

City of Windcrest



AGENDA

CHARTER REVIEW COMMISSION PUBLIC HEARING & MEETING

July 20, 2022

CITY COUNCIL CHAMBERS @ 8601 MIDCROWN

6:00 P.M.

NOTICE IS HEREBY GIVEN THAT A CITY OF WINDCREST CHARTER REVIEW COMMISSION PUBLIC HEARING AND MEETING WILL BE HELD AT WINDCREST CITY HALL LOCATED AT 8601 MIDCROWN, WINDCREST, TEXAS ON THE 20TH DAY OF JULY, 2022, STARTING AT 6:00 P.M.

THE CHARTER REVIEW COMMISSION RESERVES THE OPTION TO RECESS THE MEETING DURING THE EVENING OF JULY 20, 2022, AND TO RECONVENE THE MEETING ON THE FOLLOWING DAY, JULY 21, 2022, AT 9:00 A.M. AT THE WINDCREST CITY HALL, 8601 MIDCROWN, WINDCREST, TEXAS.

NOTICE OF ASSISTANCE AT THE PUBLIC MEETING

The City of Windcrest Council Chambers are wheelchair accessible, and accessible parking spaces are available. In compliance with Americans with Disabilities Act, the City of Windcrest will provide reasonable accommodations for persons attending the meeting. To better serve you, requests should be received 48 hours prior to the meeting. Please contact the City Secretary's Office, at 210-655-0022 ext. 2150 or Fax 210-655-8776, or 711 Texas Relay.

I. CALL TO ORDER

II. ROLL CALL

III. PLEDGE OF ALLEGIANCE

IV. CITIZENS TO BE HEARD/CITIZEN PARTICIPATION

- Citizens may address the Charter Review Commission on topics not on the agenda for no more than three (3) minutes.
- Citizens shall also have the opportunity to address the Charter Review Commission during consideration of posted agenda items for no more than six (6) minutes.
- A City Official may make a statement of specific factual information in response to an inquiry made by a member of the public, or a recitation of existing policy in response to an inquiry made by a member of the public.

THE FOLLOWING ITEMS MAY BE CONSIDERED AT ANY TIME DURING THE MEETING:

V. PUBLIC HEARING

OPENING OF PUBLIC HEARING

- a) The Charter Review Commission will hold a public hearing to received comments on the proposed amendments to the 2019 City of Windcrest Charter.

CLOSING OF PUBLIC HEARING

VI. DISCUSSION & ACTION

- a) The Charter Review Commission will review, discuss, and may act to recommend amendments to the Windcrest City Charter, articles I –XI.

VII. GENERAL ANNOUNCEMENTS & FUTURE AGENDA ITEMS REQUESTED

Per Ordinance No. 618, repealing Ordinance No. 593; Section 9: Every agenda shall include an item entry granting a member the opportunity to propose an item for consideration of future agendas for Regular or Special Meetings. Any member may request the inclusion of such items at any meeting

VIII. ADJOURNMENT

DECORUM REQUIRED: *Any disruptive behavior, including shouting or derogatory statements or comments may be ruled out of order by the Presiding Officer. Continuation of this type of behavior could result in a request by the Presiding Officer that the individual leave the meeting, and if refused, an order of removal.*

ACTION BY COMMISSION AUTHORIZED: *The Charter Review Commission may vote and/or act upon any item within this Agenda. The Council reserves the right to retire into executive session concerning any of the items listed on this Agenda, pursuant to and in accordance with Texas Government Code § 551.072 (Deliberations about Real Property); § 551.073 (Deliberations about Gifts & Donations); § 551.076 (Deliberations about Security Devices); §551.087 (Economic Development); §551.074 (Personnel Matters) and, § 551.071 to seek the advice of its attorney about pending or contemplated litigation, settlement offer or on a matter in which the duty of the attorney to the governmental body under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas conflict with the Open Meetings Act and may invoke this right where the City Attorney, the Mayor or a majority of the Governing Body deems an executive session is necessary to allow privileged consultation between the City Attorney and the governing body, if considered necessary and legally justified under the Open Meetings Act. The attorney may appear in person, or appear in executive session by conference call in accordance with applicable state law.*

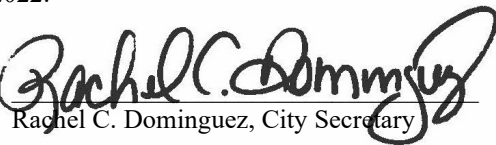
EXECUTIVE SESSIONS APPROVED BY CITY ATTORNEY: *This agenda has been reviewed and approved by the City's legal counsel and the presence of any subject in any Executive Session portion of the agenda constitutes a written interpretation of Texas Government Code Chapter 551 by legal counsel for the body and constitutes an opinion by the attorney that the items discussed therein may be legally discussed in the closed portion of the meeting considering available opinions of a court of record and opinions of the Texas Attorney General known to the attorney. This provision has been added to this agenda with the intent to meet all elements necessary to satisfy Texas Government Code Chapter 551.144(c) and the meeting is conducted by all participants in reliance*

on this opinion.

ATTENDANCE BY OTHER ELECTED OR APPOINTED OFFICIALS:

It is anticipated that members of other city boards, commissions and committees may attend the meeting in numbers that may constitute a quorum of such other city boards, commissions, and committees, so that notice is hereby given that the meeting is also a meeting of the other city boards, commissions and committees whose members are in attendance. The members of the other city boards, commissions and committees may participate in discussions which occur at the meeting, but no action will be taken by the other boards, commissions, and committees whose members are in attendance.

I, the undersigned authority, do hereby certify that the above Notice of Meeting of the Charter Review Commission of the City of Windcrest is a true and correct copy of said Notice and was posted on the bulletin board at City Hall of said City in a convenient place to the public and said Notice was posted more than seventy-two (72) hours prior to the meeting on July 20, 2022.

BY: 
Rachel C. Dominguez, City Secretary

Windcrest Home Rule Charter
Proposed as of June 27, 2022

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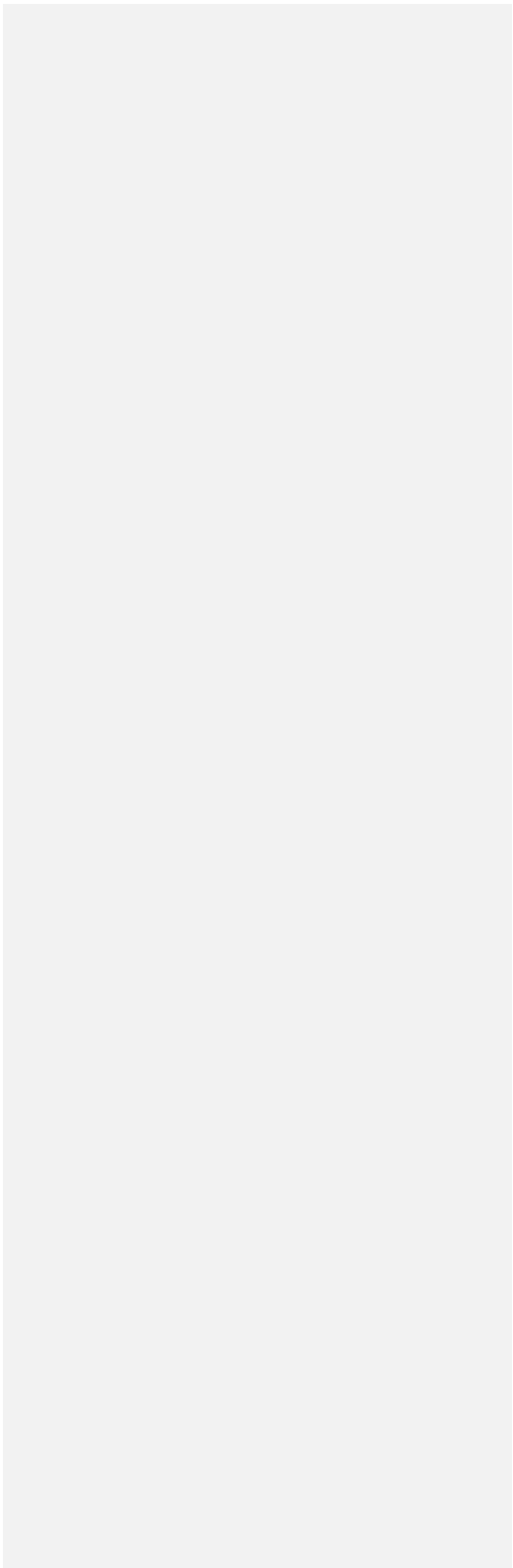
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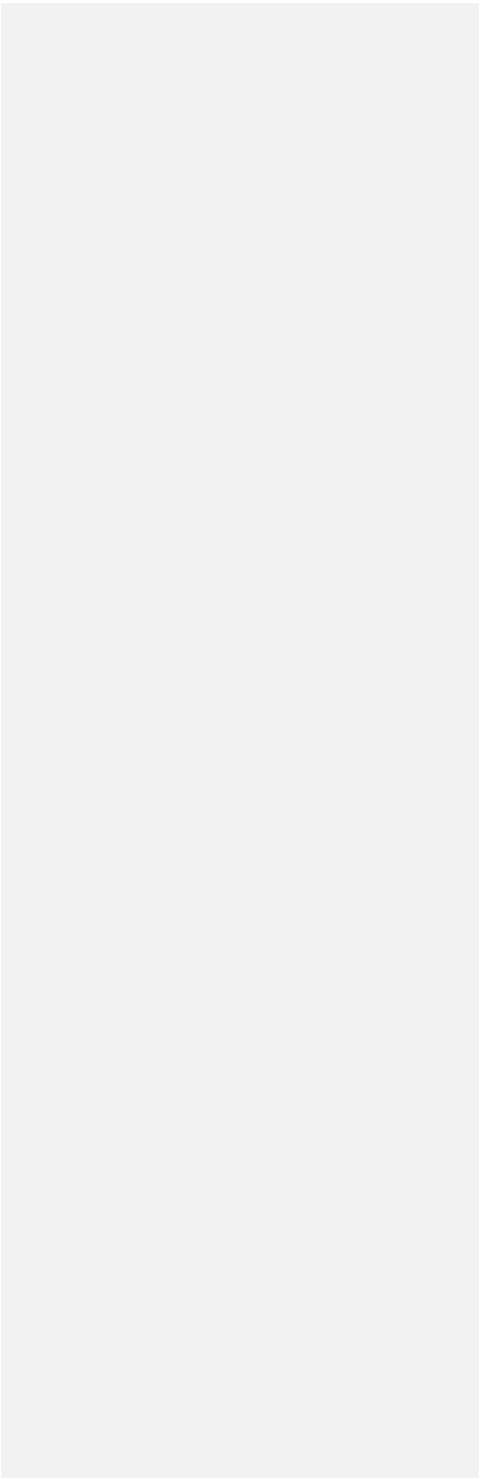
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PROPOSED as of 06.27.2022



WINDCREST HOME RULE CHARTER

PREAMBLE

We the citizens of the City of Windcrest, in order to obtain more fully the benefits of self-government, provide for the future progress of our City, and secure an effective, responsive, and responsible local government, do hereby adopt this Home Rule Charter as the basic foundation of our City government, under the authority granted by the Constitution and laws of the State of Texas.

