

**HOME RULE CHARTER  
FOR THE CITY OF  
NEDERLAND, TEXAS**

**ARTICLE I**

**INCORPORATION, FORM OF  
GOVERNMENT, BOUNDARIES**

- §1.01 Incorporation**
- §1.02 Form of Government**
- §1.03 Boundaries**
- §1.04 Extension of City Boundaries**
- §1.05 Creation of Ward Boundaries**
- §1.06 Change of Ward Boundaries**
- §1.07 Exclusion and Discontinuance of Territory**

**Section 1.01 - INCORPORATION**

The inhabitants of the City of Nederland, Texas, within the corporate limits as now established or as hereafter established in the manner provided herein, shall be and continue to be a municipal corporation and a body politic incorporated under the name of CITY OF NEDERLAND, TEXAS, possessed to all the property and interest of which it was possessed immediately prior to the time this Charter takes effect or may hereafter acquire with the powers, duties, obligations and liabilities now pertaining to said City, as a municipal corporation.

**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 its limitations imposed by the State Constitution and by this Charter, all powers of the City shall be vested in an elective Council composed of four Councilmembers and a

Mayor, hereafter referred to as the "Council" or "City Council", which shall enact local legislation, adopt budgets, determine policies, have all the powers granted to cities by the constitution and laws of the State of Texas together with all the implied powers necessary to carry into execution all the powers granted, and appoint the City Manager, who in turn shall be held responsible to the City Council for the execution of the laws and the administration of the government of the City.

All powers of the City shall be exercised in the manner prescribed by this Charter, or if the manner be not prescribed, then in such a manner as may be prescribed by ordinance, so long as there is no conflict with the general laws of the State of Texas.

**Section 1.03 - BOUNDARIES**

The boundaries of the City of Nederland shall be those set out and described by metes and bounds in the Charter adopted by the City of Nederland on March 10, 1955, and the ordinances of annexation and of disannexation thereafter recorded in the Ordinance Books of the City of Nederland. The City Clerk shall maintain at all times a map indicating the current and correct boundaries of the City of Nederland.

**Section 1.04 - EXTENSION OF CITY BOUNDARIES**

The City Council shall have the power by ordinance to fix the boundaries of the City of Nederland. Without limiting the previous sentence, this power includes the ability to annex and to disannex territory, when permitted, to the extent, in the manner, and subject to any restrictions or limitations, provided by the constitution and laws of the State of Texas.

**Section 1.05 - CREATION OF WARD BOUNDARIES**

The City of Nederland shall, by ordinance, divide the City into four (4) wards for the purpose of electing a bona fide resident from each ward as Councilmember.

**Section 1.06 - CHANGE OF WARD BOUNDARIES**

The City Council shall have the power to alter or change the ward boundaries of the City of Nederland, and to subdivide the City anew into wards; designating the same by number, provided there shall at all times be four (4) wards within the City; and to adjust the now existing ward boundaries or future ward boundaries so that each ward shall contain as nearly as possible the same number of electors; and to make the above changes as often as the City Council may deem expedient.

**Section 1.07 - EXCLUSION AND DISCONTINUANCE OF TERRITORY**

Whenever there exists within the corporate limits of the City of Nederland any territory not suitable or necessary for City purposes, the City Council may at its discretion, by ordinance discontinue said territory as part of said City; said ordinance shall specify accurately the metes and bounds of the territory sought to be eliminated from 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 upon the minutes and records of said City, and from and after the entry of such ordinance said territory shall cease to be 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 taxes 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.

**ARTICLE II**

**POWERS OF THE CITY**

- §2.01 General**
- §2.02 General Powers Adopted**
- §2.03 Eminent Domain**
- §2.04 Municipal Court**

**Section 2.01 - GENERAL**

The City of Nederland may use a corporate seal; may sue and be sued; may contract and be contracted with; may implead and be impleaded in all courts in all matters whatsoever; may cooperate with the government of the State of Texas or any agency thereof, the Federal Government or any agency thereof, or any political subdivision of the State of Texas; and shall have all the powers granted to cities by the constitution and laws of the State of Texas, together with all the implied powers necessary to carry into execution all the powers granted. The City may acquire property within or without its boundaries for any municipal purpose in fee simple or in any lesser interest or estate, by purchase, gift, devise, lease or condemnation and may sell, lease hold, manage and control any property now owned by it or which it may hereafter acquire; and may construct, own, lease, operate and regulate public utilities; may assess, levy and collect taxes for general and special purposes on all lawful subjects of taxation; may borrow money on the faith and credit of the City by the issuance and sales of bonds or notes of the City; may appropriate the money of the City for all lawful purposes; may regulate and control the use, for whatever purpose, of the streets and other public places; may make and enforce all police, health, sanitary and other regulations; and may pass such ordinances as may be expedient for the protection and maintenance of good government, peace and welfare of the City, for the performance of the functions thereof, for the order and security of its residents; and may provide suitable penalties for the violation of any ordinance enacted by the City of Nederland; and, except, as prohibited by the constitution and laws of this state or restricted by this charter, the City may exercise all municipal powers, functions, rights, privileges and immunities of every name and nature whatsoever.

**Section 2.02 - GENERAL POWERS ADOPTED**

The enumeration of the particular powers in this charter shall not be held or deemed to be exclusive but in addition to the powers enumerated herein or implied hereby or appropriate to the exercise of such powers, the City shall have and may exercise all power of local self-government and all other powers which, under the constitution and laws of the State of Texas, it would be competent for this charter specifically to enumerate. The City of Nederland shall have and may exercise all the powers enumerated in Article 1175, Chapter 13, Title 28, of the Revised Civil Statutes of the State of Texas of 1925 as now or hereafter amended.

It is the expressed intention that this Charter shall confer upon the City of Nederland and the Council all of the powers of local self government conferred upon Home Rule Cities by the Constitution of Texas and the statutes of this state.

**Section 2.03 - EMINENT DOMAIN**

The City shall have the full power and right to exercise the power of eminent domain when necessary or desirable to carry out any of the powers conferred upon it by this charter or by the constitution and laws of the State of Texas. The City may exercise the power of eminent domain in any manner authorized or permitted by the constitution and laws of this state. The power of eminent domain hereby conferred shall include the right of the City to take the fee in land so condemned and such power and authority shall include the right to condemn public property for such purposes. The City shall have and possess the power of condemnation for any municipal or public purposes even though not specifically enumerated in this charter.

**Section 2.04 - MUNICIPAL COURT**

a. There shall be a court for the trial of misdemeanor offenses known as the Municipal Court of the City of Nederland, with such powers and duties as are given and prescribed by the laws of the State of Texas.

b. The judge or judges of said court shall be appointed by the City Council, shall hold his office at the pleasure of the City Council, shall receive such salary as may be fixed by the City Council, shall be under the administrative direction of the City Manager and said judge shall not be an elected official. The City Clerk or an assistant City Clerk shall be ex officio clerk of said court.

c. The Clerk of said court and his deputy shall have the power to administer oaths and affidavits, make certificates, affix the seal of said court thereto; and generally do and perform any and all acts usual and necessary by the Clerk of Courts in issuing process of said courts and conducting the business thereof.

d. The City Council by ordinance may provide for the appointment of one (1) or more judges to serve if the regular judge, the presiding judge, or an associate judge is temporarily unable to act.

**ARTICLE III**

**THE CITY COUNCIL**

- §3.01 Number and Term**
- §3.02 Qualifications**
- §3.03 Salary**
- §3.04 Compensation**
- §3.05 Mayor**
- §3.06 Mayor Pro Tempore**
- §3.07 Vacancies**
- §3.08 Quorum - Voting**
- §3.09 Special Meetings**
- §3.10 Regular Meetings**
- §3.11 Rules of Procedures**
- §3.12 Meetings Open to Public**

**Section 3.01 - NUMBER AND TERM**

The City Council shall consist of a Mayor and four (4) Councilmembers. Two (2) Councilmembers shall be elected each year and shall serve for two year terms. The Councilmembers from Wards 1 and 3 shall be elected during odd years and the Councilmembers from Wards 2 and 4, and the Mayor, shall be elected during even years. The Mayor shall be elected for a two year term. If any Councilmember files an application to be a candidate for Mayor such filing shall constitute a forfeiture of the currently held office in accordance with the constitution and laws of the State of Texas.

**Section 3.02 - QUALIFICATIONS**

The Mayor and each of the Councilmembers shall be a citizen of the United States of America and a qualified elector of the State of Texas; shall have resided for at least one year preceeding the next election within the corporate limits of the City of Nederland. A member of the Council ceasing to possess any of these qualifications, or convicted of a felony while in office or who shall be absent from three consecutive regularly scheduled Council meetings without a valid excuse, shall immediately forfeit his office; and the City Council at its next regular meeting shall declare a vacancy to exist and shall fill said vacancy as set forth in Section 3.07 of this charter.

