

November 4, 1998

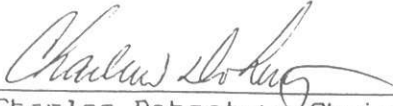
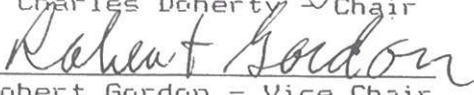
Honorable Dennis Cogliati, Mayor  
Honorable Ruben Hinguanzo, Mayor Pro Tem  
Honorable Barbara Olsen, Councilmember  
Honorable William Mahon, Councilmember  
Honorable Mike Hughes, Councilmember  
Honorable Calvin Hodde, Councilmember

The Charter Commission of the City of Lacy Lakeview respectfully requests that this Charter be submitted to the registered voters of the City of Lacy Lakeview at an election to be held for that purpose on the 16<sup>th</sup> day of January 1999. The Charter Commission, in preparing this Charter, concludes that it is impracticable to the same, for the reason that the Charter is so necessary that it should be adopted in its entirety. For these reasons, the Charter Commission directs that the said Charter be voted upon as a whole.

Not less than thirty (30) days prior to such elections, the City Council should cause the City Secretary to mail a copy of this Charter to each registered voter of the City of Lacy Lakeview as appears on the latest certified list of registered voters. Within five days after such election, the City Council is to canvass the votes and, if the Charter is adopted by a majority of the registered voters in said election, the City Council should enter upon the records of the City an official order declaring the Charter adopted and this Charter shall take effect immediately.

The City Secretary should file an official copy of the Charter with the records of the City and furnish a copy of said Charter to the Mayor to be authenticated by his signature and the seal of the City and forwarded to the Secretary of the State of Texas to be filed for record.

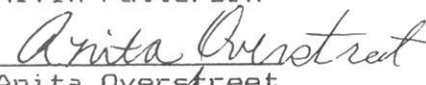
The signatures ascribed of all duly appointed members of the Charter Commission of the City of Lacy Lakeview shall be considered and accepted as certification that the Charter, of which this instrument becomes a part, has been voted upon and adopted by a majority of the members of the Charter Commission.

  
Charles Doherty - Chair  
  
Robert Gordon - Vice Chair


  
Ruben Hinguanco

  
Ross Filant

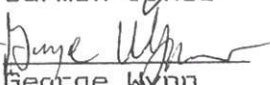
  
Alvin Fatterson


  
Anita Overstreet

  
James Hammons

  
James Hill

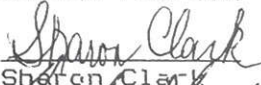
  
Carmen Jones

  
George Wynn

  
Dean Hodde

  
Greg Ard

  
Steven Fearson

  
Sharon Clark

  
Curtis Chastain

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## **PREAMBLE**

We the Citizens of Lacy Lakeview, Texas, in order to provide for the future progress of our City, establish and maintain a system of local self-government under law, based on sound fiscal and operational methods, insure equal protection and treatment for all persons and secure fully the benefits of our location and environment, do hereby adopt this Home Rule Charter in accordance with the citizens of the City of Lacy Lakeview, McLennan County, residing within the legally established boundaries of said City, to be a political subdivision of the State of Texas, incorporated under the name of the “City of Lacy Lakeview” with such powers, rights, and duties as herein provided.

# HOME RULE CHARTER - CITY OF LACY LAKEVIEW

## ARTICLE I

### INCORPORATION, FORM OF GOVERNMENT AND POWER

#### Section 1.01 Incorporation.

The citizens of the City of Lacy Lakeview, in McLennan County, Texas, within the corporate limits as now established, or hereafter established in the manner prescribed by this Charter, shall be and shall continue to be a municipal body politic and corporate in perpetuity under the name of the “City of Lacy Lakeview”, hereinafter referred to as the “City.”

#### Section 1.02 Form of Government.

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

#### Section 1.03 General Powers of the City

The City of Lacy Lakeview shall have all powers granted to municipalities by the Constitution and laws of the State of Texas, together with all of the implied powers necessary to carry into execution such granted powers:

The City may:

- a) use a corporate seal;
- b) sue and be sued;
- c) contract and be contracted with;
- d) cooperate with the government of the State of Texas or any agency of any political subdivision thereof, or with the federal government or any agency thereof, to accomplish any lawful purpose for the advancement of the interest, welfare, health, morals, comfort, safety, and convenience of the City and its citizens;



- e) acquire property within or without its corporate limits for any municipal purpose in fee simple, or in any lesser interest or estate by purchase, gifts, devise, lease or condemnation; and subject to the provisions of this Charter;
- f) sell, lease, mortgage, hold, manage, improve and control such property as may now or hereafter be owned by it; provided, however, the City shall not sell, convey, mortgage, or otherwise alienate any public utility without prior approval of voters of the City:
- g) exercise the power of eminent domain where necessary or desirable to carry out any of the powers conferred upon it by this Charter, or by the Constitution and laws of the State of Texas;
- h) pass ordinances and enact such regulations as may be expedient for the maintenance of the City and the welfare, health, morals, comfort, safety and convenience of its citizens.

The powers hereby conferred upon the City shall include, but are not restricted to the powers conferred expressly and permissively by Chapter 147, Page 367, and Section 4, Chapter 147, Pages 310-316 of the Acts of the 33<sup>rd</sup> Legislature, Regular Session, enacted in 1923 pursuant to the Home Rule Amendment of the Constitution of Texas, known as the Enabling Act and including Articles 1175, 1176, 1177, and 1180, of the Revised Civil Statutes of Texas, 1925; as now or hereafter amended, all of which are hereby adopted. In addition to the powers enumerated herein, and subject only to the powers enumerated herein, and subject only to the limitations imposed by the State Constitution, the State laws, and this Charter, the City shall have, without the necessity of express enumeration in this Charter, each and every power which, by virtue of Article II, Section 5 of the Constitution of Texas, the people of the City are empowered by election to grant to or confer upon the City by expressly and specifically granting and enumerating the same herein. All such powers whether expressed or implied, shall be exercised and enforced in the manner prescribed in this Charter; or when not prescribed herein, in such manner as shall be provided by the ordinance of the Council.

#### Section 1.04 Streets and Public Property.

The City shall have exclusive dominion, control, and jurisdiction in, upon, over, and under the public streets, sidewalks, alleys, highways, public squares, and public ways within the corporate limits of the City, and in, upon, over and under all public property of the City. With respect to each and every public street, sidewalk, alley, highway, public square, public park, or other public way within the corporate limits of the City, the City shall have the power to establish, maintain, improve, alter, abandon, or vacate the same; to regulate the use thereof; and to abate and remove in a summary manner any encroachment thereon.

#### Section 1.05 Street Development and Improvement.

The City shall have the power to develop and improve, or cause to be developed and improved, any and all public streets, sidewalks, alleys, highways, and other public ways within the corporate limits of the City by laying out, opening, narrowing, widening, straightening, extending, lighting and establishing building lines along the same; by purchasing, condemning, and taking property therefor by filling, grading, raising, lowering, paving, repaving, and repairing, in a permanent manner, the same; and by constructing, reconstructing, altering, repairing, and realigning curbs, gutters, drains, sidewalks, culverts, and other appurtenances and improvements may be paid partly or entirely by assessments levied as a lien against the property abutting thereon and amounts and under and procedure not prohibited by the State in any Law; provided, that no assessment shall be made against such land or owners in excess of the enhancement in value of such property occasioned by such improvement.

As an alternate and cumulative method of developing, improving, and paving any and all public streets, sidewalks, alleys, highways, and other public ways within its corporate limits, the City shall have the power and authority to proceed in accordance with Chapter 106, Page 489, Acts 1927, Fortieth Legislature, First Called Session, as now or hereafter amended, the same being Article 1105b of the Revised Civil Statutes of Texas, 1925.

#### Section 1.06 Boundaries.

The boundaries and limits of the City of Lacy Lakeview, until changed in manner herein provided, shall be the same as have theretofore been established and exist on the date of the adoption of this Charter, which boundaries are more fully set out and described by metes and bounds in a book called, Official Record Describing the Metes and Bounds of the City of Lacy Lakeview, which is now and shall hereafter be filed in the office of the City Secretary of the City of Lacy Lakeview.

#### Section 1.07 Annexation and Disannexation.

Extension of the City Limits by Petition - Whenever a majority of the legally qualified property owners who are citizens of the State of Texas and inhabitants of any territory adjoining the City of Lacy Lakeview, or in case there are no qualified voters in said territory, the persons owning a majority of the land in the area to be annexed, may present a written petition to the Council requesting annexation, and shall attach to said petition an affidavit from one or more of their numbers, to the effect that said petition is signed by the majority of such qualified voters, or in the case there are no qualified voters in said territory and that the persons signed the petition own a majority of the land in said territory. Thereupon the Council, at a regular session or in special session help not sooner than thirty (30) days after the presentation of said petition may, by ordinance, annex such territory to the City of Lacy Lakeview, and thence-forth the said territory shall be a part of the City of Lacy Lakeview. The inhabitants thereof shall be entitled to all the

rights and privileges of other citizens and shall be bound by the acts, ordinances, resolutions, and regulations of the said City.