The gender of the wording as contained in this Charter shall always be interpreted to mean either sex.

ARTICLE I - FORM OF GOVERNMENT, INCORPORATION AND BOUNDARIES

Section 1.01 Incorporation

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

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, the statutes of this State, and this Charter, all powers of the City shall be vested in an elective City Council, hereinafter referred to as the "City Council," which shall enact local legislation, adopt budgets, determine policies 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, subject to the State Constitution and statutes of the State.

Section 1.03 Boundaries

The boundaries and limits of the City of Windcrest shall be those established and described in ordinances duly passed by the City Council of the City of Windcrest in accordance with state law. The City shall prepare a map that shows the boundaries of the municipality. A copy of the map shall be kept in the office of the City Secretary. If the City annexes territory then the map shall be immediately corrected to reflect the new territory.

Section 1.04 Extension of Boundaries (Annexation)

1. The boundaries and limits of the City may be enlarged and extended by the acquisition of additional territory, irrespective of size and configuration, by the methods hereinafter set forth [and consistent with state law](#).
2. The City Council shall have the power by ordinance to fix the boundary limits of the City and to provide for the alteration and extension of said boundary limits and the acquisition of additional territory, lying adjacent to the City, in any manner provided by law.
 - A. Before the City may acquire an area or extend its extraterritorial jurisdiction, the City Manager must present a written report on the financial impact of the proposed acquisition

or extension and the adoption of any proposed service plan to the City Council.

- B. Unless provided otherwise by this charter, action to acquire an area or extend the City's extraterritorial jurisdiction shall be initiated by ordinance calling for a public vote on the proposed acquisition or extension, which ordinance may be adopted after any public hearings required by state law.

- C. The public vote on the proposed acquisition or extension may be scheduled in conjunction with either a special or general election, and a simple majority of voters shall determine whether the acquisition or extension is approved. In the event of a tie, the City Council will vote to settle the tie. Based upon the outcome of the public vote and the City Council vote, if necessary, the City Council will enact an ordinance to fix the boundary limits as approved by the voters.

- D. Notwithstanding the above provisions of this charter, the City Council may vote to annex property, consistent with state law requirement:

- i. upon the request of a property owner whose property is contiguous to the City's boundaries,
- ii. the right-of-way of a street, highway, alley, or other public way or of a railway line, spur, or roadbed if allowed or required by state law, or

3. When any additional territory has been so acquired, the same shall be part of the City of Windcrest and the property situated therein shall bear its pro rata part of the taxes levied by the City. The inhabitants thereof shall be entitled to 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.
4. The extraterritorial jurisdiction of the boundaries may be extended by the City Council as provided by state law.

Section 1.05 Contraction of Boundaries (Disannexation)

When the City Council determines there exists within the corporate limits of the City a territory not suitable or necessary for City purposes, the City Council may disannex the territory as part of the City by ordinance after notice, a public hearing, and vote of the citizens of Windcrest is held.

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ARTICLE II – POWERS OF THE CITY

Section 2.01 General

The City shall have all 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 such granted powers, as fully and completely as though they were specifically enumerated in this Charter, and those expressed and implied powers necessary for the government, interest, health, welfare and good order of the City and its inhabitants. 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 ordinance of the City Council.

Section 2.02 Eminent Domain

The City shall have the full power and right to exercise the power of eminent domain when necessary to carry out any of the powers conferred upon it by this Charter or by the Constitution and laws of the State of Texas.

PROPOSED as of 06.21.2022

ARTICLE III – CITY COUNCIL

Section 3.01 City Council [Composition]

The City Council shall be comprised of a Mayor and six (6) City Council members. The council member positions shall be labeled as Place 1, Place 2, Place 3, Place 4, Place 5, and Place 6.

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Section 3.02 Mayor

The person elected Mayor shall be the ceremonial head of the City government. The Mayor shall preside over all meetings of the City Council. The Mayor may debate and discuss any matters before the City Council and may vote in all matters. The Mayor shall be recognized as the head of the City government for all emergency management purposes, and by the governor for purposes of military law.

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Section 3.03 Powers of the City Council

The City shall have the power of local self-government to the fullest extent permitted by law. All powers of the City and the determination of all matters of policy shall be vested in the City Council. Except where in conflict with and otherwise expressly provided by this Charter, the City Council shall have all powers authorized to be exercised by the City Council in accordance with the laws of the State of Texas. Among the exclusive powers that may be exercised by the City Council, the following are hereby enumerated for greater certainty, but are not intended as limitations:

1. Appoint and remove the City Manager, and other city officers as designated by this Charter
2. Establish other administrative departments;
3. Establish the city's organizational chart and the number and position of employees;
4. Adopt the City budget;
5. Authorize the issuance of bonds by a bond ordinance and other debts allowed by law;
6. Hear complaints of nonfeasance, malfeasance, and misfeasance, and inquire into the conduct of any office, department, or agency of the City and make investigations as to municipal affairs. For this purpose, the City Council shall have the power to administer oaths, subpoena, witnesses, and to compel the production of books, papers, and other evidence material to the inquiry. The City Council shall provide, by ordinance, penalties for contempt in failing or refusing to obey any such subpoena or to produce any such books, papers or other evidence, and shall have the power to punish any such contempt in the manner provided by the ordinance;
7. Appoint all commissions, boards, committees, task forces, and/or appointed groups to assist the City Council in the performance of its duties and responsibilities;
8. Set and fix the salaries and compensation for the non-elective City officers and employees;
9. Adopt and modify the zoning plan and the building code of the City;
10. Compromise and settle any and all claims and lawsuits of every kind and character in favor or

against the City;

11. Adopt plats;
12. Adopt and amend the Comprehensive Plan;
13. Adopt parliamentary procedures and amend such rules as necessary for the orderly operation of government; and
14. Adopt and modify the official map of the City
15. Determine and adopt policies of the City;
16. Adopt and impose taxes;
17. The City shall have all the powers granted to cities by other state, federal and local law together with all of the implied powers necessary to carry into execution those powers and those express and implied powers necessary for the government, interests, health, welfare and good order of the City and its inhabitants.

Section 3.04 Qualifications

Each candidate for election to the City Council or office of Mayor shall be a qualified voter of the City, shall be not less than twenty-one (21) years of age, shall have resided in the City not less than twelve (12) months immediately preceding Election Day, and shall meet the requirements of the Texas Election Code. Each Council Member and the Mayor shall continually reside within the City during the term of office, and any removal of residence from the City during the term of office shall constitute vacating the office, and such vacancy shall be filled as provided in Section 3.09.

Section 3.05 Terms of Office

The Mayor's term of office shall be for a period of two (2) years. The ~~six (6)~~ City Council members shall have a term of two (2) years each. At the election held on a uniform election date the Mayor, Council Place 4, Council Place 5, and Council Place 6 shall be elected odd-numbered years, and Council Place 1, Council Place 2, and Council Place 3 shall be elected the even-numbered years. Such designated terms do not prohibit special elections due to resignation, forfeiture of office, death or other vacancy requiring a special election under state law.

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Section 3.06 Compensation

Members of the City Council may receive compensation as set by City ordinance, except that City Council members shall be entitled to reimbursement of all necessary and reasonable expenses incurred in the performance of their official City Council duties, upon approval of such expenses by the City Council. The City Council may indemnify the Mayor or any City Council member consistent with the terms of this Charter and state law

Section 3.07 Authorization - City Council to Judge Qualifications of Members and Forfeiture

The City Council shall be the sole judge of the qualifications of its members and forfeiture of office of any of its members. ~~under Section 3.04, and the grounds for forfeiture of their office under Section 3.08.~~ In order to exercise these powers, the City Council shall have power to subpoena witnesses, administer oaths, and require the production of evidence. ~~A member charged with conduct constituting grounds for forfeiture of office shall be entitled to a public~~

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hearing on demand, and notice of such hearing shall be published one (1) time in the designated official newspaper of the City at least one (1) week in advance of the hearing.

Section 3.08 Investigation, Censure, or Removal from City Council

A. **Causes.** The Mayor or any City Council member shall be subject to investigation, censure, or removal from office by the City Council for any one (1) or more of the following causes:

1. Public misconduct in office;
2. Conviction of a crime involving moral turpitude, such as crimes of dishonesty, fraud, theft, perjury, embezzlement, misappropriation of funds or public resources. The City Council shall decide if a conviction, once final, qualifies as a crime of moral turpitude;
3. Failure at any time to possess any of the qualifications of office as provided by this Charter or by state law;
4. Willful violation of any express prohibition of this Charter, including but not limited to violations of Section 3.085;
5. Abandonment of office or neglect to perform the duties thereof;
6. Failure for any other cause to perform the duties of office as required by this Charter or by law; or
7. Any of the grounds listed under Texas Local Government Code Section 21.022 and Section 21.025.

B. **Initiation.** Complaint, including removal proceedings, shall be initiated when a sworn written complaint charging a member of the City Council with an act or omission that is a cause for investigation, discipline, or removal is presented to the Mayor or, if the complaint is against the Mayor, to the *Mayor Pro Tempore*. To be a valid complaint, such complaint must specify the section or sections of the Charter or law the charged member of Council is alleged to have violated and the specific factual basis for the belief a violation has occurred. To be valid, a complaint must demonstrate, on its face, that if all facts are found to be true, such factual allegations would constitute a violation under this section of the charter. The Mayor or the Mayor Pro Tempore receiving the complaint shall, within three (3) business days, forward the complaint to the city attorney and copy the city secretary. The city attorney shall review the complaint and determine, in writing, if the complaint meets the required minimum legal requirements of a complaint under this charter. The city attorney has fourteen (14) calendar days to make such a decision. If the city attorney determines the complaint is not valid, the city attorney shall dismiss the complaint. If the city attorney believes the complaint should be reviewed by an independent outside attorney, in order to avoid the appearance of undue influence or impropriety, the city attorney may refer the complaint to an outside attorney to perform such review. If the city attorney determines a complaint meets the minimum legal requirements, the city attorney shall provide a copy to the member complained against and the other City Council Members within three (3) working days of making such written determination. The Mayor or the Mayor Pro

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Tempore shall set a time and date for a hearing on the complaint determined to meet the minimum legal requirements within sixty (60) days of the presentation of the sworn complaint.

