



**NOTICE OF MEETING  
OF THE  
GOVERNING BODY OF  
COPPERAS COVE, TEXAS**

*An agenda information packet is available for public inspection  
in the Copperas Cove Public Library, City Hall and  
on the City's Web Page, [www.ci.copperas-cove.tx.us](http://www.ci.copperas-cove.tx.us)*

Notice is hereby given that a **Regular Council Meeting** of the City of Copperas Cove, Texas, will be held on the **19th day of February 2008 at 7:00 p.m.** in the City Hall Council Chambers at 507 South Main Street, Copperas Cove, Texas 76522, at which time the following subjects will be discussed:

**A. CALL TO ORDER**

**B. INVOCATION AND PLEDGE OF ALLEGIANCE**

**C. ROLL CALL**

**D. ANNOUNCEMENTS**

**E. PUBLIC RECOGNITION**

1. Employee Service Awards. **Andrea M. Gardner, City Manager**

January 2008 Recipients:

Jennifer Henry	Court Clerk	5 years
Michael Eric Watson	Fire Lieutenant	5 years
Michael Holt	Fire Captain	5 years
Dan Woolard	Parks & Recreation Laborer	10 years

February 2008 Recipients:

Patrick Bray	Wastewater Lab Technician	10 years
John Oster	Police Corporal	10 years
Kathy Weber	Administrative Assistant, Building & Development Dept.	25 years

2. Proclamation: Vet Center Day, February 22, 2008. **Roger P. O'Dwyer, Mayor**

3. Proclamation: Severe Weather Awareness Week in Texas, February 24 – March 1, 2008. **Roger P. O'Dwyer, Mayor**

**F. CITIZENS FORUM** At this time, citizens will be allowed to speak on any matter other than personnel matters, matters under litigation, or matters on the regular agenda, for a length of time not to exceed five minutes per person. Thirty minutes total has been allotted for this section.

**G. CONSENT AGENDA** All matters listed under this item are considered to be routine by the City Council and will be enacted by one motion. There will not be separate discussion of these items. If discussion is desired, that item will be removed from the consent agenda and will be considered separately.

1. Consideration and approval of minutes from the February 5, 2008 regular council meeting. **Jane Lees, CMC, City Secretary**
2. Consideration and action on authorizing the release of funds in the amount of \$27,500 from the Hotel Occupancy Tax Fund to the Copperas Cove Chamber of Commerce to satisfy the quarterly installment due for period ending December 31, 2007. **Wanda Bunting, Director of Financial Services**
3. Consideration and action by City Council to make a revision to the bylaws for the Keep Copperas Cove Beautiful Commission. **Silvia Rhoads, Executive Director, Keep Copperas Cove Beautiful**

**H. PUBLIC HEARINGS/ACTION**

1. Public hearing, consideration and action on Ordinance No. 2008-05, abandoning a portion of North 5th Street that reaches from south of Avenue A to the north boundary of an alley way that extends from North 3rd Street westward to North 7th Street, providing a savings clause; and declaring an effective date. **Scott Wallace, Interim City Planner**
2. Public hearing, consideration and action on Ordinance No. 2008-06, providing a zoning change for a tract of land, locally known as 808 Leonhard, that is located directly behind Auto Zone and across Leonhard Street from Ben's Service Center, consisting of 0.586 acre, from R-1 Single Family Residential District to B-5 Business District, providing a savings clause; and declaring an effective date. **Scott Wallace, Interim City Planner**
3. Public hearing concerning a request for voluntary annexation of an 11.01 acre tract of land known as Big Divide Road. **Scott Wallace, Interim City Planner**

## I. ACTION ITEMS

1. Consideration and action on the reappointment of three members of the Library Advisory Board for the period March 1, 2008 – February 28, 2011. ***Peg Fleet, Library Director***
2. Consideration and action on Ordinance No. 2008-07, amending the City of Copperas Cove's Code of Ordinances, Chapter 19, Vehicles For Hire, Article III, Wrecker Service, Section 19-66, Maximum Fees - Generally; providing a savings clause and declaring an effective date. ***Mike Heintzelman, Deputy Police Chief***
3. Consideration and action on approving Amendment No. 1 to the Publicity and Tourism Agreement between the City of Copperas Cove and the Copperas Cove Chamber of Commerce, changing the payment amount from \$80,000 to \$110,000. ***Wanda Bunting, Director of Financial Services***
4. Consideration and action on the appointment of a City Staff member to the Central Texas Council of Government's Solid Waste Advisory Committee. ***Wanda Bunting, Director of Financial Services***
5. Consideration and action on Resolution No. 2008-02, ordering a general election to be held May 10, 2008 and, if necessary, a runoff election to be held on June 7, 2008; establishing a polling location; naming the presiding judge and alternate; and establishing procedures for said elections. ***Jane Lees, City Secretary***
6. Consideration and action on Ordinance No. 2008-01, ordering a special election to be held May 10, 2008, in conjunction with the general election, for the purpose of proposing amendments to the Charter of the City of Copperas Cove to the qualified voters of the City. ***Jane Lees, City Secretary***
7. Consideration and action on Resolution No. 2008-05, determining the current rates of the Atmos Energy Corporation, Mid-Tex Division to be unjust and unreasonable; providing for a reasonable notice and hearing; finding that the meeting complied with the open meetings act; and declaring an effective date. ***Andrea M. Gardner, City Manager***
8. Consideration and action on Resolution No. 2008-06, approving a Settlement Agreement between Atmos Energy Corporation, Mid-Tex Division and Atmos Texas Municipalities; declaring existing rates to be unreasonable; adopting rate adjustments consistent with the settlement agreement; finding the rates to be set by the attached tariffs to be just and reasonable; finding that the meeting complied with the open meetings act; declaring an effective date; and requiring delivery of this resolution to the company and legal counsel. ***Andrea M. Gardner, City Manager***

**J. STAFF REPORTS**

1. Boys & Girls Club of Copperas Cove year end report for FY 2006-07.  
***Francie Charles, Boys & Girls Club of Copperas Cove***
2. Presentation of the Racial Profiling Report. ***Tim Molnes, Police Chief***

**K. REPORTS OF ADVISORY COMMITTEES AND BOARDS – None.**

**L. ITEMS FOR FUTURE AGENDAS**

**M. EXECUTIVE SESSION**

1. Pursuant to §551.074 of the Open Meetings Act. *Tex. Gov't Code*, Council will meet in Executive Session to discuss the duties and responsibilities of the Mayor—Presentation of an investigative report regarding allegations that the Mayor interfered with administration of the City. ***James R. Thompson, City Attorney***

**N. RECONVENE INTO OPEN SESSION FOR POSSIBLE ACTION RESULTING FROM ANY ITEMS POSTED AND LEGALLY DISCUSSED IN EXECUTIVE SESSION**

**O. ADJOURNMENT**

The City Council reserves the right to adjourn into Executive Session at any time regarding any issue on this agenda for which it is legally permissible.

City Hall is wheelchair accessible and accessible parking spaces are available. Requests for accommodations or interpretive services must be made 48 hours prior to the meeting. Please contact the City Secretary at (254) 547-4221, (254) 547-6063 TTY, or FAX (254) 547-5116 for information or assistance.

I, the undersigned authority, do hereby certify that the above Notice of Meeting of the Governing Body of the City of Copperas Cove was posted on or before 5:30 p.m., February 15, 2008 on the glass front door of City Hall, a place convenient and readily accessible to the general public at all times.

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Jane Lees, City Secretary



**NOTICE OF WORKSHOP  
OF THE  
GOVERNING BODY OF  
COPPERAS COVE, TEXAS**

*An agenda information packet is available for  
public inspection in the Copperas Cove Public Library, City Hall and on the  
City's Web Page [www.ci.copperas-cove.tx.us](http://www.ci.copperas-cove.tx.us)*

Notice is hereby given that a **Workshop** of the City of Copperas Cove, Texas will be held on the **19th day of February 2008**, at **6:00 p.m.**, in the City Hall Council Chambers at 507 South Main Street, Copperas Cove, Texas 76522 at which time the following subjects will be discussed:

**A. CALL TO ORDER**

**B. ROLL CALL**

**C. WORKSHOP ITEMS**

1. Presentation and discussion on the Drainage Criteria Manual. **Otto Wiederhold, Contract City Engineer**

**D. ADJOURNMENT**

City Hall is wheelchair accessible and accessible parking spaces are available. Requests for accommodations or interpretive services must be made 48 hours prior to the meeting. Please contact the City Secretary at (254) 547-4221, (254) 547-6063 TTY, or FAX (254) 547-5116 for information or assistance.

I, the undersigned authority, do hereby certify that the above Notice of Meeting of the Governing Body of the City of Copperas Cove was posted on or before 5:00 p.m., February 15, 2008 on the glass front door of City Hall, a place convenient and readily accessible to the general public at all times.

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Jane Lees, CMC, City Secretary



## PROCLAMATION

**WHEREAS,** The Vet Center Program was established by Congress in recognition of the significant number of Vietnam era vets that were experiencing readjustment problems. Throughout the years Congress has extended the eligibility to include all veterans and their family members who have served during periods of armed hostilities and operations; and

**WHEREAS,** Vet Centers provide individual counseling, group counseling, marital and family counseling, bereavement counseling, various referral and outreach programs, and community education; and

**WHEREAS,** The City Council of Copperas Cove joins me in sending best wishes to the Killeen Heights Vet Center in serving the heroes of our community.

**NOW THEREFORE, LET IT BE PROCLAIMED,** that February 22, 2008 be declared as

### *“Vet Center Day”*

in the City of Copperas Cove and ask all citizens to join us in honoring our veterans.

**IN WITNESS WHEREOF,** I have hereunto set my hand and caused the seal of the City of Copperas Cove, Texas, to be affixed this 19th day of February 2008.

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Roger P. O’Dwyer, Mayor

ATTEST:

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Jane Lees, City Secretary



## PROCLAMATION

- WHEREAS,** Severe Weather Awareness Week is February 24 – March 1, 2008; and
- WHEREAS,** Each year brings the potential for violent weather to Texas; and
- WHEREAS,** Large portions of our state, including the City of Copperas Cove, can be devastated by flooding, tornadoes, windstorms and other emergencies; and
- WHEREAS,** The Governor’s Division of Emergency Management and the National Weather Service have joined together in urging all citizens to prepare for severe weather events and to educate themselves on safety strategies; and
- WHEREAS,** Governor Rick Perry has declared the week of February 24 – March 1, 2008, as Severe Weather Awareness Week in Texas.

**NOW, THEREFORE, I,** Roger P. O’Dwyer, Mayor of the City of Copperas Cove, Texas, do hereby proclaim that February 24 – March 1, 2008 shall be observed as:

### ***“Severe Weather Awareness Week”***

in the City of Copperas Cove, Texas, and encourage all citizens of our community to learn more about severe weather preparedness and the impact that severe weather can have on communities.

**IN WITNESS WHEREOF,** I have hereunto set my hand and caused the seal of the City of Copperas Cove to be affixed this 19th day of February 2008.

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Roger P. O’Dwyer, Mayor

Attest:

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Jane Lees, City Secretary

**CITY OF COPPERAS COVE  
CITY COUNCIL REGULAR MEETING MINUTES  
FEBRUARY 5, 2008 – 7:00 P.M.**

**A. CALL TO ORDER**

Mayor Roger P. O'Dwyer called the regular meeting of the City Council of the City of Copperas Cove Texas to order at 7:00 p.m.

**B. INVOCATION AND PLEDGE OF ALLEGIANCE**

Council Member Somera gave the Invocation, and led the Pledge of Allegiance.

**C. ROLL CALL**

**ALSO PRESENT**

Roger P. O'Dwyer  
Bob Reeves  
Larry D. Sheppard  
Mark E. Peterson  
Charlotte Heinze  
Ray Don Clayton  
Fred Harris  
Frank D. Somera, Jr.

Andrea Gardner, City Manager  
James R. Thompson, City Attorney  
Jane Lees, City Secretary

**D. ANNOUNCEMENTS**

**E. PUBLIC RECOGNITION**

**F. CITIZENS' FORUM** citizens are allowed to speak on any matter other than personnel matters, matters under litigation, or matters on the regular agenda, for a length of time not to exceed five minutes per person. Thirty minutes total has been allotted for this section.

None.

**G. CONSENT ITEMS**

1. Consideration and action on approval of minutes from January 15, 2008 regular council meeting. **Jane Lees, CMC, City Secretary**

2. Consideration and action on authorizing the City Manager to execute an agreement with the Cove Saddle Club for use of the property located in front of the City of Copperas Cove Landfill for providing entertainment and recreational activities to the public. **Ken Wilson, Director of Community Services**

3. Consideration and action on authorizing the release of funds in the amount of \$200 from the Hotel Occupancy Tax Fund to the Boys and Girls Club of Copperas Cove. **Wanda Bunting, Director of Financial Services**

4. Consideration and action on Resolution No. 2008-04, accepting the quarterly investment report as presented for the quarter ending December 2007, per the Investment Policy. **Wanda Bunting, Director of Financial Services**

5. Consideration and action on authorizing and supporting the submission of a Notice of Intent and Storm Water Management Program to the Texas Commission on Environmental Quality and authorizing the City Manager to submit the application and to act on behalf of the City in matters related to the application. **Andrea M. Gardner, City Manager**

Council Member Peterson made a motion to approve Agenda Items G-1, G-2, G-3, G-4 and G-5. Council Member Somera seconded the motion, and with a unanimous vote, motion carried.

The Resolution caption is as follows:

#### RESOLUTION NO. 2008-04

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COPPERAS COVE, TEXAS, ACCEPTING THE QUARTERLY INVESTMENT REPORT AS PRESENTED FOR THE QUARTER ENDING DECEMBER 2007, PER THE INVESTMENT POLICY.**

**H. PUBLIC HEARINGS/ACTION – None.**

**I. ACTION ITEMS**

1. Consideration and action on approval of a Water Purchase Contract with Central Texas College. **Robert M. McKinnon, Public Works Director**

Robert M. McKinnon, Public Works Director, gave an overview of Agenda Item I-1.

Council Member Clayton made a motion to approve Agenda Item I-1. Council Member Somera seconded the motion, and with a unanimous vote, motion carried.

2. Consideration and action on Ordinance No. 2008-03, amending the City of Copperas Cove Zoning Ordinance, Section 20-25, Fences; providing a savings clause; and declaring an effective date. **Scott Wallace, Interim City Planner**

Scott Wallace, Interim City Planner, gave an overview of Agenda Item I-2.

Council Member Heinze made a motion to approve Agenda Item I-2. Council Member Reeves seconded the motion, and with a unanimous vote, motion carried.

3. Consideration and action on Ordinance No. 2008-04, amending the City of Copperas Cove's Code of Ordinances, Chapter 3, Animals and Fowl. **Mike Heintzelman, Deputy Chief of Police**

Mike Heintzelman, Deputy Chief of Police, gave an overview of Agenda Item I-3.

Council Member Heinze made a motion to approve Agenda Item I-3. Council Member Harris seconded the motion, and with a unanimous vote, motion carried.

4. Consideration and action on Ordinance No. 2008-02, creating an ordinance setting out specific routes for through truck traffic; providing a penalty for violation, saving clause, and declaring an effective date. **James R. Thompson, City Attorney**

James R. Thompson, City Attorney, gave an overview of Agenda Item I-4. Richard L. Brown, Texas Department of Transportation Area Engineer, stated that many cities are passing ordinances such as this and that the State will accept it. He said that the State understands that local streets are not designed to carry heavy truck traffic, however, State roads are better able to do so.

Council Member Heinze made a motion to approve Agenda Item I-4, with an effective date of April 15, 2008. Council Member Reeves seconded the motion, and with a unanimous vote, motion carried.

5. Consideration and action on authorizing the Mayor to issue a drilling permit on the application of Central Basin Oil Investments, Inc. and Halek Energy LLC for Atkinson Well #2 to drill for oil and gas within the corporate limits of the City of Copperas Cove. **James R. Thompson, City Attorney**

James R. Thompson, City Attorney, gave an overview of Agenda Item I-5.

Council Member Somera made a motion to approve Agenda Item I-5. Council Member Reeves seconded the motion, and with a unanimous vote, motion carried.

6. Consideration and action on Resolution No. 2008-03, opposing the special relief and show cause filed with the Federal Communications commission by Time Warner Entertainment-Advance Newhouse Partnership; authorizing the City Manager to execute an agreement with Local Government Services to prepare and file opposition to Time Warner's petition. **Andrea M. Gardner, City Manager**

Andrea M. Gardner, City Manager, gave an overview of Agenda Item I-6.

Council Member Clayton made a motion to approve Agenda Item I-6. Council Member Somera seconded the motion, and with a unanimous vote, motion carried.

7. Consideration and action on appointment of a Council Member to the Records Management Committee. **Jane Lees, City Secretary**

Jane Lees, City Secretary, gave an overview of Agenda Item I-7.

Mayor O'Dwyer nominated Council Member Peterson. Council Member Heinze made a motion to approve the nomination of Council Member Peterson. Council Member Clayton seconded the motion, and with a unanimous vote, motion carried.

8. Consideration and action on rescheduling the date of the March 4, 2008 regular City Council meeting to March 6, 2008. **Jane Lees, City Secretary**

Jane Lees, City Secretary, gave an overview of Agenda Item I-8.

Council Member Harris made a motion to approve re-schedule the March 4, 2008 Council meeting to March 11, 2008. Council Member Somera seconded the motion, and with a unanimous vote, motion carried.

9. Consideration and action on rescheduling the date of the March 18, 2008 regular City Council meeting to March 13, 2008 or March 25, 2008. **Jane Lees, City Secretary**

Jane Lees, City Secretary, gave an overview of Agenda Item I-9.

Council Member Heinze made a motion to re-schedule the March 18, 2008 Council meeting to March 25, 2008. Council Member Harris seconded the motion, and with a unanimous vote, motion carried.

10. Consideration and action on rejecting all proposals received for Request for Proposal No. 2008-01-42; Construction Manager at Risk Services for a New Police Facility. **Tim Molnes, Police Chief**

Tim Molnes, Police Chief, gave an overview of Agenda Item I-10.