Extension of Boundaries - The boundaries of the City of Lacy Lakeview may be enlarged and extended by the annexation of additional territory, irrespective of size and configuration, in any of the methods hereinafter designated.

- a) Extending Limits in Accordance with Article 974 of the Revised Civil Statutes of Texas as now or hereinafter amended Where such additional territory adjoins the corporate limits of the City and contains three or more inhabitants qualified to vote for members of the State Legislature, such adjacent territory may be annexed into procedure set forth in Article 974 of the Revised Statutes of the State of Texas 1925, as now or hereafter amended.
- b) Annexation of Unoccupied Lands on Petition of Owner The owners or owner of any land which is without residents, adjacent to the City may, by petition to the City Council in writing, request the annexation of such contiguous and adjacent land, describing it by metes and bounds. The City Council shall thereafter, and not less than five (5) days and not more than thirty (30) days after the filing of such petition, hear such petition and the arguments for and against the same, and grant or refuse such petition, as the City Council may see fit. If the City Council grants such petition, it may by proper ordinance, receive and annex such territory as a part of the City.
- c) Annexation by Amendment to Charter The boundary limits of the City may be fixed, and additional territory added or annexed thereto by amendment to the Charter of the City.
- d) Extending Limits by Action of the City Council The City Council shall have power by ordinance to fix the boundary limits of the City of Lacy Lakeview and to provide for the extension of said boundary limits and the annexation of additional territory lying adjacent to said City, with or without the consent of the residents or the owners of the territory annexed.
- e) Annexation by Any Other Method Provided by Law Additional territory may be annexed to the City in any manner and by any procedure that may now be provided by law or that may be hereafter provided, or in such manner as shall be provided by ordinances or resolutions of the City Council; same shall be in addition to the methods hereinabove provided.
- f) Annexed Territory to Become Part of the City Upon completion of any one of the procedures herein above provided, the territory so annexed shall become a part of the City, and shall be provided within a timely manner, all the rights and privileges of other citizens of the City, and shall be bound by the acts, ordinances, resolutions and regulations of the City.

Disannexation - Whenever there exists within the corporate limits of the City any territory not suitable or necessary for City purposes, the Council may, upon a petition signed by the majority of the qualified voters residing in such territory if the same be inhabited, or without any such petition if the same be uninhabited, by ordinance duly passed, discontinue said territory as a part of said City. Said petition and ordinance shall specify accurately the City and shall contain a plat designating such territory so that the same can be definitely ascertained; and when said ordinance has been duly passed, the same shall be entered into the minutes and records of the City. From and after the entry of such ordinances, said territory shall cease to be a part of said City, but said territory shall still be liable for its pro-rata share of any debts incurred while said area was a part of said City, and the City shall continue to levy, assess, and collect Texas on the property within said territory to pay the indebtedness incurred while said area was a part of the City as though the same had not been excluded from the boundaries of the City. Provided however, that in the City to be disannexed, or the owners thereof, then in such event the City shall not continue to levy, assess and collect taxes on such disannexed area as herein provided.

ARTICLE II  
CITY COUNCIL

Section 2.01 Number, Selection, Term of Office and Compensation.

The governing and lawmaking body of the City of Lacy Lakeview shall consist of a Mayor and six (6) Council members, and said body shall be known as the “City Council of the City of Lacy Lakeview.” The members of the City Council of the City of Lacy Lakeview shall be the only elected from the City, at large, in the manner provided in Article 3, for a term of two (2) years, or until their successors are duly elected and qualified. The mayor and three members of the Council shall be so elected each even numbered years. Said Mayor and Council member shall draw no compensation as such for their duties, but shall be reimbursed for any lawful expenditures made in behalf of the City or expenses incurred in the performance of their duties when approved by the Council.

Section 2.02 Prohibiting Holding or Running for Other Office.

No person elected to the City Council shall, during the term for which elected, be appointed to any office or position in the service of the City. A member of the Council, a member of any board appointed by the Council, or any appointive officer or employee of the City who becomes a candidate for nomination or election to any publicly elected office, other than re-election to the same position on the City Council, shall forfeit that place or position with the City effective upon election to such office.

Section 2.03 Qualifications.

Each of the six (6) Councilmembers and Mayor shall be a citizen of the United States of America and a registered qualified voter of the State of Texas, and shall be at least 18 years of age; and shall live within the Corporate Limits of the City of Lacy Lakeview; shall have resided within the corporate limits of the City of Lacy Lakeview, the former Northcrest or in a newly annexed area for at least one (1) year preceding the election at which they are candidates. They shall not be in arrears in the payment of any taxes or other liability due the City nor be disqualified by reason of any provision of any other section of this Charter.

A member of the Council ceasing to possess any of the qualifications specified in this section or any other section of this Charter, or convicted of a felony while in office, shall immediately forfeit the office.

In accordance with state law no member of the Council shall hold any other public office within the City, except that of Notary Public or member of the National Guard, Naval or Military Reserve or be retired member of the Armed Forces.

Section 2.04 Council to Be the Judge of the Qualification of its Own Members.

The City Council shall be the judge of the election and qualifications of its own members, and for such purpose shall have power to subpoena witnesses and require the production of records. The Council shall, within five (5) calendar days after a regular or special election, either at a called meeting of said Council, called for that purpose; or at the next regular meeting, canvass the returns and declare the results of each election.

Section 2.05 Vacancies.

In the event a vacancy or vacancies occurs in the office of Mayor or Councilmember from any cause whatsoever, the remaining Council Members shall have the option of appointing a qualified person to fill such vacancy or vacancies until the next regular election, or they may call a special election which shall be held on the earliest date permitted by state law, after the vacancy or vacancies occurs, for the purpose of filling such position or positions for the remainder of the unexpired term.

Section 2.06 Powers of the Council.

All powers and authority which are explicitly conferred on or possessed by the City shall be vested in and exercised by the City Council, provided however, that the Council shall have no power to exercise those powers which are expressly conferred on other City Offices by this Charter.

All members of the Council present, including the Mayor, shall vote upon every resolution or ordinance, except where there is a conflict of interest, as defined in Sections 171.001 thru 171.007 of the Local Government Code, and as hereinafter may be amended. The reason for such conflict shall be stated concisely.

Section 2.07 Mayor-Mayor Pro Tem.

The Mayor of the City shall preside over the meeting of the City Council and perform such other duties consistent with the office, as may be imposed by this Charter and the ordinances and resolutions passed in pursuance hereof. The Mayor may participate in the discussion of all matters coming before the Council and shall be required to vote, but shall have no veto power. The Mayor shall sign conveyances made or entered into by the City, and all bonds issued under the provisions of this Charter, and shall be the chief executive officer of the City.

The mayor shall be recognized as the official head of the City by the court for the purpose of serving civil process, by the Governor for the purpose of enforcing military law, and for all ceremonial purposes.

In time of danger or emergence, the Mayor may, with the consent of the Council, take command of the police and govern the City by proclamation and maintain order and enforce all laws.

The Mayor Pre Tem shall be elected from among the six (6) Councilmembers; shall be selected each year at the first regular meeting following the general City election, and shall, in the absence or disability of the Mayor, perform all the mayor's duties.

#### Section 2.08 City Secretary.

The City Manager shall appoint and/or remove the City Secretary and such Assistant City Secretaries as the City Council shall deem advisable. The duties of the City Secretary or an Assistant City Secretary shall be as required by law, and as established by the Job Description adopted with the City's Pay Classification Plan.

#### Section 2.09 City Attorney.

The City Council shall appoint or remove a City Attorney, who shall be duly licensed and admitted to the practice of law by the State of Texas. The City Attorney shall be legal advisor of and attorney for all officers of the City, and shall represent the City's interest in all litigation and legal proceedings. The term of the appointment shall be concurrent with that of the term of the Mayor.

#### Section 2.10 Meeting of the Council.

The City Council shall hold two (2) regular meetings, in each month, at a time to be fixed by it for such regular meetings. Such times shall be designated by ordinance or resolution, which ordinance or resolution shall be published at least one (1) time in the official newspaper of the City. The City Council may, at its own election, convene for one (1) regular Council meeting in any month should circumstances warrant. The City Council may hold as many additional called meetings during any month as may be necessary for transaction of the business of the City and its citizens.

#### Section 2.11 Rules of Procedure.

The City Council shall determine its own rules of procedure and order of business and may compel the attendance of its members. Four (4) members of the City Council shall constitute a quorum to do business. The affirmative vote of a majority of those attending any meeting at which there is a quorum present shall be necessary to adopt any ordinance or resolution. All meetings of the City Council shall be open to the public, as provided by state law, and minutes of all proceedings shall be kept, to which any citizen may have access at all reasonable times, and said minutes shall constitute one of the archives of the City.

The vote upon the passage of all ordinances and resolutions shall be taken by ayes and nays made in open meeting by a canvass of the Council, and the vote of each Councilmember shall be entered upon the minutes. Every ordinance or resolution, upon its final passage, shall be recorded in a book kept for that purpose and shall be authenticated by the signature of the presiding officer and the City Secretary.

#### Section 2.12 Procedure to Enact Legislation.

The City Council shall legislate by ordinance, and the enacting clause of every ordinance shall be: "Be it ordained by the City Council of the City of Lacy Lakeview."