C. **Hearing and decision.** The remaining members of the City Council must conduct a hearing to hear and review evidence regarding the sworn complaint, if the complaint is determined to meet the minimum requirements of this charter. The city attorney shall prepare a charge summary prior to any hearing, the purpose of which is to advise the public that a sworn complaint has been filed, the name of the complainant, which member of the City Council the complaint is filed against, and the sections alleged to have been violated, but shall not disclose the factual basis of the complaint.

1. The member complained against shall have the right to representation at the hearing and to question and cross-examine witnesses but may not vote on the question of whether the member complained against violated any provisions of this charter;
2. Prior to the first hearing on the complaint, the Mayor or Mayor Pro Tempore may instruct the city manager or city attorney to perform an initial investigation of facts to present to the City Council. The results of any initial investigation of facts may be given to the City Council at any time, but the results shall be provided no later than the first hearing on the complaint.
3. All hearings held under this subsection shall be conducted in open session, except that the City Council may conduct a closed session to get the advice from its attorney pursuant to the Texas Open Meetings Act;
4. The member complained against and the subject of any investigation and/or hearing under this section shall be entitled to written notice of the allegations, a copy of the complaint summary, copies of any evidence collected during any pre-hearing investigation and a copy of the sworn complaint, along with any attachments to the complaint. Other than the complaint summary, such information is confidential during the pendency of the charges and shall not be released while the complaint is pending unless released during a hearing on the complaint. However, such information may be released outside of a hearing if the member complained against consents in writing to such release;
5. A member of City Council who initiated a complaint or is the subject of the investigation or hearing shall not sit at the dais and shall not participate in deliberation or vote on the complaint;
6. The City Council may adopt by ordinance rules of procedures to be followed during a hearing under this section;
7. At the beginning of the first hearing on a complaint, while in open session, the presiding officer shall state the nature of the hearing and the allegations to be considered including reading aloud the charge summary;
8. The City Council shall be provided a presentation of the evidence against the

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member complained against including, but not limited to, testimony from individuals. Such presentation shall be submitted by the complainant.

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9. The individual who is subject to the hearing shall be provided an opportunity to respond to the allegations and present any relevant evidence including, but not limited to, testimony from individuals;

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10. At any hearing, the City Council shall provide an opportunity for members of the public to speak. However, public comments shall not be considered evidence by the City Council unless such comments are sworn to under oath, provided during the investigative portion of the hearing, the member complained of has the opportunity to cross-examine the testifying individual, and the City Council has an opportunity to question the testifying individual.

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11. The City Council may perform such further investigative actions as the City Council determines to be necessary to make a determination on a complaint including, but not limited to, command the presence and testimony of any individual, asking questions of any individuals appearing before the City Council and demand the production of documents and other evidence;

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12. In the case of a violation of this section of the Charter or Sections 3.085, City Council shall vote on the removal from office as an individual item. If the City Council determines by a unanimous vote of the City Council present at the hearing, excluding the accused member, that removal is warranted, it shall declare a forfeiture, declare the office holder removed and a position vacant. A vacancy shall be filled consistent with this Charter;

13. The City Council may, for any violation which is not a qualification for office, impose a censure or other penalty upon a determination the charged member is in violation of this section of the Charter;

14. Any decision of the City Council shall be voted on in open session. After a vote on whether a violation has occurred, the City Council shall set out, in a subsequent meeting and in a written resolution, its decision. As each remaining member of City Council may have different reasons for a specific vote, the collective grounds for the vote need not be set out in the resolution. Such resolution shall be issued regardless of whether the vote was for or against a determination a violation occurred;

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15. The decision of the City Council shall be final and binding,

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16. The City Council may also determine whether a filed complaint was frivolous, including but not limited to whether it was filed in bad faith, or with reckless disregard for the truth. Such determination applies to complaints considered by the City Council as well as complaints dismissed by the city attorney, or his/her designee for failing to meet the minimum requirements of this charter. If a complaint is determined to be

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frivolous the City Council can impose a penalty on the complainant, including, but not limited to the costs incurred by the City related to the complaint. The City Council may adopt by ordinance rules of procedures and substance regarding frivolous complaints.

Section 3.085 Prohibitions

- A. No member of City Council shall accept or admit liability or pay any claim for damages asserted against the City. City Council shall not accept or admit liability without first obtaining a written opinion from the City Attorney regarding the City's liability therein and only then upon a majority vote of the City Council.
- B. No member of City Council shall be employed in or appointed to the positions of City Manager, City Attorney, or Department Head until one (1) year after the expiration of the term for which he/she was elected to the City Council and for any other compensated City position until one (1) year after the expiration of the term for which he/she was elected to the City Council unless approved by the City Council. This subsection shall not apply to a volunteer who receives a stipend that is the same as the stipend received by other similarly situated volunteers.
- C. Except for the purpose of inquiries and investigations, unless otherwise provided in this Charter, the City Council as a whole and its individual members shall deal with City officers and employees who are subject to the direction and supervision of the City Manager solely through the City Manager, and neither the City Council nor its individual members shall give orders to any such officer or employee, either publicly or privately.
- D. Neither the City Council nor any of its members shall dictate to the City Manager the appointment of any person to office or employment. No member of City Council shall interfere with the City Manager in the performance of the duties of that office or prevent the City Manager from exercising the City Manager's own judgment in the appointment of officers and employees whose employment, appointment, and supervision are reserved by this Charter for the City Manager. Except for the purpose of inquiry and investigations, the City Council and its members shall deal with the City Staff solely through the City Manager, and neither the City Council, as a body or any individual member, nor any individual not having administrative or executive functions under this Charter shall give orders to any of the subordinates of the City Manager, either publicly or privately.
- E. It shall be unlawful for the Mayor or a Council Member to release any attorney client privileged communication. The City Council as the governing body of the City solely holds and is entitled to the attorney client-privilege and it may only be waived by an affirmative vote of two-thirds (2/3) of the City Council.

Section 3.09 Vacancies on the City Council

- A. The office of a City Council member or office of the Mayor shall become vacant upon death, resignation, recall, or removal from office in any manner authorized by law or this Charter, or forfeiture of office.
- B. A City Council member or the Mayor shall forfeit office if they lack at any time during

the term of office any qualifications for the office prescribed by this Charter or law, or failure to attend three (3) consecutive regular City Council meetings without being excused by the City Council. The City Council shall be the final judge in matters involving forfeiture of office by a City Council member. An assertion a City Council member has three (3) consecutive unexcused absences from regular meetings may be brought by any member of the public or the City government, which will trigger the hearing requirements set forth in section 3.08,

- C. If for any reason a vacancy exists on the City Council, the remaining members of the City Council shall select a person qualified for the position, as described in the Charter, within thirty (30) days of the occurrence of the vacancy. An official who has been recalled or removed may not be reappointed to any immediate vacancy. Once appointed, the person shall serve until the position can be filled at the next regular election date. Notwithstanding subsection (D), if more than one vacancy exists on the City Council, the remaining members shall select persons qualified for the vacant positions in the order the vacancies occurred. Such selection must be consistent with state law.
- D. In the event that a legal quorum of the elected City Council cannot be convened due to a disaster resulting in multiple injuries, deaths, or forfeiture of offices, the surviving City Council members and the Board chairs, and if necessary, **Board Vice Chairs, in order of succession of the (1)** the Economic Development Corporation, (2) Planning and Zoning Commission and (3) Board of Adjustment in numbers sufficient to constitute an interim City Council shall, within fifteen (15) days of such disaster, or as provided in the Texas Election Code, call for an election to fill all vacant City Council positions. Such constituted interim City Council shall serve until the requested election occurs.

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Section 3.10 Meetings/Quorum

Regular meetings of the City Council shall be held at such times as may be prescribed from time to time by resolution of the City Council. Special meetings must be called by the City Secretary upon the written request of the Mayor, the City Manager, or two (2) members of the City Council. Notice of any regular or special meetings of the City Council must state the subject(s) to be considered at the meeting and must be posted to the public in accordance with the laws of the State of Texas. A quorum shall consist **of four (4)** City Council members, unless otherwise provided by laws of the State of Texas. The City Council may sanction its members for misconduct, and may compel the attendance of absent members. Items may be placed on the agenda by the request of the Mayor, the City Manager, or a City Council Member. Posted agendas must provide for "Citizens to be Heard" allowing citizens the opportunity to address the City Council on topics not on the agenda for no more than three (3) minutes. Citizens must also have an opportunity to address the council during consideration of the posted agenda items for no more than six (6) minutes. These opportunities for citizens to speak must be included in the agendas of all Council Meetings, Special Council Meetings and Workshops. Citizens to be Heard shall be placed on the agenda after calling the meeting to order and invocation, if any. This rule applies to all boards and city commissions.

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Section 3.11 Mayor Pro Tempore

The City Council shall elect one of its members as Mayor Pro Tempore, who shall perform the duties of the Mayor in the case of the absence or inability of the Mayor to perform the duties

of office, and who shall, during that time, be vested with all the powers belonging to the Mayor.

Section 3.12 Investigations by City Council

The City Council shall have the power to inquire into the affairs of the City and the conduct of any City department, office, agency, officer, or employee of the City and to make investigations as to municipal affairs, and for these purposes may subpoena witnesses, administer oaths, take testimony, and compel the production of reports, papers, and other documentary evidence. Failure or refusal to produce evidence, to comply with a subpoena, or to obey a lawful order issued in the exercise of these powers by the City Council shall enforced through all criminal, civil, and administrative means available under state law and set out in the City's Code of Ordinances.

Section 3.13 Procedures for Passage of Ordinances and Resolutions

- A. *Passage.* Ordinances shall be introduced to the City Council only in written or printed form. The subject or subjects of all ordinances shall be clearly expressed in the title. Except as may otherwise be prescribed in this Charter, an ordinance shall not be finally passed at the meeting of the City Council at which it is first introduced, but it shall then be read, and the City Council will determine whether it shall be rejected or further considered at a subsequent meeting of the City Council. If rejected, no further action shall be required. Upon second reading, the ordinance may be adopted and enacted. The affirmative vote of four (4) or more members of the City Council is required to enact any ordinance, unless provided for by state law.
- B. *Ordinances passed upon one reading.* Notwithstanding section 3.13(A) above, ordinances which may be passed upon first introduction include ordinances canvassing an election, ordinances calling an election, ordinances required by state law to approve a contract, annexation ordinances where such annexation first requires public hearings, ordinances setting a tax rate as required by state law, and ordinances adopting a budget if at least two (2) budget workshops or public hearings have occurred to discussed the pending budget. Any ordinance necessary to protect the public's peace, health, safety and general welfare may be passed as an emergency, such as a natural or manmade disaster as well as other traditional emergency situations, and become effective at once upon one (1) reading of the City Council, upon the approval of a majority vote of the City Council members that it is an emergency at said reading and the finding of an emergency shall be stated within the ordinance.
- C. *Penalty and Franchise Ordinances.* Caption or title and penalties of every ordinance imposing any penalty, fine, or forfeiture shall, as soon as practical after passage thereof, be published one (1) time through any means authorized by state law. All ordinances granting, confirming, extending, renewing, or amending a franchise shall be accepted in writing by the grantees and shall be published as otherwise provided in this Charter.
- D. *Resolutions and Ordinances.* The City Council shall evidence its official actions by written ordinances, resolutions, or oral motions. The style of all ordinances shall be: "Be it Ordained by the City Council of the City of Windcrest, Texas;" and the style of all resolutions shall be: "Be it Resolved by the City Council of the City of Windcrest." Every

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Ordinance shall be authenticated by the signature of the Mayor, or in the Mayor's absence the Mayor Pro Tempore. The City Secretary shall attest all signatures. All ordinances and resolutions passed by the City Council shall become effective immediately from and after passage except where publication of a caption is required or where the ordinance, state law, or other provisions of this Charter provide otherwise, in which case the effective date shall be as prescribed in the ordinance.