**Section 3.03 - SALARY**

The annual salary of the Mayor and each of the Councilmembers shall be one (\$1.00) dollar.

**Section 3.04 - COMPENSATION**

- (a) Compensation of the Mayor and each of the Councilmembers for allowances and expenses incurred in connection with the discharge of their duties while within Jefferson County, Texas shall be set by ordinance but may not be increased during the current term of the Mayor and Councilmember enacting such ordinance.
- (b) The Mayor or any Councilmember shall also be compensated for expenses incurred when outside of Jefferson County, Texas, for the conduct of City business. Claims for reimbursement shall be supported by reasonably detailed statements of expenditures, and approved by the City Council prior to payment.

**Section 3.05 - MAYOR**

The Mayor shall preside at the meetings of the City Council and shall be recognized as the head of the City Government for all ceremonial purposes and by the governor for the purposes of military law, but shall have no regular administrative duties unless otherwise provided for in other sections of this charter. The Mayor shall be entitled to vote upon all matters considered by the City Council, but shall have no veto power.

**Section 3.06 - MAYOR PRO TEMPORE**

The City Council shall elect one of its members Mayor pro tempore who shall perform the duties of the Mayor in the case of absence or disability of the Mayor, and if a

vacancy shall occur, shall become acting Mayor until the vacancy is filled as provided in Section 3.07 of this article of the charter.

### **Section 3.07 - VACANCIES**

A single vacancy in the City Council shall be filled by a majority vote of the remaining members of the City Council within thirty (30) days of vacancy and the person chosen shall serve for the unexpired term only. When more than one vacancy occurs, a special election shall be held to elect successors to fill the unexpired terms provided, however, if such vacancies occur within ninety (90) days prior to a general City election, then no special election shall be held.

### **Section 3.08 - QUORUM - VOTING**

Any three (3) members of the City Council shall constitute a quorum for the transaction of business, and the affirmative vote of three members of the City Council shall be necessary to take any official action in the name of the City or to adopt or repeal any ordinance or resolution.

No member of the City Council present at a meeting shall be excused from voting, and each member of the City Council present at the meeting must announce his vote on question, ordinance, or resolution, placed before the City Council; provided, however, a Council member shall be excused from voting whenever the Council member is required by law to abstain from voting, whenever the subject matter under consideration involves his own official conduct, or where his personal financial interests are involved, and on these particular matters, he shall not vote, but shall give his reasons for not voting, which said reasons shall be spread upon the minutes of the City Council.

### **Section 3.09 - SPECIAL MEETINGS**

The Mayor, the City Manager, or three (3) members of the City Council may call special meeting by giving written notice to the City Clerk who shall notify each member of the City Council of the time of such meeting and purpose thereof. Only matters mentioned in the call shall be considered.

### **Section 3.10 - REGULAR MEETINGS**

The City Council shall prescribe by ordinance or resolution the time for its regular meetings and there shall not be less than two (2) regular meetings in each calendar month.

### **Section 3.11 - RULES OF PROCEDURES**

The City Council shall determine its own rules and order of business. It shall cause and require the City Clerk to keep a permanent record or journal reflecting the minutes of these proceedings and the permanent record or journal shall always be open to public inspection subject to the provisions of the statutes of the State of Texas.

### **Section 3.12 - MEETINGS OPEN TO PUBLIC**

All meetings of the City Council shall comply with the provisions of the Texas Open Meetings Act, as now exists or hereafter amended.

## **ARTICLE IV**

### **POWERS VESTED IN THE COUNCIL**

- §4.01 Powers of the City Council**
- §4.02 Removal of Appointive Officials**
- §4.03 Council Not to Interfere with City Manager's Appointments**
- §4.04 Creation of New Departments or Offices**
- §4.05 City Clerk**
- §4.06 City Judge**
- §4.07 Director of Finance**
- §4.08 Department of Police**
- §4.09 City Attorney**
- §4.10 Fire Marshall**
- §4.11 Independent Annual Audit**
- §4.12 Council to be Judge of Qualifications of its Members**

All powers of the City and the determination of all matters of policy shall be vested in the City Council, except as otherwise specifically provided in this charter. Without limitation of the special and general powers granted or delegated to the City by the Constitution, Statutes, or this Charter, the City Council shall have the power to:

- (a) Appoint the City Attorney, City Judge, Chief of Police, City Clerk and Director of Finance for a definite term not to exceed one year, provided no Councilmember shall receive any such appointment during or within one year of the expiration of the term for which he shall have been elected, or as required by law;
- (b) Appoint or remove the City Manager;
- (c) Adopt the budget of the City and disburse municipal funds;
- (d) Authorize by ordinance the issuance of bonds, assignments of revenue or warrants;
- (f) Appoint the members of the Zoning Board of Appeals, Planning and Zoning Commission and all other boards and commissions serving the City;
- (g) Adopt and modify the official map of the City;
- (h) Approve plats;
- (i) Summons and compel the attendance of witnesses and the production of books and papers before it whenever it may deem necessary for the more effective discharge of its duties, and shall have the power to punish for contempt before it and for failure to appear before it in response to summons issued by it with the same fines and penalties as the County Judge may punish for contempt before the County Court. All processes shall be signed by the Mayor and attested by the City Clerk and shall be served by the Chief of Police or any other police officer of the City. The Mayor, City Attorney, Director of Finance, City Judge, City Clerk or any member of the City Council shall have authority to administer oaths in any matter pertaining to municipal affairs;
- (j) Open, widen, extend or straighten public streets, thoroughfares and alleys;
- (k) Define and prohibit nuisances within the City and 5,000 feet beyond;
- (l) Provide, by ordinance, for the exercise by this City of any and all powers of local self government not made self enacting by this charter or by statute;
- (m) Provide, by ordinance, for the exercise of the police powers of the City;

- (n) Prevent the construction and use of housing below standards fixed by the City Council;
- (o) Adopt, modify and carry out plans proposed by the Planning and Zoning Commission for the replanning, improvement and redevelopment of neighborhoods;
- (p) Provide for an independent audit;
- (q) Pass all ordinances deemed by it to be necessary or proper for the government of the City;
- (r) License, regulate or prohibit the erection of signs and billboards;
- (s) Require the installation of sewer lines, laterals and sewer facilities on private property and to fix a lien on the property if the owner fails to comply with the order of the City Council and the labor and materials are thereafter furnished by the City.
- (t) Compromise and settle any and all claims and lawsuits of every kind and character in favor of or against the City of Nederland.

**Section 4.02 - REMOVAL OF APPOINTIVE OFFICIALS**

The City Council may, upon the affirmative vote of three (3) members, remove its appointive officers or members of any board without notice, except as otherwise provided in this charter.

**Section 4.03 - COUNCIL NOT TO INTERFERE WITH CITY MANAGER'S APPOINTMENTS**

Neither the City Council nor any of its members shall direct or request the appointment of any person to or his removal from office by the City Manager or by any of his subordinates. However, the City Council may consult and advise with the City Manager, make inquiry regarding the appointments or removals and may express their opinion in regard thereto. In regard to

administrative and executive duties under the City Manager, the City Council and its members shall deal solely through the City Manager and neither the City Council nor any member thereof shall give orders to any subordinates of the City Manager, either publicly or privately. Willful violation of the foregoing provisions of this charter by any member of the City Council shall constitute official misconduct and shall authorize the City Council by a vote of a majority of its membership, to expel such offending member from the City Council, if found guilty after public hearing, and thereby create a vacancy in the place held by such member.

**Section 4.04 - CREATION OF NEW DEPARTMENTS OR OFFICES**

The City Council, by ordinance, may create, change and abolish offices, departments, and agencies other than the offices, departments and agencies established by this charter. The City Council, by ordinance, may assign additional functions or duties to officers, departments or agencies established by this charter.

**Section 4.05 - CITY CLERK**

The City Council shall appoint an officer of the City, having the title of City Clerk, who shall give notice of its meetings, shall keep the journal and minute book of its proceedings, shall authenticate by his signature and record in full, in a book kept for the purpose, all ordinances and resolutions and shall perform such other duties as shall be required by this charter or by ordinance.

**Section 4.06 - CITY JUDGE**

There shall be a magistrate of the Municipal Court known as the City Judge who shall be appointed by the Council to serve for a term of two years or as such term as State law requires. He may be removed by the City Council at any time for incompetence, misconduct, malfeasance, or disability. He shall receive such salary as may be fixed by the City Council from time to time. The Mayor shall act in the place of the City Judge in the event of his failure to act for any reason and also the Mayor shall act as City Judge in the event of a vacancy until a City Judge is appointed by the City

Council. The Mayor while acting as City Judge shall receive no compensation. All costs and fines imposed by the Municipal Court, shall be paid into the City Treasury for the use and benefit of the City.