Council Member Somera made a motion to approve Agenda Item I-10. Council Member Heinze seconded the motion, and with a unanimous vote, motion carried.

## **J. STAFF REPORTS**

1. Chamber of Commerce 4<sup>th</sup> quarter report for 2007. **Marty Smith, President, Copperas Cove Chamber of Commerce**

Marty Smith, President of the Copperas Cove Chamber of Commerce, gave the Chamber of Commerce 4<sup>th</sup> quarter report for 2007.

2. Financial Report for the month ended October 31, 2007. **Wanda Bunting, Director of Financial Services**

Wanda Bunting, Director of Financial Services, gave the financial report for the month ended October 31, 2007.

3. Financial Report for the month ended November 30, 2007. **Wanda Bunting, Director of Financial Services**

Wanda Bunting, Director of Financial Services, gave the financial report for the month ended November 30, 2007.

4. Financial Report for the month ended December 30, 2007. **Wanda Bunting, Director of Financial Services**

Wanda Bunting, Director of Financial Services, gave the financial report for the month ended December 30, 2007.

5. Annual investment report for the fiscal year ending September 30, 2007, per the Investment Policy. **Wanda Bunting, Director of Financial Services**

Wanda Bunting, Director of Financial Services, gave the annual investment report for the fiscal year ending September 30, 2007, per the Investment Policy.

**K. REPORTS OF ADVISORY COMMITTEES AND BOARDS – None.**

**L. ITEMS FOR FUTURE AGENDAS**

Council Member Harris requested an Executive Session to discuss the proposed Recreation Center. Andrea Gardner, City Manager, stated that a discussion on the proposed Recreation Center should probably be discussed at the upcoming Council Retreat.

Jane Lees, City Secretary, stated that the Order of Election Resolution, which would come before the Council at the February 19, 2008 meeting, will look different than in past years because it will state that the City, along with CCISD, will contract with Coryell County to administer a joint election on May 10, 2008.

**M. EXECUTIVE SESSION**

1. Pursuant to §551.087 of the Open Meetings Act. *Tex. Gov't Code*, Council will meet in Executive Session for deliberations regarding Economic Development Negotiations to deliberate the offer of a financial or other incentive to a business prospect.

2. Pursuant to §551.072 of the Open Meetings Act. *Tex. Gov't Code*, Council will meet in Executive Session for deliberations regarding the purchase of real property for the possible re-location of Fire Station #2.

The Council adjourned to Executive Session at 8:17 p.m.

**N. RECONVENE INTO OPEN SESSION FOR POSSIBLE ACTION RESULTING FROM ANY ITEMS POSTED AND LEGALLY DISCUSSED IN EXECUTIVE SESSION**

The Council reconvened the open meeting at 9:09 p.m. Mayor O'Dwyer stated that there was no action to be taken on the discussion from Executive Session.

**O. ADJOURNMENT**

There being no further business, Mayor O'Dwyer adjourned the meeting at 9:09 p.m.

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Roger P. O'Dwyer, Mayor

ATTEST:

\_\_\_\_\_  
Jane Lees, City Secretary

# City of Copperas Cove City Council Agenda Item Report

February 19, 2008

## Agenda Item No. G-2

Contact – Wanda Bunting, Director of Financial Services, 547-4221  
wbunting@ci.copperas-cove.tx.us

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**SUBJECT: Consideration and action on authorizing the release of funds in the amount of \$27,500 from the Hotel Occupancy Tax Fund to the Copperas Cove Chamber of Commerce to satisfy the quarterly installment due for period ending December 31, 2007.**

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### 1. BACKGROUND/HISTORY

On November 9, 2006, the City Council approved the Publicity and Tourism Agreement between the City of Copperas Cove and the Copperas Cove Chamber of Commerce. The said agreement requires payments to be made in quarterly installments at the end of each fiscal quarter. An amendment to this agreement is included as an action item on the February 19, 2008 City Council agenda. The amendment increases the amount of the agreement based on the adopted 2007-08 annual budget.

### 2. FINDINGS/CURRENT ACTIVITY

On February 5, 2008 the Chamber of Commerce complied with the Publicity and Tourism Agreement with the presentation of a quarterly tourism financial report accompanied by performance measurement reporting. To date contract requirements have been met.

### 3. FINANCIAL IMPACT

Total expenditures of \$110,000 were approved in FY 2007-08 Budget through the Hotel Occupancy Tax Fund to satisfy the quarterly installments in the amount of \$27,500.

### 4. ACTION OPTIONS/RECOMMENDATION

City Staff recommends that City Council authorize the release of funds in the amount of \$27,500 from the Hotel Occupancy Tax Fund to the Copperas Cove Chamber of Commerce to satisfy the quarterly installment due for period ending December 31, 2007.

# City of Copperas Cove City Council Agenda Item Report

February 19, 2008

## Agenda Item No. G-3

Contact – Silvia Rhoads, Executive Director, 547-4242  
srhoads@ci.copperas-cove.tx.us

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**SUBJECT: Consideration and Action by City Council to make a revision to the bylaws for the Keep Copperas Cove Beautiful Commission.**

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### 1. Background/History

In February 2003, a bylaw committee was established by The Keep Copperas Cove Beautiful Commission. The sole purpose of the committee was to establish a set of bylaws for the KCCB Commission.

On February 4, 2008, during a KCCB Commission Regular Board Meeting, the Commission approved the following change to Article III: Eligibility (paragraph one) of KCCB Commission Bylaws:

#### Current Bylaw

“No Commissioner shall serve three (3) successive terms, provided however, that a Commissioner appointed to complete the term of another Commissioner shall, at the completion of such term, be eligible for appointment for another two (2) full terms;”

#### Proposed Change to Bylaw

“A Commissioner may serve three (3) successive terms, and may serve beyond three (3) terms if continued appointment is approved by the commission and by the City Council.”

### 2. FINDINGS/CURRENT ACTIVITY

The commission is seeking City Council approval to eliminate term limitation for commission members. Elimination of the term limitation provides the commission with the opportunity to retain volunteers that opt to continue serving and volunteering on this commission.

The proposed change to the KCCB Commission Bylaws has been reviewed by the City Attorney, Jim Thompson.

**3. FINANCIAL IMPACT**

None.

**4. RECOMMENDATION**

City Staff recommends that the City Council approve the revision of the Bylaws for the Keep Copperas Cove Beautiful Commission.

**ORDINANCE NO. 2008-05**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COPPERAS COVE, TEXAS, ABANDONING TO THE ABUTTING PROPERTY OWNER THE PUBLIC STREET IDENTIFIED AT THAT PORTION OF NORTH FIFTH STREET SOUTH OF AVENUE A TO THE NORTH BOUNDARY OF AN ALLEY WAY EXTENDING FROM NORTH 3RD STREET WESTWARD TO NORTH 7TH STREET, AND ESTABLISHING AN EFFECTIVE DATE HEREOF.**

**WHEREAS**, the City of Copperas Cove, a municipal corporation under the laws of the State of Texas is the owner of a public street known as north 5th Street; and

**WHEREAS**, pursuant to Section 17-4, Abandonment of Street and Alleys of the Code of City Ordinances, a request has been made to abandon and close the above mentioned street; and

**WHEREAS**, the City of Copperas Cove, Texas, has notified all abutting property owners of the requested street abandonment; and

**WHEREAS**, after due process of public hearings held on February 4, 2008, by the Planning and Zoning Commission and February 19, 2008, by the City Council, the City Staff and the appropriate utility entities have recommended approval of the proposed abandonment.

**NOW THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF COPPERAS COVE, TEXAS:**

That the hereinabove described property be abandoned; subject to the retention of a fifteen (15) foot by one hundred thirty five (135) foot utility easement.

That should any section, clause, or provision of this ordinance be declared by a court of competent jurisdiction to be invalid, the same shall not affect the validity of this ordinance or any other ordinance of the city as a whole or any part thereof, other than the part so declared to be invalid.

This ordinance shall become effective upon passage.

**PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF COPPERAS COVE, TEXAS**, this 19th day of February 2008; such meeting was held in compliance with the Open Meetings Act (Government Code, Article 551.001 et seq), at which meeting a quorum was present and voting.

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Roger P. O'Dwyer, Mayor

ATTEST:

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Jane Lees, City Secretary

APPROVED AS TO FORM:

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James R. Thompson, City Attorney





FIRST BAPTIST  
Copperas Cove

January 10, 2008

DR. MARK KEMP  
Pastor

City of Copperas Cove  
ATTN: Scott Wallace  
507 S Main St  
Copperas Cove TX 76522

JIM BARKER  
Minister of Worship  
and Single Adults

Reference: North 5<sup>th</sup> St

CHRIS WILLIAMS  
Minister of Youth

The First Baptist Church requests abandonment of North 5<sup>th</sup> St. The church owns both sides of the street. The street would be incorporated into the church property. We agree to provide the city a utility easement for the water and/or sewer line(s) that run down the street. We plan to use the area for parking.

JUDY ABELL  
Preschool and Children's  
Ministry Coordinator

Sincerely,



Sharon Subia  
Business Manager

SHARON SUBIA  
Business Manager

# City of Copperas Cove City Council Agenda Item Report

February 19, 2008

## Agenda Item No. H-1

Contact – Scott Wallace, Interim City Planner 547-4221  
swallace@ci.copperas-cove.tx.us

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**SUBJECT: Public hearing, consideration and action on Ordinance No. 2008-05, abandoning a portion of North 5th Street that reaches from south of Avenue A to the north boundary of an alley way that extends from North 3rd Street westward to North 7th Street, providing a savings clause; and declaring an effective date.**

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### 1. Background/History

The First Baptist Church sent a letter on January 10, 2008 requesting abandonment of North 5<sup>th</sup> Street. The portion of right-of-way consists of that part of 5<sup>th</sup> Street between Avenue A and the northern boundary of the alley that extends from North 3rd and North 7th Streets. The portion of 5th Street that extends from this alley south to Avenue B was previously abandoned in April of 1985. This paved platted street is approximately 135 feet in length and is surrounded by church property.

### 2. FINDINGS/CURRENT ACTIVITY

In accordance with the abandonment process set forth in the City Ordinance Section 17-4-C, the adjoining owner did request this abandonment in writing. The City departments and local utility companies have been notified of the possible abandonment. The only comment received was a request for a fifteen (15) foot public utility easement to be dedicated to the City of Copperas Cove for the water and sewer lines that are present. The request was presented to the Planning and Zoning Commission at the February 4, 2008 meeting. The vote was unanimous to recommend approval of this abandonment.

### 3. FINANCIAL IMPACT

No financial impact is anticipated with this ordinance.

### 4. ACTION OPTIONS/RECOMMENDATION

City Staff recommends the City Council hold a public hearing on this item. City Staff and the Planning and Zoning Commission recommend Ordinance 2008-05 be approved.

**ORDINANCE NO. 2008-06**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COPPERAS COVE, TEXAS, CHANGING THE ZONING DESIGNATION FOR A TRACT OF LAND CONSISTING OF 0.586 ACRES (SEE EXHIBIT A), LOCALLY KNOWN AS 808 LEONHARD, FROM R-1 (SINGLE FAMILY RESIDENTIAL DISTRICT TO B-5 (BUSINESS DISTRICT).**

**WHEREAS,** the City of Copperas Cove Zoning Ordinance allows the City Council of the City of Copperas Cove to establish or change the zoning designations of properties within the city limits; and

**WHEREAS,** the Planning and Zoning Commission of the City of Copperas Cove held a public hearing on February 4, 2008 and voted to recommend approval of this zoning change to the City Council of the City of Copperas Cove; and

**WHEREAS,** the City Council of the City of Copperas Cove held the required public hearing concerning this change on February 19, 2008, and approved this change.

**NOW THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF COPPERAS COVE, TEXAS:**

**Section 1**

That the property described as a tract of land consisting of 6.203 acres (see attached Exhibit A), locally known as 808 Leonhard, be given permanent zoning designation of B-5 Business District;

**Section 2**

That should any section, clause, or provision of this ordinance be declared by a court of competent jurisdiction to be invalid, the same shall not affect the validity of this ordinance or any other ordinance of the city as a whole or any part thereof, other than the part so declared to be invalid.

**Section 3**

That this ordinance shall become effective upon passage.

**PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF COPPERAS COVE, TEXAS,** this 19th day of February 2008 at a regular meeting of the City Council of the City of Copperas Cove, Texas, which was held in compliance with the Open Meetings

Act (Texas Government Code, Article 551.001 et seq), at which meeting a quorum was present and voting.

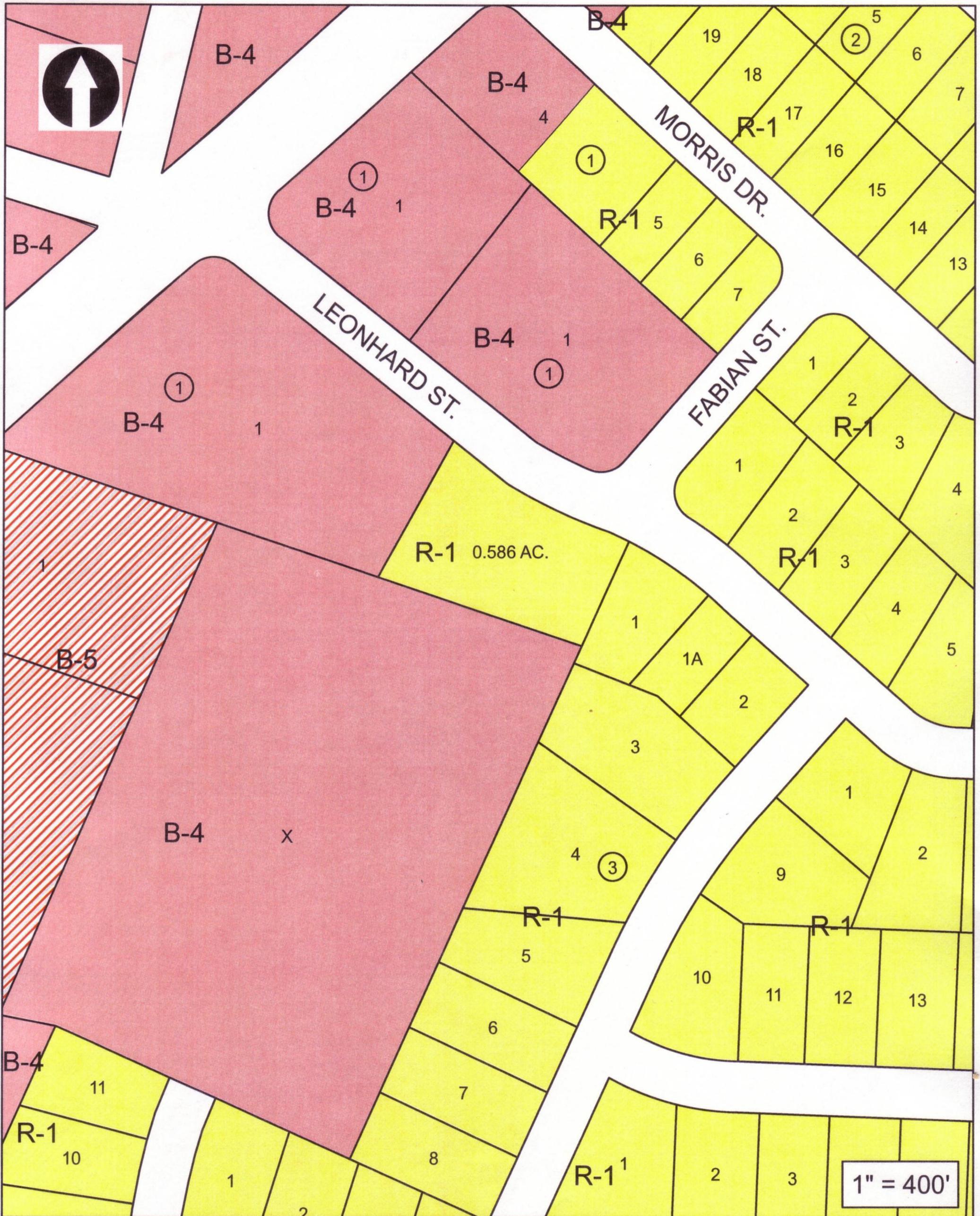
\_\_\_\_\_  
Roger P. O'Dwyer, Mayor

**ATTEST:**

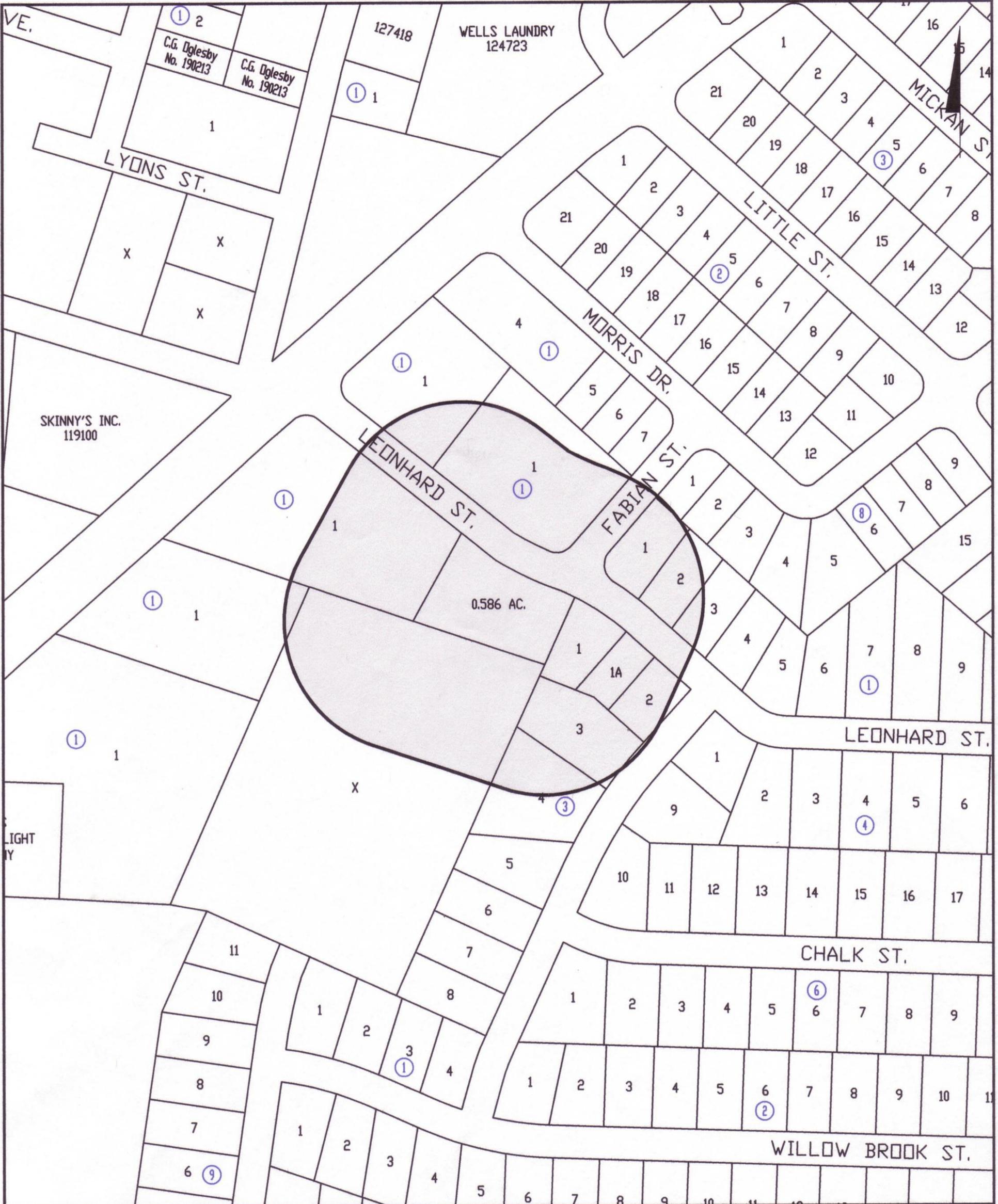
\_\_\_\_\_  
Jane Lees, City Secretary

**APPROVED AS TO FORM:**

\_\_\_\_\_  
James R. Thompson, City Attorney



808 LEONHARD ST. - 0.586 AC. TRACT



# 808 LEONHARD ST.

## 200' ZONING RADIUS

DATE: 11-16-2007  
 REVISION: N/A  
 SCALE: N/A  
 DESIGNED BY: 1st = 200'  
 DRAWING FILE: City of Copperas Cove, TX.  
 SHEET: 800 Leonhard St.pdf  
 1 of 1