Section 3.14 - Code of Ordinances

The City Council shall have the power to cause the ordinances of the City to be printed, in code form, and shall have the same arranged and digested, as often as the City Council may deem advisable, provided that failure to print the ordinance shall not affect its validity. The City Council shall have power to cause the ordinances of the City to be corrected, amended, revised, codified and printed in code form as often as the Council deems advisable, and such printed code, when adopted by the Council, shall be in full force and effect without the necessity of publishing the same or any part thereof in a newspaper. Such printed code shall be admitted in evidence in all courts and places without further proof

PROPOSED as of 06.21.2022

ARTICLE IV – CITY ADMINISTRATION AND ELECTIONS

Section 4.01 City Elections

The general City election shall be held annually on a uniform election date in November, or the date nearest thereto as may be required by state law. Each qualified voter shall be entitled to vote. Candidates for each seat, including the Mayor, shall be elected at large.

Section 4.02 Regulation of Elections

All City elections shall be conducted in accordance with the applicable provisions of the Texas Election Code and other state and federal law. The City Council shall appoint the clerks, judges and other election officials and shall provide for their compensation and other expenses incurred in holding said election. The City Council may adopt such permitted additional regulations for the conduct of individuals which is not inconsistent with state or federal law.

Section 4.03 Special Elections

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

Section 4.04 Candidates; Filing for Office

Any qualified person as prescribed by Section 3.04 of this Charter may apply to be placed on the official ballot for the position of Council Member or Mayor. The application shall be made in accordance with all applicable laws and shall state that the candidate agrees to serve if qualified and elected. Each candidate shall execute such oath and other official form or affidavit as required by the Texas Election Code. The City Secretary shall review the application and notify the candidate whether or not the application satisfies the requirements of this Charter and the Texas Election Code. If an application is insufficient, the City Secretary shall return it within three (3) business days of submission with a written statement of such insufficiency to the candidate. The candidate may file a new application within the regular time for filing applications. The City Secretary shall keep on file all applications in accordance with State law.

Section 4.05 Official Ballot

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

Section 4.06 Canvassing and Election Results

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

Section 4.07 Elections Determined by Plurality

A plurality vote for an elected office is that number which is greater than the number cast for any other candidate for the respective position. The candidate who receives a plurality vote shall be declared elected. In the event of a tie, a runoff election shall be held in accordance with the Texas Election Code.

Section 4.08 Oath of Office

All City of Windcrest elected and appointed officers shall take and sign the Oath of Office prescribed for state elective and appointed offices, respectively, by the Constitution of the State of Texas. Every officer of the City shall, before entering upon the duties of the office, take and subscribe to the oath or affirmation to be signed, filed and kept in the office of the City Secretary.

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PROPOSED as of 06.27.2022

ARTICLE V – DEPARTMENTS, OFFICES AND AGENCIES

Section 5.01 Creation of Departments

The City Council shall approve personnel policies and guidelines, and shall, by ordinance, have the power to establish City offices or departments not provided for in this Charter, and to discontinue, redesignate, or combine any of the departments and City offices established by ordinance. The City Council may require bonding and/or insurance in addition to the legal requirements.

Section 5.02 City Manager

5.02.1 *Qualifications, appointment.* The City Council shall appoint and may remove the City Manager upon the affirmative vote of a majority of the City Council, and shall supervise the City Manager by majority vote. The City Manager shall be chosen and compensated solely on the basis of experience, education, training, ability, and performance. The City Council shall require the City Manager to reside within a reasonable distance as determined by the City Council. The City Council shall establish compensation for the City Manager and review performance on an annual basis. The City Council shall perform a written review of the City Manager's performance at least annually, but no more than twice in any fiscal year.

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5.02.2 *Direction and Supervision of Employees, Department Heads.* The City Manager shall be responsible to the City Council for the proper administration of all the affairs and business of the City. Except for the purpose of inquiry, the City Council and its members shall deal with the City staff through the City Manager, and neither the City Council nor any member not having administrative or executive functions under this Charter shall give orders to any of the subordinates of the City Manager either publicly or privately.

5.02.3 *Specific Powers and Duties.* The City Manager shall be required to:

- A. Ensure the enforcement of all state laws and City ordinances.
- B. Hire, suspend, or remove any employee of the City, except as otherwise provided by law, this Charter, or personnel rules adopted pursuant to this Charter. The City Manager may authorize any employee who is subject to the City Manager's direction and supervision to exercise these powers with respect to subordinates in that employee's department, office or agency;
- C. Provide employees with an annual written performance review.
- D. Attend all City Council meetings except when excused. May participate in all discussions but may not vote.
- E. Prepare and submit the proposed annual budget and be responsible for the administration of the adopted budget.
- F. Keep the City Council advised of the financial condition and needs of the City and make such recommendations as seem desirable.
- G. Prepare and submit to the City Council at the end of each fiscal year a complete report on the finances and administration activities of the City for

such preceding fiscal year;

- H. Make such other reports as the City Council may require concerning the operations of the City;
- I. Meet with, discuss with, confer with, and advise the Mayor and/or any member of the City Council regarding the business of the City.
- J. May delegate to City employees nondiscretionary ministerial and administrative tasks to carry out his duties.
- K. Shall direct and supervise the administration of all departments, offices, and agencies of the City, except as otherwise provided by this Charter or by law;
- L. Approve contracts and budget line items not to exceed the dollar amount set by state law as the threshold dollar amount requiring competitive bidding for general procurement. Notwithstanding this provision, this approval authority, may be restricted by the City Council, by ordinance.
- M. Shall have the authority to execute on behalf of the City, standard form documents including, but not limited to, deeds, releases of liens, rental agreements, easements, right-of-way agreements, joint use agreements, and other similar documents as authorized by the City Council;
- N. Perform such other duties as may be prescribed in this Charter or required by the City Council;
- O. Implement and oversee policies crafted by the City Council.

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5.02.4 Acting City Manager. The City Manager may designate an officer of the City to serve as acting City Manager when the City Manager is temporarily absent or on leave, subject to the approval of the City Council. If the City Manager is unable to appoint an officer to serve as acting City Manager, the City Council may designate a qualified person to perform the duties of the office of City Manager when the office is vacant or during the City Manager's extended absence or disability, and may set the compensation paid to such person during such time. The City Council may revoke such designation at any time and appoint another individual, including an employee of the City, to serve until the City Manager shall return or his disability shall cease.

Section 5.03 City Attorney

5.03.1 Appointment. There shall be a department and office of City Attorney. The City Council shall appoint a competent and licensed attorney who shall have not less than five (5) years of experience practicing municipal law in Texas. The City Council may retain special counsel or appoint Assistant City Attorneys at any time it deems appropriate and necessary. The City Attorney can be removed with or without cause by an affirmative vote of four (4) members of the City Council. Unless a legal conflict of interest exists, all legal counsel of the City shall be responsible for reporting information to the City Attorney regarding any representation of the City. Pursuant to state law, the City Attorney is the designated attorney for the state in municipal court and any designated prosecutors hold such positions subject to the City Attorney's direction. The City Attorney may designate such special counsel and special prosecutors as he/she deems appropriate to properly represent the interest of

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the City, or the state in municipal court. All City Attorney designations are subject to funding provided for in the budget or by the City Council.

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5.03.2 Compensation. The City Attorney(s) shall receive for their services such compensation as may be fixed by the City Council.

5.03.3 Duties. The City Attorney shall report to the City Council as a whole. The City Attorney shall be the legal advisor of, and attorney for, all of the offices and departments of the City, and shall represent the City in all litigation and legal proceedings as a whole. The City Attorney shall review and approve as to form all documents, contracts, resolutions, ordinances, and legal instruments in which the City may have an interest. The City Attorney shall perform other duties prescribed by the Charter, by ordinance, or by resolution of the City Council.

Section 5.04 Police Department

The Police Department shall be established and maintained and the head of such department shall be the Police Chief. The Police Chief shall be appointed by the City Council and shall report to the City Manager. The Police Chief may be removed from office by the City Council by a majority vote. The Police Chief shall meet the standards of the state laws of Texas and be responsible for the administration of the police department and shall evaluate and supervise the department and all its employees. All such evaluations and actions shall be subject to review and modification by the City Manager.

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Section 5.05 Fire Department

The Fire Department shall be established and maintained and the head of such department shall be the Fire Chief. The Fire Chief shall be appointed by the City Council and shall report to the City Manager. The Fire Chief may be removed from office by the City Council by a majority vote. The Fire Chief shall meet the standards of the State of Texas and be responsible for the administration of the fire department and shall evaluate and supervise the department and all its employees. All such evaluations and actions shall be subject to review and modification by the City Manager.

The Fire Chief will participate with the City Manager in the annual evaluation of the relationship and any contract between any volunteer Fire Department and the City. The working relationship between any volunteer Fire Department and the City shall be coordinated by the City's Fire Chief and/or the City Manager with approval of the City Council.

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Section 5.06 City Secretary

5.06.1 Appointment and Compensation. The City Council shall appoint the City Secretary. The City Secretary shall receive compensation as may be fixed by the City Council. If the City Secretary is temporarily unable to perform appointed duties, the City Manager or City Council may designate an alternate.

5.06.2 Duties: The City Secretary shall:

- A. Give notice of City Council meetings.
- B. Attend all City Council meetings and keep accurate records of all actions taken by the City Council;

- C. Maintain the official records and files of the City;
- D. Administer oaths required by law;
- E. Attest contracts, assessment certificates, ordinance resolutions, and other legal instruments when executed by the authorized officers of the City;
- F. Serve as the election official for all City elections;
- G. Hold and maintain the City seal and affix it to all appropriate documents as required;
- H. Supervise the administrative staff as directed by the City Council;
- I. Perform such other duties as may be required by the City Manager, this Charter, or the laws of the State of Texas.