#### **Section 4.07 - DIRECTOR OF FINANCE**

There shall be an officer of the City of Nederland known as the Director of Finance appointed by the City Council who shall have the custody of all public moneys, funds, notes, bonds, and other securities belonging to the City. The Director of Finance shall give such bond as the City Council may require conditioned upon the faithful discharge of his duties and in addition to such bond the City may require the Director of Finance to hypothecate securities in such amount as it shall prescribe. He shall make payments out of City funds upon orders signed by the City Officers as herein provided. He shall render a full and correct statement to the City Manager and City Council of his receipts and payments each month and in such form as the City Manager may prescribe. The Director of Finance shall perform such other acts and duties and receive such compensation as the City Council may prescribe. The cost of any Corporate surety bond required by the City Council may be paid by the City.

#### **Section 4.08 - DEPARTMENT OF POLICE**

There shall be established and maintained a department of Police to preserve the order within the City and to secure the residents of said City from violence and the property therein from injury or loss.

- (a) **Chief of Police:**  
The Chief of Police shall be the Chief administrative officer of the Department of Police, shall appoint and remove the employees of said department and shall perform such duties as may be required of him by the City Council.
- (b) **Special Police:**  
No persons except as otherwise provided by general law or charter or the ordinances passed pursuant thereto shall act as special police or special detective.

#### **Section 4.09 - CITY ATTORNEY**

The City Council shall appoint a competent and duly licensed Attorney practicing law in Jefferson County, Texas, who shall be the City Attorney. He shall receive for his services such compensation as may be fixed by the City Council and shall hold his office at the pleasure of the City Council. The City Attorney, or such other attorneys selected by him with the approval of the City Council, shall represent the City in all litigation. He shall be the legal advisor of, and attorney and counsel for, the City and all officers and departments thereof.

#### **Section 4.10 - INDEPENDENT ANNUAL AUDIT**

Prior to the end of each fiscal year, the City Council shall designate a certified public accountant, who, as of the end of the fiscal year, shall make an independent audit of accounts, and other financial transactions of the city government and shall submit a report to the City Council and to the City Manager. Such accountant shall have no personal interest direct or indirect in the fiscal affairs of the city government or of any of its officers. He shall not maintain any accounts or records of the city business, but within specification approved by the City Council, shall post audit the books and documents kept by or for any office, department or agency of the city government.

A copy of such audit shall be kept in the office of the City Clerk subject to inspection by any citizen and officer during regular office hours.

#### **Section 4.11 - COUNCIL TO BE JUDGE OF QUALIFICATIONS OF ITS MEMBERS**

The City Council shall be the judge of the election and qualifications of its members as set forth in this charter and for such purposes shall have the power to subpoena witnesses and require the production of records, but the decision of the City Council in any case shall be subject to review by the courts.

## **Section 4.12 - POWER TO COMBINE DEPARTMENTS**

**The Offices of City Clerk and Director of Finance, or any other offices appointed by the City Council, may at the discretion of the City Council, be combined so that any person may be appointed by the Council to any combination of one or more offices as the City Council may find advantageous.**

## ARTICLE V

### CITY MANAGER

- §5.01 Appointment and Qualifications
- §5.02 Term and Salary
- §5.03 Powers and Duties of the City Manager
- §5.04 Absence of City Manager
- §5.05 Interference by the City Council Prohibited

#### Section 5.01 - APPOINTMENT AND QUALIFICATIONS

The City Council shall hire a City Manager who shall be the chief administrative and executive officer of the City and shall be responsible to the City Council for the efficient administration of all the affairs of the City. He shall be chosen by the City Council solely on the basis of his executive and administrative training, experience and ability and need not, when appointed, be a resident of the City of Nederland, but during his tenure of office he shall reside within the City. No member of the City Council shall, during the time for which he is elected, be chosen as City Manager.

#### Section 5.02 - TERM AND SALARY

The City Manager shall not be appointed for a definite term but may be removed at the will and pleasure of the City Council upon an affirmative vote of four (4) members. If removed after serving six (6) months he may demand and shall be granted written charges within a period of seven (7) days and the right to be heard thereon at a public meeting of the City Council within a period of 21 days or prior to the date on which his final removal shall take effect, whichever period is less; but pending such hearing the City Council may suspend him from office. The action of the City Council in suspending the City Manager shall be final, it being the intention of this Charter to vest all authority and fix all responsibility for such suspension in the City Council. In case of the absence or disability of the City Manager, the City Council may designate some qualified person to perform the duties of the office during such absence or disability. The City Manager shall receive such

compensation as may be fixed by the City Council.

#### Section 5.03 - POWERS AND DUTIES OF THE CITY MANAGER

The powers and duties of the City Manager shall be as follows:

- (a) Appoint and remove all heads of departments and all subordinate officers and employees of the City except as otherwise provided by this Charter and except as he may authorize the head of a department or office to appoint and remove subordinates in such department or office. The decision of the City Manager or other appointing officer shall be final and there shall be no appeal therefrom to any other office, body or court whatsoever.
- (b) Prepare the budget annually and submit it to the City Council and be responsible for its administration after adoption.
- (c) Prepare and submit to the City Council as of the end of the fiscal year a complete finance report for the preceeding year.
- (d) Keep the City Council advised of the financial condition and future needs of the City and to recommend to the City Council for adoption such resolutions as he may deem necessary or expedient.
- (e) Perform such other duties as may be prescribed by this charter or required of him by the City Council not inconsistent with this Charter or provisions of state law.

#### Section 5.04 - ABSENCE OF CITY MANAGER

The City Council may appoint any qualified person to perform the duties of City Manager in the event of his disability.

## **Section 5.05 – FIRE MARSHALL**

**The Fire Marshall shall be employed by the City Manager and he shall be responsible for the overall planning of fire prevention in the City. He shall be in charge of the Fire Department. His salary shall be fixed by the City Council. In addition to serving as Fire Marshall, the City Manager shall have the authority to assign such other duties to him as he may deem proper.**

**ARTICLE VI**

**DEPARTMENTS OF CITY GOVERNMENT**

**§6.01 Designation**

**§6.02 Directors of Departments**

**§6.03 City Manager Acting as Director**

**Section 6.01 - DESIGNATION**

In addition to those Departments designated in this Charter there shall be such other Departments as may be deemed necessary by the City Council and established by ordinance.

**Section 6.02 - DIRECTORS OF DEPARTMENTS**

At the head of each department there shall be a director who shall be an officer of the City and shall have supervision and control of the department subject to either the City Council or the City Manager as provided in this Charter.

The City Manager may serve as head of one or more departments. Two or more departments may be headed by the same individual and the director of any department may also serve as chief of divisions into which a department may be divided for administrative convenience.

**Section 6.03 - CITY MANAGER ACTING AS DIRECTOR**

The City Manager shall advise the City Council in writing as to the departments he heads as Director.

## **ARTICLE VII**

### **BUDGET**

- §7.01 Fiscal Year**
- §7.02 Preparation and Submission of Budget**
- §7.03 Budget Form**
- §7.04 Budget a Public Record**
- §7.05 Publication and Notice of Public Hearing**
- §7.06 Hearing and Adoption of Budget**
- §7.07 Budget Establishes Appropriations and Amount to be Raised by Taxation**
- §7.08 Amendment and Supplemental Budgets**
- §7.09 Defect Shall Not Invalidate Tax Levy**

#### **Section 7.01 - FISCAL YEAR**

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

#### **Section 7.02 - PREPARATION AND SUBMISSION OF BUDGET**

No later than thirty (30) days prior to the beginning of each fiscal year the City Manager shall prepare, file with the City Clerk, and furnish to each member of the Council a carefully itemized budget outlining anticipated receipts and proposed expenditures of the City showing as definitely as possible appropriations desired for each project and operation for the next succeeding fiscal year, comparing the same with the budget for the then current fiscal year, and stating the actual receipts and expenditures of the current year. The proposed budget shall also contain a complete detailed statement of the assets, obligations and liabilities of the City and of each of the funds administered by it and an estimate of the rate of tax required for the then current calendar year.

#### **Section 7.03 - BUDGET FORM**

At the head of the budget there shall appear a summary of the budget, in such a manner as to present to taxpayers a simple and clear summary of the detailed estimates of the budget.

The City Manager shall at the same time submit a budget message explaining the need for the requested appropriations and stating what pending capital projects, if any, will likely require the issuance of bonds or warrants.

Each employee, officer, board and department shall furnish the City Manager such information as may be required by him for the proper preparation of each budget.