Every ordinance enacted by the Council shall be signed by the mayor or Mayor Pro Tem and shall be filed with and recorded by the City Secretary. The Descriptive caption of all ordinance enacted by the Council shall be read in open meeting of the Council at one (1) regular or special Council meeting. Additionally, and Council person or the Mayor may call for the entire ordinance to be read aloud. All ordinances, unless otherwise provided by law or by the terms of such ordinances, shall take effect in accordance with Article 2, Section 2.13.

#### Section 2.13 Publication of Ordinances.

Except as otherwise provided by law, or by this Charter, the City Secretary shall give notice of the Enactment of every ordinance any of its penalty, fine, or forfeiture for any violation of any of its provisions, and of every other ordinance required by law, or this Charter, to the public, by causing the said ordinance, to its caption and penalty, to be published at least one time after final passage thereof in the official newspaper of the City. The affidavit of such publication by the publisher of such newspaper, taken before any officer authorized to administer oaths, and filed with the City Secretary shall be conclusive proof of the legal publication and promulgation of such ordinance in all courts. Such ordinance shall take effect upon publication required by law.

#### Section 2.14 Adoption and Ratification of Existing City Ordinances and Prior City Actions.

All ordinances of the City of Lacy Lakeview adopted prior to the adoption of this Charter and not inconsistent with the provision of this Charter shall remain in full force and effect until altered, amended or repealed by the City Council.

All official actions taken by the City of Lacy Lakeview, its City Councils or other City officials, and all previous elections, contracts, bonds, warrants and other evidences of indebtedness, and any annexations, prior to the adoption of this Home Rule Charter, are hereby adopted, validated, confirmed and ratified



Section 2.15 Code of Ordinances.

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

Section 2.16 Interim Government.

After the adoption of this Charter, the City Council shall serve as previously elected, and the entire Council shall immediately appoint a Councilmember for the newly established Council position. All of the Council, including the Mayor, shall be required to vote, and the appointed Councilmember must be elected by four affirmative voters. The appointed Councilmember shall serve until the next regular election.

ARTICLE III  
ELECTIONS

Section 3.01 General Elections.

The regular City Election shall be held annually on the first Saturday in May, or on such equivalent date as may be established by State Election Law, at which time officers will be elected to fill those offices which become vacant that year. The City Council shall fix the hours and place for holding such elections. All candidates for the City Council shall file for, and shall be elected for the City, at large, by obtaining a plurality of the votes cast. The Mayor's office and three Council positions shall be filled in odd numbered years and three Council positions shall be filled in even numbered years.

Section 3.02 Regulation of Elections.

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

Section 3.03 Filing for Office.

And qualified person who desires to become a candidate for election to the office of Mayor or City Councilmember shall file with the City Secretary, not less than forty-five (45) days prior to the election, an application in substantially the following from:

"I \_\_\_\_\_, do hereby declare that I am a candidate for the office of \_\_\_\_\_, and request that my name be duly printed upon the official ballot for that particular office in the next City Election."

"I am a qualified, registered voter of the City of Lacy Lakeview, a resident of the United States, and have been a resident of the City of Lacy Lakeview, the former City of Northcrest, or a newly annexed area, for at least one year. I am not in arrears in the payment of any taxes or other liability due the City.

At present, I reside at \_\_\_\_\_ street in the City of Lacy Lakeview."

\_\_\_\_\_  
Signature of Candidate

Received by: \_\_\_\_\_  
Date and Hour of Filing: \_\_\_\_\_

STATE OF TEXAS            }  
COUNTY OF MCLENNAN}

BEFORE ME, the undersigned authority, on this day personally appeared \_\_\_\_\_,  
known to me to be the person whose name is subscribed in the foregoing Application, and who  
acknowledged to me that the same was executed for the purpose and the same in true and correct.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, THIS THE \_\_\_\_ DAY OF \_\_\_\_\_,  
\_\_\_\_\_.

\_\_\_\_\_  
Notary Public, State of Texas

LOYALTY OATH

I, \_\_\_\_\_, of the City of Lacy Lakeview, County of McLennan, State of Texas, being  
a candidate for the office of Councilmember, or Mayor, do solemnly swear that for the believe in  
and approve of our present representative form of government, and if elected, I will support and  
defend our representative form of government and shall resist any effort to movement from any  
part thereof, and I will support and defend the Constitution and the Laws of the United States and  
of the State of Texas.

\_\_\_\_\_  
Signature of Candidate

Such application shall be filed in the Office of City Secretary

Section 3.04 Official Ballot.

The official ballot shall be drawn up by the City Secretary and approved by the City Attorney  
and will contain the names of all candidates for office, except when possible, those how may  
have been withdrawn, deceased, or became ineligible. The ballot shall have the designation of  
the particular office (Mayor or Councilmember) and under the appropriate designation shall  
appear the names of the candidates. These names will be positioned in alphabetical order by the  
City Secretary.

Section 3.05 Conducting and Canvassing Elections.

The returns of every municipal election shall be delivered forthwith by the election judges to the  
Mayor. The Council shall canvass the returns, investigate the qualifications of the candidates and  
declare the official results of the election in the manner and within the time provided by law, and  
deliver the votes to the City Secretary. Returns of every municipal election shall be recorded in  
the minutes of the Council. The candidates for Mayor who receives a plurality of ballot votes, by

qualified voters at the election, shall be declared elected. The candidates for election to the place of Council members, who receive a plurality of ballot votes, cast by qualified voters voting at the election shall be declared elected. The results of said election shall be posted in the City Hall as soon as possible.

The City Council shall be judge of the election and qualifications of its own members, but the decision of the Council in any case shall be subject to review by the Courts.

#### Section 3.06 Election Runoff.

In the event any candidate for any of said offices fails to receive a plurality of all votes cast for all candidates for such offices at such election due to a tie, the Council shall on the first day following completion of the official counting of the ballots cast as said first election, issue a call for a second election to be held in the City within thirty (30) days, at which said second election the candidates receiving an equal number of votes for any such office in the first election at which no one was elected by receiving a plurality of all votes cast for all candidates for such election, shall again be voted for. In the event of a tie between two candidates for any office at said second election, they shall cast lots to determine who shall be elected to such office.

#### Section 3.07 Special Elections.

The Council may, by ordinance or resolution, call such special elections, as are authorized by the state law and this Charter, fix the time and place of holding same, and provide all means for holding such special elections, provided that every special election shall be called and held as nearly as practicable according to the provisions of the general election laws of the State of Texas.

When a special election is called for the purpose of filling a vacancy or vacancies for the remainder of a term, the candidate receiving the greatest number of votes (plurality) shall be declared elected. In the event of a tie, provisions of Section 3.06 of this Charter will govern.

ARTICLE IV  
INITIATIVE, REFERENDUM, AND RECALL

Section 4.01 Power of Initiative.

The citizens of the City of Lacy Lakeview reserve the power of direct legislation by initiative, and in the exercise of that power, may propose any ordinance not in conflict with this Charter, the State Constitution, or the State Laws, except an ordinance appropriating money or authorizing money levying taxes, or an ordinance repealing an ordinance appropriating money, levying taxes, or and ordonnance involving Zoning or annexation. Any initiated ordinance may be submitted to the Council by a petition signed by registered qualified voters of the City of Lacy Lakeview, equal in number to at last thirty (30%) percent of the number of votes cast at the last regular municipal election of the City; or such petition must be signed by 200 registered qualified voters, whichever is greater.

Section 4.02 Power of Referendum.

The citizens reserve the power to approve or reject at the polls any legislation enacted by a Council which is subject to the initiative process under this Charter, except an ordinance which in enacted for the preservation of the public peace, health, or safety which contains a statement of its urgency. Prior to the effective date of an ordinance which is subject to referendum, a petition signed by registered qualified voters, Whichever is greater, may be filed with the City Secretary requesting that such ordinance be either repealed or submitted to a vote of the people. When such a petition has been certified as sufficient by the City Secretary, the ordinance specified in the petition shall not go into effect, or further action thereunder shall be suspended if it shall have gone into effect, until and unless it is approved by the voters as herein provided.

Section 4.03 Form of Petition.

Initiative petition papers shall contain the full text of the proposed legislation in the form of an ordinance, including a descriptive caption. The signatures to the initiative or referendum need not all be appended to one paper, but each signer shall sign their name in ink or indelible pencil, shall add their signature and place of residence by street and number, and their voter registration number. One of the signers of each separate paper petition shall make an affidavit that he/she, and he/she only, personally circulated such petition and that signatures appended thereto where made in his/her presence and are the genuine signatures of the persons whose names they are purported to be; and further, that no signature shall have been placed thereon prior to forty-five (45) days of the filing of such petition.