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Section 5.07 Municipal Court of Record

5.07.1 *Creation of Court.* The Municipal Court of Record shall be known as the Municipal Court of Record of the City of Windcrest, Texas, and City Council may appoint one or more Municipal Judges to serve in such Court. The Court shall have all the powers and duties as are now or as may hereafter be prescribed by the laws of the State of Texas and the City's current ordinances in connection with the trial of misdemeanor offenses within its jurisdiction.

5.07.2 *Municipal Court of Record Judge.* The Judge of the Municipal Court of Record, and all alternates, associates and other appointed judges as the City Council deems appropriate to appoint shall be competent, duly qualified and each must be a licensed attorney in the State of Texas. The City Council shall appoint the Judge of the Municipal Court of Record for a term of two (2) years and may be appointed to additional and consecutive terms at the will and pleasure of the City Council. The term of this position must run concurrent with the term of the office of Mayor. Following each mayoral election the City Council has a ninety (90) day window of review. If no action is taken during this ninety-day period the appointment is automatically renewed. The Judge shall receive such compensation as may be determined by the City Council. The compensation shall be fixed and commensurate with the duties performed by the Judge. The Municipal Court of Record judge or any other municipal judge appointed by the City Council may be removed from office for lack of confidence if after the judge is given notice and an opportunity to be heard, the City Council votes to remove the judge from office by the affirmative vote of a majority of the full City Council.

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5.07.3 *Clerk of the Court.* The Clerk of the Municipal Court of Record shall be appointed and provided for under state law. The City Manager may appoint such deputy clerks as such become necessary. The Clerk of the Court and any Deputies appointed by the City Manager shall have the power to administer oaths and affidavits, make certificates, affix the seal of said court as necessary and required by law, and do and perform any and all acts usual and necessary to be performed by clerks and deputy clerks of municipal courts of the State of Texas. The clerk and other court personnel perform their duties under the direction and control of

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the presiding judge.

5.07.4 *Jurisdiction, Power, and Fine.* The Municipal Court of Record shall have all jurisdiction and powers provided by State law.

5.07.5 *Costs, Fines, and Penalties.* All costs, fees, special expenses, and fines imposed by the Municipal Court of Record shall be deposited to the City Treasury for the use and benefit of the City, except as otherwise required by State law.

Section 5.08 Public Works

The Public Works Department shall be established and maintained and the head of such department shall be the Public Works Director. The Public Works Director shall be appointed by the City Council and shall report to the City Manager. The Public Works Director may be removed from office by the City Council by a majority vote. The Public Works Director shall administer, supervise and coordinate the construction and maintenance of the streets and thoroughfares, the drainage system, and all public property and equipment not the responsibility of another department. The department shall have and be responsible for other duties, projects and works as provided by ordinance or assigned by the City Manager.

ARTICLE VI - FINANCE

Section 6.01 Finance Department

The Department of Finance shall be established and maintained and the head of such department shall be the Municipal Finance Officer. The Municipal Finance Officer shall be appointed by the City Council and report directly to the City Council. The Municipal Finance Officer shall have knowledge of municipal accounting and experience in budgeting and financial control. Such Officer shall provide a bond with such surety and in such amount as the City Council may require. The City shall pay the premium on such bond.

Section 6.02 Powers and Duties

The Municipal Finance Officer shall administer all financial affairs of the City, other than the assessment and collection of taxes. The Officer shall have authority and be required to:

- A. Maintain a general accounting system for the City and exercise financial control over all offices, departments and agencies thereof;
- B. Certify the availability of funds for all proposed expenditures. Unless the Municipal Finance Officer shall certify that an unencumbered balance exists in the appropriations and funds available, no appropriation shall be encumbered and no expenditure shall be made;
- C. Submit to the City Council through the City Manager a monthly statement of all receipts and disbursements in sufficient detail to show the exact financial condition of the City, and shall provide additional detail as directed by the City Council;
- D. Cause to be prepared, as of the end of the fiscal year, a Comprehensive Annual Financial Report (CAFR) to be available upon request to the citizens as hard copy and posted prominently on the City website.

Section 6.03 Fiscal Year

The fiscal year of the City shall begin on the first day of each October and end on the last day of September of the succeeding year. All funds collected by the City during any fiscal year including both current and delinquent revenues, shall be accounted for in such fiscal year; and except for funds derived to pay interest and create a sinking fund on the bonded indebtedness of the City, may be applied to the payment of expenses incurred during such fiscal year.

Section 6.04 Annual Budget

The City Manager shall provide a complete work and financial plan for the City, including all City funds and activities. The City Manager shall submit a budget message explaining the budget, both in fiscal terms and in terms of the work programs, with the budget. It shall outline the proposed financial policies of the City for the ensuing fiscal year; describe the important features of the budget; indicate any major changes from the current year in financial policies, expenditures, and revenues, with reasons for such changes; summarize the City's debt position and include such other material as the City Manager deems desirable or the City Council requires. The budget shall begin with a clear general summary of its contents; and shall show in detail all estimated revenues, indicating the proposed property tax levy, and all proposed expenditures, including debt service, for the ensuing fiscal year. The proposed budget expenditures shall not exceed the total of

estimated funds available from all sources. The budget shall be so arranged as to show comparative figures for actual and estimated revenues and expenditures of the current fiscal year and actual revenue and expenditures of the preceding two (2) fiscal years, compared to the estimate for the budgeted year. It shall include in separate sections:

- A. An itemized estimate of the expense of conducting each department, division and office.
- B. Reasons for proposed increase or decrease of such items of expenditure compared with the current fiscal year.
- C. A narrative statement for each department indicating projects to be accomplished by the department. The narrative shall state specifically all capital expenditures proposed during the year, all major projects on which work will be performed and any extraordinary items included in the budget.
- D. A statement of the total probable revenues of the City from taxes by category for the fiscal year.
- E. Tax levies, rates, and collections for the preceding five years.
- F. An itemization of all anticipated revenue from all sources other than taxes.
- G. The amount required for interest on the City's debts, for sinking fund and for maturing bonds or other obligations.
- H. The total amount of outstanding City debts and other obligations, with a schedule of payments and maturities.
- I. The total amount established for addition to reserve funds.
- J. A capital program, which may be revised and extended each year to indicate capital expenditures pending or in process of construction or acquisition.
- K. Such other information as may be required by the City Council.

Section 6.05 Budget Process and Adoption

The City Manager shall present a recommended budget to the Mayor and City Council no later than the date set by state law. The recommended budget shall become a public document and record when presented to the Mayor and City Council. After receipt of the budget, the City Council shall:

- A. At the first City Council meeting for which timely notice may be given, cause to be posted in City Hall and published in the designated official publication of the City a general summary of the recommended budget and a notice stating the time and places where copies of the budget are available for public inspection; the time and place, not less than fifteen (15) days after such publication, of a public hearing on the budget; and such other public hearings as are necessary.
- B. After the first public hearing the City Council may adopt the budget with or without amendment following the second reading of the ordinance for the proposed budget. The City Council may amend the recommended budget to add, increase, decrease or delete any programs or amounts, except expenditures required by law or for debt service; provided that no amendment shall increase the authorized expenditures to an amount greater than the total of estimated funds available from all sources.

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- C. The budget shall be finally adopted by ordinance not later than the 30th of September. However, if the City Council takes no final action on or prior to such date, the budget from the previous year shall be in effect on a month to month basis until approved by a majority of the City Council.
- D. No budget shall be adopted or appropriations made unless the total of estimated revenues, income, and funds available shall be equal to or in excess of such budget or appropriations.

Section 6.06 Administration of Budget

No payment shall be made or obligation incurred except in accordance with this Charter, and until the Municipal Finance Officer first certifies that a sufficient unencumbered balance and sufficient funds are or will be available to cover the claim or meet the obligation when it becomes due and payable. If funds are not currently available to make an appropriate payment, but will become available within the fiscal year, the finance officer may request the City Council give authority to borrow money to make such payment provided that such money will be repaid by the end of the fiscal year. Any authorization of payment or incurring of an obligation in violation of the provisions of this Charter shall be void and any payment so made illegal. This procedure shall not prevent the City Council by ordinance from making or authorizing of payments or the making of contracts, for capital expenditures to be financed wholly or partly by the issuance of bonds, time warrants, certificates of indebtedness, certificates of obligation, lease-purchase, or other similar evidence of long term indebtedness or obligation authorized by State law, or to prevent the making of any contract or lease providing for payments beyond the end of the fiscal year.

Section 6.07 Amendment and Supplemental Budgets

To protect the public health, safety, welfare and resources of the City, the City Council upon the affirmative vote of a majority of the full City Council shall authorize budget amendments to fund and meet conditions not anticipated in the original budget. Supplements and amendments shall be approved by ordinance and shall be filed with the original budget.

Section 6.08 Borrowing to Meet Funding Requirements

In the absence of available funds to meet emergency conditions and requirements, the City Council may authorize the borrowing of funds as may be authorized by State law. In any fiscal year in anticipation of the collection of the ad valorem property tax, whether levied or to be levied, the City Council may authorize the borrowing of money by the issuance of tax anticipation notes. Such notes shall mature and be payable not later than the end of the fiscal year in which issued, or as otherwise provided by State law.

Section 6.09 Depository

The City Council shall select a depository or depositories for City funds on the basis of bids received from such institutions for a term not to exceed five years; provided that the City Council may by resolution invest reserve funds in any state or federally chartered bank or savings institution. All monies received by any person, department, or agency of the City for or in connection with affairs of the City shall be promptly deposited in the City depository or depositories. All checks, vouchers, or warrants for the withdrawal of money from the City depositories shall be signed by the Mayor and City Manager or City Secretary.

Section 6.10 Purchase Procedure

All purchases made and contracts executed by the City shall be pursuant to a requisition from the

head of the office, department or agency whose appropriation will be charged. No contract or order shall be binding upon the City unless the Municipal Finance Officer certifies there is to the credit of such office, department or agency, a sufficient unencumbered appropriation to pay for the supplies, materials, equipment, or contractual services for which the contract or order is to be issued. All such contracts and purchases shall be made in accordance with all applicable competitive bidding requirements established by State law. The City Manager may execute contracts compliant with this section and as authorized by the City Council.

Section 6.11 Bonds and Financial Obligations

The City Council may authorize the issuance of any bonds, refunding bonds, certificates of obligation, warrants, notes, certificates of participation, or other evidence of indebtedness or obligation, for any permanent public improvement or any other public purpose not prohibited by law, subject only to the following limitations:

- A. no general obligation bonds, other than refunding bonds, shall be issued except as approved by a majority vote at an election held for such purpose;
- B. no indebtedness or obligation shall be issued except in compliance with the requirements of state law;
- C. no form of indebtedness other than general obligation bonds approved by public vote may be issued without public notice and a public hearing being held in compliance with state law; the public notice shall state the relevant statutory provisions providing for a petition and election, if any;
- D. the total amount of outstanding general obligation indebtedness shall not exceed ten percent (10%) of the total appraised value of property within the City; and
- E. the authorization for bonds authorized but not issued shall expire ten years after the date of authorization.