#### **Section 7.04 - BUDGET A PUBLIC RECORD**

The budget and budget message and all supporting schedules shall be a public record in the office of the City Clerk open to public inspection by anyone.

#### **Section 7.05 - PUBLICATION AND NOTICE OF PUBLIC HEARING**

At the meeting of the Council at which the budget and budget message are submitted, the City Council shall determine the place and time of the public hearing on the budget and cause to be published in a newspaper having a general circulation in Nederland a notice of the place and time, as prescribed by the Statutes of the State of Texas.

#### **Section 7.06 - HEARING AND ADOPTION OF BUDGET**

The budget, as amended, if there be changes, may then be adopted by a favorable vote of at least a majority of all the members of the City Council.

The City Manager shall file a copy of the budget with the County Clerk of Jefferson County and with the Comptroller of the State of Texas.

**Section 7.07 - BUDGET ESTABLISHES APPROPRIATIONS AND AMOUNT TO BE RAISED BY TAXATION**

From the effective date of the Budget the amount stated therein as the amount to be raised by taxation shall constitute a determination of the amount of the levy for the purposes of the City in the corresponding tax year and the several amounts stated therein as proposed expenditures shall thereby be and become appropriated to the several objects and purposes therein stated but unused appropriations for any item may be transferred and used for any other item required for the accomplishment of the same general purpose.

When recommended by City Manager and in the discretion of Council the budget may contain a reasonable sum set aside as an unallocated reserve fund to meet unexpected and unforeseen contingencies in current operating costs of any budget project.

**Section 7.08 - AMENDMENT AND SUPPLEMENTAL BUDGETS**

The City Council may amend the budget for municipal purposes in accordance with State law. The City Council, upon affirmative vote of a majority of the members of the City Council, may authorize expenditures to meet unusual and unforeseen conditions which could not, by reasonable diligence, thought, and attention have been included in the original budget. These amendments shall be filed with the original budget.

**Section 7.09 - DEFECT SHALL NOT INVALIDATE TAX LEVY**

Defects in the form or preparation of the budget or the failure to perform any procedural requirement shall not invalidate any tax levy or the tax roll.

**ARTICLE VIII**

**ASSESSMENT AND COLLECTION OF  
TAXES**

**§8.01 Power to Tax**

**§8.02 Implementation of Power to Tax**

**Section 8.01 - POWER TO TAX**

The City Council shall have the power under the provisions of state law to levy, assess and collect an annual tax upon taxable property within the City, and to establish a tax on sales within the City, to the maximum extent provided by the Constitution and general laws of the State of Texas.

**Section 8.02 - IMPLEMENTATION OF  
POWER TO TAX**

The City Council shall prescribe by ordinance the methods, procedures, rules and regulations by which its power to tax may be implemented, and by which any taxes thereby imposed may be enforced and collected.

## **ARTICLE IX**

### **ISSUANCE AND SALE OF BONDS**

- §9.01 Power to Issue Bonds**
- §9.02 Manner of Issuance**
- §9.03 Revenue Bonds**
- §9.04 Interest and Sinking Fund**
- §9.05 Records and Accounts**
- §9.06 Limitations**

#### **Section 9.01 - POWER TO ISSUE BONDS**

In keeping with the Constitution of the State of Texas and not contrary thereto, the City of Nederland shall have the power to borrow money on the credit of the City for any public purpose or permanent public improvements and in evidence of such borrowing, shall have the right and power to issue all bonds, certificates of obligation, notes, time warrants and other obligations or evidences 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. The power to issue or incur indebtedness or obligations pursuant to sections 9.01 and 9.03 shall include the power to issue obligations to refund such indebtedness or obligations issued or incurred pursuant to said sections or the laws of the State of Texas.

#### **Section 9.02 - MANNER OF ISSUANCE**

Obligations or evidences of indebtedness of the City of Nederland shall be sold, authorized, and issued in the manner provided by applicable laws of the State of Texas and, in connection with the issuance of evidences of indebtedness or obligations under either Section 9.01 or 9.03 hereof, the City shall have the power to execute loan agreements, revolving credit agreements, agreements establishing a line or lines of credit, letter of credit agreements, reimbursement agreements, insurance contracts, commitments to purchase, purchase or sale agreements, lease agreements or such other contracts or agreements authorized and approved by the City Council related to the security or liquidity thereof. All such obligations or evidences of indebtedness shall be signed by the Mayor, countersigned by the City Clerk in the manner provided by general law,

and shall be payable at such times and place or places as shall be determined within the discretion of the Council.

#### **Section 9.03 - REVENUE BONDS**

The City shall have power to issue revenue bonds, notes, or other obligations for the purpose of constructing, purchasing, improving, extending or repairing of public utilities, recreational facilities or facilities for any other self-liquidating function enacted by the City Council not now or hereafter prohibited by any general laws of the State. Such bonds, notes, or other obligations shall be a charge upon and payable from the properties, or interest therein acquired or the income therefrom, and shall never be a debt of the City. The City Council shall have authority to provide for the terms and form of any purchase agreement, contract, mortgage, bond or document desired or necessary for the issuance of revenue bonds, notes, or other obligations and the acquisition and operation of any such property or interest.

#### **Section 9.04 - INTEREST AND SINKING FUND**

It shall be the duty of the City Council to levy an annual tax sufficient to pay the interest on and provide the necessary sinking fund required by law on all outstanding general obligation bonds of the City. The interest and sinking fund shall be a separate fund maintained at a depository of the City, and monies deposited therein shall not be diverted to or used for any other purpose than to pay the interest and principal on general obligation bonds issued by the City of Nederland.

Monies deposited to the credit of the Interest and Sinking Fund may be invested in accordance with the Texas Public Funds Investment Act and the City policies for the investment of funds adopted pursuant to the Act.

## **Section 9.05 - RECORDS AND ACCOUNTS**

The Director of Finance or other officer of the City designated by the City Manager shall keep, or cause to be kept, for and on behalf of the City, complete, current and accurate records and accounts pertaining to all bonds, warrants, certificates of indebtedness and other obligations issued or incurred by the City and with respect to the payment and cancellation of such bonds, warrants, certificates of indebtedness or other obligations.

## **Section 9.06 - LIMITATIONS**

All obligations or evidences of indebtedness shall be authorized by ordinance of the City Council and in no event shall it be required that such ordinance be passed more than one time or at more than one meeting. No ordinance authorizing the issuance or sale of obligations or evidences of indebtedness shall be subject to referendum.

## **ARTICLE X**

### **PLANNING, ZONING AND HOUSING**

**§10.01 Planning and Zoning Commission**

**§10.02 Planning and Zoning Commission  
- Powers**

**§10.03 Recommendations of Planning  
and Zoning Commission**

**§10.04 Zoning**

**§10.05 Building Permits and Occupancy  
Permits**

**§10.06 Zoning Board of Appeals**

**§10.07 Platting or Subdivision Control**

**§10.08 Regulations Governing  
Subdivision of Land**

**§10.09 Official Map**

### **Section 10.01 - PLANNING AND ZONING COMMISSION**

There shall be a City of Nederland Planning and Zoning Commission, composed of five (5) members. During their respective terms of office and for at least one year immediately prior to the beginning thereof, they shall be residents of the City of Nederland and shall be appointed by the City Council for a term of two years.

None of such members shall hold any other public office or position in the City while serving on such Commission.

The Commission shall elect its Chairman from among its members.

Three of said Commissioners shall constitute a quorum.

Said Commissioners shall adopt such rules and regulations as they deem best governing their action, proceedings, deliberations and time and place of meeting.

If a vacancy occurs upon the said Planning and Zoning Commission, the City Council shall appoint a Commissioner to fill such vacancy for the unexpired term.

### **Section 10.02 - PLANNING AND ZONING COMMISSION - POWERS**

The Commission shall have power and shall be required to:

1. Exercise all the authority and control and have the duties conferred by law relating to platting.
2. Recommend or disapprove proposed changes in the zoning plan and ordinance of the City of Nederland and have all the powers and duties conferred by law and in particular the duties and authorities of a zoning commission as provided in the Acts of 1927; Fortieth Legislature of the State of Texas, Chapter 283.
3. Promote public interest in an understanding of the planning, zoning, clearance of blighted areas and development of the City.
4. Hold public hearings for and advise the City Council on such matters as the City Council may request its advice and on such matters as it may think desirable in the public interest.
5. Recommend improvement programs after consultation with the City Council as to the need of such improvements.