#### Section 4.04 Filing, Examination and Certification of Petition.

Within ten (10) business days after an initiative or referendum petition is filed, the City Secretary shall determine whether the same is signed by the requisite number of registered voters. The City Secretary shall declare void any petition paper which does not have an affidavit attached thereto, as required by Section 4.03 of this Article. In examining the petitions, the City Secretary shall write the letter "D.V" in red ink opposite the names of signers found not registered to vote. After completing examination of the petition, the City Secretary shall certify the result thereof to the Council at its next regular meeting, stating the number of persons found on the petition who are not registered to vote. If the certificate of the City Secretary shall show an initiative or referendum petition to be insufficient, the City Secretary shall notify the person filing the petition, and it may be amended within ten (10) business days from the date of such notice by filing a supplementary petition; upon receipt of additional papers signed and filed, as provided for in the original petition. Within ten (10) business days after such amendment is filed, the City Secretary shall examine the amendment petition and certify as to its sufficiency. If the amended petition is found to be insufficient, the City Secretary shall return the petition to the person filing same, without prejudice however, that upon finding the amended petition to be insufficient, no new petition covering the same subject matter shall be filed until six(6) months shall have elapsed from the date of filing of the original petition.

#### Section 4.05 Council Consideration and Submission to Voters.

When the Council receives an authorized initiative petition certified by the City Secretary to be sufficient, the Council shall either:

- a) Pass the initiated ordinance within amendment within thirty (30) days after the date of the certification to the Council; or
- b) Submit said initiated ordinance, without amendment, to a vote of the registered voters of the City at a regular or special election to be held within ninety (90) days after the date of the certification to the Council; or
- c) At such election, submit to a vote of the registered voters of the City said initiated ordinance within amendment, and an alternative ordinance on the same subject proposed by the Council.

When the Council receives an authorized referendum petition certified by the City Secretary to be sufficient, the Council shall reconsider the referred ordinance. If upon such reconsideration such ordinance is not repealed, it shall be submitted to the voters at a regular or special election to be held not more than ninety (90) days after the date of the certification to the Council. Special elections on initiated or referred ordinances shall not be held more frequently than once each six (6) months. No ordinance on the same subject as the 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 4.06 Ballot Form and Results of Election .

The ballot used in voting upon an initiated or referred ordinance shall state the caption of the ordinance, and below the caption shall set forth on separate lines the words: “For the Ordinance, and “Against the Ordinance.”

An initiated ordinance and an alternative ordinance proposed by the Council, which are submitted at the same election, shall be appropriately identified as the initiated or referred ordinance, and as the ordinance proposed by the Council.

And number of ordinances may be voted upon at the same election in accordance with the provisions of this Article. An ordinance submitted and receiving an affirmative majority of the votes cast, shall thereupon be effective as an ordinance of the City. An ordinance so adopted may be repealed or emended at any time after the expiration of two (2) years, by a four-fifths (4/5) vote of the majority of the votes cast shall be deemed thereupon repealed.

Section 4.07 Power of Recall.

The citizens of the City reserve the power to recall any member of the Council and may exercise such power by filing with the City Secretary a petition, signed by registered qualified voters of the City equal in number to at least thirty (30%) percent of the number of votes cast at the last regular municipal election of the City, or by two hundred (200) registered qualified voters, whichever is greater, demanding the removal of a member of the City Council. The petition shall be signed and verified in the manner required, by the form prescribed below. Such petition statement of the specific acts of misfeasance and/or malfeasance for which the removal is sought, and one of the signers of each petition paper shall make an affidavit as prescribed below. The following from of petition and acknowledgement is herein prescribed:

“By our signatures affixed hereto, we hereby affirm that we seek the recall of \_\_\_\_\_, who holds the election office of \_\_\_\_\_, for the following specific grounds of misfeasance and /or malfeasance as prescribed in Article 4, Section 4.07 of the Charter of the City of Lacy Lakeview:

Voter			
Registration Number	Printed Name	Address	Signature
STATE OF TEXAS	}		
COUNTY OF MCLENNAN	}		

“BEFORE ME, the undersigned authority, personally appeared \_\_\_\_\_, who, after being duly sworn by me stated, upon their oath, that they circulated the above petition; that he/she was personally present when each of the above signatures were affixed thereto; and that each person whose signature is affixed thereto affirmed that the information provided by them was true and correct.

SWORN TO AND SUBSCRIBED BEFORE ME this the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
Notary Public, State of Texas

My Commission Expires:

- ”

#### Section 4.08 Recall Election.

Within fifteen (15) days after the date of filing the papers constituting the recall petition, the person performing the duties of City Secretary shall verify the signatures on the petition and the present such petition to the Council.

The officer whose removal is sought may, after such recall petition has been presented to the Council, request in writing to the Council at the next regular meeting, a public hearing to be held to permit the presentation of facts pertinent to the charge specified in the recall petition. In this event, the Council shall order such public hearing to be held not less than five (5) days, nor more than fifteen (15) days, after receiving such request for a public hearing.

If the officer whose removal is sought does not resign, then it shall become the duty of the Council to order an election and fix a date for holding such recall election. The date of such election shall be held at the earliest date as permitted by State Law.

#### Section 4.09 Recall Ballot.

Ballots used at recall elections shall conform to the following requirements:

- a) With respect to each person whose removal is sought, the question shall be submitted “Shall (Name) be removed from the office of City Council Person.”
- b) Immediately below each such question there shall be printed the two following propositions, one above the other, in the order indicated:

“For the recall of (Name)”

“Against the recall of (Name)”

#### Section 4.10 Results of a Recall Election.

If a majority of the votes cast at a recall election shall be against removal of the individual names on the ballot, the person shall continue in office. If a majority of the voters cast at such election be for the removal of the individual named on the ballot, the Council shall immediately declare the office vacant and such vacancy shall be filled in accordance with the provisions of the



Charter for the filing of vacancies. An individual thus removed shall not be a candidate to succeed that same individual in an election called to fill the vacancy thereby created.

#### Section 4.11 Limitations on Recall.

No recall petition shall be filed against any officer of the City within six (6) months after election, and no officer shall be subjected to more than one (1) recall during a single term of office. No recall petition shall be filed against any officer within six months of the expiration of the term of office.

## ARTICLE V

### ADMINISTRATIVE ORGANIZATION

#### Section 5.01 The City Manager.

The Council shall appoint a City Manager for an indefinite term, who shall be the chief administrative officer of the City. The City Manager shall be chosen by the Council solely on the basis of executive and administrative training, experience, ability and character, and without regard to political consideration. The City Manager shall reside within a reasonable response time to the City, as determined by the City Council. No member of the Council shall, during the term for which elected, be chosen as City Manager. The City Manager shall receive such compensation as may be fixed by the Council.

#### Section 5.02 Power and Duties of the City Manager.

The City Manager shall be responsible to the Council for the proper administration of all affairs of the City. The power herein conferred upon the City Manager shall include, but shall not be limited to the following:

- a) Appoint and, when necessary for the welfare of the City, remove any officer or employee of the City, except as otherwise provided by this Charter; and except that the City Manager may authorize the head of a department to appoint and remove subordinates in such department.
- b) Prepare and submit to the Council an annual budget, and be responsible for its administration after adoption.
- c) Prepare and submit to the Council, as of the end of the fiscal year, a complete report on the finances and administrative activities or the preceding year.
- d) Keep the Council advised of the financial condition and future needs of the City and make such recommendations as may seem desirable.
- e) Perform such other duties as may be prescribed by this Charter or required of the Manager by the council, not inconsistent with this Charter.
- f) Attend all meetings of the Council, and be notified of all meetings of the council.

### Section 5.03 Removal of City Manager

The Council may remove the City manager, upon the affirmative vote of a majority of the entire Council. If removed after serving six (6) months, the City Manager may demand written charges and the right to be heard thereon at a public meeting of the Council prior to the date on which final removal shall take effect. Pending such hearing, the Council may suspend the City Manager from office. The action of the Council in suspending or removing the City Manager shall be final, it being the intention of the Charter to vest all authority and fix all responsibility for such suspension or removal in the Council.

### Section 5.04 Investigation by the City Council.

The City Council shall have power to inquire into the conduct of any office, department, agency, officer or employee of the City, and to make investigations as to municipal affairs. For that purpose the Council may subpoena witnesses, administer oaths and compel the production of books, papers and other evidence. Failure to obey such subpoena or produce books, papers or other evidence, as ordered under the provisions of this section, shall constitute a misdemeanor and shall be punishable by fine not to exceed One Thousand (\$1,000) Dollars, or such maximum as may be allowed by State Law.

### Section 5.05 Council Not to Interfere in City Manager's Appointments or Removals.

Neither the Council nor any of its members shall direct or request the appointment of any person to, or removal from, office by the City Manager or by any subordinate. However, the Council may consult and advise the City Manager, make inquiry regarding the appointment or removals, and may express their opinion in regard thereto. In regard to administrative and executive duties under the City Manager, the Council and its members shall deal solely through the City Manager. Neither the Council nor any member thereof shall give orders to any subordinate of the City Manager, either privately or publicly. Willful violation of the foregoing provisions of the Charter by any member of the Council shall constitute official misconduct and shall authorize the Council, by a vote of a majority of its membership, to expel such offending member from the Council if found guilty after a public hearing; thereby creating a vacancy in the place held by such member.

### Section 5.06 Absence of the City Manager.

The City Manager, by letter filed with the City Secretary, may designate a qualified administrative officer of the City to perform the duties of the manager during a temporary absence or disability (normally thirty (30) days or less). In the event of failure of the City Manager to make such designation, the Council may, by resolution, appoint an officer of the City to perform the duties of the City Manager until the absence or disability shall cease.