CITY OF COPPERAS COVE  
  
 507 SOUTH MAIN STREET  
 COPPERAS COVE, TX. 76522  
 PH: (254) 547-4221  
 FAX: (254) 547-4301

# City of Copperas Cove City Council Agenda Item Report

February 19, 2008

## Agenda Item No. H-2

Contact – Scott Wallace, Interim City Planner 547-4221  
swallace@ci.copperas-cove.tx.us

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**SUBJECT: Public hearing, consideration and action on Ordinance No. 2008-06, providing a zoning change for a tract of land, locally known as 808 Leonhard, that is located directly behind Auto Zone and across Leonhard Street from Ben's Service Center, consisting of 0.586 acre, from R-1 Single Family Residential District to B-5 Business District, providing a savings clause; and declaring an effective date.**

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### 1. Background/History

This zoning change was requested by Francisco and Ofelia Villa who presently own this tract of land locally known as 808 Leonhard. The property is located along the west side of Leonhard Street directly behind Auto Zone and across the street from Ben's Service Center.

The purpose of the request is to rezone the property for sale to allow the new owner to build a welding shop at the location. A map of this area has been attached for review.

### 2. FINDINGS/CURRENT ACTIVITY

This property is currently zoned R-1 in an area that is predominantly B-4 Business on the west, east and north sides. There is a single family residence currently on this lot. This zoning request is somewhat in compliance with the 2007 Future Land Use Plan which shows this area to be retail, but the B-5 zone is too extreme for an area that is directly adjoining an R-1 zone. While redevelopment of this site has the potential for making a positive impact in this area, the proposed B-5 zoning does pose a potential negative impact on this neighborhood related to noise, smoke, rust/dust, light, aesthetics and possible evening/night activities. This property will need to be platted prior to any redevelopment and will require 50 foot set backs and 6 foot screening along the south property line. The Fire Department also expressed some concerns about safety issues with the type of business (welding) in this area. Thirteen letters were mailed out with one response in support of and one in opposition to this request. The Planning and Zoning Commission held a public hearing on February 4, 2008 and voted 4-1 to recommend approval of this request.

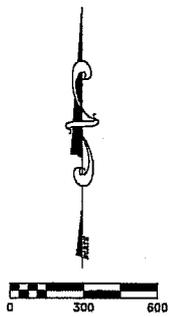
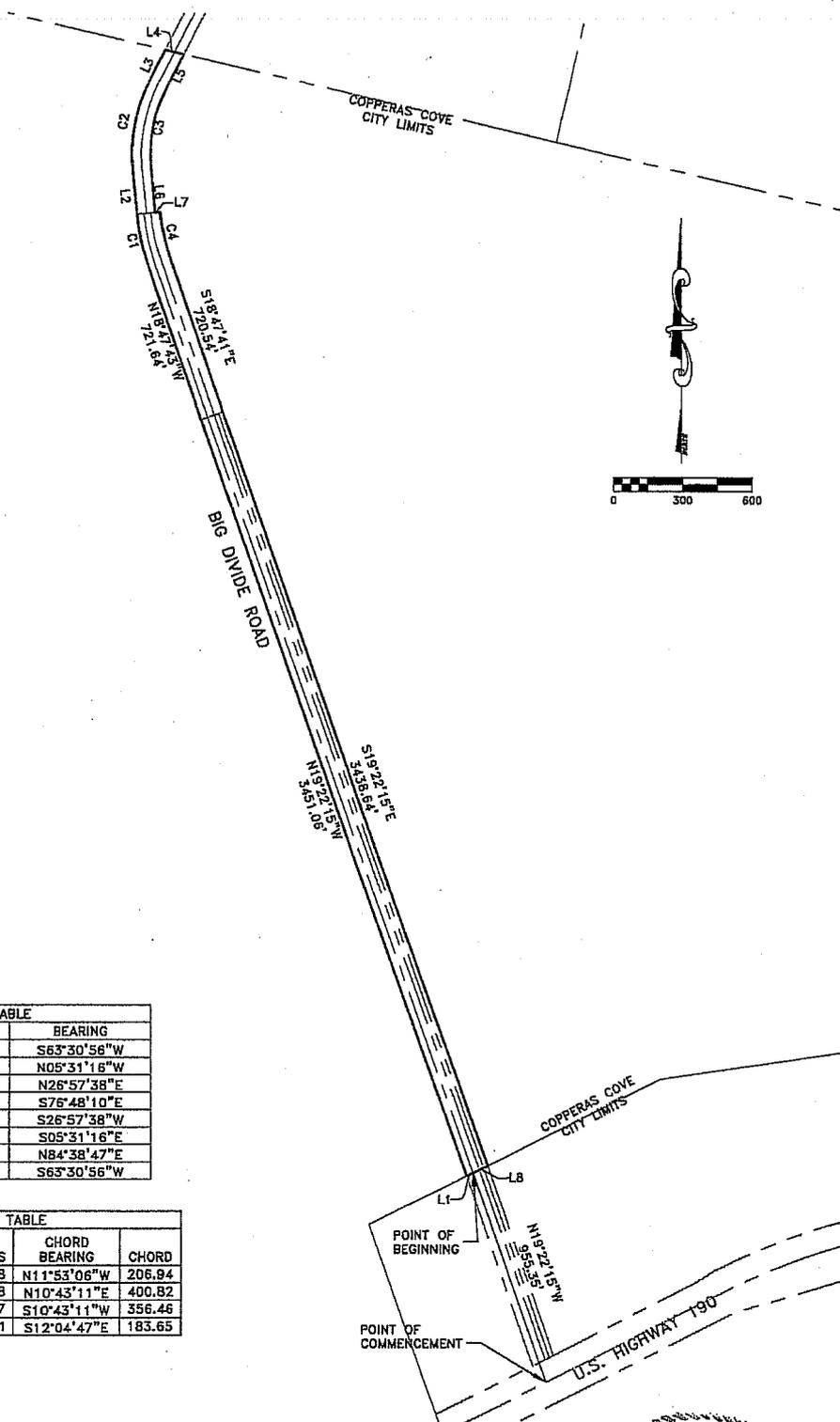
**3. FINANCIAL IMPACT**

No significant impact is expected.

**4. ACTION OPTIONS/RECOMMENDATION**

City Staff recommends the City Council hold a public hearing on this item. While the Planning and Zoning did vote to recommend approval, the City Staff respectfully recommends Ordinance 2008-06 be denied.

# SKETCH TO ACCOMPANY FIELD NOTES

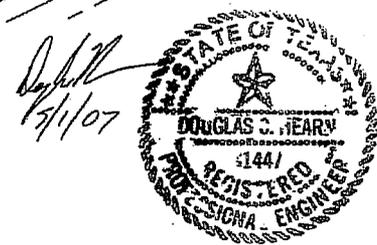


LINE TABLE		
LINE	LENGTH	BEARING
L1	30.23	S63°30'56\"W
L2	185.83	N05°31'16\"W
L3	142.89	N26°57'38\"E
L4	81.65	S76°48'10\"E
L5	162.31	S26°57'38\"W
L6	186.17	S05°31'16\"E
L7	20.00	N84°38'47\"E
L8	70.54	S63°30'56\"W

CURVE TABLE				
CURVE	LENGTH	RADIUS	CHORD BEARING	CHORD
C1	207.46	844.48	N11°53'06\"W	206.84
C2	406.24	716.58	N10°43'11\"E	400.82
C3	361.28	637.27	S10°43'11\"W	356.46
C4	184.06	793.81	S12°04'47\"E	183.65

## LEGEND

- FOUND IRON PIN
- SET IRON PIN
- FENCE POST
- - - FENCE
- ▬ EDGE OF ASPHALT



**FIELD NOTES**

**DESCRIPTION OF A TRACT OF LAND IN LAMPASAS COUNTY HEREIN DESCRIBED AS FOLLOWS:**

**COMMENCING** at the intersection of the center line of U. S. Highway 190 and the center line of Big Divide Road in Lampasas County;

**THENCE** N 19° 22' 15" W, a distance of 955.35 feet along and with the center line of Big Divide Road to a point on the northern City of Copperas Cove city limits line, being described as a tract of land situated in H.T. & B.R.R. Co. Survey No. 9 Block 2 Abstract 386, Lampasas and Coryell Counties, Texas, as filed in Ordinance No. 1997-23 for the **POINT OF BEGINNING**;

**THENCE** S 63° 30' 56" W, a distance of 30.23 feet along and with the northern City of Copperas Cove city limits line, and said tract of land situated in H.T. & B.R.R. Co. Survey No. 9 Block 2 Abstract 386;

**THENCE** along and with the western R.O.W. line of Big Divide Road, the following courses:

N 19° 22' 15" W, 3451.06 feet to a point;

N 18° 47' 43" W, 721.64 feet to a point on a tangent curve to the right;

**THENCE** along and with the western R.O.W. line of Big Divide Road, a distance of 207.46 feet along said curve, having radius of 844.48 feet and a chord bearing and distance of N 11° 53' 06" W, 206.94 feet, to a point;

**THENCE** N 05° 31' 16" W, a distance of 185.93 feet along and with the western R.O.W. line of Big Divide Road to a point on a tangent curve to the right;

**THENCE** along and with the western R.O.W. line of Big Divide Road, a distance of 406.24 feet along said curve, having radius of 716.58 feet and a chord bearing and distance of N 10° 43' 11" E, 400.82 feet, to a point;

**THENCE** N 26° 57' 38" E, a distance of 142.89 feet along and with the western R.O.W. line of Big Divide Road to a point on southern City of Copperas Cove city limits line, as described as Tract 5, 229.12 acres of land in Coryell and Lampasas Counties, out of and part of the J.M. Clements Survey, abstract number 1314, and the L.H. Martin Survey, abstract number 1329 as filed in Ordinance No. 1996-43;

**THENCE** S 76° 48' 10" E, along and with the southern City of Copperas Cove city limits line, and said Tract 5, at a distance of 81.65 feet, to a point;

**THENCE** S 26° 57' 38" W, a distance of 162.31 feet along and with the eastern R.O.W. line of Big Divide Road to a point on a tangent curve to the left;

**THENCE** along and with the eastern R.O.W. line of Big Divide Road, a distance of 361.28 feet along said curve, having radius of 637.27 feet and a chord bearing and distance of S 10° 43' 11" W, 356.46 feet, to a point;

**THENCE** S 05° 31' 16" E, a distance of 186.17 feet along and with the eastern R.O.W. line of Big Divide Road, to a point;

**THENCE** N 84° 38' 47" E, a distance of 20.00 feet to a point on a non- tangent curve to the right;

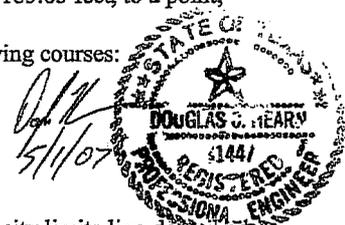
**THENCE** along and with the eastern R.O.W. line of Big Divide Road, a distance of 184.06 feet along said curve, having radius of 793.81 feet and a chord bearing and distance of S 12° 04' 47" E, 183.65 feet, to a point;

**THENCE** along and with the eastern R.O.W. line of Big Divide Road, the following courses:

S 18° 47' 41" E, 720.54 feet to a point;

S 19° 22' 15" E, 3438.64 feet to a point;

**THENCE** S 63° 30' 56" W, along and with the northern City of Copperas Cove city limits line described in Ordinance No. 1997-23, a distance of 70.54 feet to the **POINT OF BEGINNING**, and containing 11.01 acres more or less.



**PETITION REQUESTING ANNEXATION BY LANDOWNER**

TO THE MAYOR OF THE GOVERNING BODY OF COPPERAS COVE, TEXAS:

The undersigned acting for the City as owner of the hereinafter described tract of land, which is vacant and without residents, hereby petitions your honorable Body to extend the present city limits so as to include as part of the City of Copperas Cove, Texas, the following described territory, to wit:

11.01 acre tract of land known as the right of way of Big Divide Road which extends from the city limits just north of Highway 190 and south of Skyline Flats, Phase Two.

I certify that the above described tract of land is contiguous and adjacent to the City of Copperas Cove, Texas, is not more than one-half mile in width, that this petition is signed by the City Manager acting for the City of Copperas Cove as owner of this right-of-way.

*Andrea M. Gardner*

Andrea M. Gardner, City Manager

THE STATE OF TEXAS

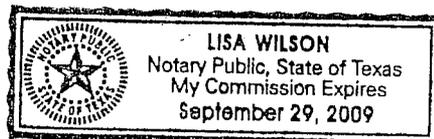
COUNTY OF CORYELL

BEFORE ME, the undersigned authority, on this day, personally appeared Andrea M. Gardner, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that she executed the same for the purpose and consideration therein expressed.

Given under my hand and seal of office, this 17<sup>th</sup> day of Feb., 2008.

*Lisa Wilson*

Notary Public in and for Coryell County,  
Texas



# City of Copperas Cove City Council Agenda Item Report

February 19, 2008

## Agenda Item No. H-3

Contact – Scott Wallace, Interim City Planner 547-4221

swallace@ci.copperas-cove.tx.us

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**SUBJECT: Public hearing concerning a request for voluntary annexation of an 11.01 acre tract of land known as Big Divide Road.**

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### 1. Background/History

The City is requesting voluntary annexation for the strip of Big Divide Road that extends from the city limits line just north of Highway 190 and south of Skyline Flats, Phase Two. The area of land in this petition includes a total of 11.01 acres.

Section 43.028 of the Local Government Code provides for this type of annexation by petition of the property owner (in this case, the City). The process is (1) City Council holds public hearings to hear arguments for or against the annexation; (2) City Council takes action by granting or refusing the petition; and (3) if granted, the City Council may, by ordinance, then annex the property. If the petition is granted, City Staff will submit an ordinance, providing for the annexation of this tract, at an upcoming City Council meeting.

The property consists of the right of way of Big Divide Road. The proposed use of this property is to provide access to Highway 190 from the subdivisions to the north.

### 2. FINDINGS/CURRENT ACTIVITY

The City is requesting this annexation of property that it owns. The City Council is required to hold a public hearing and take action on this request after 5 days, but no more than 30 days to either grant or refuse the petition.

Granting this petition will allow the City Council to consider an ordinance annexing 11.01 acres, which will provide additional access to Highway 190 from residents living in the Grimes Crossing/Big Divide areas of the City.

### 3. FINANCIAL IMPACT

None.

### 4. ACTION OPTIONS/RECOMMENDATION

City Staff recommends the City Council hold required public hearings on this item. The public hearings should be held at the regularly scheduled Council meetings on March 11 and March 25. Final action can then take place at the April 1 City Council meeting.

**Appointment Resource Form For Volunteers**  
(Boards, Commissions & Committees)

Name Elizabeth Snow Date Jan. 21, 2008

Address 913 Risen Star Lane

Home Phone 542-5807 Office Phone \_\_\_\_\_ Mobile Phone \_\_\_\_\_

Fax \_\_\_\_\_ E-mail \_\_\_\_\_

Occupation educator, retired

Volunteer/Community Service provide transportation for medical appointments

Professional Affiliations TX Retired Teachers' Assoc., TX Farm Bureau, Citizens Police Academy Alumni Assoc., Friends of the Library, DAK

Areas of Interest reading, traveling

Education B.S. in ed.

I would like to be considered for the following:

- |  |  |
|--|--|
| <input type="checkbox"/> Planning and Zoning Commission          | <input type="checkbox"/> Animal Control Advisory Committee       |
| <input type="checkbox"/> Board of Adjustment                     | <input type="checkbox"/> Housing Authority                       |
| <input checked="" type="checkbox"/> Library Advisory Board       | <input type="checkbox"/> Hospital Authority                      |
| <input type="checkbox"/> Fact Finding and Advisory Committee     | <input type="checkbox"/> Economic Development Corporation        |
| <input type="checkbox"/> Election Judge/Election Clerk/Alternate | <input type="checkbox"/> Keep Copperas Cove Beautiful Commission |
| <input type="checkbox"/> Other _____                             |  |

**Appointment Resource Form For Volunteers**  
(Boards, Commissions & Committees)

Name Peggy Youngs Date 8 Feb. 08

Address 609 Ash St.