Section 6.12 Reserve Fund

A reserve fund shall be established for use during emergencies and periods of economic downturn. A majority vote of the full City Council shall be required to authorize the expenditure of reserve funds if such expenditure will decrease the reserve funds to an amount that is less than three (3) months funding of the City's annual operating budget.

Section 6.13 Independent Audit

At the close of each fiscal year the City Council shall cause an independent audit to be made of all accounts of the City by a certified public accountant experienced in auditing cities. The audit shall include an audit of all non-profit organizations which it is authorized and required by law to be included in the audit. The audit shall be subject to the following:

- A. The City shall pay a percentage of the audit costs for all non-profit organizations audited, equal to the percentage of their respective total funding provided by the City.
- B. The independent auditor shall not otherwise maintain or keep any of the accounts of the City; act as financial advisor to the City; or have any financial interest whatsoever, direct or indirect, in any other financial affairs of the City, any member of the City Council, the City Manager or any department head. The auditor may be a resident or the owner of less

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than one percent (1%) of the total outstanding stock in a company contracting with the City.

- C. The City Council shall not select the same auditor for more than five (5) consecutive years and the auditor selected shall not be, or have been within the immediate preceding three (3) years, a business associate of the certified public accountant or firm that performed the audit prior to such selection.
- D. The auditor shall complete and present an audit report to City Council during the first calendar quarter each year. Upon presentation to and acceptance of the audit report by the City Council, copies of the audit shall be placed on file in the City Secretary's office and on the City's website as a public record.

Section 6.14 Taxation

The City Council may levy, assess and collect taxes in accordance with state law.

Section 6.15 Procedures

The procedures, limitations and requirements for the levy, assessment and collection of any tax or lien shall be as established by State law; but that, if not established by State law, such procedures, limitations and requirements shall be established by ordinance.

Section 6.16 RESERVED

Section 6.17 Property Taxes

All ad valorem property taxes shall be due and payable on or before the last day of January each year at such officer or such other place as authorized by the City Council. Such taxes may be paid at any time after the tax rolls for the tax year have been approved and shall become delinquent and be subject to penalties and interest if not paid on or before the last day of January following the levy. The failure to levy or assess taxes does not relieve any owner or property from the tax liability on any taxable property. The tax ceiling for the City of Windcrest shall never exceed fifty percent (50) % of the ceiling set by the State Constitution.

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Section 6.18 Tax Liens and Claims

All property within the City on the first day of January each year shall stand charged with a special lien in favor of the City, and the owner of such property on that date shall be personally liable therefor, until the tax and all related penalties and interest on that property are paid. All such taxes, penalties and interest may, if not voluntarily paid, be collected by the City by:

- A. Suit to recover personal judgment therefore without foreclosure, or by suit to foreclose its lien or liens, or to recover both by personal judgment and foreclosure; and if the property description on the assessment rolls is insufficient, the city may plead a good description of the property to prove the same, and have judgment foreclosing the tax lien or personal judgment or both, against the owners and property; or
- B. Withholding the payment of any debt or obligation owed to such owner or person by

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the City; by reducing the amount of any debt owed to such owner or person by the City by an amount equal to the unpaid taxes, penalties and interest; or otherwise by counter-claim and offset in any proceeding; and

- C. No assignment or transfer of any such debt, claim, demand, account or property, after taxes are due, shall affect the right of the City to offset the said taxes, penalties and interest against the same.

PROPOSED as of 06.27.2022

ARTICLE VII - RECALL, INITIATIVE AND REFERENDUM AND NON-BINDING ELECTIONS

Section 7.01 Powers

- A. *General.* The people of the City of Windcrest reserve the power to direct legislation by initiative, to reject any legislation enacted by the City Council by referendum, and to recall the Mayor and any or all members of the City Council. However, such power shall not extend to the granting of franchises, budget, or setting of utility rates, and levy of taxes and salaries of City officers or employees, or any other ordinance not subject to initiative as provided by state statute or common law. The powers of initiative and referendum are limited to legislative acts.

The [City](#) Council is also authorized to conduct non-binding elections. With the exception of submitting a recall petition as a ballot measure, nothing in this Article should be construed as preventing the City Council from having the authority to submit an ordinance, the repeal of an ordinance, or any other legislative matter to the citizens of Windcrest to consider as a measure at an election.

- B. *Initiative.* The registered voters of the City shall have power to direct legislation by the passage of ordinances through initiative, subject to the limitations set forth in Section 7.01(A).
- C. *Referendum.* The registered voters of the City shall have power to require reconsideration of any adopted ordinance, subject to the limitations set forth in Section 7.01(A).
- D. *Recall.* The registered voters of the City shall have the power to petition for recall of the Mayor or any Council Member.

Section 7.02 Commencement of Petition, Petitioners Committee, Affidavit

Any three (3) qualified voters may commence initiative, referendum, or recall proceedings by filing with the City Secretary an affidavit stating that they will constitute the petitioners committee and be responsible for circulating the petition and filing it in proper form as provided in this Charter and under Texas Law, stating their names, mailing addresses, physical addresses, e-mail addresses, phone numbers and specifying the mailing address to which all notices to the petitioners committee are to be sent. Such affidavit shall set out in full the proposed initiative ordinance, or citing the ordinances sought to be reconsidered, or the name of the Mayor or City Council member to be recalled. The petitioners committee, by signing the affidavit, may be held individually responsible, jointly and severally, for any violations of this charter, city ordinance, state law or federal law committed by any petition carriers utilized on the petition.

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Section 7.03 Petition Form, Content and Process

All papers and pages of a petition shall be uniform in size and style and shall be assembled as one instrument for filing. Each signature on the petition shall comply with the provisions of Section 277.002, Validity of Petition Signatures, Texas Election Code.

No signature on said petition shall have been affixed prior to the filing of the affidavit of petitioners committee. All signatures must list the specific date on which the signature was affixed to the petition for each individual signature.

Petitions shall be returned to the Office of the City Secretary for filing within thirty (30) calendar days after filing of the affidavit of petitioners committee.

To the extent authorized by state law, petitions shall be accompanied by a verification for signatures for the petition and shall be verified by oath in the following form to be affixed on the bottom of each page of the petition:

"Date: _____, 20____
STATE OF TEXAS
COUNTY OF BEXAR

I _____, being first duly sworn, and under penalty of perjury, on oath depose and say that I am one of the petition carriers of the above petition, and that the statements made therein are true, and that each signature appearing thereto was made in my presence on the day and date it purports to have been made, and I solemnly swear that the same is the genuine signature of the person it purports to be.

Signature

Sworn and subscribed before me on the ____ day of _____ 20____

NOTARY PUBLIC, STATE OF TEXAS

My commission expires: _____"

Noncompliance with the verification shall not be grounds to invalidate the petition but may subject the petitioners committee or the affiant to other disciplinary measures.

Section 7.04 Recall Petition

The residents of the City reserve the power to recall the Mayor and any or all members of the City Council. Before the question of a recall shall be submitted to the registered voters of the City, a petition demanding the question to be so submitted shall first be filed with the City Secretary's Office. Said petition must be signed by registered voters in the City in a number not less than twenty-five percent (25%) of the number of voters who cast a vote in the last Mayoral election in the City of Windcrest.

Recall petitions shall contain the name of the City Official who is the subject of recall. The petition shall be addressed to the City Council of the City and shall state distinctly and specifically the

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alleged action(s) and the factual circumstance(s) surrounding such action(s) taken by the official subject to the recall petition that warrant the reason for the recall. Such statements shall be factual and substantiated not in violation of the law. Such statements shall the individual sought to be removed notice of the matter(s) and the thing(s) with which the individual's recall is predicated. If there is more than one (1) reason, said petition shall distinctly and specifically state each reason upon which such petition for removal is predicated and shall distinctly and specifically state the alleged action(s) and the factual circumstance(s) surrounding such action(s) taken by the individual that warrant the recall as to give the individual sought to be removed matter(s) and thing(s) on which the recall is predicated.

The statement of charges or grounds for recall shall be **at least** two hundred fifty (250) but not more than four hundred (400) words. The petition bearers or carriers shall give each potential signer of the recall petition time to read the statement of charges before signing the petition. Within five (5) working days of receipt of a recall petition, or as soon as practicable, the City Secretary shall serve the City official who is subject of the recall a copy of the recall petition charges or allegations. Within five (5) working days after the City official is served a copy of the recall petition charges or allegations, the City official may file a written response with the City Secretary's office.

Section 7.04.1 Basis for Recall

Specific acts of malfeasance, incompetence, moral turpitude, or ethical failures, as defined by Texas law, conviction of violations of criminal law, excluding Class C misdemeanors and traffic violations, or failure to comply with the provisions of this Charter constitute basis for a recall. The basis for recall shall be specifically stated in the petition and be in sufficient detail so as to allow the official who is the subject of the recall petition to be informed as to the allegations against him or her. A separate petition is required for the recall of each elected official. The statement of the basis for recall must be accompanied by all factual supporting documents relied upon by the petitioner to justify recall.

Section 7.04.2 Two-Year Recall Limitation and Consecutive Term Exception

Elected officials shall not be subject to recall during the first six (6) months of that official's first term of office. The final six (6) months of an elected official's term of office shall be exempt from recall.

Section 7.04.3 Review of Petition

The recall petition, with the required number of signatures of registered voters of the City, and all papers and documents supporting the allegations in the petition, shall be filed with the City Secretary. The City Secretary shall post the petition, with all signatures, on the City's website within three business days of receipt. The City Secretary and the City Attorney shall review the petition for recall to determine that it meets the requirements of this Charter and state law. The City Attorney shall certify the petition to the City Secretary that the petition meets the minimum legal requirements under this Charter and state law or shall list any non-compliance contained within the petition. The City Attorney's review shall assume, for the purposes of certification, the grounds for recalled stated in the petition are true and the City Attorney shall not review the factual merits of the grounds for recall. The City Secretary shall certify, or return a petition found not in compliance with this Charter to the petitioners committee with the written findings of noncompliance clearly stated within ten (10) calendar days of submission. The petitioners committee may correct errors or omissions in the petition and may resubmit the corrected petition

to the City Secretary within ten (10) calendar days. The City Secretary shall provide one copy of the certified petition to the petitioners committee and one to the City Council.