#### Section 5.07 Administrative Departments.

There shall be such administrative departments as are established by this Charter, and such other administrative departments as may be deemed necessary by the Council and as established by ordinance; all of which shall be under the control and direction of the City Manager. The Council may abolish or combine one or more department of the City from one department to another by ordinance.

#### Section 5.08 Directors of Departments.

At the head of each department there shall be a director who shall be appointed, and who may be removed by the City Manager. Such directors shall have supervision and control over their respective departments and may serve as chiefs of divisions within their respective departments. Two or more departments may be headed by the same individual and the City Manager may head one or more departments.

#### Section 5.09 Fire Department.

The City shall take all necessary measures to protect the City and the property of its citizens from destruction by fire or conflagration; and shall have the authority to establish and maintain a fire department within the City at such time as State statutes may require, and to cooperate with any person, other governmental body, association or corporation in the operation of the fire department, under such terms as the City Council may prescribe.

Authority is also granted to support and assist in the maintenance of a volunteer fire department.

ARTICLE VI  
MUNICIPAL COURT

Section 6.01 Municipal Court.

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

Section 6.02 Judge of the Municipal Court

The Municipal Court shall be presided over by a magistrate who shall be known as the City Judge. The City Judge shall be appointed by the Council, and shall serve at the pleasure of the City Council. The City Judge shall be an Attorney licensed by the State of Texas, and shall receive such compensation as may be set by the Council. In addition, the City Council shall appoint an alternate City Judge who shall be an Attorney licensed by the State of Texas. In the event the City Judge is unable to act for any reason, or in the event of a vacancy, the alternate City Judge shall act in the place of the City Judge until such vacancy can be filled. The term of the office of the City Judge and alternate City Judge shall be concurrent with the term of the Mayor.

Section 6.03 Clerk of the Municipal Court.

There shall be a Clerk of the Municipal Court who shall be appointed by, and shall serve at the pleasure of the City Manager. The Clerk shall have power to administer oaths and affidavits, make certificates, affix the seal of the court thereto, and otherwise perform any and all acts necessary in the issuing process of such Court, and conduction the business thereof.

There shall be such deputy clerks of the Municipal Court as may be authorized and appointed by the City Manager, who shall have authority to act for and on behalf of the Clerk of the Municipal Court.

Section 6.04 Procedure in the Municipal Court.

All complaints, prosecutions, the service process, commitment of those convicted of offenses, the collection and payment of fines, the attendance and service of witnesses and juries, punishment for contempt, bail, and the taking of bonds shall be governed by the provisions of Title 2 of the Code of Criminal Procedure of the State of Texas applicable to Municipal Courts.

## ARTICLE VII

### FINANCE

#### Section 7.01 Fiscal Year.

The fiscal year of the City of Lacy Lakeview shall begin on October 1st of each calendar year and will end on September 30th of the following calendar year. The fiscal year will also be established as the accounting and budget year. All funds collected by the City during any fiscal year, including both current and delinquent revenue, shall belong to such fiscal year. Except, funds derived to pay interest and create a sinking fund on the bonded indebtedness of the City, may be applied to the payment of the expenses incurred during such fiscal year. Any revenues uncollected at the end of any fiscal year, and any unencumbered funds actually on hand, shall become resources of the next succeeding fiscal year.

#### Section 7.02 Preparation and Submission of Budget.

The City Manager, prior to August 1st of each year, shall prepare and submit to the Council, the budget covering the next fiscal year, which shall contain the information described below. In preparing the budget, each employee, officer, board and department shall assist the City Manager by furnishing all necessary information.

- a) The City Manager's budget message shall outline the proposed financial policies for the next year, with explanations of any change from previous years in expenditures, and a complete statement regarding the financial condition of the City.
- b) An estimate of all revenue from taxes and other sources, including the present tax structure, rates, and property evaluation, for the ensuing year.
- c) A carefully itemized list of proposed expenses by office, department, agency, employee, and project for the budget year; as compared to actual expenses of the last fiscal year, and the present year-to-date expenses.
- d) A description of all outstanding bond indebtedness, showing amount, purchaser, date of issue, rate of interest, and maturity date, as well as any other indebtedness which the City has incurred and which has not been paid.
- e) A statement proposing any capital expenditures deemed necessary for undertaking during the next budget year, and recommended provisions for financing.

Section 7.03 Budget a Public Record.

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

Section 7.04 Public Hearing on Budget.

At the Council meeting at which the budget is submitted, the Council shall name the date and place of the public hearing, and shall cause to be published in the official newspaper of the City, the time and place, which will be not less than seven (7) days nor more than fifteen (15) days after the date of the notice. At that hearing, interested citizens may express their opinions concerning items of expenditure, giving their reason for wishing to increase or decrease any items of expense.

Section 7.05 Proceeding on Adoption of Budget.

After public hearing, the Council shall analyze the budget, making any additions or deletions which they feel appropriate, and shall, prior to the beginning of the next fiscal year, adopt the budget by a favorable majority vote of all members of the Council.

Section 7.06 Budget, Appropriation and Amount to be Raised by Taxation.

On final adoption, the budget shall be in effect for the budget year. Final adoption of the budget by the Council shall constitute the official appropriation of proposed expenditures for the current year, and shall constitute the basis of the official levy of the property tax and the amount of tax to be assessed and collected for the corresponding tax year. Estimated expenditures will, in no case, exceed proposed revenue plus cash on hand. Unused appropriations may be transferred to any line item budgeted for the same general purpose.

Section 7.07 Unallocated Reserve Fund.

The City Manager may recommend for action by the Council, an unallocated reserve fund to be used for unexpected items of expense which were not original items of expenditures.

Section 7.08 Administration of Budget.

No payment shall be made or obligation incurred against any allotment or appropriation except in accordance with appropriations duly made in the budget unless the City Manager or his designee first certifies that there is a sufficient unencumbered balance in such allotment or appropriation, and that sufficient funds therefrom are or will be available to cover the claim or

meet the obligation when it becomes due and payable. Notwithstanding anything above, there shall be no transfer of budgeted funds or monies from a department without prior Council approval.

#### Section 7.09 Financial Reports.

The City Manager shall submit to the Council, each month, a report of the financial condition of the City, by budget item; by budget estimate compared to expenditures for the preceding month, and for the fiscal year, to date. The financial records of the City will be maintained on a modified accrual basis to support this type of financial management. The City Manager shall make available to the City Council, monthly, a cash disbursements journal of the City of all funds and accounts.

#### Section 7.10 Amending the Budget.

Under unforeseen conditions which may arise and which could not reasonably have been anticipated in the normal process of planning the budget, the Council may, by a majority vote of the full membership, amend or change the budget to provide for any additional expense in which the general welfare of the citizenry is involved. These amendments shall be by ordinance, and shall become an attachment to the original budget.

#### Section 7.11 Certification: Copies Made Available.

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

#### Section 7.12 Defect Shall Not Invalidate the Tax Levy.

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

#### Section 7.13 Independent Audit.

At the close of each fiscal year, and at such other times as it may be deemed necessary, the Council shall direct that an independent audit be made of all accounts of the City by a Certified Public Accountant. The Certified Public Accountant shall not have personal interest, directly or indirectly, in the financial affairs of the City or any of its officers. Upon completion of the audit, the results thereof shall be placed on file in the City Secretary's office for public record.



#### Section 7.14 Purchase Procedure

Before any purchase contract are made by the City of Lacy Lakeview, ample opportunity for competitive bidding shall be provided under such rules and regulations as the City Council may adopt by ordinance.

All merchandise, materials, supplies, equipment, and services utilized by the City, shall be procured in accordance with State law, and as prescribed in Chapter 252 of the Local Government Code, and as may hereinafter be amended. Purchases shall be based on competitive bid for like quality and function except in instances where competition is impossible or impractical. The bid format shall be in accordance with law, and as follows:

- a) Expenditure of \$500.00 or less shall be informal.
- b) \$500.00 to \$3,000.00 shall be in writing or by telephone.
- c) \$3,000.00 to \$15,000.00 shall be in writing.
- d) \$15,000.00 and over shall be by formal sealed bid or proposal, and in accordance with Section 252.021 of the Local Government Code.

Bids for public works contracts shall be in conformance with State Statutes as covered by Article 2368a.3, V.A.T.S. as amended.

Procurement involving high technology items may utilize provisions of State law allowing for negotiated purchases or sealed proposals, per Section 252.021 and 252.042 of the Local Government Code, and as hereinafter may be amended.

## ARTICLE VIII

### BONDS, WARRANTS, AND OTHER EVIDENCE OF INDEBTEDNESS

#### Section 8.01 Powers to Issue.

In keeping with the Constitution of the State of Texas and not contrary thereto, the City of Lacy Lakeview shall have the power to borrow money on the credit of the City of and public purpose not now or hereafter prohibited by the Constitution and laws of the State of Texas, and shall have the right to issue all tax bonds, revenue bonds, and funding and refunding bonds, time warrants and other evidence of indebtedness as now authorized, or as may hereafter be authorized to be issued by cities and towns by the laws of the State of Texas.