Home Phone 547-0308 Office Phone — Mobile Phone —

Fax — E-mail peggy\_youngs@yahoo.com

Occupation retired

Volunteer/Community Service Meal-on-wheels, Altrusa, Church building fund (Pershing Park), Retired Teachers Association

Professional Affiliations —

Areas of Interest literacy, education

Education Masters Library and Information Science

I would like to be considered for the following:

- |  |  |
|--|--|
| <input type="checkbox"/> Planning and Zoning Commission          | <input type="checkbox"/> Animal Control Advisory Committee       |
| <input type="checkbox"/> Board of Adjustment                     | <input type="checkbox"/> Housing Authority                       |
| <input checked="" type="checkbox"/> Library Advisory Board       | <input type="checkbox"/> Hospital Authority                      |
| <input type="checkbox"/> Fact Finding and Advisory Committee     | <input type="checkbox"/> Economic Development Corporation        |
| <input type="checkbox"/> Election Judge/Election Clerk/Alternate | <input type="checkbox"/> Keep Copperas Cove Beautiful Commission |
| <input type="checkbox"/> Other <u>—</u>                          |  |

**Appointment Resource Form For Volunteers**  
(Boards, Commissions & Committees)

Name Leslie A. Noel Date Feb. 4, 2008

Address 617 Judy Lane

Home Phone 254-547-3770 Office Phone NONE Mobile Phone 254-371-9538

Fax NONE E-mail LNOEL@HOT.RR.COM

Occupation Retired: (26 yrs) Copperas Cove ISD - Counselor (S.C. Lee Junior High)

Volunteer/Community Service Retired: Director of Religious Education at Holy Family Catholic Church (18 yrs)

Member of Psi. Delta Chapter of BZΦ - we assist the Chamber of Commerce for Rabbit Fest.

Professional Affiliations Retired Teacher Association of Texas

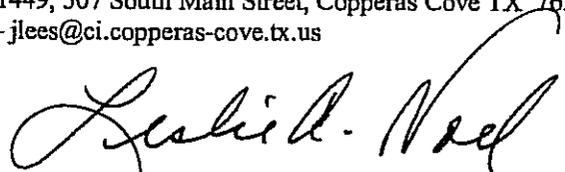
Areas of Interest Student of foreign languages - Spanish and French  
Also a member of CURVES

Education Master's Degree in Education - Tarleton State Univ. Stephenville, TX

I would like to be considered for the following:

- |  |  |
|--|--|
| <input type="checkbox"/> Planning and Zoning Commission          | <input type="checkbox"/> Animal Control Advisory Committee       |
| <input type="checkbox"/> Board of Adjustment                     | <input type="checkbox"/> Housing Authority                       |
| <input checked="" type="checkbox"/> Library Advisory Board       | <input type="checkbox"/> Hospital Authority                      |
| <input type="checkbox"/> Fact Finding and Advisory Committee     | <input type="checkbox"/> Economic Development Corporation        |
| <input type="checkbox"/> Election Judge/Election Clerk/Alternate | <input type="checkbox"/> Keep Copperas Cove Beautiful Commission |
| <input type="checkbox"/> Other _____                             |  |

Please return this form along with a resume to:  
Jane Lees, CMC, City Secretary, City of Copperas Cove, P.O. Drawer 1449, 507 South Main Street, Copperas Cove TX 76522  
Phone: 254-547-4221 - Fax: 254-547-5116 - jlees@ci.copperas-cove.tx.us



## Resume:

I have a Master's Degree in Education from Tarleton State University in Stephenville, TX.

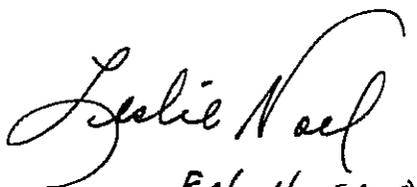
I am retired from the Copperas Cove Independent School District after working 14 years as a teacher and then 12 years as a junior high school counselor. I am a member of Copperas Cove Retired Teachers Association of Texas.

I am a member of Holy Family Catholic Church. I worked part time at Holy Family Catholic Church as the Director of Religious Education for 18 years. I retired from that position in May 2008

I am a member of Psi Delta Chapter of Beta Sigma Phi. This chapter is a member of the Copperas Cove Chamber of Commerce. We assist the chamber in organizing the Arts and Crafts portion of the Rabbit Fest each year.

I am a member of Curves (ladies' workout and fitness center.)

I have served for several years as a member of the Copperas Cove Library Advisory Board. My three-year term is expiring and I would like to be re-appointed so that I can continue to serve in this position.

  
Feb. 4, 2008

# City of Copperas Cove

## City Council Agenda Item Report

February 19, 2008

### Agenda Item No. I-1

Contact – Peg Fleet, Library Director, 547-3826  
pfleet@ci.copperas-cove.tx.us

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**SUBJECT: Consideration and action on the reappointment of three members of the Library Advisory Board for the period March 1, 2008 – February 28, 2011.**

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**1. BACKGROUND/HISTORY**

Library Advisory Board members are normally appointed by the City Council for a three-year term. Board members meet monthly to review, discuss, and provide input on library issues.

**2. FINDINGS/CURRENT ACTIVITY**

The terms of board members Elizabeth Snow, Peggy Youngs, and Leslie Noel expire on February 29, 2008. All three members have expressed an interest in being reappointed and have submitted applications, which are attached. No other applications have been received.

**3. FINANCIAL IMPACT**

None.

**4. ACTION OPTIONS/RECOMMENDATION**

City Staff recommends that the City Council reappoint Elizabeth Snow, Peggy Youngs, and Leslie Noel to the Library Advisory Board for the period March 1, 2008 – February 28, 2011.

**ORDINANCE NO. 2008-07**

**AN ORDINANCE OF THE CITY OF COPPERAS COVE, TEXAS, AMENDING THE CODE OF ORDINANCES, CHAPTER 19, VEHICLES FOR HIRE, ARTICLE III. WRECKER SERVICE, SECTION 19-66. MAXIMUM FEES-GENERALLY; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A SAVINGS CLAUSE; AND DECLARING AN EFFECTIVE DATE.**

**WHEREAS,** The City of Copperas Cove Police Department and the Rotation Wrecker Companies for the City have studied and reviewed the current maximum wrecker fees for wrecker tow services; and

**WHEREAS,** The City of Copperas Cove Police Department and the Rotation Wrecker Companies have proposed amendments to Chapter 19, Vehicles For Hire, Article III. Wrecker Service, Section 19-66. Maximum Fees-Generally; and

**WHEREAS,** The City Council held a workshop February 5, 2008 to discuss the proposed amendments.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF COPPERAS COVE, TEXAS:**

**SECTION 1.**

That the City of Copperas Cove's Code of Ordinances, Chapter 19, Vehicles For Hire, Article III. Wrecker Service, Section 19-66. Maximum Fees-Generally, is hereby amended, and "Exhibit A" attached hereto is made a part of this ordinance and for all purposes reflects the changes to, Chapter 19, Vehicles For Hire, Article III. Wrecker Service, Section 19-66. Maximum Fees-Generally, whether amended, added or deleted from the Code of Ordinances, is hereby adopted and incorporated herein as if fully set out.

**SECTION 2.**

That any ordinances or resolutions or part of ordinances or resolutions in conflict with the provisions of this Wrecker Service Maximum Fees Ordinance are hereby repealed to the extent of such conflict.

**SECTION 3.**

That should any section, clause, or provision of the Wrecker Service Maximum Fees Ordinance be declared by a court of competent jurisdiction to be invalid, the same shall

not affect the validity of this ordinance or any other ordinance of the City as a whole or any part thereof, other than the part so declared to be invalid.

**SECTION 4.**

That these amendments shall go into effect upon passage.

**PASSED, APPROVED AND ADOPTED** this 19th day of February 2008, at a regular meeting of the City Council of the City of Copperas Cove, Texas, which meeting was held in compliance with the Open Meetings Act, *Tex. Gov't Code §551.001, et.seq.*, at which meeting a quorum was present and voting.

---

Roger P. O'Dwyer, Mayor

**ATTEST:**

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Jane Lees, City Secretary

**APPROVED AS TO FORM:**

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James R. Thompson, City Attorney

**Sec. 19-66. Maximum fees--Generally.**

- (a) Maximum fees for wrecker tow services shall be as follows:
- (1) Passenger sedan automobile (including ~~4-ton~~ ¾ ton pickup truck) not involved in a collision . . . \$90.00
  - (2) Passenger sedan automobiles (including ~~4-ton~~ ¾ ton pickup truck) involved in a collision . . . 110.00
  - (3) Hourly fee additional to other charges after the first hour of service . . . 70.00
  - (4) Use of dolly or flatbed to move vehicle . . . ~~25.00~~ 45.00
  - (5) Up-righting a vehicle . . . ~~25.00~~ 45.00
  - ~~(6) Hourly fee additional to other charges after the first hour of service . . . 30.00~~
  - (6) Mileage from wrecker service's business address in Copperas Cove to completion of tow...2.00 per mile
- (b) Other services rendered by a wrecker tow business which are not specified herein or in section 19-67 shall be chargeable as may be agreed upon by the wrecker tow business and the owner of the vehicle to be towed; such fees shall not be governed by this chapter but are subject to compliance with state and federal law, if applicable.

(Code 1970, § 28-6; Ord. of 4-6-81; Ord. No. 1985-41, 8-6-85; Ord. No. 1989-38, 11-6-89; Ord. No. 1997-41, § 1, 12-2-97; Ord. No. 2000-09, § 1, 3-21-00; Ord. No. 2004-14, § 1(Exh. 1), 6-1-04)

# City of Copperas Cove

## City Council Agenda Item Report

February 19, 2008

### Agenda Item No. I-2

Contact – Mike Heintzelman, Deputy Police Chief, 547-4274  
[mheintzelman@ci.copperas-cove.tx.us](mailto:mheintzelman@ci.copperas-cove.tx.us)

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**SUBJECT:** Consideration and action on Ordinance No. 2008-07, amending the City of Copperas Cove's Code of Ordinances, Chapter 19, Vehicles For Hire, Article III. Wrecker Service, Section 19-66. Maximum Fees-Generally; providing a savings clause and declaring an effective date.

---

#### 1. BACKGROUND/HISTORY

Chapter 19, Vehicles for Hire, Article III, Wrecker Service, Section 19-66, Maximum Fees, was last revised in June 2004.

#### 2. FINDINGS/CURRENT ACTIVITY

On July 23, 2007, a meeting was held with the six wrecker companies currently on the Copperas Cove Police Department's Rotation Wrecker List and they requested to approach the City Council with fee increases pertaining to this section. As a result, a Council Workshop was held on February 5, 2008 to advise Council of proposed changes.

During the workshop held on February 5, 2008, it was discussed that fuel increases experienced since 2004 have created the need for wrecker companies to increase rates to maintain a level of income as to not sustain a loss by providing this service to our city.

#### 3. FINANCIAL IMPACT

None

#### 4. ACTION OPTIONS/RECOMMENDATION

City Staff recommends approval of Ordinance No. 2008-07.

**PUBLICITY AND TOURISM AGREEMENT  
AMENDMENT NO. 1**

This amendment number one to the agreement by and between the City of Copperas Cove, Texas hereinafter referred to as "City", a municipal corporation of Coryell County, Texas, and the Copperas Cove Chamber of Commerce and Visitor's Bureau, hereinafter referred to as "Chamber" dated December 6, 2006.

**WHEREAS**, the City, by authority of powers granted to it under state statutes and its home rule charter, has heretofore enacted a local hotel occupancy tax on occupants of hotels within the City of Copperas Cove; and

**WHEREAS**, the City is obligated under state statutes (V.A.T.S. Tax Code, Section 351.10) to use local hotel occupancy tax funds for attracting and promoting tourism and the convention and hotel industry; and

**WHEREAS**, the Chamber is capable of providing continued promotional activities for the City of Copperas Cove relating to the tourism industry.

**SECTION X**

The City agrees to pay the Chamber the amount of One Hundred Ten Thousand dollars (\$110,000) annually from its Hotel Occupancy Tax Fund for said services. Payments shall be done in quarterly installments in the amount of Twenty-Seven Thousand Five Hundred dollars and No/100 (\$27,500) at the end of each fiscal quarter beginning December 31, 2007. Payment shall be made to the Chamber on the first accounts payable cycle of the City following the end of the quarter. City accounts payable cycles every other Friday.

**PASSED, APPROVED AND ADOPTED** by the City Council of the City of Copperas Cove, Texas, this 19th day of February 2008 and executed in duplicate originals.

\_\_\_\_\_  
Roger P. O'Dwyer, Mayor

\_\_\_\_\_  
Jane Lees, City Secretary

**PASSED, APPROVED AND ADOPTED** by the Executive Board of the Copperas Cove Chamber of Commerce and Visitors Bureau, this \_\_\_\_\_ day of \_\_\_\_\_ 200\_\_\_\_, and executed in duplicate originals.

\_\_\_\_\_  
Teresa Chavez, Chairman of the Board

\_\_\_\_\_  
Marty Smith, President

## **PUBLICITY AND TOURISM AGREEMENT**

This agreement by and between the City of Copperas Cove, Texas hereinafter referred to as "City", a municipal corporation of Coryell County, Texas, and the Copperas Cove Chamber of Commerce and Visitor's Bureau, hereinafter referred to as "Chamber".

**WHEREAS**, the City, by authority of powers granted to it under state statutes and its home rule charter, has heretofore enacted a local hotel occupancy tax on occupants of hotels within the City of Copperas Cove;

**WHEREAS**, the City is obligated under state statutes (V.A.T.S. Tax Code, Section 351.10) to use local hotel occupancy tax funds for attracting and promoting tourism and the convention and hotel industry; and

**WHEREAS**, the Chamber is capable of providing continued promotional activities for the City of Copperas Cove relating to the tourism industry.

### **SECTION I**

The City hereby agrees that in consideration for advertising, promoting tourism and the convention and hotel industry in the City, the City will pay to the Chamber a portion of the hotel occupancy tax collected. The Chamber agrees that any local hotel occupancy tax funds paid to it by the City shall be used only as allowed in Section 351.10 of the State of Texas Tax Code.

The Chamber agrees to conduct a continuing program of advertising and promotion for the purpose of attracting visitors, tourists, and conventions to the local area and to the City of Copperas Cove by publishing and distributing various tourists publications and general media publications which are appropriate, by representing the City of Copperas Cove at travel shows and other such events, by participating with state and regional agencies in tourist development programs of benefit to the local area and to the City of Copperas Cove, and by using all appropriate means to increase the traveling public's awareness of the resort and recreational advantages of the local area and the City of Copperas Cove.

The Chamber further agrees that it will seek to achieve economic benefit for the City of Copperas Cove through all of such activities, that it will provide tourist-related information about the City of Copperas Cove upon request, and that, on request, it will serve as an advisory body to the City, on request, in matter related to expanding the tourist-derived economy.

## SECTION II

It is expressly understood and agreed by and between the parties that the Chamber is hired and engaged as an independent contractor and is not an officer, agent or employee of the City.

## SECTION III

The Chamber shall provide to the City, prior to obtaining any local hotel occupancy tax funds, a proposed tourism budget for the upcoming year. Said budget is to be approved by the City Council by resolution in advance of the release of any local hotel occupancy tax funds. Said budget shall be submitted to the City no later than June 30, approval by the City Council no later than September 15 of each year. Each tourism budget shall contain performance measures to evaluate progress of tourism activities. These performance measures are to be developed by the Chamber of Commerce and reviewed annually by the City Council. It is understood and agreed by and between the parties that, upon budget approval by the City, a fiduciary duty is created in the Chamber with respect to expenditure of revenue provided.

Thereafter, the Chamber shall provide to the City Council quarterly tourism financial reports on the activities that are conducted to benefit the City of Copperas Cove. Moreover, each quarterly financial report shall be accompanied by a performance report outlining activities of the Chamber of Commerce. These reports shall be presented to the City Council during the first regularly scheduled City Council meeting of the second month following the end of each quarter. Quarterly reports will be signed by both the Chamber President and Chamber Director.

Additionally, each year the Chamber will engage an independent certified public accountant to perform an attestation engagement in accordance with the attestation standards established by the American Institute of Certified Public Accountants (AICPA). The sole purpose of the engagement is to provide assurance to the City of Copperas Cove that tourism expenditures made from funds provided by the City of Copperas Cove have been spent in accordance with statutes pertaining to the use of hotel occupancy tax dollars. A report shall be prepared presenting those expenditures along with the independent certified public accountant's opinion. This report shall be provided to the entire City Council annually at a regularly scheduled City Council meeting and be completed within one hundred and fifty (150) days following the end of the Chamber fiscal year.

It is further agreed by the Chamber that it shall maintain said revenue in a separate account established for that purpose and that it shall not co-mingle that revenue with any other money or maintain it in any other account.

The Chamber shall maintain complete and accurate financial records of each expenditure of local hotel occupancy tax revenue, and upon request of the City Council, or other request in compliance with the Texas Open Records Act, shall make the records available for inspection and review.

It is understood and agreed by and between the parties that hotel occupancy tax funds may be spent by the Chamber for day-to-day operations including supplies, salaries, office rental, travel expenses, and other administrative costs, if same have been previously approved in the budget and if directly related to the promotion of tourism.

#### **SECTION IV**

For and in consideration of the services provided by the City for participation in two (2) annual festivals conducted by the Chamber (Rabbit Fest & Ogletree Gap Heritage Festival), the Chamber agrees to compensate the City for one half (1/2) of all expenses incurred by the City. Such expenses including: personnel, materials, utilities, etc. shall be agreed upon in advance by the various Chamber committees in charge of the festivals as well as the City's Staff liaison assigned to the festival activities. The initial expense outlay for each festival shall be borne by the City. At the conclusion of the event, and within fifteen (15) working days, the City shall submit an itemized expense record to include copies of supporting documents, to the Chamber identifying its portion for payment. Payment by the Chamber of the City shall be done within thirty (30) days of receipt of said record or invoice.