### **Section 10.03 - RECOMMENDATIONS OF PLANNING AND ZONING COMMISSION**

Except to the extent it is precluded by Statutes of the State of Texas from doing so, the City Council may thereafter adopt any plans, projects or methods recommended by the Planning and Zoning Commission or any other plans, projects or methods the City Council may deem most advisable; provided, however, that any public improvement undertaken hereunder, or otherwise, by the City Council shall not be deemed invalid because the Planning and Zoning Commission has not been consulted or has not furnished any advice thereon, or because the City Council has failed to submit its plan thereon from consideration by said Planning and Zoning Commission.

## **Section 10.04 - ZONING**

For the purpose of promoting health, safety, morals, or the general welfare of the community, the City Council is hereby empowered to regulate and restrict the height, number of stories and size of buildings and other structures, the percentage of lot that may be occupied, the size of yards, courts, and other open spaces, the density of population, and the location and use of buildings, structures and land for trade, industry, residence or other purpose.

Such regulations shall be made in accordance with the comprehensive plan and be designed to lessen congestion in the streets; to secure safety from fire, panic and other dangers; to promote health or the general welfare.

The City shall have all authority in matters of zoning which are conferred by the statutes of the State of Texas and various legislative acts supplementary to or amendatory thereof.

## **Section 10.05 - BUILDING PERMITS AND OCCUPANCY PERMITS**

The City shall have power to prohibit the erection, construction or use of any building or structure of any kind within the City without a permit first having been issued, by the City, for the construction or erection of such building or structure, and without a use and occupancy certificate having been issued for the use actually made of such premises and structure and may authorize a fee to be charged for such permit. In pursuance of said authority the City Council may authorize the inspection of all buildings and structures during the progress of their construction or thereafter and may require all buildings to be constructed in conformity with the building regulations existing in the City or which shall hereafter be passed.

For the purpose of preserving property values, protecting the public health, preventing the blighting of areas within the City, promoting safety and promoting the public welfare the Council may fix a minimum standard for the construction and use of housing accommodations and other structures within this City and prohibit the

construction, erection, and use of substandard housing and other substandard structures.

## **Section 10.06 - ZONING BOARD OF APPEALS**

The City Council shall appoint a Zoning Board of Appeals with powers and duties conferred by the Statutes and Legislative Acts of the State of Texas.

## **Section 10.07 - PLATTING OR SUBDIVISION CONTROL**

The Planning and Zoning Commission shall have control of the platting or subdivision of land within the City and in relation thereto shall have all of the power and authority conferred by the Acts of 1927, 40<sup>th</sup> Legislature, Chapter 231, as amended by the Acts of 1949, 51<sup>st</sup> Legislature, Chapter 154 and Article 6626 Revised Statutes of Texas 1925, as amended.

## **Section 10.08 - REGULATIONS GOVERNING SUBDIVISION OF LAND**

In exercising the powers granted to it by Section 10.07 of this Charter, the Planning and Zoning Commission may adopt regulations governing the subdivision of land within its jurisdiction. Such regulations may provide for the harmonious development of the City and its environs, for the coordination of streets and other ways within the subdivision land with other existing or planned streets and ways or for conformance to the official map, for adequate open spaces, for spaces for traffic, utilities, recreations, light and air, and for the avoidance of congestion of population. Such regulations may include requirements and the extent to which and the manner in which streets and other ways shall be graded and improved and water, sewer and other utility mains, piping, connections or other facilities shall be installed as a condition precedent to the approval of a subdivision.

The regulations of the Planning and Zoning Commission may provide for a tentative approval of the plat prior to such improvements and installation; but any such tentative approval shall not be entered on the plat. In lieu of the completion of such work prior to the final approval of a plat, the

**Planning and Zoning Commission may accept a bond, in an amount and with surety satisfactory to the City Manager, providing and securing to the City the actual construction and installation of such improvements and utilities within a period specified by the Planning and Zoning Commission.**

**Section 10.09 - OFFICIAL MAP**

**The Council may by ordinance adopt an official map of the City, on which shall be shown and indicated all public streets existing and established by law.**

**ARTICLE XI**

**NOMINATIONS, ELECTION AND  
REMOVAL OF CITY COUNCIL**

- §11.01 Election**
- §11.02 Nominations**
- §11.03 Determination of Elected  
Candidates**
- §11.04 Official Ballot**
- §11.05 Term of Office**
- §11.06 Canvassing Election**
- §11.07 Recall of Mayor and  
Councilmembers**
- §11.08 District Judge May Order Election**

**Section 11.01 - ELECTION**

The City Council shall fix the places for holding the regular city election. The City Council may order a special election, fix the date, time, and places for holding same and provide for all means for holding such special election. Notice of the election shall be provided as required by the election laws of the State of Texas.

**Section 11.02 - NOMINATIONS**

Any person having the qualifications required by the Charter may place his name in nomination as candidate for Mayor by filing with the City Clerk an application in accordance with the Texas Election Code, accompanied by a nonrefundable filing fee of \$25.00, or in lieu of a filing fee, a petition signed by a minimum number of twenty five (25) qualified voters.

Any person having the qualifications required by the Charter may place his name in nomination as candidate for Councilmember from the ward in which he resides by filing with the City Clerk an application in accordance with the Texas Election Code, accompanied by a nonrefundable filing fee of \$25.00, or in lieu of a filing fee, a petition signed by a minimum number of twenty five (25) qualified voters from within the ward.

Applications and filing fees, or petitions, shall be signed and filed in the office of the City Clerk as prescribed by the Statutes of the State of Texas. Any candidate

may withdraw his nomination, in accordance with the Statutes of the State of Texas.

The City Clerk shall immediately examine each such petition and check the qualifications of the signers thereto.

If a petition is found insufficient, the City Clerk shall upon discovering such insufficiency immediately deliver to the person who filed it a statement certifying wherein the petition is found insufficient. Within the regular time for filing petitions, a new petition may be filed for the same candidate. The petition of each candidate nominated to be a member of the City Council shall be preserved by the City Clerk until the expiration of the term of office for which he has been nominated.

**Section 11.03 - DETERMINATION OF  
ELECTED CANDIDATES**

At the general municipal election the candidates for the office of Councilmember, to the number to be elected, and for the office of Mayor, who shall have received the majority of votes cast in such elections shall be declared elected.

Should any candidates fail to receive a majority of votes at the general election for the office for which he is a candidate, the City Council shall immediately order a special election to be held no less than ten days nor more than twenty days after the result of the regular election has been declared, at which special election the names only of the two candidates receiving the highest number of votes at the general election, for the office for which they were candidates, shall be printed on the ballots or machines, and submitted to the qualified voters for election, and the candidate receiving the majority of votes at such special election, for the office for which he was a candidate, shall be duly elected.

**Section 11.04 - OFFICIAL BALLOT**

The City Clerk shall make up the official ballot from the names presented to him. The order in which the names of the candidates for each place shall appear on the ballot shall be determined by lot, in a drawing held under the supervision of the City Clerk.

The election shall be held in conformity with the election laws applicable to municipalities generally in the State of Texas and as provided by Statute.

#### **Section 11.05 - TERM OF OFFICE**

The term of office of Mayor and Councilmen shall begin upon taking the oath of office as soon as practicable after the canvass and declaration of election as herein provided.

#### **Section 11.06 - CANVASSING ELECTION**

Returns of all municipal elections, both general and special, shall be made by the election officers to the City Council in accordance with the Statutes of the State of Texas, at which time the City Council shall canvass and declare the results of such election.

#### **Section 11.07 - RECALL OF MAYOR AND COUNCILMEMBERS**

Any member or all members of the Council (including the Mayor) may be recalled and removed from office by the electors qualified to vote for a successor of such incumbent by the following procedure:

A petition signed by qualified voters entitled to vote for a successor to such member sought to be removed equal in number to 25% of the entire number of persons entitled to vote in said city as appears from the voter registration list in Jefferson County for the year ending the 31<sup>st</sup> day of January next preceding, demanding the recall of the Mayor or any councilmember, shall be filed with the City Clerk. Such petition shall contain a general statement of the ground for which the removal is sought. The signatures to the petition need not all be appended to one paper, but each signer shall add to his signature his place of residence, giving the street and number. One of the signers to each paper shall make oath before an officer competent to administer oaths that each signature is that of the person whose name it purports to be. Within ten days from the filing of such petition the City Clerk shall examine the same and from the list of qualified voters, ascertain whether or not the petition is signed by the requisite number of

qualified voters, and if requested to do so, the Council shall allow him extra help for that purpose. He shall attach to said petition a certificate showing the results of such examination. If by the City Clerk's certificate the petition is shown to be insufficient, it may be amended within ten days from the date of such certificate by obtaining additional signatures. The City Clerk shall within ten days after such amendment is filed, in case one is filed with him, make like examination of the said amended petition and if his certificate shall show same to be insufficient, shall be returned to the person filing same and shall not be subject to amendment.