No bonds, warrant or certificates of indebtedness shall be made and the City shall be become obligated for same, to be used for the operation of the regular administrative and operating budgets of the City of Lacy Lakeview.

#### Section 8.02 Manner of Issuance.

Bonds and warrants of the City of Lacy Lakeview shall be issued in the manner provided by the general laws of the State of Texas.

#### Section 8.03 Sale of Bonds.

No bonds issued by the City of Lacy Lakeview shall be invalid because they are sold for less than par value and accrued interest. The Council shall have the right to reject any and all bids. In the event the City shall have received authorization for the issue of bonds but shall not have issued said bonds within ten (10) years from the date of the voter authorization, such authorization shall become null and void.

#### Section 8.04 Interest and Sinking Funds.

It shall be the duty of the Council to levy an annual tax sufficient to pay the interest on, and approve the necessary sinking fund required by law, on all outstanding general obligation bonds of the City. The interest and sinking fund shall be deposited in a separate account and shall not be diverted to or used for any purpose other than to pay the interest and principal on all such bonds issued by the City of Lacy Lakeview. The sinking fund maintained for the redemption of any debt may be invested in any interest bearing bonds of the United States government, and/or secured bonds of the State of Texas, as may be provided by the laws of this State. City monies may also be deposited in any State or Nationally chartered bank in interest bearing accounts.

#### Section 8.05 Revenue Bonds.

The City shall have power to borrow money for the purpose of construction, purchasing, improving, extending, or repairing of public utilities, recreational facilities or any other function not now or hereafter prohibited by the general laws of the State, and issue revenue bonds to evidence the obligation created thereby. Such bonds shall be charged upon, and payable solely from the properties, or interest therein acquired, and the income therefrom, and shall never be a debt of the City.

Revenue bonds issued by the City may, within discretion of the City Council, be submitted for approval by a majority of qualified voters, voting at an election held for such purpose. The council shall have authority to provide for the terms and force of any purchase agreement, contract, mortgage, bond or document desired or necessary for the issuance of revenue bonds, and the acquisition and operation of any property or interest.

#### Section 8.06 Execution and Registration of Bonds.

All bonds, warrants and certificates of indebtedness shall be signed by the Mayor, countersigned by the City Secretary, and sealed with the seal of the City in the manner provided by general law, and shall be payable at such times and places as may be fixed, not more than forty (40) years from their issue date. It shall be the duty of the Mayor, when such bonds are issued, to forward the same to the Attorney General of the State of Texas for approval and for registration by the Comptroller of Public Accounts.

#### Section 8.07 Bond Register.

The Director of Finance or other officer of the City designated by the City Council shall keep, or cause to be kept, for and on behalf of the City, a complete bond registry and books, showing all bonds, warrants, and certificates of indebtedness issued, the date and amount thereof, the rate of interest, maturity, etc., of all bonds or other indebtedness surrendered and other transactions of the Council having reference to the refunding of the indebtedness of said City.

ARTICLE IX  
TAXATION

Section 9.01 Powers of Taxation.

The Council shall have the power to levy, for general purposes, an ad valorem tax on real, personal, and mixed property within the territory of the City of Lacy Lakeview, and not exempt from taxation by the constitution and laws of the State of Texas. This tax shall be based upon the true value of the property, as provided by law, to the extent of the constitutional limit permitted by the State of Texas, for home rule Cities.

The Council may levy taxes on all property, privileges, and franchises of every kind and description within the city limits or having its situs therein, and from any other local source, on January first, of each year, and provide for rendition thereof, the place, time, and manner of payment thereof, with penalties, as the Council may deem best, not in violation of the laws of this State. The City Council shall have the power to, at its option, provide for collection of taxes utilizing City employees; or it may contract with other entities for such collection, as prescribed by State law.

Section 9.02 Assessment of Property for Tax Purposes.

Every person, partnership, association, or corporation, holding, owning, or controlling property within the limits of the City shall, on January 1<sup>st</sup> of each year, be assessed taxes, as prescribed by the McLennan County Central Appraisal District and the Texas State Property Codes.

Section 9.03 Exempt Property.

The City hereby exempts such personal property from taxation as may be provided for by the State Constitution and laws of the State of Texas, and may grant any exemption allowed by the Texas State Property Tax Code.

Section 9.04 Payment of Taxes.

The taxes herein and hereby authorized to be levied shall become due and payable October 1<sup>st</sup> of the year assessed, and same shall be payable in cash at the office of the Collector of Taxes, or such other officer as the City may, prescribe by ordinance.

#### Section 9.05 Delinquent Taxes.

Taxes shall be deemed and become delinquent if not paid prior to February 1<sup>st</sup> the year following assessment, and such delinquent taxes shall be subject to six (6%) percent penalty or such other percentage as may be prescribed by State law.

In Addition to the penalty therein prescribed, such delinquent taxes shall bear interest at the rate of one (1%) percent per month for each month of delinquency, up to the maximum penalty interest rate of twelve (12%) percent per annum from the original delinquent date. In addition to the penalty and interest herein prescribed, such delinquent taxpayer shall be subject to the payment of all costs and expenses incurred in the advertisement of such delinquent property and the collection of such taxes through any method provided by this Charter and/or the laws of the State of Texas. Such penalties and interest shall be an obligation of the taxpayer and shall be secured by the same lien and collected in the same manner as other taxes.

#### Section 9.06 Tax Lien and Liability

A special lien is hereby created on all real, personal, and mixed property, located in the City of Lacy Lakeview, in favor of the City of Lacy Lakeview, for all taxes, ad valorem, occupational, or otherwise. Said lien shall exist from January 1<sup>st</sup> in each year until the taxes are paid. Such lien shall be prior to all other claims, and no gift, sale, assignment or transfer of any kind, or judicial writ of any kind, can ever defeat such lien. The Assessor and Collector of Taxes can pursue such property, and whenever found out may, by judicial writ, seize and sell enough thereof to satisfy such taxes.

All persons or corporations owning real, personal, or mixed property on the first day of January of each year shall be liable for all municipal taxes levied thereon for such year.

#### Section 9.07 Appeal of Appraised Value.

The City Council or the property owner shall have the right, as prescribed by law, to contest the appraised values before the Appraisal Review Board on all parcels.

#### Section 9.08 Tax Remission, Discount and Compromise, Correction of Error.

Except as herein provided, neither the Council nor any other official of the City shall extend the time for payment of taxes, to discount or compromise any tax due the City; nor waive the penalty and interest that may be due thereon, to any person, firm, or corporation owing taxes to the City for such year or years; unless a clerical error or omission by a City employee was made. However, this provision shall not prevent the compromise of any tax suit, or the correction of any errors in assessment, or preparation of tax rolls, or preparation of a tax statement. Such compromise shall first have the approval of the Council.

ARTICLE X  
PLANNING

Section 10.01 The Planning and Zoning Commission.

There shall be established a Planning and Zoning Commission which shall consist of seven (7) citizens from the City of Lacy Lakeview. The members of said Commission shall be appointed by the City Council for a term of three (3) years. The initial appointment of the Planning and Zoning Commission members by the Council shall designate which members shall serve one (1) year, and on each succeeding year thereafter, the Council shall select replacement for the Planning and Zoning commission members whose terms have expired. The Commission shall elect a Chair and Vice Chair from among its members. The Commission shall meet as required. Vacancies and unexpired terms shall be filled by Council appointments for the remainder of the term. A majority of the members shall constitute a quorum, and the affirmative vote of four (4) members shall be necessary for the passage of any recommendation to the City Council. Members of the Commission may be removed by the Council after public hearing.

The Commission shall keep minutes of its proceedings which shall be of public record. The Commission shall serve without compensation.

Commission members and officers holding such office on the effective date of the Charter shall continue in office until the expiration of their term of membership or office, and shall thereafter be appointed as provided in this Section.

Section 10.02 Planning and Zoning Commission Powers and Duties.

The Planning and Zoning Commission shall recommend to the City Council approval or disapproval of proposed changes in the Zoning Ordinance, Master Plan and, Master Thoroughfare Plan, and shall review and recommend approval or disapproval of all subdivision plats.

In order to over-ride any recommendation of the Planning and Zoning Commission, a vote of two thirds (2/3) of the total Council shall be required.

The Commission shall be responsible to act as an advisory body to the Council and shall have and perform such additional duties as may be prescribed by ordinance.

Section 10.03 The Master Plan.

A Master Plan for the physical development of the City of Lacy Lakeview shall be adopted by the City Council and it shall contain recommendations for growth, development and beautification of the City.

The City Council shall have the authority to amend the Master Plan in whole or in part after one public hearing on the proposed action.

#### Section 10.04 Legal Effect of the Master Plan.

Upon the adoption of a Master Plan by the City Council, no subdivision, street, park or any public way, ground or space, public building or structure, or public utility, whether publicly or privately owned, which is in conflict with the Master Plan shall be constructed or authorized by the City until and unless the location and extent thereof shall have been submitted to and approved by the City Council. The widening, narrowing, relocating, vacating or change in the use of any street, alley or public way, or ground, or the sale of any public building or real property, shall be submitted for approval to the City Council.