#### **SECTION V**

The Agreement shall begin the 1<sup>st</sup> day of October 2006, and shall continue in force for a period of two years ending on September 30, 2008. This contract will automatically renew for additional one year periods if no party notifies the other that the intention is not to renew the agreement. Any intent not to renew shall be done in writing to the other party with at least a thirty (30) day notice according to the manner described below. Either party may terminate this agreement at any time by providing the other party a similar thirty (30) day notice.

#### **SECTION VI**

Any notice necessary or appropriate relative to this Agreement shall be effective when deposited in the United States Mail. Such notice must be sent certified mail, return receipt requested or restricted delivery to either: (1) The City of Copperas Cove, Attn: City Manager, City Hall, 507 S. Main Street, Copperas Cove, Texas 76522, or (2) Chamber of Commerce, Attn: President, 204 E. Robertson Avenue, Copperas Cove, Texas 76522.

## **SECTION VII**

No part of the Agreement may be assigned or delegated without the prior written consent of the other party. Any attempted assignment of benefits or rights or delegation of duties or obligations shall be a breach of the Agreement. However, nothing in this Agreement shall prohibit the Chamber from participating with regional or state tourism programs or to contract for joint promotion with other agencies.

## **SECTION VIII**

The agreement shall be subject to the laws and statutes of the State of Texas.

## **SECTION IX**

The Chamber shall indemnify and hold harmless and defend the City, its officers, agents, and employees from any and all claims, losses, causes of action on damages, suits, and liability of every kind including all expenses of litigation, court costs, and attorney fees, for injury to or death to any person, or for damage to any property, arising from or in connection with the operations of the Chamber, its officers, agents and employees carried out in furtherance of this Agreement. It is the expressed intention of the parties hereto, both the Chamber and the City, that indemnification by the Chamber means to indemnify and protect the City from the Chamber's negligence, where the negligence is a proximate cause of an injury, death, or damage. The Chamber shall carry or cause to be carried public liability, bodily injury insurance on all automobiles used in the operations embraced by this Agreement in the amount of Two Hundred Fifty Thousand and No/100 dollars (\$250,000) for each person and Five Hundred Thousand and No/100 dollars (\$500,000) for each occurrence, and Ten Thousand and No/100 (\$10,000) property damage liability insurance for each occurrence. Said insurance policies shall name the City as an additional insured. Said policies, or duplicate originals thereof, shall be filed with the City at the beginning of each Chamber fiscal year and before any operations contemplated by this Agreement are begun.

## **SECTION X**

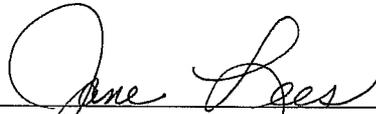
The City agrees to pay the Chamber the amount of Eighty Thousand dollars (\$80,000) annually from its Hotel Occupancy Tax Fund for said services. Payments shall be done in quarterly installments in the amount of Twenty Thousand dollars and No/100 (\$20,000) at the end of each fiscal quarter beginning December 31, 2006. Payment shall be made to the Chamber on the first accounts payable cycle of the City following the end of the quarter. City accounts payable cycles every other Friday.

**SECTION XI**

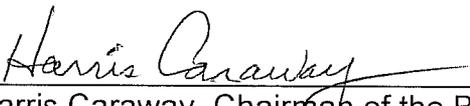
Chamber understands that not complying with this agreement in its entirety could result in loss of hotel occupancy funds or prevent timely quarterly payments until such time as the Chamber is in compliance.

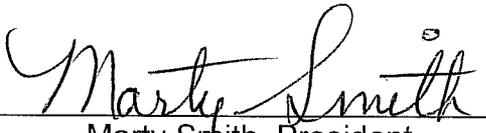
**PASSED, APPROVED AND ADOPTED** by the City Council of the City of Copperas Cove, Texas, this 5th day of December 2006 and executed in duplicate originals.

  
\_\_\_\_\_  
Roger P. O'Dwyer, Mayor

  
\_\_\_\_\_  
Jane Lees, City Secretary

**PASSED, APPROVED AND ADOPTED** by the Executive Board of the Copperas Cove Chamber of commerce and Visitors Bureau, this eleventh day of December 2006, and executed in duplicate originals.

  
\_\_\_\_\_  
Harris Caraway, Chairman of the Board

  
\_\_\_\_\_  
Marty Smith, President

# City of Copperas Cove City Council Agenda Item Report

February 19, 2008

## Agenda Item I-3

Contact – Wanda Bunting, Director of Financial Services, 547-4221  
wbunting@ci.copperas-cove.tx.us

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**SUBJECT: Consideration and action on approving Amendment No. 1 to the Publicity and Tourism Agreement between the City of Copperas Cove and the Copperas Cove Chamber of Commerce, changing the payment amount from \$80,000 to \$110,000.**

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### 1. BACKGROUND/HISTORY

During the FY 2007-08 budget process, multiple discussions ensued regarding the Publicity and Tourism Agreement between the City of Copperas Cove and the Copperas Cove Chamber of Commerce. As a result of those discussions, it was agreed on by City Council to increase the payment to the Copperas Cove Chamber of Commerce from \$80,000 to \$110,000.

### 2. FINDINGS/CURRENT ACTIVITY

This amendment to the agreement is to be effective through September 30, 2008. In addition, the contract will automatically renew for additional one year periods if no party notifies the other that the intention is not to renew the agreement.

### 3. FINANCIAL IMPACT

Funds were appropriated in the fiscal year 2007-08 budget.

### 4. ACTION OPTIONS/RECOMMENDATION

City Staff recommends approval of Amendment No. 1 to the Publicity and Tourism Agreement between the City of Copperas Cove and the Copperas Cove Chamber of Commerce changing the payment amount from \$80,000 to \$110,000.

# City of Copperas Cove

## City Council Agenda Item Report

February 19, 2008

### Agenda Item No. I-4

Contact – Wanda Bunting, Director of Financial Services, 547-4221  
wbunting@ci.copperas-cove.tx.us

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**SUBJECT: Consideration and action on the appointment of a City staff member to the Central Texas Council of Government's Solid Waste Advisory Committee.**

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#### 1. BACKGROUND/HISTORY

The Solid Waste Advisory Committee (SWAC) is comprised of individuals representing various aspects of the seven counties within Central Texas Council of Government's (CTCOG's) jurisdiction. According to the By-Laws of the SWAC, Advisory Committee membership shall consist of one member from each county of the CTCOG, and one member from each municipality with a population in excess of 10,000 residents as of latest census. As a voting member of the SWAC, the City representative will help in determining how the Texas Commission on Environmental Quality's (TCEQ) solid waste grant funds are allocated each fiscal year. The quarterly meetings enable members to gain an insight into the problems and issues facing the region, enabling them to determine which grant projects would best meet the goal of reducing the solid waste stream and supporting the needs of our member entities.

Members may range from elected officials to private citizens, but they all share an interest and commitment to reducing the regional municipal solid waste stream. The City's Solid Waste Superintendent, Mike Mundell has been representing the City as a voting member since January 2005.

#### 2. FINDINGS/CURRENT ACTIVITY

The City of Copperas Cove has one voting member on this committee. The City Solid Waste Superintendent, Mike Mundell, currently represents the City of Copperas Cove. CTCOG has requested that the City reappoint Mike Mundell or appoint another member to represent the City of Copperas Cove. This appointment is due to CTCOG by February 18, 2008. The City has received an authorization from CTCOG to submit the appointment after the City Council meeting on February 19, 2008 provided CTCOG has the appointment prior to the February 21, 2008 SWAC meeting.

#### 3. FINANCIAL IMPACT

None.

**4. ACTION OPTIONS/RECOMMENDATION**

City Staff recommends that the City Council reappoint Mike Mundell, Solid Waste Superintendent, to be a voting member of the CTCOG Solid Waste Advisory Committee.

**RESOLUTION NO. 2008-02**

**A RESOLUTION AND ORDER OF THE CITY COUNCIL OF THE CITY OF COPPERAS COVE, ORDERING A GENERAL ELECTION TO BE HELD ON MAY 10, 2008 AND, IF NECESSARY, A RUNOFF ELECTION TO BE HELD ON JUNE 7, 2008; ESTABLISHING POLLING PLACES; NAMING THE PRESIDING JUDGE AND ALTERNATE; AND ESTABLISHING PROCEDURES FOR SAID ELECTIONS.**

**WHEREAS,** the laws of the State of Texas and the Charter of the City of Copperas Cove provide that on May 10, 2008, there shall be an election held to consider the following:

**GENERAL ELECTION**

Council member – Position 6

Council member – Position 7

**WHEREAS,** if no candidate in the election receives a majority of all the votes cast in that race, a runoff election shall be conducted on June 7, 2008, between the two candidates for that office receiving the highest number of votes cast; and

**WHEREAS,** the City of Copperas Cove wishes to hold the May 10, 2008 election jointly and share expenses with the Copperas Cove Independent School District (CCISD); and

**WHEREAS,** the City of Copperas Cove wishes to contract with the Coryell County Tax Assessor-Collector to administer the May 10, 2008 joint election; and

**WHEREAS,** if CCISD cancels their election, the City Secretary will administer the May 10, 2008 election; and

**WHEREAS,** the laws of the State of Texas and the Charter of the City of Copperas Cove, further provide that the Election Code of the State of Texas is applicable to said elections and in order to comply with said code, a Resolution and Order of Election, for the General Election should be passed establishing the procedure to be followed in said elections as outlined below.

**NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF COPPERAS COVE, TEXAS:**

1. That all independent candidates at the election to be held on the second Saturday in May for the above-mentioned offices, file their application to become candidates with the City Secretary of the City at 507 South Main Street, Copperas Cove, Texas, from February 11, 2008, through March 10, 2008, and that all said applications shall be on a form as prescribed by the Election Code of the State of Texas.
2. That the order in which the names of the candidates are to be printed on the ballot shall be determined by a drawing in the City Council Chambers on March 12, 2008 at 9:00 a.m.
3. That only resident qualified voters of said City shall be eligible to vote.
4. That said elections will be held at Copperas Cove City Hall, 507 South Main Street, in said city.
5. That Mary Howell will serve as Presiding Election Judge and Rita Burgess as the Alternate Presiding Election Judge and paid by the Coryell County Tax Assessor-Collector or the City, whichever is applicable.
6. That the Early Voting Clerks and Election Day Clerks will be appointed and paid by the Coryell County Tax Assessor-Collector or the City, whichever is applicable.
7. That the designated polling place shall, on Election Day, be open from 7:00 a.m. to 7:00 p.m.
8. That Mary Howell will serve as the Early Voting Ballot Board Presiding Officer and additional Clerks will be appointed and paid by the Coryell County Tax Assessor-Collector or the City, whichever is applicable.
9. That Early Voting will be conducted by the Coryell County Tax Assessor-Collector or the City Secretary, whichever is applicable, and held in the City Hall Council Chambers, 507 South Main Street, Copperas Cove, Texas as follows:

April 28, 2008	7:00 a.m. – 7:00 p.m.
April 29, 2008	8:00 a.m. – 5:00 p.m.
April 30, 2008	8:00 a.m. – 5:00 p.m.
May 1, 2008	7:00 a.m. – 7:00 p.m.
May 2, 2008	8:00 a.m. – 5:00 p.m.
May 5, 2008	8:00 a.m. – 5:00 p.m.
May 6, 2008	8:00 a.m. – 5:00 p.m.

As required under Section 85.005 (d), Election Code, early voting by personal appearance at the main early voting polling place shall be conducted for at least 12 hours on two weekdays, if the early voting period consists of six or more weekdays.

10. That all applications for ballot by mail shall be mailed to City Secretary, P.O. Drawer 1449, Copperas Cove, Texas 76522.

11. That all ballots shall be prepared in accordance with Texas Election Code. Paper ballots shall be used for early voting by mail and paper ballots and the eSlate Direct Recording Electronic (DRE) Voting System shall be used for early voting by personal appearance and voting on Election Day, both of which are part of the eSlate DRE Voting System. The City Council hereby authorizes the Coryell County Tax Assessor-Collector or the City Secretary, whichever is applicable, to administer the May 10, 2008 General Election and the expenditures necessary for the conduct of the election.

12. That the City Secretary is hereby authorized and directed to contract with the Coryell County Tax Assessor-Collector to administer the May 10, 2008 election and to interface with the Coryell County Tax Assessor-Collector on all election matters pertaining to the election, unless CCISD cancels their election.

13. Said election shall be held in accordance with the Elections Code and the State of Texas. Notice of said elections shall be given in accordance with the terms and provisions of the Elections Code and the City Secretary is hereby instructed to have said notice posted and published in accordance with state law. A copy of this order shall also serve as a Writ of Election, which shall be delivered to the above-appointed Presiding Election Judge for said elections.

**PASSED, APPROVED, AND ADOPTED** on this 19th day of February 2008, at a regular meeting of the City Council of the City of Copperas Cove, Texas which meeting was held in compliance with the Open Meetings Act, *Tex. Gov't. Code, §551.001, et.seq.* at which meeting a quorum was present and voting.

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Robert L. Reeves, Mayor Pro Tem

**ATTEST:**

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Jane Lees, CMC, City Secretary

**APPROVED AS TO FORM:**

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James R. Thompson, City Attorney



*Justin K. Carothers*

*Tax Assessor-Collector  
Coryell County Tax Office*

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*P.O. Box 6 Gatesville TX 76528*

*254-865-5911*

*254-865-2519 fax*

*tax\_collector@coryellcounty.org*

*Cost proposal for May 10<sup>th</sup> Election*

<b>1. Proofing, ordering, testing of ballots and MBB Logic and Accuracy test, Tally Earl Vote, Tally Election day and put on CD</b>	<b>\$3000.00</b>
<b>2. Technical support Early Vote and Election Day</b>	<b>\$1200.00</b>
<b>3. Ballots</b>	<b>\$ 680.00</b>
<b>4. Programming from Hart</b>	<b>\$3000.00</b>
<b>5. Transportation and set up</b>	<b>\$ 400.00</b>
<b>6. Early vote staff</b>	<b>\$1600.00</b>
<b>7. Election day staff</b>	<b>\$600.00</b>
<b>8. Administrative fee</b>	<b>\$2000.00</b>

**Total: \$12,480.00**

**Total to be split between CCISD and City of Copperas Cove  
Early voting location and Election Day location to be provided  
By school and city.**

**These numbers could change due to unforeseen circumstances.**

**Please let me know if you have any questions.**

**Justin Carothers**

# City of Copperas Cove City Council Agenda Item Report

February 19, 2008

## Agenda Item No. I-5

Contact – Jane Lees, CMC, City Secretary- 547-4221  
jlees@ci.copperas-cove.tx.us

**SUBJECT:** Consideration and action on Resolution No. 2008-02, ordering a general election to be held May 10, 2008 and, if necessary, a runoff election to be held on June 7, 2008; establishing a polling location; naming the presiding judge and alternate; and establishing procedures for said elections.

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### 1. BACKGROUND/HISTORY

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The Copperas Cove City Charter Sec. 3.01 Municipal elections, states the following: (a) *Schedule. The general municipal election shall be held annually on the first Saturday in May or such other date as may be required by state or federal law. The last Saturday in May or other such date as may be required by state or federal law is designated as the runoff election date. The city council shall be responsible to specify places for holding such elections.*

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During the 79th Legislative Session HB 57 moved the May uniform election date to the second Saturday in May, therefore to comply with the State Election Code, the General Election will be held on Saturday, May 10, 2008.

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The Copperas Cove City Charter, Sec 3.04. Elections, states the following: (a) *to be elected for the office of council member or mayor, the candidate must receive a majority vote of qualified voters who voted in the general election. If no candidate receives a majority vote, the two (2) candidates with the highest number of votes will participate in a runoff election.*

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### 2. FINDINGS/CURRENT ACTIVITY

The Copperas Cove City Charter, Sec 2.01 Composition and terms of office, states the following: (a) *Composition. The council shall be composed of a mayor and seven (7) other council members. The mayor and all other council members shall be elected from the city at large, and each council member, other than the mayor, shall occupy a position on the council, such positions being numbered one (1) through seven (7) consecutively; (b) Terms of office. At the first general election held under this charter, and each three (3) years thereafter, the mayor and two (2) other council members shall be elected, with the mayor filling the*

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*office of mayor and the other two (2) council members filling the office of numbered positions one (1) and two (2). The mayor will not be designated as a numbered position on the ballot but shall be designated as "MAYOR." The following year, and each three (3) years thereafter, three (3) council members shall be elected, to fill the office of numbered positions three (3), four (4) and five (5). The following year, and each three (3) years thereafter, two (2) council members shall be elected to fill the office of numbered positions six (6) and seven (7). A council member, unless sooner removed from office under the provisions of this charter, shall serve for a term of three (3) years, and shall serve not more than two (2) terms in succession in the office to which elected. Sec. 2.07(c) also applies.*

The Charter of the City of Copperas Cove provides that on May 10, 2008, there shall be an election to consider the following two (2) positions: Council Member Position Six (6), and Council Member Position Seven (7).

The Election Code [EC 11.0581 (a)(1)] states: *An election for trustees of an independent school district shall be held on the same date as the election for the members of the governing body of a municipality located in the school district.* In addition, as of January 1, 2008 all independent school district elections must provide an accessible voting station for voters with physical disabilities. School districts may no longer provide only paper ballots. CCISD has requested that they hold their May 10, 2008 trustee election jointly with the City. Approval was given at the Board of Trustees meeting on February 12, 2008 to jointly hold the election with the City and for the joint election to be administered by the Coryell County Tax Assessor-Collector.

### **3. FINANCIAL IMPACT**

The City Secretary has received a cost proposal from Coryell County to administer a joint election on May 10, 2008. That proposal is attached to this agenda item. The total cost estimate is \$12,480, and will be shared between the City and the Copperas Cove Independent School District, with the City's portion to be \$6,240. This proposal covers ballot preparation, all programming and testing of voting machines, tallying of early voting results, all technical support for early voting and election day, transportation costs for set up, and early vote and election day staff.