Section 7.04.4 Procedure After Certification

Upon certification of the petition, the elected official made the subject of the petition may resign. If the official chooses not to resign, the official may, within five (5) working days of the petition's certification, request in writing to the City Secretary a special meeting. In this event, the City Council shall order such a special meeting to be held, **no more** than thirty (30) days and **no less** than fifteen (15) days before early voting.

At any special meeting held under this Section, the individual whose removal is sought shall have a thirty (30) minute period to state their response to the recall petition. No other items of business shall be part of the special meeting.

This special meeting is not a trial. A separate special meeting must be allowed, if requested, for each elected official who is the subject of a recall petition. If, at the conclusion of the special meeting, the official who is the subject of the recall petition chooses not to resign, the City Council shall order a recall election for the next uniform election date.

Section 7.04.5 Recall Ballot

Ballots prepared and used in the recall election shall read as follows: "Shall _____ Be Removed From the Office of _____ By Recall?" The ballot shall also provide two options, both printed on the ballot; one for removal by the term "YES", the other against removal by the term "NO". The City Secretary and the Election Judge shall count the ballots.

Section 7.04.6 Results of a Recall Election

A simple majority vote shall decide the issue of recall. If less than a majority of the votes favor recall, the elected official shall continue to serve. If a majority of votes are cast in favor of recall, the City Council shall declare the position vacant, and ensure the filling of the vacancy in accordance with the provisions of this Charter. The recalled official is considered removed from the position and does not sit in any holdover capacity unless otherwise authorized by this Charter. An official who has been recalled may not be reappointed to any immediate vacancy.

Section 7.04.7 Recall Resulting In Less Than a Quorum

Should multiple recall petitions reduce the number of serving City Council members to less than a quorum, the remaining City Council members, including the Mayor, shall have the authority to continue to conduct City business, including filling vacancies and scheduling elections. In the event the entire City Council, including the Mayor, is recalled, the recalled officials shall remain in a holdover position for the singular and ministerial purpose of calling a special election consistent with state law. The calling of the special election shall occur at the first council meeting where an election may be called under state law.

Section 7.05 Initiative and Referendum

- A. General. Initiative or referendum may be initiated under this Charter by submitting a petition to the City Secretary stating that the purpose of the petition is to initiate an ordinance, or, to request repeal of an ordinance passed by the City Council. The petition

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must contain the verified signatures in a number of at least twenty percent (20%) of the number of voters who cast a vote in the last Mayoral election in the City of Windcrest.

B. Initiative. In addition to the required number of signatures, a petition for initiative shall have a copy attached of the full text of the proposed legislation in the form of an ordinance, including a descriptive caption. Each page of the petition shall have, at the top of the page, the full descriptive caption of the proposed ordinance. No ordinance on the same subject as an initiated ordinance which has been defeated at any election may be initiated by the voters within two (2) years from the date of such election. Any ordinance adopted by initiative shall not be subject to repeal or substantial modification by action of the Council for a period of two (2) years from the date of the election, except by election called by the Council or by referendum petition submitted by registered voters in accordance with this Charter. Notwithstanding the two (2) year prohibition, the City Council may make required modifications of an ordinance passed by initiative if such modifications are required to bring the ordinance in conformity with state or federal law.

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C. Referendum. In addition to the required number of signatures, a petition for referendum shall have the specific ordinance to be repealed. A petition for referendum on the same subject matter may only be submitted once every two (2) years. Any ordinance repealed by referendum shall not be reinstituted in whole or substantial part by action of the Council for a period of two (2) years from the date of the election, except by initiative election called by the Council or by initiative petition submitted by registered voters in accordance with this Charter. The filing of a petition for referendum with the City Secretary, which is found in compliance with this Charter, shall postpone the enforcement of the ordinance in question until the issue has been submitted to the voters or otherwise decided by a court of competent jurisdiction.

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Section 7.05.1 Form and Review of the Petition

The petition shall be readable, understandable, and clearly state the action being requested. Within ten (10) calendar days of the filing of the petition, the City Secretary and the City Attorney shall determine if the petition meets the requirements set forth in this Charter. If so, the City Secretary shall submit it to the City Council at the next regularly scheduled meeting. If the petition fails to meet the requirements of this Charter, the City Secretary shall within ten (10) calendar days return it to the petitioners committee stating reasons for its return. Insufficiencies may be corrected within ten (10) working days of notice.

Section 7.05.2 Submission to the Voters

A. Initiative. Upon presentation to the City Council, it shall become the duty of the City Council, within thirty (30) calendar days after the date the petition is finally determined sufficient, to pass and adopt such ordinance without alteration as to meaning or effect, or to call for an election, to be held on the earliest date allowed under the Texas Election Code. If a majority of the registered electors voting on a proposed initiative ordinance vote in its favor, it shall be considered adopted upon the canvassing of the election results and shall be treated in all respects in the same manner as ordinances of the same kind adopted by the Council. If conflicting ordinances are approved at the same election, the one receiving the greatest number of affirmative votes shall prevail to the extent of such conflict.

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B. Referendum. Upon presentation to the City Council, it shall become the duty of the City

Council, within thirty (30) calendar days after the date the petition is finally determined sufficient, to repeal such ordinance or to call for an election, to be held on the soonest date allowed under the Texas Election Code.

Section 7.05.3 Ballot Form and Results

Ordinances submitted to the electorate in accordance with the initiative and referendum provisions of this Charter shall be submitted on a ballot which contains the substance of the ordinance to be adopted or repealed. More than one ordinance may be placed on a single ballot and be voted upon at the same election. The vote shall consist of a simple "for" or "against" each proposed ordinance. Any measure receiving a majority of the votes in favor shall be deemed to have passed. Any measure which is not approved by a majority of the votes shall be deemed defeated. If conflicting measures are approved at the same election, the one receiving the greatest number of affirmative votes shall prevail to the extent of such conflict.

Section 7.06 Non-Binding Elections

The City Council, upon its own motion and by the affirmative vote of a majority of the full membership of the City Council, may submit to popular vote at an election for adoption or rejection any proposed ordinance, resolution, or measure, or may submit for repeal any existing ordinance, resolution, or measure. The results of said election shall not have a binding effect on the City Council.

ARTICLE VIII – PUBLIC UTILITIES, FRANCHISES AND CONTRACTS

Section 8.01 Public Services and Utilities

The City shall have the full power and authority to:

- A. Buy, own, construct, lease, acquire, maintain, and operate within and without the limits of the City a system of gas, electricity, telephone, sewage, sanitation, water, parks, airports, swimming pools, race tracks, transportation, communications, golf course, cemeteries, cable television, or any other public service or utility.
- B. Manufacture, produce or provide its own electricity, gas, water or any other product, good, or commodity that may be required by the public for municipal purposes.
- C. Purchase gas, electricity, or any other commodity or article required by the public for municipal purposes and to contract with any person, entity or public utility for such purchase.
- D. Distribute and /or sell any utility, commodity or service.
- E. Mortgage and encumber such public utility or service systems.
- F. Regulate and control the distribution of utilities and services within the City and establish standards of service and quality of products.
- G. Establish and enforce the rates to be paid by consumers of any utility or users of any service provided within the City, and, if provided by the City, outside of the City.

These powers shall be vested in the Council, and the Council may exercise the power of eminent domain to acquire all or part of the property of any utility or service provider within the city whenever found by the Council to be in the public interest for carrying out the objectives of providing utilities or services within the City. Any such eminent domain or condemnation proceeding shall be according to the procedures and the methods of establishing the value of the property and facilities as provided by state law, and if such procedures or methods are not so provided by state law, as reasonably provided by ordinance.

Section 8.02 Utility Accounts

The utility shall keep its accounts in accordance with the uniform system of accounts for said utility prescribed by state and federal law.

Section 8.03 Option to Purchase

Any utility franchise may be terminated by city ordinance after ten (10) years after the beginning of operation, whenever the City Council shall determine to acquire by condemnation or otherwise, the property of such utility necessarily used in or conveniently useful for the operation of the city within the city limits.

Section 8.04 Other Conditions

All franchises heretofore granted are recognized as contracts between the City and the franchisee, and the contractual rights as contained therein shall not be impaired by the provisions of this Charter except:

- A. The power of the City to exercise the right of eminent domain to acquire the property

and assets of the utility is reserved.

- B. The general power of the City to regulate services of a utility, including the right to require adequate and reasonable extension of plant and service and to require that maintenance of facilities be performed at the highest reasonable standard of efficiency, shall be enforced.

Section 8.05 Power to Grant Franchises

The Council shall have the power, subject to the provisions hereof, by ordinance to confer upon any person, firm, corporation, or other legal entity, the franchise or right to use the public property of the City for the purpose of furnishing to the public any general public service or benefit, including, but not limited to, heat, light, power, telephone service, transportation, or other telecommunication providers for compensation or hire. The City shall have the power by ordinance to grant, renew, and extend all franchises of all public utilities of every character operating within the City. A grant cannot be exclusive of other franchises, nor granted for an indeterminate term.

The Council shall have the power to confer upon any person, firm, corporation, or other legal entity a franchise, permit, or license authorized by Texas Transportation Code 316.021 or any other state or federal law for the purpose authorized by such laws.

Section 8.06 Transfer of Franchise

No public utility or other franchise shall be transferable except with the approval of the City Council.

Section 8.07 Ownership, Use and Control of Streets

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

Section 8.08 Right of Regulation

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

- A. Repeal such franchise by ordinance for failure to comply with the terms thereof, such power to be exercised only after due notice and hearing;
- B. Impose regulations to ensure safe, efficient and continuous service to the public. The franchise holder in opening and refilling all earth openings shall re-lay the pavement and do all other work necessary to complete restoration of streets, sidewalks or grounds to a condition equally as good as or better than when disturbed; and in a time specified by contract;
- C. Upon notice to franchisee and a reasonable opportunity to be heard, to regulate, locate, or prohibit the erection of any and all poles, wires, or other utility equipment, conveyance, or structure, on the streets, alleys and public places of said City and to cause the same to be changed, removed, altered, relocated, increased, diminished, placed underground, or be supported by poles of such material, kind, quality and class as may be determined by the Council whether the same be, telephone, electric, cable television, or otherwise, and to enforce the provisions hereof by appropriate action in any court of competent jurisdiction.

Section 8.09 Compensation for Franchise

All persons, corporations, or association of persons, to whom a franchise or privilege may hereafter be granted shall pay to the City for such privilege such compensation as may be fixed by the Council in the grant of such franchise or privilege. Such compensation as fixed by contract or provided by State law (s) shall become due and payable at such time as the Council shall fix in the granting of such franchise or privilege. The failure of any franchisee to pay said compensation when due may result in forfeiture of the franchise privilege. The rates, charges and fares so fixed shall at all times be reasonable to permit the franchisee a reasonable opportunity to earn a fair return on the franchisee's invested capital. The Council may require any utility or franchise holder to furnish such financial reports and information as the Council may request including reports of actual operating costs and the financial conditions of its operations within the City. The Council may employ, at the expense of such franchisee, necessary outside experts to examine and audit the accounts and records of the franchisee to determine the reasonableness of such charges, fares, and rates.