## ARTICLE XI

### FRANCHISES AND PUBLIC UTILITIES

#### Section 11.01 Powers of the City.

In addition to the City's power to buy, own, construct, maintain and operate utilities within or without the City limits, and to manufacture and distribute electricity, gas or anything else that may be needed or used by the public, the City shall have further power as may now or hereafter be granted under the Constitution and laws of the State of Texas.

#### Section 11.02 Inalienability of Control of Public Property.

The right of control and use of the public streets, highways, sidewalks, alleys, parks, public squares and public places of the City is hereby declared to be inalienable by the City, and except by ordinances not in conflict with the provisions of this Charter. No act or omission by the Council or any officer or agent of the City shall be construed to grant, renew, extend or amend, expressly or by estoppel or implication, any right, franchise or easement affecting said public streets, highways, sidewalks, alleys, parks, public squares, public places and other real property, except as provided in this Charter.

#### Section 11.03 Ordinance Granting Franchises.

All ordinances granting, amending, renewing, or extending franchises for public utilities shall be read at two separate regular meetings of the Council and shall not be finally passed until thirty (30) days after the first reading. No such ordinance shall take effect until thirty (30) days after its final passage; and pending such time, the full text of such ordinance shall be published once in the official newspaper of the City of Lacy Lakeview and the expense of such publication shall be borne by the proponent of the franchise. The granting of franchises by the City Council shall be governed by the following regulations;

- a) No exclusive franchise or privilege shall ever be granted;
- b) No determinate or fixed term franchise shall ever be granted for longer term than twenty years;
- c) Within five (5) years prior to the date of expiration of any fixed term franchise, the City Council may grant a new franchise to commence upon the expiration date of the franchise in question, or grant a new franchise if the existing franchise is released;
- d) All holders of franchises from the City, for public services, their successors or assigns, as compensation for the right or privilege of such franchise enjoyed, for services rendered in the City, shall pay to the City a percentage of the gross receipts of the business activities of the franchise holder. Such sum shall be exclusive of, and in addition to, all special



assessments and taxes of whatever nature, including ad valorem taxes upon the value of the franchise and other property of the franchise holder. The sum due hereunder shall be due and payable in accordance with specific ordinance.

#### Section 11.04 Transfer of Franchise.

No franchise shall be transferable except to persons, firms, or corporations taking all or substantially all of the holder's business in the City of Lacy Lakeview, and except with the approval of the Council, expressed by Ordinance. All liabilities to the City of Lacy Lakeview shall be paid in full at the time of the transfer.

#### Section 11.05 Franchise Value Not to be Allowed.

No value of any franchise granted by the City under this Charter shall be considered in fixing reasonable rates and charges for utility service within the City, or determining the just compensation to be paid by the City for property which the City may acquire by condemnation or otherwise.

#### Section 11.06 Regulation of Rates.

The Council shall have full power after notices and hearing, to regulate by ordinance the rates, charges and fares of every franchise holder operation in the City, provided that no such ordinance shall be passed as an emergency measure. Every franchise holder who shall request an increase in rate, charges, or fare, shall have, at the hearing of the Council called to consider such request, the burden of establishing by clear, competent and convincing evidence, the value of its investment property allocable to service in the City, and amount and character of its expenses and revenues connected with the rendering of such service. In connection with the City Council's power to regulate rates and service, Articles 1119 through 1124A, both articles inclusive, of the 1925 Revised Civil Statutes of the State of Texas, as now or hereafter amended, are hereby adopted as a part of this Charter. No franchise holder shall institute any legal action to contest any rate, charge or fare fixed by the Council, until such franchise holder has filed a motion for rehearing with the Council, specifically setting out each ground of its complaint against the rate, charge, or fare fixed by the Council, and until the Council shall have acted upon such motion.

Such motion shall be deemed overruled unless acted upon by the Council within a reasonable time, not to exceed ninety (90) days from the filing of such motion for rehearing; provided that the Council may, by resolution, extend such time limit for acting on said motion for rehearing, from ninety (90) days to one hundred eight (180) days.

#### Section 11.07 Consent of Property Owners.

The consent of abutting and adjacent property owners shall not be required for the construction, extension, maintenance or operation of any public utility; but nothing in this Charter or in any franchise granted thereunder shall ever be construed to deprive any such property owners of any right of action for damage or injury to their property, as now or hereafter provided by law.

#### Section 11.08 Extensions.

All extensions of public utilities wherein the City limits shall become a part of the aggregate property of the public utility, shall be operated as such, and shall be subject to all the obligations and reserved rights contained in this Charter, and in any original grant hereinbefore made. The right to use and maintain any extensions shall terminate with the original grant. In case of an extension of public utility operated under a franchise hereafter granted, such right shall be terminated at the same time and under the same conditions as the original grant.

#### Section 11.09 Temporary Permits.

Permits unconditionally revocable at the will of the governing body, for minor or temporary privileges, in the streets, public ways, and public places of the City, may be granted and revoked by ordinances from time to time; and such permits shall not be deemed franchises as the term is used in this Charter.

#### Section 11.10 Other Conditions.

All franchises heretofore granted are recognized as contracts between the City of Lacy Lakeview and the grantee. Contractual rights, as contained in any such franchises, shall not be impaired by the provisions of this Charter, except that the power of the City of Lacy Lakeview to exercise the right of eminent domain in the acquisition of any utility property is in all things reserved, and except the general powers of the City heretofore existing and herein provided for to regulate the rates and services of a utility, which shall include the right to require adequate and reasonable extension of plant and service, and the maintenance of the plant fixtures at the standard necessary to render the highest reasonable quality of utility service to the public, shall be reserved. Every franchise hereafter granted shall be held subject to all the terms and conditions contained in the various sections of this Article whether or not such terms are specifically mentioned in the franchises. Nothing in this Charter shall operate to limit in any way, as specifically stated, the discretion of the Council or the electors of the City, in imposing terms and conditions, as may be reasonable, in connection with any franchise grant; including the right to require such compensation or rental as may be permitted by the laws of the State of Texas.

#### Section 11.11 Franchise Records.

Within six months after this Charter takes effect, every owner of the franchise shall file with the City, as may be prescribed by ordinance, certified copies of all franchises owned or claimed, or under which such utility is operated in the City of Lacy Lakeview. The City shall compile and maintain a public record of franchises.

#### Section 11.12 Accounts of Municipally Owned Utilities.

Accounts shall be kept for each public utility owned or operated by the City, in such manner as to show the true and complete financial results of such City ownership and operation, including all assets, appropriately subdivided into different classes, all liability, subdivided by classes, depreciation reserve, other reserves, and surplus; also revenues; operating expenses, including depreciation, interest payments, rental, and other disposition of annual income. The accounts shall show the actual capital cost to the City of each public utility owned, also the cost of all extensions, additions, and improvements and the source of the funds expended for such capital purposes. They shall show, as nearly as possible, the cost of any service furnished or rendered by any such utility to any other City or governmental department. The Council shall annually cause to be made by a certified public accountant, and shall publish a report showing the financial condition of said public utility and financial results of such City ownership and operation, giving the information specified in this section; and such additional data as the Council shall deem expedient.

## ARTICLE XII

### BOARDS AND COMMISSIONS

#### Section 12.01 Boards and Commissions.

The City Council shall have authority to establish, by ordinance, such boards and commissions as it may deem necessary for the conduct of City business and management of municipal affairs, including appointments of all officers to such boards and commissions, except as otherwise provided in the Charter. The authority, functions and responsibilities of such boards and commissions shall be such as is spelled out in the ordinance establishing them. All existing boards and commissions heretofore established shall be continued in accordance with the ordinance or other acts under which they have been created, or until the City Council shall by ordinance abolish, modify, or alter the ordinances or acts under which they exist.

Notwithstanding any other provision of this Charter, the elected City Council shall have paramount authority over all matters affecting the budgets, appropriation of funds, expenditures, purchases and sales of properties, and procedures for accounting therefor, consistent with the express provisions of this Charter and applicable provisions of the State Constitution and laws of this State.

## ARTICLE XIII

### GENERAL PROVISIONS

#### Section 13.01 Public Records of the City.

Every ordinance or resolution, upon its becoming effective, shall be recorded in a book kept for that purpose, and shall be authenticated by the signature of the Mayor or Mayor Pro Tem and attested by the City Secretary as herein provided, which book and a duplicate copy thereof shall be kept in a fireproof City depository. All public records of every office, department, or agency of the City shall be open to inspection by any citizen at all reasonable times, provided that police records and vital statistics records, and any other records closed to the public by law, shall not be considered public records for the purpose of this Section.

#### Section 13.02 Personal Interest in City Contracts.

No officer or employee of the City of Lacy Lakeview shall have a financial interest, direct or indirect, in any contract with the City, or be financially interested, directly or indirectly in the sale to the City of any land, materials, supplies, or services, except on behalf of the City as an officer or employee. Any knowing and willful violation of this Section shall constitute malfeasance in office and any officer or employee guilty thereof shall be removed from office or position. Any violation of this Section with the knowledge, expressed or implied, of the person or corporation contracting with the governing body of the City shall render void the contract involved.