The 2007 May election cost \$10,279. The projected cost of \$6,240 for the 2008 May election results in a cost savings of \$4,039 for the City. If a runoff election is necessary, it would be a stand-alone election and the City Secretary will administer the election. The cost for a runoff is approximately \$9,500.

### **4. ACTION OPTIONS/RECOMMENDATION**

City Staff recommends that the City Council approve Resolution 2008-02, ordering the general election to be held on May 10, 2008, and runoff election on June 7, 2008, if necessary, and authorize the City Secretary to contract with the

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Coryell County Tax Assessor-Collector to administer the election process jointly with the Copperas Cove Independent School District.

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**ORDINANCE NO. 2008-01**

**AN ORDINANCE ORDERING A SPECIAL ELECTION, TO BE HELD IN CONJUNCTION WITH THE GENERAL ELECTION OF THE CITY OF COPPERAS COVE ON MAY 10, 2008, FOR THE PURPOSE OF PROPOSING CHARTER AMENDMENTS TO THE QUALIFIED VOTERS OF THE CITY.**

**WHEREAS**, the Charter Review Committee has studied and reviewed the City Charter of the City of Copperas Cove and made recommendations for the amendment of the City Charter; and

**WHEREAS**, the City Council accepted all the recommendations of the Charter Review Committee at the January 15, 2008 Council Meeting and desires to submit said recommendations to the qualified voters of the City at a special election; and

**WHEREAS**, the City Council proposed and voted at the January 15, 2008 Council Meeting to add one additional question for the special election on whether to keep Section 2-15, Duties of the Mayor during a local state of disaster, in the City Charter or do away with it because it is already addressed in State Law; and

**WHEREAS**, an initiative petition was received and certified by the City Secretary proposing to amend Section 3-13(a), Power to recall, and repeal Section 3-13(b), Definitions, of the City Charter; and

**WHEREAS**, because the City Council did not enact the proposed initiative within 30 days as required in the City Charter, it shall be submitted to a vote of the qualified voters of the City; and

**WHEREAS**, at the January 15, 2008 Council Meeting, the proposed initiative was approved to be placed on the May 10, 2008 ballot.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF COPPERAS COVE, TEXAS, THAT:**

**SECTION 1.**

A special election is ordered to be held in conjunction with the general election of the City on May 10, 2008. Said special election is for the purpose of submitting to the qualified voters of the city propositions on whether the Charter of the City of Copperas Cove should be amended.

## **SECTION 2.**

The propositions shall include all the recommendations set forth by the Charter Review Committee and accepted by the City Council. The Articles and Sections affected will be only those as shown in "Exhibit A", which is adopted herein and made a part hereof for all purposes.

Two additional propositions will be placed on the ballot. The first will include the question added by the City Council on whether to keep Section 2-15, Duties of the Mayor during a local state of disaster.

The second additional proposition to be placed on the ballot is the proposed amendment by initiative petition to Section 3-13(a), Power to recall, stated as follows: Any city council member can be recalled from office for any stated reason, and to repeal Section 3-13(b), Definitions.

## **SECTION 3.**

The proposed amendments shall take effect upon their adoption and the entering of an order by the City Council declaring the amendments adopted.

## **SECTION 4.**

The election shall be held in conjunction with the general election and conducted as outlined in Resolution 2008-02, adopted herein as "Exhibit B" and made a part hereof for all purposes, and in the manner provided by law governing the holding of city charter elections by home rule cities of the State of Texas; and the official ballots, together with such other election materials as are required by the *Texas Election Code*, as amended, shall be printed in both the English and Spanish languages and shall contain such provisions, markings and language as may be required by law.

## **SECTION 5.**

The City Secretary is hereby authorized and instructed to conduct the special election. The City Secretary is further authorized and instructed to give or cause to be given all notices required for the election, and to take such other and further action as is required to conduct the election in compliance with the *Texas Election Code* and *Chapt. 9, Tex. Loc. Gov't. Code*.

## **SECTION 6.**

Notice of said election shall be given by posting copies of the amendments proposed to the voters on the official ballot, written in both English and Spanish, on the bulletin board used for posting notice of meetings of the governing body at the City Hall and at the polling place not later than the twenty-first (21st) day before the election, and by publishing said Notice of Election, in both English and Spanish, on the same day in each of two successive weeks, with the first such publication occurring before the

fourteenth (14th) day before the date of the election. Each amendment will contain only one subject and the ballot shall be prepared so that a voter may approve or disapprove any one or more amendments without having to approve or disapprove all of the amendments. The notice shall be published in a newspaper of general circulation in the City and posted on the City's official website, [www.ci.copperas-cove.tx.us](http://www.ci.copperas-cove.tx.us).

**SECTION 7.**

This Ordinance shall be in force and effect from and after its passage on the date shown below.

**SECTION 8.**

It is hereby officially found and determined that this meeting was open to the public, and public notice of the time, place and purpose of said meeting was given, all as required by the Open Meetings Act, *Chapter 551, Texas Government Code*.

**PASSED AND APPROVED** on this the 19th day of February 2008.

\_\_\_\_\_  
Roger P. O'Dwyer, Mayor

ATTEST:

\_\_\_\_\_  
Jane Lees, City Secretary

APPROVED AS TO FORM:

\_\_\_\_\_  
James R. Thompson, City Attorney

CHARTER\*

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**\*Editor's note:** This charter was adopted on Jan. 20, 1979. The charter appears herein as adopted, except that words and numerals have been inserted in brackets for clarification and footnotes have been inserted by the editor. Amendments are cited in parentheses following amended provisions.

- 
- Art. I. Incorporation: Form of Government: Corporate Powers, §§ 1.01--1.16
  - Art. II. The Council, §§ 2.01--2.16
  - Art. III. Elections, Initiative, Referendum and Recall, §§ 3.01--3.18
  - Art. IV. Administrative Services, §§ 4.01--4.06
  - Art. V. Legal Departments and Municipal Court, §§ 5.01--5.03
  - Art. VI. The Budget, §§ 6.01--6.16
  - Art. VII. Issuance and Sale of Bonds, §§ 7.01, 7.02
  - Art. VIII. Finance Administration, §§ 8.01--8.13
  - Art. IX. Tax Administration, § 9.01
  - Art. X. Franchises and Public Utilities, §§ 10.01--10.11
  - Art. XI. General Provisions, §§ 11.01--11.21

## **ARTICLE I. INCORPORATION: FORM OF GOVERNMENT: CORPORATE POWERS**

### **Sec. 1.01. Incorporation.**

The inhabitants of the City of Copperas Cove, within the corporate limits as now established or to be established in the future by law as directed by this charter, shall be a municipal body politic and corporate in continued growth under the name of the City of Copperas Cove.

(As Amended 5-1-93)

### **Sec. 1.02. Form of government.**

The municipal government provided by this charter shall be of the type known as the council-manager government. The municipal government provided by this charter shall consist of a mayor and council members, elected by the people and responsible to the people, and a city manager, appointed by and responsible to the council for proper administration of the affairs of the city.

(As Amended 5-1-93)

### **Sec. 1.03. Home rule.**

(a) The city shall be a home rule city with full powers of local self-government, including the right to amend this charter, as provided by the constitution and laws of this state. The city and its people shall have all the powers granted to cities by the Constitution of the State of Texas, V.T.C.S. Art 1175 as amended, may be amended or disposed of in the future and other laws of this state, together with all the implied powers necessary to carry into execution such granted powers.

(b) All powers of the city shall be vested in the city council, except as otherwise provided by law or this charter, and the council shall provide for the exercise thereof and for the performance of all duties and obligations imposed on the city by law.

(c) The powers of the city under this charter shall be construed liberally in favor of the city, and the specific mention of particular powers in the charter shall not be construed as limiting in any way the general power granted by the state or this charter.

(As Amended 5-1-93)

### **Sec. 1.04. Change of boundaries.**

*Annexation.* The boundaries of the City of Copperas Cove may be enlarged and extended by the annexation of additional territory in any of the methods and in any manner and by any procedure that may now be provided by state law, or that may be hereafter provided by such law. Any territory annexed shall become a part of the city, and said land and its residents and future residents shall be entitled to all the rights and privileges of other citizens of the city subject to federal, state and local laws and regulations.

*Disannexation.* Whenever there exists within the corporate limits of the City of Copperas Cove any territory not suitable or necessary for city purposes, or for the purpose of effectuating common boundary line agreements between the City of Copperas Cove and adjoining cities, the city council may, by ordinance duly passed, disannex said territory as a part of the city; said ordinance shall accurately describe the territory sought to be eliminated from the city and shall contain a plat designating such territory so that the same can be definitely ascertained, and when said ordinance has been duly passed the territory shall cease to be a part of said city, but said territory shall remain liable for its pro rata share of any debts incurred while said area was a part of the city, and the city shall continue to levy, assess and collect taxes on the property

within said territory to pay the indebtedness incurred while said area was a part of the city as though the same had not been excluded from the boundaries of the city.

*Agreement.* Upon mutual agreement between the City of Copperas Cove and any other adjacent municipality may, by ordinance duly passed, exchange territory with the other adjoining municipality for the purpose of effectuating a common boundary line agreement.  
(Amended 5-1-93; As Amended 5-3-97; As Amended 5-8-01)

**Sec. 1.05. Eminent domain.**

The city shall have the full right, power, and authority to exercise the right of eminent domain **for public use** when necessary or desirable to carry out any of the powers conferred upon it by this charter, or by the constitution or laws of the State of Texas.  
(As Amended 5-1-93)

**State law references:** V.T.C.A., Local Government Code, Title 8, Subtitle A and V.T.C.A., Property Code, Chapter 21, Subchapter B, as they are amended, may be amended or disposed of in the future.

**Sec. 1.06. Zoning and appeals.**

The city council shall have the power and authority to zone the city and to pass all necessary ordinances, rules and regulations governing same, under and by virtue of the authority given to cities and legislative bodies thereof, by V.T.C.A., Local Government Code Chapter 211, Subchapter A, as amended, may be amended or disposed of in the future.

The city council shall have the power to create a planning and zoning commission to act as an advisory body on all zoning matters.

The city council shall have further power to create a board of adjustments, as provided by V.T.C.A., Local Government Code, Chapter 211, Subchapter A, as amended, may be amended or disposed of in the future.  
(As Amended 5-1-93)

**Sec. 1.07. Establishment and control of streets.**

The city shall have the power to lay out, establish, open, alter, widen, lower, extend, grade, relocate, redefine, name, number and replat, abandon, discontinue, abolish, close, care for, pave, supervise, maintain and improve streets, alleys, sidewalks, parks, squares, public places and bridges, and regulate the use of them, and require the removal from streets, sidewalks, alleys and other public property or places of all obstructions and encroachments of every nature or character.  
(As Amended 5-1-93)

**Sec. 1.08. Garbage disposal.**

The city council shall have the right by ordinance to adopt and prescribe rules and regulations for the collection, handling and disposition of all garbage, trash, refuse, and rubbish within the City of Copperas Cove, and shall further have the right to fix charges and compensation to be charged by the city for the removal of garbage, trash, refuse and rubbish.

**Sec. 1.09. Sanitary sewer system.**

The city shall have the power to provide and own a sanitary sewer system and to require property owners to connect their premises with such sewer system where available; and to provide for fixing penalties for failure to make sanitary sewer connections; and shall further have the right to fix charges and compensation to be charged by the city for sewage service, providing rules and regulations for the collection thereof. The technical operational employees shall meet state certification requirements.

**Sec. 1.10. Water system.**

The city shall have the power to provide for and own a water system and to prescribe charges, rules, regulations, rates and restriction with reference to the use, consumption, waste, payment, cutoff, turn on, connections and management of such system and to prescribe penalties for violation of such rules and regulations. The technical operational employees shall meet state certification requirements.

**Sec. 1.11. Public library.**

The city shall have the right to establish and maintain a public library within the city and cooperate with any person, firm, association, corporation, or political subdivision of the State of Texas, or of the United States of America, under such terms as the city council may prescribe, for the establishment or maintenance of such public library.

**Sec. 1.12. Public parks and playgrounds.**

The city shall have control over all city parks and playgrounds with the right to control said property and to improve it in accordance with the desires of the citizens as approved by the city council.

**Sec. 1.13. Cemeteries.**

The city shall have the power to regulate burial grounds, cemeteries, and crematories owned by any person, corporation, firm, or association now or hereafter established, to purchase, establish, own, regulate and to maintain one or more cemeteries, and to condemn and close any such when public interest or public health may so demand.

**Sec. 1.14. Fire department.**

The city shall have the authority to establish and maintain a fire department within the city and to cooperate with any person, other governmental body, association or corporation in the operation of the fire department, under such terms as the city council may prescribe.

**Sec. 1.15. Police department.**

The city shall have the authority to establish and maintain a police department within the city and to cooperate with any person, other governmental body, association or corporation in the operation of the police department, under such terms as the city council may prescribe.

**Sec. 1.16. Other services.**

The city may establish other services as required as authorized by Sec. 1.03 (a).  
(As Amended 5-1-93)

## ARTICLE II. THE COUNCIL

### Sec. 2.01. Composition and terms of office.

(a) *Composition.* The council shall be composed of a mayor and seven (7) ~~other~~ council members. The mayor and all ~~other~~ council members shall be elected from the city at large, and each council member, ~~other than the mayor,~~ shall occupy a position on the council, such positions being numbered one (1) through seven (7) consecutively.

(b) *Terms of office.* At the first general election held under this charter, and each three (3) years thereafter, the mayor and two (2) ~~other~~ council members shall be elected, with the mayor filling the office of mayor and the ~~other~~ two (2) council members filling the office of numbered positions one (1) and two (2). The mayor will not be designated as a numbered position on the ballot but shall be designated as "MAYOR." The following year, and each three (3) years thereafter, three (3) council members shall be elected, to fill the office of numbered positions three (3), four (4) and five (5). The following year, and each three (3) years thereafter, two (2) council members shall be elected to fill the office of numbered positions six (6) and seven (7). A council member, unless sooner removed from office under the provisions of this charter, shall serve for a term of three (3) years, and shall serve not more than two (2) terms in succession in the office to which elected. Sec. 2.07(c) also applies.

(As Amended 5-1-93)

### Sec. 2.02. Restrictions.

If any member of the city council desires to run for a different council office other than that which he/she holds, he/she must resign and vacate his/her present office at least sixty (60) days prior to the next election for the desired office. The resignation shall be effective on the date of such resignation. For the purposes of this provision there shall be only two (2) offices; the office of mayor and the office of numbered council member.

(As Amended 5-1-93)

### Sec. 2.03. Presiding officer: Mayor and mayor pro tempore.

The mayor shall be elected in the manner provided by this charter to serve for a term of three (3) years and shall not serve more than two (2) terms in succession. The mayor shall preside at all meetings of the city council and shall be recognized as head of the city government for all ceremonial purposes and by the governor for purposes of martial law, but shall have no ~~regular day-to-day~~ administrative duties other than signatory duties where the mayor signs a variety of documents to give them official legal effect. The mayor shall vote at council meetings only when his/her vote will affect the result of the voting in progress in the following manner: he/she shall vote to break a tie, and he/she shall vote when his/her vote will cause the number of votes required elsewhere in this charter to cause a valid or binding action of the council. The mayor shall have no veto power.

At the city council's second regular meeting following each yearly regular election of council members, or runoff election if required, the council shall elect one of its members as mayor pro tem, for a period of one (1) year. The mayor pro tem shall act as mayor during the absence or disability of the mayor and, when so acting, shall have the same powers, duties, and restrictions as set forth for the office of mayor.

In the event that both the mayor and mayor pro tem are absent from a council meeting, if there be a quorum as elsewhere stated in this charter, the council members present shall elect a chairperson who shall have the authority to conduct the meeting as if he/she were the mayor.

(Amended 5-1-93; As Amended 5-3-97)

**Sec. 2.04. Absenteeism.**

Any member of the council requiring absence for two (2) regular consecutive meetings, will first obtain a leave of absence at a regularly scheduled meeting.

**Sec. 2.05. Qualifications.**

~~The mayor and other council members shall each be a citizen of the United States of America; be a qualified voter in the City of Copperas Cove, and shall have resided within the corporate limits of Copperas Cove for at least one (1) year next preceding the day of the election at which they are candidates; and shall not be disqualified by reason of any provision of any section of this Charter or of state law. A candidate for office must:~~

~~(1) be a United States citizen.~~

~~(2) be 18 years of age or older upon the commencement of the term to be filled at the election.~~

~~(3) be a qualified voter in the City of Copperas Cove.~~

~~(4) be domiciled within the corporate limits of Copperas Cove for at least one (1) year next preceding the day of the election at which they are a candidate.~~

~~(5) not have been convicted of a felony for which he or she has not been pardoned or otherwise released from the resulting disabilities.~~

~~(6) not have been found mentally incompetent by a final judgment of the court, and~~

~~(7) shall not be disqualified by reason of any section of this charter or by state or federal~~

~~law.~~

(Amended 5-1-93; As Amended 5-3-97)

**Cross references:** Vacancies, forfeitures, filling of vacancies, § 2.07; eligibility of candidates, § 3.02(a).

**State law references:** V.T.C.A., Election Code, Chap. 141, Public Office Generally, Subchapter A, Eligibility for Public Office.

**Sec. 2.06. Compensation of council members and mayor.**

~~The mayor and each council member shall receive compensation for attendance at council meetings. Each council member shall receive \$25.00 for each regular and specially called meeting attended and the mayor shall receive \$50.00 for each regular and specially called meeting attended and nThe mayor shall receive \$50 and all other council members shall receive \$25 for each regular and specially called meeting attended. No council member and mayor shall receive any compensation for attendance at any workshop meeting, except for any workshop meeting that is conducted on a date separate from a regular or special called meeting. In addition, city council shall establish by ordinance methods of reimbursement for all actual and necessary expenses incurred by the mayor and council members in the performance of their duties.~~

(As Amended 4-2-83; As Amended 5-8-01)

**Sec. 2.07. Vacancies, forfeitures, filling of vacancies.**

(a) *Vacancies.* The office of a council member or office of the mayor shall become vacant upon death, resignation, removal from office by recall, or forfeiture of his/her office.