If the petition be found sufficient, the City Clerk shall submit the same to the Council without delay and the Council, in the event the Mayor or Councilman named in said petition fails to resign, shall order and fix a date for holding the said election not less than forty nor more than fifty days from the date of the City Clerk's certificate; provided that if an election is to be held within the City for any other purpose within sixty days from the date of said certificate, then the said recall election shall be held on the same day. If the Mayor or Councilman in question resigns, no election shall be necessary and the vacancy shall be filled by the Council as in other cases of vacancies unless the number of vacancies created by resignation shall require an election as in this charter otherwise provided.

If a recall election shall be required, the Council shall make or cause to be made publication of notice and provide the holding of such election and the same shall be conducted, returned and the results thereof declared in all respects as other city elections. Any officer so elected shall hold office only during the unexpired term of his predecessor. Any person sought to be removed may be a candidate to succeed himself, and unless he requests otherwise in writing, the City Clerk shall place his name on the official ballot without nomination. The names of other candidates for such position shall be placed on the official ballot by petition in the same manner as provided for in other portions of this charter. At such election if such person other than the incumbent is elected, the incumbent shall thereupon be deemed removed from the office upon the qualifications of his

successor. If the incumbent is elected at such election, he shall continue in office and shall not be subject to any other recall for any grounds existing prior to said election.

#### **Section 11.08 - DISTRICT JUDGE MAY ORDER ELECTION**

Should the City Council fail and refuse to order an election as herein provided, when all requirements for such election have been complied with by the petitioning citizens in conformity with this Charter, then any one of the District Judges of Jefferson County, Texas, upon proper application being made therefor, may order such election and enforce the carrying into effect the provisions of this article of the Charter.

## **ARTICLE XII**

### **ORDINANCES**

**§12.01 Continuation of Ordinances**

**§12.02 Publication**

**§12.03 Style of Ordinances**

**§12.04 Printed Ordinances Admitted by Court**

**§12.05 Approval of Mayor Not Necessary**

#### **Section 12.01 - CONTINUATION OF ORDINANCES**

All ordinances heretofore adopted by any Governing body of the City of Nederland during the period of its incorporation and in effect at the time this Charter becomes effective shall continue in full force and effect insofar as not inconsistent with this Charter.

#### **Section 12.02 - PUBLICATION**

Every ordinance passed by the City Council prescribing penalties for the violation thereof may provide for punishment by fine not to exceed the amount established by the Statutes of the State of Texas for any violation. A full text of all penal ordinances may be published at least twice in the official newspaper of the City, or in lieu thereof a descriptive caption or title stating in summary the purpose of the ordinance and the penalty for violation thereof may be published. All other ordinances, except those ordinances specifically required by the provisions of this Charter to be published, are not required to be published in either the official newspaper of the City or in any other publication, and such ordinances shall become effective as the date stated therein, and in the event no particular date is stated said ordinances shall become effective from and after passage and adoption by the Council.

#### **Section 12.03 - STYLE OF ORDINANCES**

The style of all ordinances shall be "Be it ordained by the City Council of the City of Nederland" but such caption may be omitted when said ordinances are published in book form or are revised and digested under the order of the Council.

#### **Section 12.04 - PRINTED ORDINANCES ADMITTED BY COURT**

All ordinances of the City of Nederland when printed and published and bearing on the Title page thereof "Ordained and Published by the City Council of the City of Nederland" or words of like import shall be prima facie evidence of their authenticity and shall be admitted and received in all courts and places without further proof.

The Council shall have power to cause the ordinances of the City of Nederland to be printed in code form and shall have the same arranged as often as the Council may deem necessary and advisable.

#### **Section 12.05 - APPROVAL OF MAYOR NOT NECESSARY**

The final passage of an ordinance by the Council and the publication of the same when so required shall be all that is necessary to make such ordinance valid and effective. The approval or signature of the Mayor shall not be necessary.

**ARTICLE XIII**

**INITIATIVE AND REFERENDUM OF ORDINANCES**

**§13.01 Petition**

**§13.02 When Petition Insufficient**

**§13.03 Council to Adopt or Submit Proposal to Election**

**§13.04 Effect of Referendum Petition**

**§13.05 Publication of Proposed Ordinances**

**§13.06 Results of Election**

**Section 13.01 - PETITION**

If any proposed ordinance, except an ordinance appropriating money, issuing bonds or authorizing the levying of taxes, or a request for referendum within twenty days after the passage of any ordinance, except an ordinance appropriating money, issuing bonds, or authorizing the levying of taxes, be submitted to the City Clerk with a petition thereon signed by ten percent of the qualified voters of the City of Nederland, stating the residence of each signing, and bearing the oath of one of the signers that each signature thereon is the genuine signature of each person whose name purports to be subscribed thereon, the City Clerk shall, with such assistance as the City Manager may assign him, forthwith check the petition with the voter registration list of Jefferson County for the year ending the thirty-first day of January next preceding.

Within twenty days after the filing of such petition in his office, the City Clerk shall attach thereto his certificate showing the results of his examination.

**Section 13.02 - WHEN PETITION INSUFFICIENT**

The person who filed any insufficient petition shall be notified immediately upon discovery of such insufficiency and may present additional signatures within ten days after such notice or may file a new initiative petition at any time.

**Section 13.03 - COUNCIL TO ADOPT OR SUBMIT PROPOSAL TO ELECTION**

Within twenty days after the City Clerk finds any petition proposing an ordinance sufficient, the Council shall either pass the ordinance as submitted or submit the proposed ordinance to vote of the people.

**Section 13.04 - EFFECT OF REFERENDUM PETITION**

When a referendum petition has been certified as sufficient, 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 approved by the electors.

**Section 13.05 - PUBLICATION OF PROPOSED ORDINANCES**

Whenever any ordinance of proposition is required by the Charter to be submitted to the voters of the City of Nederland, the City Clerk shall cause the ordinance or proposition to be printed and he shall send a printed copy thereof to each voter at least ten days prior to the election. However, the Council may order such ordinance or proposition to be printed in a newspaper published in the City of Nederland instead of sending such copies to the voters.

**Section 13.06 - RESULTS OF ELECTION**

If a majority of the electors voting on a proposed initiative ordinance shall vote in favor thereof, it shall thereupon be an ordinance of the City of Nederland. A referendum on an adopted ordinance which is not approved by a majority of the electors voting thereon shall thereupon be deemed a repeal of such ordinance and it shall be without further force and effect.

**ARTICLE XIV**

**FRANCHISES, WORKING AGREEMENTS,  
AND PUBLIC UTILITIES**

- §14.01 General
- §14.02 Power of City Council
- §14.03 Ordinance Granting Franchise or Working Agreement
- §14.04 Exceptions - Spur Tracks
- §14.05 Term
- §14.06 Right of Regulation
- §14.07 Consent of Property Owners
- §14.08 Extension
- §14.09 Annual Report
- §14.10 Power to Regulate Tracks
- §14.11 Franchise Records
- §14.12 Present Franchises to Remain in Force

**Section 14.01 - GENERAL**

The ownership, right of control and use of the streets, highways, alleys, parks, public places, and all other real property of the City of Nederland is hereby declared to be inalienable to said City except by ordinances passed by a vote of franchise or easement involving the right of use of same either along, across, over or under the same shall ever be valid unless expressly granted and exercised in compliance with the terms hereof and of the ordinances granting the same. No act or omission of the City, its governing body, officers or agents shall be construed to confer or extend by estoppel or indirection any right, franchise or easement not expressly granted by ordinance.

**Section 14.02 - POWER OF CITY COUNCIL**

The City Council shall have power by ordinance to grant, renew and extend all working agreements and franchises of all public utilities of every character operating within the City of Nederland and, with the consent of the franchise or working agreement holder to amend same, and for such purposes is granted full power, and said City Council shall have the power by ordinance, after reasonable notice and hearing, to determine, fix and regulate charges, fares, or rates of any person, firm or corporation enjoying or that may enjoy a franchise or exercising any other public

privilege in said City, and to prescribe the kind of service to be furnished by such person, firm or corporation, and to prescribe the kind of service to be furnished by such person, firm or corporation, and the manner in which it shall be rendered and from time to time to alter or change such rules, regulations and charges. Unless provided in the ordinance granting the same, no public utility franchise or working agreement shall be transferable except with the approval of the City Council expressed by ordinance. No exclusive franchise or working agreement or renewal thereof shall ever be granted nor shall any franchise or privilege ever be granted to commence at any time after six months subsequent to the taking effect of the ordinance granting the same.

