to any member of the Town Council, Mayor or Town Manager, when the salary, fees, or compensation of such appointee is to be paid for, directly or indirectly, out of or from public funds or fees of office of any kind or character whatsoever. This provision shall not prevent the appointment, voting for, or confirmation of any person who shall have been continuously employed in any such office, position, clerkship, employment or duty for at least thirty (30) days, if the officer is appointed, or at least six (6) months, if the officer is elected. When a person is allowed to continue in any such position, the officer related shall not participate in the deliberation or voting upon the appointment, reappointment, employment, confirmation, re-employment, change in status, compensation, or dismissal of such person, unless such action is taken with respect to a bona fide class or category of employees.

SECTION 14.05 OFFICIAL NEWSPAPER

The Town Council shall have the power to designate by resolution a newspaper of general circulation in the Town as the Town's official newspaper. All ordinances, captions of ordinances, notices and other matters required to be published by this Charter, by ordinance, or by State law, shall be published in the official newspaper.

SECTION 14.06 JUDICIAL NOTICE

This Charter shall be recorded in the Town Secretary's office in a book kept for that purpose. As soon as practicable after its adoption, an authenticated copy of the Charter shall be certified to the Secretary of State of the State of Texas, at which time the Charter becomes a public act. Such Charter provisions may be read in evidence without pleading or proof of their provision, and judicial notice shall be taken thereof in all courts and places.

SECTION 14.07 PROPERTY NOT SUBJECT TO GARNISHMENT AND EXECUTION

No property owned or held by the Town shall be subject to any garnishment or execution of any kind or nature except as specifically provided by State law.

Town shall also have the power to acquire property within or without its boundaries or within boundaries of other municipalities for any public purpose, in fee simple or lesser interest or estate, by purchase, gift, devise, lease, or eminent domain when necessary or desirable to carry out any of the powers conferred upon it by this Charter or by the Constitution and the laws of the State of Texas.

SECTION 14.08 PUBLIC MEETINGS AND RECORDS

All meetings of the Town Council and all boards, commissions and committees appointed by the Town Council shall be governed by the provisions of Chapter 551, Texas Government Code and any amendments thereto with regard to the posting of agenda and the holding of public meetings. All public records of every officer, department or agency of the Town shall be open to inspection by any citizen at all reasonable business hours, provided that records excepted from public disclosure by Chapter 552, Texas Government Code and any amendments thereto shall be closed to the public and not considered public record for the purpose of this section.

SECTION 14.09 INDEMNIFICATION OF OFFICERS

The Town Council shall, by appropriate ordinance, provide for the indemnification and defense of the officers and employees of the Town, including the members of the Town Council, or any board, commission, or committee, including volunteers, against any loss, cost, or expense, including court costs and attorney's fees, to the extent allowed by law, arising out of the claim, suit, or judgment or settlement thereof, resulting from any alleged negligent act or omission of such officer, employee, member, or volunteer during the discharge of his duties and within the scope of his office, employment, membership, or assigned voluntary position with the Town, or in any other case where the Town is directed or authorized by law to do so. Such indemnification will not be provided for any act arising out of the intentional or knowing violation of any penal statute or ordinance or arising out of any conduct determined by final judgment to be an act of fraud or to have been taken with the intent to deceive or defraud, or for any personal or private business of such officer, employee, member, or volunteer, or for the gross negligence or official misconduct, or willful or intentionally wrongful act, or omission of such officer, employee, member, or volunteer.

SECTION 14.10 AMENDMENT OF THIS CHARTER

Amendments of this Charter may be submitted by the Town Council to the qualified voters of the Town for their approval at an election, no more often than once every two (2) years, held in accordance with Chapter 9, Texas Local Government Code.

SECTION 14.11 BOND OR SECURITY NOT REQUIRED

It shall not be necessary in any action, suit or proceeding in which the Town is a party, for any bond, undertaking, or security to be executed on behalf of said Town. All such actions, suits, appeals, or proceedings shall be conducted in the same manner as if such bond, undertaking, or security had been given, and said Town shall be liable as if such obligation had been duly given and executed.

SECTION 14.12 SEVERABILITY CLAUSE

If any chapter, section, paragraph, sentence, clause or phrase of this Charter shall be held unconstitutional or invalid for any reason by a court of competent jurisdiction, such holding shall not affect the remainder of this Charter nor the context in which such provision so held invalid may appear, except to the extent that an entire chapter, section, paragraph, or sentence may be inseparably connected in meaning and effect with the provision to which such holding shall apply directly.

SECTION 14.13 MEANING OF WORDS

The provision of this Charter shall be liberally construed for the purpose of effecting the objects and ends thereof. Unless some other meaning is manifest, the word "Town" shall be construed to mean the "Town of Fairview," and the word "and" may be read "or" or the "or" may be read "and" if the sense requires. Words in the present tense include future tense and, except when a more constrictive meaning is manifest, singular may mean plural. The word "Council" shall be construed to mean the Town Council of the Town of Fairview. The gender of the wording as contained in the Charter shall always be interpreted to mean either sex.

SECTION 14.14 EFFECTIVE DATE

This Charter shall take effect immediately following adoption by the voters and entry of the official order by the Town Council declaring the same adopted as soon as practicable. After adoption, the Mayor shall certify to the Secretary of State an authenticated copy of the Charter under the Town's seal showing approval by the voters. The Town Secretary shall record the Charter in a book kept for that purpose and keep and maintain the same as the official record of the Town.

CHAPTER FIFTEEN

ADOPTION OF CHARTER

SECTION 15.01 SUBMISSION AND ELECTION

This Charter shall be submitted to the qualified voters of the Town of Fairview for adoption or rejection on the 13th day of May, 2006, at which election, if a majority of the qualified voters voting in such election shall vote in favor of the adoption of this Charter, it shall then immediately become the governing law of the Town of Fairview, Texas, until amended or repealed.

It being impracticable to submit this Charter so that each subject may be voted on separately, it is hereby prescribed that the form of ballot to be used in such election shall be as follows to wit:

____ **"FOR"** **ADOPTION OF A CHARTER**

____ **"AGAINST"** **ADOPTION OF A CHARTER**

This Home Rule Charter for the Town of Fairview, Texas, is respectfully submitted to the Town Council of the Town of Fairview for the purpose of calling an election on the question of adoption of the Home Rule Charter this 2nd day of March, 2006. This proposed Charter represents the recommendation of the members of the Home Rule Charter Commission, whose membership and signatures are evidenced below.

Bob Bieschke

Gene Byrne

Brayton Campbell

Pat Cunningham

Paul Hendricks

Sim Israeloff

Ron Kasian

Fred Carvajal

Anton Mattli

L. Michael Mints

Mary Price

Carolyn Sommers

Keith E. Steiner

Kelly Towery

Bill Wells