(b) *Forfeiture.*

(1) A council member or the mayor shall forfeit his/her office if he/she: (1) lacks at any time during the term of office any qualification for the office prescribed by this charter or by law, (2) violates any express prohibition of this charter, or (3) is convicted of a misdemeanor involving moral turpitude, felony or is assessed a deferred adjudication or probation for a felony, or (4) fails to attend two (2) consecutive regular meetings unless caused by sickness or emergency,

without first having obtained a leave of absence from the council, or (5) moves his/her permanent residence outside the city limits.

(2) If a council member forfeits his/her office; ~~and does not immediately resign from office;~~ the council and mayor may ~~by an affirmative vote of five (5) members, declare the office of said council member to be forfeited and vacant. conduct a hearing to determine if the office holder has forfeited and should vacate his/her office. The hearing shall be held within 30 days of the council, as a body, learning of the alleged forfeiture. The council may, by an affirmative vote of five (5) members, declare the office of said office holder to be forfeited and vacant. Disposition of the matter under this Charter is final and is res judicata. Further relief may be sought in a court of law. The office holder subject to the forfeiture shall not have a vote. The mayor shall vote unless he is the office holder subject to the forfeiture. The vacant position shall be filled as provided elsewhere in this Charter for vacant positions. Provisions found elsewhere in the Charter restricting the authority of the mayor to vote in council meetings not withstanding, the mayor shall vote in all cases concerning the forfeiture of a council member's office.~~

**Cross references:** Qualifications, § 2.05.

(c) *Filling of vacancies.* Any city council member or mayoral vacancy will be filled by majority vote of qualified voters at a special election called for that purpose. ~~The special election will be conducted not later than one hundred twenty (120) days after the vacancy occurs and may be held in conjunction with a general election, if the general election falls within forty five (45) to one hundred twenty (120) days of the vacancy. The special election will be conducted in accordance with state and federal election laws.~~ The term of office will be for the unexpired term of the office vacated. If the unexpired term is one (1) year or less, that council member may seek re-election for two (2) additional consecutive terms. If the unexpired term exceeds one (1) year that council member may succeed himself/herself only once. For the purposes of this section the period from one annual general election to the next annual general election shall be considered as one year or less regardless of the number of calendar days involved.

(Amended 5-1-93; As Amended 5-3-97; As Amended 5-8-01; Ord. No. 2005-08, § 1, 6-21-05/9-10-05; Ord. No. 2005-15, Prop. No. 5, 9-20-05/9-10-05)

### **Sec. 2.08. Prohibitions.**

(a) *Holding other office.* Except where authorized by law, no mayor or council member shall hold any other city office or city employment during his/her term as mayor or council member, and no former mayor or council member shall hold any compensated appointive city office or city employment until one (1) year after the expiration of his/her term as mayor or council member.

(b) *Appointments and removals.* Neither the council nor any of its individual members, including the mayor, shall in any manner dictate the appointment or removal of any city administrative officer or employee whom the city manager or any of his/her subordinates are empowered to appoint, ~~but however,~~ the council may express its views and fully and freely discuss with the city manager anything pertaining to appointment and removal of such officers and employees.

(c) *Interference with administration.* Neither the council nor its individual members, including the mayor, shall give any orders or direction, public or private, to any officer or employee who is subject to the direction and supervision of the city manager. Council members, including the mayor, shall not give orders or direction to the city secretary, city judge, city attorney or city manager unless acting as a council as a whole. This is not to preclude the council or its individual members, including the mayor, from conducting a dialog with city staff where the spirit and intent is not to interfere with the management and administration of the city. The mayor is not prohibited from performing administrative duties under a Declaration of Emergency Disaster per Section 2.13 or when performing administrative duties as the Emergency Management

~~Director per Section 2.15, either publicly or privately. However, the council, acting as a whole, may give directions to the city secretary, city judge and the city attorney and city manager.~~  
(Amended 5-1-93; As Amended 5-3-97; As Amended 5-8-01)

#### **Sec. 2.09. Meetings of council.**

The council shall hold at least two (2) regular meetings each month with the exception of December, which shall have a minimum of one (1) regular meeting, and as many additional meetings as it deems necessary to transact the business of the city and its citizens. The council shall fix, by ordinance, the days, time and place of the regular meetings. All meetings shall be open to the public, except as otherwise provided by law. Special meetings of the council shall be held at the call of the mayor or of four (4) or more council members.

**State law references:** Texas open meetings law, V.T.C.S. art. 6252-17.

#### **Sec. 2.10. Rules of procedure.**

The council shall, by ordinance, determine its own rules and order of business and the rules shall provide that citizens of the city shall have a reasonable opportunity to be heard at all regular and special council meetings in regard to any matter under consideration. The council shall provide for minutes being taken and recorded of all meetings, and such minutes shall be a public record. Voting, except on unanimous votes, shall be by roll call and the yeas, nays, and abstentions shall be recorded in the minutes. Five (5) council members other than the mayor or the council member taking the mayor's place at the meeting, shall constitute a quorum for the purpose of transaction of business. No action of the council shall be valid or binding unless adopted by the affirmative vote of four (4) or more members of the council.  
(As Amended 5-1-93; As Amended 5-8-01)

#### **Sec. 2.11. Investigative power of the council.**

The council shall have the power to inquire into or investigate the official conduct of any department, agency, office, officer, ~~or~~ employee, council members and mayor of the city and for that purpose shall have the power to administer oaths, subpoena witnesses, compel the production of books, papers, records or other evidence, and as it shall provide by ordinance, to punish and fix penalties for contempt for failure or refusal to obey any such subpoena or to produce any such books, papers, records, or other evidence, unless otherwise stated by state law.

#### **Sec. 2.12. City secretary.**

The city council shall appoint to the office of city secretary a person to serve as city secretary at the discretion of the council. Any adjustments to the salary, the compensation package or employment status of the city secretary will be approved by the city council.

The secretary shall be provided an office in the City Hall sufficient to maintain the records entrusted to his/her care and shall be entitled to a seat at the council table at all official meetings.

The secretary shall give notices of its meetings, shall keep the journal of its proceedings, shall authenticate by signature and record in full in a book kept and indexed for that purpose, all ordinances and resolutions, and shall perform such other duties as the council may assign.

The secretary shall recommend to the council rules and regulations to be adopted by ordinances to protect the safety and security of the municipal records.

The city secretary shall have such additional duties and authority not herein specified as shall be included for city secretaries in the Texas Civil or Penal Statutes presently existing or adopted in the future, except such duties and authority as may be expressly excluded by ordinance adopted by the city council consistent with the mandatory duties and authority

prescribed either by state or federal law. The city council and the mayor shall evaluate the city secretary in accordance with the city's personnel policies manual, and each council member and the mayor shall sign the evaluation. The city council shall also appoint an alternate city secretary to serve in the absence of the city secretary.

(Amended 4-2-83; Amended 5-1-93; As Amended 5-3-97; As Amended 5-8-01; Ord. No. 2003-03, § 1, 2-4-03/5-3-03; Ord. No. 2003-09, §§ 1--3, 5-6-03/5-3-03)

### **Sec. 2.13. Emergency Powers.**

A state of emergency shall be deemed to exist when, as the consequences of a major calamity, activities of a war-like nature, riots, or insurrection, the normal procedures of the municipal government are inadequate for the protection of persons or property. A Declaration of Local Disaster may be declared by the vote of council, or by order of the mayor, or, in his absence or disability, the mayor pro tempore, if a meeting of the council cannot be called within the time available, whenever conditions threaten to render inadequate the normal procedures of the municipal government for protection of persons or property. A Declaration of Local Disaster may not be continued or renewed for a period of more than seven (7) days except with the consent of council. An ordinance declaring, continuing, or terminating a local state of disaster shall be given prompt and general publicity and shall be promptly filed with the City Secretary. (As Amended 5-8-01)

### **Sec. 2.14. Emergency ordinances.**

To meet a public emergency affecting life, health, property or the public peace, the council may adopt emergency ordinances, but such ordinances may not levy taxes, grant, renew or extend a franchise, regulate the rate charged by any public utility for its service, or authorize the borrowing of money except as provided in Sec. 2.14. An emergency ordinance shall be introduced in the form and manner prescribed for ordinances generally, except that it shall be plainly designated as an emergency ordinance and shall contain, after the enacting clause, a declaration stating that an emergency exists and describing the emergency in clear and specific terms. An emergency ordinance may be adopted, or amended by a simple majority of the council members present. After adoption, emergency ordinances shall be published and printed as prescribed for other ordinances. They shall become effective upon adoption or at such later time as the ordinance may specify. Every emergency ordinance except one made pursuant to Sec. 2.14 shall automatically stand repealed as of the sixty-first (61st) day following the date of adoption, but this shall not prevent re-enactment of the ordinance in the manner specified in this section if the emergency still exists. An emergency ordinance may also be repealed by adoption of a repealing ordinance in the same manner prescribed in this section for adoption of emergency ordinances. (As Amended 5-8-01)

### **Sec. 2.15. Duties of the Mayor as Emergency Management Director and Powers of the Mayor during a Local State of Disaster.**

The Mayor is designated as the Emergency Management Director for the City of Copperas Cove, and shall serve as the Governor's designated agent in administration and supervision of the Texas Disaster Act of 1975, and may exercise powers, on an appropriate local scale, granted the Governor therein. During a state of emergency the mayor, or, in his absence or disability, the mayor pro tempore, ~~shall have all the powers which would be vested in the council under this Charter and may exercise those powers to the extent he considers to be reasonable or necessary for the protection of persons or property. In addition thereto, he~~ shall be specifically empowered:

- a. To place temporarily any city officers, employees, services, equipment or properties under the direction or control of any office or officers of the county, state, or federal governments, including the military services, and the duly constituted officers for the civil defense;
  - b. To enter upon cooperative agreements with the proper authorities of county, state or federal governments, or other municipalities, for mutual assistance within the area of an existing or threatened emergency;
  - c. To order the evacuation of persons from all or any part of the city and to close any buildings or areas within the city;
  - d. To re-establish the seat of the city's government at another place, provided that such place, if outside the city's territorial limits, shall be at the place nearest thereto which is suitable and practical.
- (As Amended 5-8-01)

**Sec. 2.16. When emergency powers of mayor to terminate.**

The emergency powers herein provided shall be exercised only to the extent made necessary by the nature of the emergency and during the continuation of the Declaration of Local Disaster. The Declaration of Local Disaster shall terminate when so ordered by the Governor, mayor, or by the mayor pro tempore in the absence or disability of the mayor, or may be terminated by vote of a majority of the council.

(As Amended 5-8-01)

## ARTICLE III. ELECTIONS, INITIATIVE, REFERENDUM AND RECALL

### Sec. 3.01. Municipal elections.

(a) *Schedule.* The general municipal election shall be held annually on the ~~first~~ second Saturday in May or such other date as may be required by state or federal law. The ~~last Saturday in May or such other date as may be required by state or federal law is designated as the~~ runoff election date will be held in accordance with state election law. The city council shall be responsible to specify places for holding ~~such~~ all elections.

(b) *Special elections.* The city council may order a special election for ordinances, bond issues, charter amendments, recall or other purposes deemed appropriate. ~~The city council shall fix time and places for holding such special elections and provide all means for holding same. Special elections must be held on a uniform election date in accordance with state election law.~~

(c) *Voter eligibility.* A certified list of voter registrants within the city, ~~as taken from the~~ shall be requested by the city secretary from official list prepared by the county tax assessor-collector, ~~shall be maintained current by the city secretary.~~ If for a purpose relating only to a city election or to candidates or issues involved in such election, any organization, group or person may request a list of qualified voters of the city. Permission to copy the current list shall be granted by the city secretary.

(d) *Conduct and regulation of elections.* All city elections shall be governed by the constitution of the State of Texas, general laws of the state, this charter, and ordinances of the city, in the order named. Municipal elections shall be conducted by the election officials appointed or approved by the city council. Sample ballots for the specific election shall be posted in the voting place(s) for purpose of voter orientation.

(Ord. No. 1988-10, 4-5-88; As Amended 5-1-93)

**State law references:** V.T.C.A. Election Code, Chap. 41, as amended, may be amended or may be disposed of in the future.

### Sec. 3.02. Filing for office.

(a) *Eligibility to file.* Each candidate for an elective city office shall meet the ~~following~~ qualifications: listed in Section 2.05 and shall not file for more than one office or position number per election. No employee of the city shall continue in such position after becoming a candidate for an elective office.

~~(1) Shall be a qualified voter of the city.~~

~~(2) Shall have resided for at least twelve (12) months preceding the election within the corporate limits of the city.~~

~~(3) No candidate may file for more than one office or position number per election.~~

~~(4) No employee of the city shall continue in such position after becoming a candidate for an elective office.~~

(b) *How to get on ballot.* Any qualified person may have his or her name placed on the official ballot as a candidate for mayor or council member at any election held for the purpose of electing a mayor or council member by filing with the mayor or city secretary at least forty-five (45) days prior to the date of election before 5:00 p.m., a sworn application as provided in V.T.C.A. Election Code, 141.031 as amended, may be amended or disposed of in the future.

(As Amended 5-1-93)

**Cross references:** Qualifications of mayor and council members § 2.05.

**State law references:** Election Dates and Hours for Voting, V.T.C.A. Election Code, Chap. 41; Application for Home-Rule City Office, V.T.C.A. Chap. 143 as amended, may be amended or disposed of in the future.

### Sec. 3.03. Official ballots.

(a) *Names on ballot.* The names of all candidates for office shall be printed on the official ballots without party designation or symbol. If two (2) or more candidates have the same surname or surnames so similar as to be likely to cause confusion, their residence addresses shall be printed with their names on the ballot.

(b) *Order of listing.* The order on the ballot of the names of the candidates shall be determined in accordance with Texas state law.

(c) *Early voting ballots.* Procedures for voting by early voting ballot shall be consistent with the current edition of Texas election laws.

(d) *Ballots for ordinances and charter amendments.* An ordinance or charter amendment, to be voted on by the city, shall be presented for voting by ballot title. The ballot title of a measure may differ from its legal title and shall be a clear, concise statement, approved by majority of the whole city council, describing the substance of the measure without argument or prejudice. Below the ballot title shall appear the following question: "Shall the above described (ordinance) (amendment) be adopted?" Immediately below or to the left of such question shall appear, in the following order, the words "Yes" and "No" each with a square.

(e) *Write-in votes.* Procedures for write-in votes shall be consistent with current edition of Texas election laws.

(As Amended 5-1-93; As Amended 5-8-01)

**State law references:** Election Supplies, V.T.C.A. Election Code, Title 5, as amended, may be amended or disposed of in the future.

### Sec. 3.04. Elections.

(a) To be elected for the office of council member or mayor, the candidate must receive a majority vote of qualified voters who voted in the general election. If no candidate receives a majority vote, the two (2) candidates with the highest number of votes will participate in a runoff election.

(b) *Canvassing elections.* Returns of elections shall be accomplished according to state law.

(c) *Notification and taking office.* It shall be the duty of the city secretary to notify all persons elected. Those elected shall take office and enter upon their duties after qualifying by taking and subscribing to their oath of office at the second regular city council meeting after the election. (Ord. No. 1988-10, 4-5-88; As Amended 5-1-93; As Amended 5-8-01; Ord. No. 2005-08, § 1, 6-21-05/9-10-05; Ord. No. 2005-15, Prop. No. 7, 9-20-05/9-10-05)

**State law references:** Conduct of Elections, V.T.C.A., Election Code Title 6, as amended, may be amended or disposed of in the future.

### Sec. 3.05. Oath of office.

Every officer of the city, whether elected or appointed, before entering upon the duties of office, shall take and subscribe to the appropriate oath or affirmation prescribed by the secretary of state of the State of Texas. The oath shall also contain a statement affirming that the officer will uphold and comply with the Charter of the City of Copperas Cove, Texas. Executed oaths of office to be filled and shall be kept in the office of the city secretary.

(As Amended 5-1-93)

**State law references:** Article 16, Section 1, of the Constitution of the State of Texas.

### Sec. 3.06. Power of initiative.

The voters of this city shall have the power to propose any ordinance, ~~repeal any ordinance,~~ or reject the same at the polls. An initiated ordinance may be submitted to the council by a petition signed by qualified voters of the city, equal in number to at least twenty-five (25) percent of the number of those voting at the last regular municipal election of the city, or

signed by ~~three~~ five hundred (~~5300~~) qualified voters, whichever is greater; ~~except in cases of recall which will require thirty three (33) percent of the number voting at the last regular municipal election of the city, or signed by five hundred (500) voters, which ever is greater.~~  
(As Amended 5-1-93)

### **Sec. 3.07. Power of referendum.**

The voters of this city shall have the power to ~~approve or reject~~ repeal at the polls any ordinance enacted by the city council which is subject to the initiative process under this charter, except for bonds that have been legally awarded to a successful bidder or other legal obligations. The petition for referendum shall require the same number and qualification of signers as required by this charter for an initiative petition.  
(As Amended 5-1-93)

### **Sec. 3.08. Requirements of petition.**

Any five (5) qualified voters may begin initiative or referendum proceedings by filing with the city secretary an affidavit stating they constitute the petitioners committee and will be responsible for circulating the petition and filing it in proper form, stating their names and addresses, and setting out in full the proposed initiative ordinance or the ordinance sought to be considered. Petitions shall contain, or have attached to them, the full texts of the ordinance proposed or sought to be considered. The signatures to the initiative or referendum need not all be appended to one paper, but each signer shall sign his/her name in ink, ~~and~~ shall add his/her place of residence by street and number, shall include his/her date of birth or voter registration number, and shall state his/her county of residence. The circulators of each petition page shall make an affidavit that he/she, and he/she only, personally circulated that page of the petition, and that each signature is the genuine signature of the person as is written, and further, that no signatures shall have been placed there more than forty-five (45) days prior to the filing of such petition. Petitions shall be returned to the city secretary for filing within forty-five (45) days after ~~issuance of the appropriate blanks to the petitioners committee.~~ filing of the affidavit of petitioners committee.  
(As Amended 5-1-93)

### **Sec. 3.09. Filing, examination and certification of petition.**

Within ~~ten (10)~~ twenty (20) business days after an initiative, referendum or recall petition is filed, the city secretary shall determine whether such petition is signed by a sufficient number of qualified voters and has proper affidavit(s). After completing examination of the petition, the city secretary shall certify the results to the city council at its next regular meeting. If such petition is insufficient, the city secretary shall set forth in a certificate the particulars in which it is insufficient, and an additional ten (10) days shall be allowed in which to file an amendment or supplement which will correct the deficiency. No petition, once amended, may be amended again.