**Section 14.03 - ORDINANCE GRANTING FRANCHISE AND WORKING AGREEMENTS**

Every ordinance granting, renewing, extending, or amending a public utility franchise shall be presented at two (2) regular meetings of the City Council and shall not be finally acted upon until thirty (30) days after the first presentation. Within ten (10) days following each of the two presentations of the ordinance, a descriptive caption of the ordinance stating in summary the purpose of the ordinance shall be published one time in the official newspaper of the City, and the expense of such publication shall be borne by the prospective franchise holder.

**Section 14.04 - EXCEPTIONS - SPUR TRACKS**

The provisions of Section 14.03 of this Article relating to effective date of ordinance and publication thereof shall not be applicable to the granting of side track, spur track or switch privileges to any franchise holding railway company for the purpose of reaching and affording railway connections and switch privileges to the owners or users of any industrial site. Franchises granting these privileges shall take effect ten (10) days after their adoption on third and final reading, and the full text of such ordinance shall be published once in the official newspaper of the City of Nederland at the expense of the proponent of the franchise or working agreement.

## Section 14.05 - TERM

No determinate or fixed term franchise shall ever be granted for a longer term than fifty (50) years. No determinate franchise or working agreement shall ever be granted except upon the condition that the City shall have the right at any time within five (5) years of the expiration of the term thereof, but prior to the last twelve (12) months of said term, to purchase or cause to be purchased the property of the franchise or working agreement holder, devoted to public service thereunder, same to be effective at the expiration of the fixed term. In determinate franchises and working agreements may be granted. The term "indeterminate franchise or working agreement" shall mean and embrace every privilege, franchise or easement granted by the City of Nederland, which shall have no fixed or determinate duration but shall continue in force only until such time as the City shall exercise the option, to be provided for in the ordinance granting any such franchise or working agreement giving the city in expressed terms the right to purchase the property of the franchise or working agreement holder or cause a purchaser to buy such property and fixing the time or times when such right may be exercised or until such grant shall otherwise be terminated by law or in accordance with the terms of the ordinance granting the franchise or working agreements; provided the option to purchase by the City must become effective not more than ten (10) years from date of ordinance granting the franchise or working agreements. Before the City shall purchase, or cause to be purchased, property from any franchise or working agreement holder the matter of the acquisition of such property shall be submitted at a municipal election to be determined by a majority vote of the qualified tax payers voting thereon.

## Section 14.06 - RIGHT OF REGULATION

All grants, renewals, extensions or amendments of public utility franchises or working agreements to companies rendering public service, whether it be so provided in the ordinance or not, shall be subject to the right of the City:

- (a) To repeal the same by ordinance at any time for failure to begin

construction or operation within the time prescribed or otherwise to comply with the terms of franchise or working agreement, after due notice and hearing.

- (b) To require proper and adequate extensions of the plant and service and the maintenance of the plant and fixtures at the highest practicable standard of efficiency, after due notice and hearing.
- (c) To prescribe the forms of accounts kept by each such utility (where a public utility keeps its accounts and books according to a system prescribed by Federal or State authority or Commission, the keeping of such accounts and books in the manner so prescribed shall be deemed a compliance with the foregoing provisions of this sub-section); and at any time to examine and audit the accounts and other records of any such utility and to require annual and other reports including reports on total billings in the city limits of Nederland by each such utility company rendering public service.
- (d) To impose such reasonable regulations and restrictions as may be desired or conducive to the safety, welfare and accommodation of the public, after due notice and hearing.
- (e) To at any time require such compensation tax or rental as may be permitted by the laws of the State of Texas, after due notice and hearing.

## Section 14.07 - 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 any franchise or working agreement granted thereunder shall ever be

construed to deprive any such property owner of any right of action for damages or injury to his property as now or hereafter provided by law.

#### **Section 14.08 - EXTENSION**

All extensions of public utilities or companies rendering public service within the City limits shall become a part of the aggregate property of the public utility or company, 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 hereafter made. The right to use or maintain any extension shall terminate with the original grant and shall be terminable as provided in Section 14.06 of this Article. In case of an extension of a public utility operated under a franchise hereafter granted such right shall be terminable at the same time and under the same conditions as the original grant.

#### **Section 14.09 - ANNUAL REPORT**

The City Council shall require all public service corporations operating within the corporate limits of the City of Nederland to file a sworn annual report of the receipts for the operation of the said business for the current year; how expended, how much thereof for betterment or improvement and the rate of tolls or charges for service rendered to the public. Such annual report shall show any other facts or information that the City Council may deem pertinent for its use in intelligently passing upon any questions that may arise between the City and the said public service corporations; and said report to be filed with the City Clerk.

#### **Section 14.10 - POWER TO REGULATE TRACKS**

The City Council shall have the power by ordinance to require any or all railroad companies operating any track or tracks upon or across any public streets of the City of Nederland to reduce such tracks below the level of the streets intersected or occupied by such tracks or to elevate such tracks above the level of the streets

intersected or occupied by such tracks, and to require the company or companies owning or operating such tracks to provide and maintain in good condition necessary and proper crossing for the public travel at intersecting streets or to remove any tracks from any street occupied by such tracks and to reroute same as designated in the ordinance, provided that the railway company involved be given thirty (30) days notice prior to the adoption of the ordinance.

#### **Section 14.11 - FRANCHISE RECORDS**

Within six (6) months after this Charter takes effect every public utility or company rendering public service and every owner of a public utility franchise or working agreement shall file with the City as may be prescribed by ordinance certified copies of all the franchises or working agreements owned or claimed within the City or under which such utility or company rendering public service operates within the City. The City shall compile and maintain a public record of all public utility franchises or working agreements issued by the City.

#### **Section 14.12 - PRESENT FRANCHISES TO REMAIN IN FORCE**

All franchises or working agreements now legally in force shall remain in full force and effect for the remainder of the term designated therein. All such franchises or working agreements, however, shall be subject to the provisions of this Charter, provided no vested rights are impaired thereby.

**ARTICLE XV**

**MUNICIPALLY OWNED UTILITIES**

- §15.01 Powers of the City**
- §15.02 Operation and Control**
- §15.03 Accounts of Municipally Owned Utilities**
- §15.04 Sale or Lease of Municipally Owned Utilities**
- §15.05 Election**
- §15.06 Form of Ballot**

**Section 15.01 - POWERS OF THE CITY**

The City shall have the power to buy, own, construct, maintain and operate utilities and to manufacture and distribute electricity, gas or anything else that may be needed or used by the public, and shall have such further powers that may now or hereafter be granted under the constitution and laws of the State of Texas.

**Section 15.02 - OPERATION AND CONTROL**

All municipally owned utilities shall be operated by the City in such a manner as to be self-sustaining insofar as is practical, and shall not be converted into general revenue producing agencies of the City. The City Council may transfer funds of municipally owned utilities to the general fund of the City, provided, however, that the amount so transferred shall not exceed annually 20% of the gross revenue of said utilities for the previous fiscal year. Such sums so transferred shall be in lieu of taxes, street rentals or other contributions to general administrative expenses of the City; provided, however, nothing herein is to apply to the operation of charitable and educational facilities operated by the City. Such transfers shall be made annually and shall be noncumulative.

**Section 15.03 - 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 sub-divided by classes,

depreciation reserve, other reserves and surplus; also revenues, operating expenses including depreciation, interest payments, rental and other distribution of annual income. The accounts shall show the actual capital cost to the City of each public utility owned, also the costs 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 to or rendered by any such utility to any other city or governmental department. The City Council shall annually cause to be made and published a report showing the financial results of such City ownership and operation giving the information specified in this section and such additional data as the City Council deem expedient.

**Section 15.04 - SALE OR LEASE OF MUNICIPALLY OWNED UTILITIES**

No public utility or park and/or swimming pools owned by the City of Nederland shall ever be sold or leased for a period longer than five (5) years until such sale or lease is authorized by a majority vote of the qualified voters of the City; nor shall same be encumbered for more than \$5,000.00 except for purchase money or to refund any existing indebtedness lawfully created, until authorized in like manner.

**Section 15.05 - ELECTION**

When properties named in Section 15.04 of this Article are to be sold or leased for a period of more than five (5) years or encumbered for more than \$5,000.00 as provided in said section, the City Council shall, by ordinance, call an election submitting said proposition to the qualified voters of the City of Nederland, the time and places of holding the election shall be designated in said ordinance and said election shall be held not less than fifteen (15) nor more than thirty (30) days from the passage of said ordinance. Notice of said election shall be given by posting a copy of said ordinance in each of the election precincts in the City and at the City Hall; such ordinance shall also be published on the same day in each of two successive weeks in the official newspaper of the City of Nederland, the date of the first publication to be not less than fourteen (14) days prior to the date set for the election.