PROPOSED as of 06.27.2022

ARTICLE IX – MUNICIPAL PLANNING AND ZONING BOARDS AND COMMISSIONS

Section 9.01 Planning and Zoning Commission

The City Council shall create a Planning and Zoning Commission of the City of Windcrest and shall appoint seven (7) members, each of whom shall be a citizen of Windcrest. Members shall be appointed staggered terms as set by City ordinance. Such appointees may serve with compensation, as determined by the City Council, and may not hold any elective office of the State of Texas or any other political subdivision thereof during their terms. The City Council shall fill a vacancy in an un-expired term for the remainder of the term. The majority of the total number of appointed members shall constitute a quorum, and decisions may be made only with the affirmative vote of a majority of those members present and voting. The Commission shall select a Chairperson and Vice Chairperson from among its members. The Planning and Zoning Commission shall have the following powers and duties:

- A. Review all current and proposed ordinances and amendments pertaining to planning and zoning and make recommendations to the City Council for action;
- B. Develop and recommend to the council the adoption and implementation of a comprehensive plan for the development of land within the city.
- C. Review and make recommendations to the council on all amendments to the comprehensive plan or elements or portions thereof.
- D. Review and make recommendations to the council on platting and subdividing of land within the corporate limits and the extraterritorial jurisdiction of the city to ensure the consistency of any such plats or subdivision with the adopted comprehensive plan or element or portion thereof.
- E. Monitor and oversee the effectiveness and status of the comprehensive plan and recommend annually to the council any changes in or amendments to the comprehensive plan as may be desired or required.
- F. The Commission shall recommend to the City Council for adoption a zoning plan, and recommend or disapprove proposed changes in such plan subject to the provisions of any existing ordinance covering zoning.
- G. The Planning and Zoning Commission shall perform such other duties as the City Council shall prescribe that relate to land development and community planning.

Section 9.02 Board of Adjustment

The City Council shall appoint a Board of Adjustment of the City of Windcrest comprised of five (5) regular members and ~~four~~ (4) alternate members, all of whom shall be citizens of the City of Windcrest, for two (2) year staggered terms. Such appointees may serve with compensation, as determined by the City Council. The City Council shall fill a vacancy on the board for an unexpired term. The Board shall select a Chairperson and Vice Chairperson from among its members.

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Section 9.03 Other Boards and Commissions

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

PROPOSED as of 06.27.2022

ARTICLE X - GENERAL

Section 10.01 General legal considerations

- 10.01.1** *Property not subject to garnishment or execution.* No property owned or held by the City shall be subject to garnishment or execution of any kind or nature except as provided by state law.
- 10.01.2** *Municipal acquisition of property.* The City shall have the power to acquire property within or without its boundaries, subject to limitations within this Charter or State Law, for any public purpose, by purchase, gift, devise or lease.
- 10.01.3** *Indemnification of officers, employees and officials.* The City Council shall, by appropriate ordinance, provide for the indemnification and legal defense of the officers and employees of the City, including the City Council, Boards, Commissions, Committees, and volunteers approved by the Mayor (or City Manager) against any cost, loss, or expense, including court costs and attorney's fees, to the extent allowed by state law, arising out of any action based upon alleged negligent act or acts of such person during the discharge of that persons duties, committed within the scope of such person's services. Indemnification under this Article shall not be provided for knowing, willful, or intentional violations of any statute or ordinance.
- 10.01.4** *Bond or security not required.* It shall not be necessary in any action, suit or proceeding in which the City is a party, for any bond or other security to be executed on behalf of the City. Any action will proceed as if such bond or security had been given. The absence of such bond or security shall not negate the liability of the City established in such proceedings, and in any finding against the City, it shall be liable as if such security had been given.
- 10.01.5** *Construction of the Charter.* The 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 Windcrest 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 XI, Section 5 of the Constitution of Texas, which it would be competent for the people of the City of Windcrest to expressly grant to the City, shall be construed to be granted to the City by this Charter.
- 10.01.6** *Severability.* If any chapter, article, section, paragraph, sentence, clause or phrase of this Charter shall be held unconstitutional or invalid for any reason by a court of competent jurisdiction, such holding shall not affect the remainder of the Charter nor the context in which such provision so held invalid may appear.
- 10.01.7** *Judicial notice.* This Charter shall be deemed a public act, may be read in evidence without pleading or proof, and judicial notice shall be taken thereof in all courts and places provided that the City Secretary certifies the most current City Charter with any amendments.
- 10.01.8** *Service of process against the City.* All legal process against the City shall be served upon the City Manager.

Section 10.02 Claims Against The City

- 10.02.1** *Notice Of Claim.* No action may be filed in any court of competent jurisdiction seeking damages for personal injury or property loss or damage based upon the alleged liability of the City of Windcrest unless and until notice of such alleged loss or damage claimed is first provided to the City Secretary. Such claim must be filed within 180 calendar days of the alleged occurrence of loss or damage. Such notice shall be in writing and shall provide a statement of alleged facts, the date and location of the alleged facts asserted as a basis for the alleged liability, the nature and extent of any and all damages or injury asserted by the claimant, the basis of the alleged liability of the City, and shall demand compensation in a specific dollar amount.
- 10.02.2** *Thirty (30) Day Waiting Period.* No action may be filed in a court of competent jurisdiction prior to the expiration of thirty (30) calendar days from the date notice of the claim was provided. During this thirty (30) calendar day period, the City may deny the claim, ask for additional information, or make an offer of settlement on the claim. Offers of settlement may not be made without the concurring opinion of the City Attorney that the facts establish the liability of the City, and that the amount of the offer is supported by the evidence available. Negotiations and discussions toward settlement of the claim may continue beyond the thirty (30) calendar day period.
- 10.02.3** *Non Waiver of rights.* Nothing contained in this Article shall be construed to mean that the City of Windcrest waives any rights, privileges, defenses, or immunities in tort actions which are provided in common law, the Constitution, and/or the general laws of the State of Texas.
- 10.02.4** *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 after consulting with the City Attorney.

Section 10.3 Ethics, Standards Of Conduct, and Conflicts Of Interest

The City Council shall develop and adopt a City Code of Ethics within one (1) year of approval of this Charter.

- 10.3.1** *Conduct of administrators and elected officials.* The conduct of City administration will comply with all State Laws and restrictions in this Charter. The conduct of elected and appointed officials must be of the highest moral and ethical standards.
- 10.3.2** *Financial interests to comply with Texas law.* The Mayor, the City Council, and all City officials, elected or appointed, shall comply with the rules and regulations regarding personal financial interests as set out in State law.
- 10.3.3** *Anti-Discrimination laws apply.* There shall be no discrimination in the administration of the City's business based on race, religion, national origin, sex, age, or political affiliation by any elected or appointed official or City employee except to the extent exceptions are expressly authorized by state or federal law.
- 10.3.4** *Annual review of Code of Ethics.* The City Council will annually review and amend the Code of Ethics as needed.

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Section 10.04 Transitional Provisions

- 10.04.1** *Validation of Ordinances.* All ordinances, resolutions, rules, contracts, and regulations of the City heretofore ordained, passed, adopted, or enacted, that are in force at the time this Charter becomes effective, and which are not in conflict with such Charter, shall remain in full force until altered, amended, or repealed by the City Council after such Charter takes effect.
- 10.04.2** *City Elections.* The Mayor and Council Members shall be elected for a term of two years according to the election cycle currently established. The Mayor's term of office shall be for a period of two (2) years. The five (5) City Council members shall have a term of two (2) years each. At an election held on a uniform election date the Mayor and Council Members shall be elected for a term of two years according to the election cycle currently established (i.e. November of even numbered years the Council Members for Places 1, 2, and 3 shall be elected. In November of odd numbered years the Office of Mayor and Council Members for Places 4 and 5 shall be elected). Such designated terms do not prohibit special elections due to resignation, forfeiture of office, death or other vacancy requiring a special election under state law.
- 10.04.3** *Existing Officials And Employees Retain Position.* Nothing in this Charter except as specifically provided herein, shall affect or impair the rights and privileges of persons who are City officers or employees at the time of its adoption. All persons holding elected offices that are retained under this Charter will continue to fill those offices for the terms to which they were elected.
- 10.04.4** *Existing City Business Continue.* All rights, claims, actions, orders, contracts, franchises, and legal or administrative proceedings in existence at the time of the adoption of this Charter shall continue until completion. All renewals or new rights arising after the adoption of the Charter shall be conducted pursuant to the Charter.

ARTICLE XI - CHARTER AMENDMENTS

Section 11.01 Amendment of This Charter

Amendments to this Charter shall be framed, proposed, and adopted in the manner provided by Texas Local Government Code as now or hereafter amended. Nothing in this section prohibits the City Council from forming a Charter Review Committee at any time or from submitting any amendments to the Charter to election on its own initiative at any time in compliance with state law.

Section 11.02 Rearrangement and Renumbering Of Charter Provisions

In order to preserve coherence, the City Council shall have the power, by ordinance, to renumber and rearrange all articles, sections, and paragraphs of the Charter, or any amendments thereto, or to correct minor grammatical or spelling errors, and upon the passage of any such ordinance, a copy thereof, certified by the City Manager, shall be forwarded to the Secretary of State for filing.

Section 11.03 Periodic Charter Review

The City Council shall appoint, not later than every fifth year subsequent to the official adoption of its initial Home Rule Charter, a Charter Review Commission of seven (7) citizens of the City of Windcrest.

A. Duties of the Commission:

1. Inquire into the operation of the city government under the Charter provisions and determine whether any such provisions require revision. The commission shall have access to all City records in the course of its review; will hold periodic public meetings; may hold public hearings; and shall have the power to compel the attendance of any officer or employee of the City at such hearings.
2. If it deems appropriate, develop amendments to this Charter to improve the effective application of the Charter to current conditions.
3. Report its findings in writing, and present its proposed amendments, if any, to the City Council.

B. Term of Commission: The term of this Charter Review Commission shall be six (6) months, or ~~less~~ if a report is presented to the City Council prior to expiration of said term. Such term begins from the date the first meeting of the Commission is held. If at the end of the six (6) months term, no report is presented to the City Council, all records of the proceedings of such Commission shall be filed with the City Secretary as a part of the public record, and the periodic review required under this section shall be deemed fulfilled.

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C. Action by the City Council: The City Council shall receive and have published in the designated official publication of the City, as required by state law, a summary of the report presented by the Charter Review Commission; shall consider any recommendations made, and if Charter amendments are proposed, may order such amendment or amendments be submitted to the voters of the City as provided by the laws of the State of Texas.

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