#### Section 13.03 Nepotism.

No person related within the second degree by affinity, or the third degree of consanguinity to the Mayor, any member of the City Council, or the City Manager, shall be appointed to any paid office, position, clerkship, or other service of the City. This prohibition shall not apply, however, to any person who shall have been employed by the City prior to, and at the time of, the election of the Councilmembers, or appointment of the City Manager, so related to them.

#### Section 13.04 Officers Not to be Interested in Franchises: Forfeiture of Office.

No officer or employee of the City of Lacy Lakeview shall accept, directly or indirectly, any gift, favor, privilege or employment from any public utility corporation enjoying a grant of any franchise privilege or easement from said City, during the term of office of such officer, or during the employment of such employee of the City, except as may be authorized by law or ordinance. Any employee or officer of the City who shall violate the provisions of this Section shall be guilty of a misdemeanor and shall be punished by such fine as may be prescribed by ordinance for this offense, and may be forthwith removed from office.

#### Section 13.05 Mechanic, Material or Labor Claim.

All subcontractors, materialmen, mechanics and laborers upon any public works of the City of Lacy Lakeview are hereby required to notify the City of all claims they may have against the contractor on account of such work. Subject to proof of payments by the said contractor, and when such notice has been given, the City shall retain an amount from any funds due the contractors, sufficient to satisfy such claims; provided that such notice must be given at any time after such indebtedness becomes due and before the City's final settlement with the contractor; and provided further, that no contractor or subcontractor shall issue any checks on, or on account of, any public works of said City.

#### Section 13.06 Notice of Claim.

The City of Lacy Lakeview shall not be held responsible on account of any claim for damages to any person unless the person making such complaint or claiming such damages shall, within ninety (90) days after the time at which it is claimed such damages were inflicted upon such person, file with the City Secretary, a true statement under oath, as to the nature and character such damages or injuries, the extent of the same, and the place where same happened, the circumstances under which same happened, the conditions causing same, with a detailed statement of each item of damages and the amount thereof. If it be for personal injuries, give a list of the witnesses, if any known to affiant, who witnessed such accident.

#### Section 13.07 Assignment, Execution, and Garnishment.

The property, real and personal, belonging to said City, shall not be liable to be sold or appropriated under a writ of execution or cost bill, nor shall the funds belonging to said City, in the hands of any person, be liable to garnishment on account of any debt the City may owe or funds the City may have on hand due any person. Neither shall any of its officers or agents be required to answer any writ of garnishment on any account whatsoever, nor shall said City be liable to the assignee of any wages of any officer, agent, or employee of said City, whether earned or unearned, upon any claim or account whatsoever, and any such attempted assignment shall be absolutely void as to the City.

#### Section 13.08 Bond of Contractors.

The governing body of the City of Lacy Lakeview shall require sufficient payment and performance bonds of all contractors, with a good corporate surety thereon, acceptable to the governing body of the City of Lacy Lakeview.

### Section 13.09 Condemnation of Dangerous Structures.

Whenever, in the opinion of the governing body of the City of Lacy Lakeview, or appropriate city official, any building, fence, shed, awning, cave, excavation, structure, object or thing of any kind or part thereof may fall or collapse and injure persons or property, the City may order the owner or agent of the same or occupant of the premises to take such corrective measures as the governing body may direct, and may punish by fine all person failing to do so. Upon failure to comply, the governing body shall have the additional power to remove the same on account of the owner of the property and assess the expenses thereof, including condemnation proceedings, as a special tax against the land or improvements, and the same may be collected as other special taxes provided for in this Charter, or by suit in any court of competent jurisdiction.

### Section 13.10 Building Permits.

The City of Lacy Lakeview shall have the power to prohibit the erection of construction of any building or structure of any kind within the City of Lacy Lakeview without a permit first having been issued by the City of the construction or erection of such building or structure, and may authorize a fee to be charged for such permit. In pursuance of said authority the City may authorized the inspection by the City of all buildings or structures during the progress of their construction, and may require that all buildings shall be constructed in conformity with the building code which exists in said City or shall hereafter be passed.

### Section 13.11 Pool, Ponds, and Lakes.

The City of Lacy Lakeview shall have the power to control or prohibit construction of pools, ponds, or lakes, receiving water from a recognizable stream, creek, branch, or natural drainage. The City may control location, construction, height of structure, depth and size of body of water to be impounded. No pool, pond, or lake, receiving water from a recognizable stream, creek, branch, or natural drainage, shall be constructed without first obtaining a permit issued by the City.

### Section 13.12 Bonds of City Officials, Employees, or Department Directors.

In addition to any bonding provisions herein provided, the Council shall require not less than \$25,000 for the Tax Collector, and may require any city official, department director of city employee, before entering upon their duties, to execute a good and sufficient bond with a surety company doing business in the state of Texas, and approved by the Council. As surety thereon, said bond shall be in such amount as Council may demand, payable to the City of Lacy Lakeview, and conditioned for the faithful performance of the duties of their premium of such bond to be paid by the City.

Section 13.13 Amendment of the Charter.

This Charter may be amended no more than once every two (2) years as provided by the laws of the State of Texas.

Section 13.14 Severability Clause.

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

Section 13.15 Construction of the Charter.

In the wording of the Charter, the use of the singular number shall include the plural, and the plural shall include the singular. Words used in the masculine gender shall include the feminine also, unless by reasonable construction it appears that such was not the intention of this Charter.

Section 13.16 Construction of Power.

This Charter shall not be construed as a mere grant of enumerated powers, but shall be construed as a general grant of power and as a limitation of power on the government of the City of Lacy Lakeview in the same manner as the constitution of Texas is construed as a limitation on the powers of the Legislature. Except where expressly prohibited by this Charter, each and every power under Article 11, Section 5 of the Constitution of Texas, which it would be competent for the citizens of the City of Lacy Lakeview to grant expressly to the City, shall be construed to be granted to the City by the Charter.

Section 13.17 Churches and School Property Not Exempt From Special Assessments.

No property of any kind, church, school, or otherwise, in the City shall be exempt from any of the special taxes and assessments authorized by this Charter for local improvements unless the exemption is required by State law.

Section 13.18 Damages.

No member of the City Council shall be individually liable or accountable in damages as a result of any actions taken by the member in performance of official duties.



Section 13.19 Rearrangement and Renumbering.

The Council shall have the power, by ordinance, to renumber and rearrange all Articles, Sections, and paragraphs of the Charter or any amendments thereto, as it shall deem appropriate. Upon passage of any such ordinance, a copy thereof certified by the City Secretary, shall be forwarded to the Secretary of State for filing.

Section 13.20 Effective Date of Charter.

This Charter, if adopted, shall become effective from and after the votes cast, at the election at which it is submitted to the voters, shall have been counted, and the results of said election declared, and an order or ordinance shall have been entered upon the records of the City Council declaring it adopted.

## GENERAL DEFINITION OF TERMS

Ad Valorem Tax: A tax imposed on the value of property

Affiant: One who swears to an affidavit.

Affinity: Degree of kinship as a result of marriage, as between a married person and the kindred of the other spouse.

Boards and Commissions: An Official or representative body organized under authority of law to exercise oversight or control over certain matters.

Bonds: A certificate or evidence of a debt on which the governing body promises to pay bond holders a specific amount of interest over a specified time, and to repay the principal on a certain date.

Called Meeting: A special meeting called by the governing body in addition to regularly scheduled meeting.

Caption: The heading or introductory part of a legal document such as an ordinance or resolution.

Ceremonial: A formal act, or series of acts prescribed by ritual, protocol, or convention.

Certificate of Indebtedness: An instrument evidencing debt.

Consanguinity: Degree of kinship or blood relationship, as between a person and their parents.

Conveyance: Certain documents involving transfer of title from the City to other persons or entities.

Disannexation: An official act detaching and removing an area from within the boundaries of the City.

Estoppel: A bar to alleging or denying a fact because of one's own previous actions or words to the contrary.

Fee Simple: A fee without limitations to any class or heirs or restriction on transfer of ownership.

Franchise: A special privilege conferred by the City, such as the right to operate a telephone, or electric power system upon public rights-of-way.

Initiative: A procedure enabling a specified number of voters, by petition, to propose a law and secure its submission to the electorate or to the legislative body for approval.

Metes and Bounds: A method of describing land by listing the compass direction and distance of boundary lines.

Ordinance: A law set forth by a governmental authority.

Plurality: An excess of votes over those cast for an opposing candidate, or a number of votes cast for a candidate in a contest of more than two candidates that is greater than the number cast for any other candidate, but not more than half the total votes cast.

Politic: A social compact by which the whole people covenant with each citizen, and each citizen with the whole people, all of whom shall be governed by certain laws for the common good.

Promulgation: To make known or public the terms of a duly enacted ordinance.

Recall: The right or procedure by which an official may be removed by vote of the people.

Referendum: The principal or practice of submitting to popular vote a measure passed upon or proposed by a legislative body, or by popular initiative.

Resolution: A formal expression or opinion, will, or intent, voted by an official body or assembly.

Situs: the place where something is held to be located in law.

Subpoena: A document commanding a person to appear and give testimony, or to produce certain documents or things.

Terminable: Capable of being terminated.

Unilaterally: Done or undertaken by one person or party independently of other persons or entities.

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