## **Section 15.06 - FORM OF BALLOTS**

The question to sell, lease or mortgage shall be submitted on ballots which shall describe the property to be sold, leased or mortgaged, and the terms of the sale, lease or mortgage, and shall have printed below the description and terms:

**“For the sale (lease)(mortgage)”**  
**“Against the sale (lease)(mortgage)”**

No special election shall be called within sixty (60) days of a general municipal election for the submission of a proposition to sell, lease or mortgage such property but same shall be submitted as herein provided at said general election.

## **ARTICLE XVI**

### **STREET PAVING**

#### **§16.01 Adoption of State Law**

##### **Section 16.01 - ADOPTION OF STATE LAW**

All the terms, powers and provisions of the Acts of 1927, 40<sup>th</sup> Legislature First Called Session, Chapter 106, relating to street improvements and assessment amended or as may be hereafter amended and hereby adopted as a part of this Charter and constitutes an alternative authority for said City to act in all respects in accordance with said Act.

All of the terms, powers and provisions of Article 1086 to 1096 both inclusive and Articles 1104 and 1105 of the Revised Statutes of the State of Texas as amended or as they may be hereafter amended are hereby adopted as a part of this Charter and hereby constitute an alternative and cumulative method of improving streets, alleys and public places and levying assessments therefor.

If the City of Nederland determines to proceed under the provisions of the Acts of 1927 of the 40<sup>th</sup> Legislature First Called Session, the said City shall have the power to pay the contractor, the successful bidder, that part of the cost that may be assessed against the owners and their property abutting on such improvements in cash and the City may reimburse itself for that amount by levying an assessment against the abutting owners and their property, after a hearing and notice as provided in said Statutes up to the amount of the enhancement in value represented by the benefits and permitted by said Statutes and issue assignable certificates in favor of the City of Nederland for the assessment. The certificates shall be enforceable in the same manner as provided by the above mentioned Statutes.

The City shall likewise have the power to do the improvements by its own forces if, in the opinion of the City Council, the work can be done more expeditiously or economically.

## ARTICLE XVII

### MISCELLANEOUS PROVISIONS

- §17.01 Property Not Subject to Execution
- §17.02 Not Subject to Garnishment
- §17.03 Assignment of Wages
- §17.04 Written Notice of Injury or Damage
- §17.05 Not Required to Give Bond
- §17.06 Disbursement of Funds
- §17.07 Continuation of Present Offices
- §17.08 Continuation of Contracts
- §17.09 Pending Actions and Proceedings
- §17.10 When General Law Applicable
- §17.11 Separability Clause
- §17.12 Power to Remit Penalties
- §17.13 Power to Settle Claims
- §17.13.1 Binding Arbitration
- §17.13.2 Grammatical Construction
- §17.14 Submission of Charter to Electors

#### Section 17.01 - PROPERTY NOT SUBJECT TO EXECUTION

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

#### Section 17.02 - NOT SUBJECT TO GARNISHMENT

No fund of the City or within the custody of the City or any of its officials in any official capacity shall be subject to garnishment and the City shall never be required to answer in any garnishment proceedings.

#### Section 17.03 - ASSIGNMENT OF WAGES

No assignment of wages or other compensation earned, or to be earned, by any employee of the City shall be valid and the City shall never be required to recognize any such assignment or to answer in any proceedings thereon.

#### Section 17.04 - WRITTEN NOTICE OF INJURY OR DAMAGE

Before the City of Nederland shall be liable for personal injuries of any kind, the person injured or someone in his behalf shall give the City Council notice in writing of such injury within sixty (60) days after the same has been sustained, stating specifically in such notice when, where and how the injury occurred and the extent thereof, and the names and addresses of any person or persons, if any witnessing the same, if such names and addresses can be ascertained by reasonable diligence. No officer or employee of the City shall have authority to waive any of the provisions of this section as to notice, but same may be waived only by a resolution of the City Council, made and passed before the expiration of the period herein provided, and evidenced by the minutes of the City Council.

#### Section 17.05 - NOT REQUIRED TO GIVE BOND

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

#### Section 17.06 - DISBURSEMENT OF FUNDS

All checks, vouchers, warrants or orders drawn on the Director of Finance shall be signed by the City Manager or City Clerk, and countersigned by either the Mayor or Mayor pro tem.

#### Section 17.07 - CONTINUATION OF PRESENT OFFICES

All persons holding administrative office at the time this Charter takes effect shall continue in office and in the performance of their duties until provision shall have been made in accordance therewith for the performance of such duties or the discontinuance of such office. The powers conferred and the duties imposed upon any office, department or agency of the

City by the laws of the State shall, if such office, department or agency be abolished by this Charter or under its authority be thereafter exercised and discharged by the office, department or agency designated by the Council unless otherwise provided herein.

#### **Section 17.08 - CONTINUATION OF CONTRACTS**

All contracts entered into by the City, or for its benefit, prior to the taking effect of this Charter, shall continue in full force and effect. Public improvements for which legislative steps have been taken under laws existing at the time this Charter takes effect may be carried to completion as nearly as practicable in accordance with the provisions of such existing laws.

Any franchise heretofore granted by the City of Nederland which has not expired by its own terms prior to the adoption of this Charter shall not be deemed to have been modified, canceled, extended or expanded in any manner by the adoption of this Charter.

#### **Section 17.09 - PENDING ACTIONS AND PROCEEDINGS.**

No action or proceedings, civil or criminal, pending at the time when this Charter shall take effect, brought by or against the City or any office, department or agency or officer thereof, shall be affected or abated by the adoption of this Charter or by anything therein contained; but all such actions or proceedings may be continued notwithstanding that functions, powers and duties of any office, department or agency or officer party thereto may by or under this Charter be assigned or transferred to another office, department or agency or officer, but in that event the same may be prosecuted or defended by the head of the office, department or agency to which such functions, powers and duties have been assigned or transferred by or under this Charter.

#### **Section 17.10 - WHEN GENERAL LAW APPLICABLE**

The general laws of the State of Texas and ordinances of the Council shall furnish the authority for the power and exercise thereof and control all matters to

the extent not specifically and completely covered by this Charter.

#### **Section 17.11 - SEPARABILITY CLAUSE**

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

#### **Section 17.12 - POWER TO REMIT PENALTIES**

The City Council shall have the right to remit, in whole or in part, any fine or penalty belonging to the City, which may be imposed under any ordinance or resolution passed in pursuance of this Charter.

#### **Section 17.13 - POWER TO SETTLE CLAIMS**

The City Council shall have the power to compromise and settle any and all claims and lawsuits of every kind and character in favor of or against the City, including suits by the City to recover delinquent taxes.

#### **Section 17.13.1- BINDING ARBITRATION**

Where the negotiations of a collective bargaining agreement between the City of Nederland and the Nederland Fire Fighters' Association recognized as the exclusive bargaining agent for the City's fire fighters results in an impasse, the City shall, upon request by the Association made under Texas Local Government Code §174.153, agree to submit collective bargaining issues in dispute to binding interest arbitration in accordance with the provisions of Texas Local Government Code, Chapter 174, Subchapter E.

#### **Section 17.13.2 - GRAMMATICAL CONSTRUCTION**

Unless the context requires otherwise, singular nouns and pronouns

include the plural, and references to gender include both male and female.

**Section 17.14 - SUBMISSION OF CHARTER TO ELECTORS**

**Jerry McNeill  
Goodwin Griffin  
E. E. Henson  
H. P. Youmans  
W. F. Ricketts.**

The Charter Commission in preparing this charter finds and decides that it is impracticable to segregate each subject so as to permit a vote of "yes" or "no" on the same, for the reason that the charter is so constructed that in order to enable it to work and function it is necessary that it should be adopted in its entirety. For these reasons the Charter Commission directs that the said Charter be voted upon as a whole and that it shall be submitted to the qualified voters of the City of Nederland at an election to be held for that purpose on the 10<sup>th</sup> day of March, A.D., 1955. If a majority of the qualified voters voting in such election shall vote in favor of the adoption of this charter, it shall become the charter of the City of Nederland and after the returns have been canvassed, the same shall be declared adopted.

An official copy of the charter shall be filed with the records of the City and the Mayor shall as soon as practicable certify to the Secretary of State an authenticated copy under the seal of the City, showing the approval by the qualified voters of such charter.

In not less than thirty (30) days prior to such election the City Council shall cause the City Clerk to mail a copy of this charter to each qualified voter of the City of Nederland as appears from the tax collector's roll for the year ending January 31 preceding said election.

We do hereby certify that this publication constitutes a true copy of the proposed Charter of the City of Nederland, Texas.

**M. A. Furth, Chairman  
George P. Trotter  
A. H. Rienstra  
C. W. Richardson  
Eric M. Bailey, Sr.  
Carl N. LeBlanc  
W. W. Cruse  
R. J. Williford  
Louis B. Nicholson  
Thomas E. Lee, Jr.**