### **Sec. 3.10. Effect of certification of referendum petition.**

When a referendum petition or amended petition has been certified as sufficient by the city secretary, the ordinance specified in the petition shall not go into effect, or further action shall be suspended if it shall have gone into effect, until and unless it is approved by the voters.

### **Sec. 3.11. Council consideration and submission to voters.**

When the council receives a petition for initiative which has been certified by the city secretary to be sufficient, the council shall either enact the proposed ordinance within thirty (30) days, or after certification it shall submit the proposed ordinance shall be submitted to a vote of

the qualified voters of the city at a regular or special election to be held at the first uniform election date within ninety (90) days after the date of the certification to the council in accordance with state election law.

When the council receives a referendum petition certified by the city secretary to be sufficient, the council shall reconsider the referred ordinance within thirty (30) days; and if not repealed, it shall submit that ordinance to the qualified voters of the city at a regular or special election to be held at the first uniform election date not more than ninety (90) days after the date of the certification to the council in accordance with state election law.

### Sec. 3.12. Ballot form and results of elections.

The ballot used in voting upon an initiated or referred ordinance shall state the caption of the ordinance and below the caption shall set forth on separate lines the words: "For the Ordinance" "Against the Ordinance." Any number of ordinances may be voted upon at the same election in accordance with the provisions of this charter. An ordinance submitted, and receiving an affirmative majority of the votes cast, shall then become effective as an ordinance of the city. An ordinance so adopted may be repealed or amended at any time after the expiration of two (2) years by a majority vote of the entire city council. A referred ordinance which is not approved by a majority of the votes shall be deemed to be repealed.

### Sec. 3.13. Power to recall.

(a) *Power to recall.* The voters of ~~this city~~ the City of Copperas Cove shall have the power to recall any elected officer of this city on grounds of incompetence, official misconduct, or malfeasance in office as defined herein.

~~(b) Definitions. In this section, the following words have the definitions assigned to them:~~

~~(1) Incompetence means: (1) gross ignorance of official duties; (2) gross carelessness in the discharge of official duties; or (3) inability or unfitness to promptly and properly discharge official duties because of a serious mental or physical defect that did not exist at the time of the officer's election. Such mental or physical defect must be certified as existing by a court of competent jurisdiction.~~

~~(2) Official misconduct means intentional unlawful behavior relating to official duties by an officer entrusted with the administration of justice or the execution of the law. The term includes an intentional or corrupt failure, refusal, or neglect of an officer to perform a duty imposed on the officer by law. To be recalled for official misconduct an officer must have been convicted of such official misconduct by a court of competent jurisdiction.~~

~~(3) Malfeasance means the unlawful performance of an act, which the officer has no right to perform. Therefore, the term shall be considered as the same as official misconduct and the same requirements for recall shall apply.~~

~~(4) Gross means flagrant or scandalous.~~

~~(d)(b) Requirements of a recall petition.~~

(1) A petition for recall shall specifically state the grounds alleged for the removal of the officer in plain and intelligible language and must cite the time and place of the occurrence of each act alleged as a ground for removal with as much certainty as the nature of the case permits.

(2) The petition shall be signed by qualified voters of the city equal in number to ~~thirty-three percent (33%)~~ fifty-one percent (51%) of the number of those voting at the last regular municipal election of the city, or signed by ~~five hundred (500)~~ seven hundred fifty (750) qualified voters, whichever is greater. The petition shall be verified by the same number of signers, with the same qualifications, and in the same manner required in the charter for an initiative petition.

(e) *Ordering of an election.* If the petition is certified by the city secretary to be sufficient, the council shall order and hold, or cause to be held, on the next feasible date for such, an election as specified under state law, to determine whether such officer shall be recalled.

(d) *Limitation for removal.* An officer may not be removed for an act the officer committed before election to office.  
(As Amended 5-1-93; As Amended 5-8-01)

**Sec. 3.14. Results of recall election.**

If the majority of the votes cast at a recall election shall be for the removal from office of the elected officer named on the petition and ballot, his/her office shall immediately be declared vacant and shall be filled as vacancies in the city council are filled, as provided in this charter. An elected officer who has been so removed from office shall not be eligible to succeed himself/herself.  
(As Amended 5-1-93)

**Sec. 3.15. Limitation on recall.**

No petition shall be filed against an elected officer within ~~six (6) months~~ 180 days after he/she has taken office. A recall election need not be ordered by the council if the term of office of the elected officer against whom a petition is filed is to expire within ~~ninety (90)~~ 180 days after the petition is filed with the city secretary. An elected officer previously the subject of a recall election, shall not be listed on a recall petition within 365 days of the previous recall election.  
(As Amended 5-1-93)

**Sec. 3.16. Public hearing.**

The officer whose removal is sought may, within five (5) days after such recall petition has been presented to the council, request that a public hearing be held to permit him/her to present facts pertinent to the charges specified in the recall petition. In this event, the council shall order such public hearing to be held, not less than five (5) days nor more than fifteen (15) days after receiving such requests for a public hearing.  
(As Amended 5-1-93)

**Sec. 3.17. Ballots in recall election.**

Ballots used at recall elections shall conform to the following requirements: (1) With respect to each person whose removal is sought, the question shall be submitted "Shall (name of person) be removed from the office of (mayor) (council member) by recall?" (2) immediately below the question, there shall be printed the two (2) following propositions, one above the other, in the order indicated: "For the recall of (name of person)." "Against the recall of (name of person)".

**Sec. 3.18. Failure of council to call a recall election.**

When all the requirements of this charter shall have been met and the council shall fail or refuse to receive the recall petition, or order such recall election, or discharge other duties imposed upon the council by the provisions of the charter with reference to such recall, then it shall be the duty of the district judge of Coryell County, Texas, upon proper application being made, to order such election and to enforce the carrying into effect of the provisions of the article of the charter.

## ARTICLE IV. ADMINISTRATIVE SERVICES

### Sec. 4.01. City manager.

#### (a) *Appointment and qualifications.*

(1) The council shall appoint a city manager, who shall be the chief administrative and executive officer of the city. He/she shall be chosen solely on the basis of his/her executive and administrative training, experience and ability. He/she need not be a resident of the city when appointed; however, during his/her tenure of office he/she shall reside in the city.

(2) No mayor or council member shall receive such appointment during the term for which he/she shall have been elected or within one (1) year after the expiration of his/her term.

#### (b) *Term and salary.* The city manager shall serve at the discretion of the city council and shall receive such salary as may be fixed by the council.

#### (c) *Powers and duties.* The city manager shall be responsible to the council for the administration of all the affairs of the city. The powers and duties conferred upon the city manager shall include, but shall not be limited by the following:

(1) He/she shall see that all laws, provisions of this charter, and acts of the city council, subject to enforcement by him/her, or by officers subject to his/her direction and supervision, are faithfully executed.

(2) Appoint, suspend or remove any employee of the city, including department heads, not appointed by council.

(3) Attend all meetings of the council.

(4) Prepare the annual budget and submit it to the council and be responsible for its administration after its adoption.

(5) Prepare and submit to council at the end of the fiscal year a complete report on the finances and administrative activities of the city for the preceding year.

(6) Keep the council advised of the financial condition and future needs of the city and make such recommendations as may seem necessary.

(7) Perform such other duties as may be prescribed by this charter or required of him/her by the council.

(8) Manage, as administrative head, all employees of the city. However, the city manager may not lower, change or alter in any manner the salary and/or the compensation package of personnel directly responsible to the city council.

(9) Reserved.

(10) The city council, including the mayor, shall evaluate the city manager annually in accordance with the city's personnel policies manual, and each council member shall sign the evaluation.

(Amended 4-2-83; Amended 5-1-93; As Amended 5-3-97; As Amended 5-8-01; Ord. No. 2003-03, § 1, 2-4-03/5-3-03; Ord. No. 2003-09, §§ 1--3, 5-6-03/5-3-03)

**State law references:** Municipal Form of Government V.T.C.A., Local Government Code, Sec. 25.029 as amended, may be amended or disposed of in the future.

### Sec. 4.02. Appointment of city manager. ~~Reserved.~~

~~The city council shall appoint a city manager who shall have the powers and will perform the duties as provided in this charter. No mayor or council member shall receive such appointment during the term for which he/she shall have been elected or within one (1) year after the expiration of his/her term.~~

~~(Amended 4-2-83; As Amended 5-1-93)~~

**Sec. 4.03. Acting city manager.**

The city manager within sixty (60) days after taking office, shall designate by letter filed with the city secretary, a qualified administrative officer of the city to perform the duties of the city manager in his/her absence or disability. Such designation shall be approved by council.  
(As Amended 5-1-93; As Amended 5-8-01)

**Sec. 4.04. Department heads.**

The head of each department, except those specifically mentioned in this charter, shall be appointed by, responsible to, and removed by the city manager, and shall be directly responsible for the administration of his or her department. The city manager shall determine the salary of the head of each department under his or her supervision.

No department or office established by this charter shall be discontinued by the city council, and no duties of any such departments shall be transferred therefrom or added thereto.  
(As Amended 5-1-93; As Amended 5-8-01)

**Sec. 4.05. Participation of city manager and other department heads in meetings.**

The city manager shall have the right to ~~take part~~ participate in the discussion of all matters coming before the council. Other department heads shall take part in all discussions of the council relating their respective offices, departments or agencies, subject to the provisions of the Open Meetings Act.  
(As Amended 5-8-01)

**Sec. 4.06. Reserved.**

**Editor's note:** Res. No. 2001-15, adopted May 8, 2001, repealed § 4.06 in its entirety. Formerly, § 4.06 pertained to the city grants administrator and derived from original codification.

## ARTICLE V. LEGAL DEPARTMENTS AND MUNICIPAL COURT

### Sec. 5.01. City attorney.

The city council shall appoint a competent attorney, licensed by the State of Texas, who shall be its "city attorney". The city attorney shall serve at the discretion of the city council. The city attorney shall designate assistant(s) city attorney and submit the name(s) to the city council for concurrence, if the council appropriates sufficient funds for that position. The city attorney shall receive for his/her services such compensation as may be fixed by the council. The city attorney shall appear, in any court, on behalf of the city.

The city attorney shall represent the city in all litigation. He/she shall be the legal advisor, counsel for the city, and counsel for the departments of the city.

The city attorney shall review any and all ordinances considered suspect for change or deletion and cause said ordinance to be brought before the city council with his/her recommendations. The city council and the mayor shall evaluate the city attorney annually, and each council member and the mayor shall sign the evaluation.

(Amended 5-1-93; As Amended 5-3-97; Ord. No. 2003-03, § 1, 2-4-03/5-3-03)

### Sec. 5.02. Municipal court.

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

The municipal court shall be presided over by a magistrate, who shall be known as "the judge of the municipal court."

The court shall be served by a clerk, to be known as the "municipal court clerk", who shall be a city employee.

All fines imposed by the municipal court, or by any court in cases appealed from judgments of the municipal court, shall be paid into the city treasury for the use and benefit of the city. The municipal judge will review with the city attorney all ordinances that are suspected for or need review by the city council for updating or deletion as a city ordinance.

(As Amended 5-1-93)

**State law references:** Municipal Courts, V.T.C.A., Government Code, Chap. 29 as amended, may be amended or disposed of in the future.

### Sec. 5.03. Municipal judge.

There shall be a magistrate of the municipal court known as the "judge of the municipal court", appointed by the city council for a period of two years, or until resignation, or replacement by the city council for cause, whichever shall occur earlier. He/she shall receive such compensation as may be fixed by the city council.

The city council and the mayor shall evaluate the municipal judge annually, and each council member and the mayor shall sign the evaluation.

Further, the city council may appoint an associate municipal judge to serve in the absence of the municipal judge. The associate judge shall serve at the discretion of the city council, who shall fix his/her compensation.

(Amended 4-2-83; Amended 5-1-93; As Amended 5-3-97; Ord. No. 2003-03, § 1, 2-4-03/5-3-03; Ord. No. 2003-09, §§ 1--3, 5-6-03/5-3-03)

**State law references:** Municipal Courts, V.T.C.A., Government Code, Chap. 29 and Art XI, Sec. 11, Texas Constitution as they are amended, may be amended or disposed of in the future.

## ARTICLE VI. THE BUDGET

### Sec. 6.01. Fiscal year.

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

### Sec. 6.02. Preparation and submission of proposed budget.

The city manager, between ninety (90) and sixty (60) days prior to the beginning of each fiscal year, shall submit to the city council a proposed budget, which shall provide a complete financial plan for the fiscal year and shall contain the following:

- (a) A budget message, explanatory of the budget, shall contain an outline of the proposed financial policies of the city for the fiscal year, shall set forth the reasons for salient changes from the previous fiscal year in expenditures and revenue items, and shall explain any major changes in financial policy.
  - (b) A consolidated statement of receipts and expenditures of all funds.
  - (c) An analysis of property valuations.
  - (d) An analysis of the tax rate.
  - (e) Tax levies and tax collections by year for at least five (5) years or, if records for five (5) years are not available, for as many years as are available.
  - (f) General fund resources in detail.
  - (g) Summary of proposed expenditures by function, department, and activity.
  - (h) Summary of proposed expenditures by character and subject.
  - (i) Detailed estimates of expenditures shown separately for each activity to support the summaries numbers (g) and (h) above. Such estimates of expenditures are to include an itemization of positions showing the number of persons having each title and the rate of pay.
  - (j) A revenue and expense statement for all types of bonds.
  - (k) A description of all bond issues outstanding, showing rates of interest, date of issue, maturity date, amount and authorized amount issued, and amount outstanding.
  - (l) A schedule of requirements for the principal and interest of each issue of bonds.
  - (m) A special funds section.
  - (n) The appropriation ordinance.
  - (o) The tax levying ordinance.
  - (p) A capital program, which may be revised and extended each year to indicate capital improvements pending or in process of construction or acquisition and shall include the following items:
    - (1) A summary of proposed programs.
    - (2) A list of all capital improvements which are proposed to be undertaken during the next five (5) fiscal years, with appropriate supporting information as to the necessity for such improvements.
    - (3) Cost estimates, method of financing and recommended time schedules for each such improvement.
    - (4) The estimated annual cost of operating and maintaining the facilities to be constructed or acquired.
- (As Amended 5-1-93)

### Sec. 6.03. Anticipated revenue compared with other years in budget.

The city manager shall, in the preparation of the budget, place in parallel columns opposite all items of revenue the actual amount of each item for the last completed fiscal year,

the estimated amount for the current fiscal year, and the proposed amount for the ensuing fiscal year.

**Sec. 6.04. Proposed expenditures compared with other years.**

The city manager, in the preparation of the budget, shall place in parallel columns opposite all items of expenditures, the actual amount of such items of expenditures for the last completed fiscal year, the estimated amount for the current fiscal year, and the proposed amount for the ensuing fiscal year.

(As Amended 5-1-93)

**Sec. 6.05. Proposed budget: A public record.**

The proposed budget and all supporting schedules shall be filed with the city secretary when submitted to the council and shall be a public record for inspection by anyone.

(As Amended 5-1-93)

**Sec. 6.06. Notice of public hearing on proposed budget.**

At the meeting of the council at which the proposed budget is submitted, the council shall fix the time and place of a public hearing on the budget and shall cause to be published in a local newspaper a notice of the hearing, setting forth the time and place thereof at least five (5) days before the date of hearing.

(As Amended 5-1-93)

**Sec. 6.07. Public hearing on proposed budget.**

At the time and place set forth in the notice required by Section 6.06, the council shall hold a public hearing on the proposed budget submitted, and all interested persons shall be given an opportunity to be heard, for or against any item or the amount of any item therein contained.

(As Amended 5-1-93)

**Sec. 6.08. Public hearing amending or supplementing proposed budget.**

After the conclusion of such public hearing, the council may insert new items or may increase or decrease the items of the proposed budget, except items in proposed expenditures fixed by law. Before inserting any additional item or increasing any item of appropriation, it must cause to be published a notice setting forth the nature of the proposed changes and fixing a place and time, not less than five (5) days after publication, at which the council will hold a public hearing thereon.

After such further hearing, the council may insert the additional item or items and make the increase or increases to the amount in each case indicated by the published notice, or to a lesser amount; but where it shall increase the total proposed expenditures, it shall also provide for an increase in the total anticipated revenue to at least equal such total proposed expenditures.

(As Amended 5-1-93)

**Sec. 6.09. Vote required for adoption.**

The budget shall be adopted by a majority vote of the council.

(As Amended 4-2-83)

**Sec. 6.10. Date of final adoption.**

The budget shall be finally adopted not later than the ~~fifteenth (15<sup>th</sup>)~~<sup>thirtieth (30<sup>th</sup>)</sup> of September. If the council fails to adopt the budget by the ~~fifteenth (15<sup>th</sup>)~~<sup>thirtieth (30<sup>th</sup>)</sup> day of September, the amounts appropriated for the current fiscal year shall be deemed adopted for the ensuing fiscal year on a month-to-month basis with all items in it pro-rated accordingly, until such time as the council adopts a budget for the ensuing fiscal year. The levy of property tax ~~normally approved as a part of the budget adoption will be set to equal the total current fiscal year tax receipts will be set based on the State Law provisions governing property tax levy and the adoption requirements for said levy.~~

(As Amended 5-1-93)

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**Sec. 6.11. Effective date and distribution of budget.**

Upon final adoption, the budget shall be in effect for the ensuing fiscal year. A copy of the budget, as finally adopted, shall be filed with the city secretary, the county clerk of Coryell County, the county clerk of Lampasas County, and as required by state law. The final budget shall be printed, ~~mimeographed~~ or otherwise reproduced, and a reasonable number of copies shall be made available for the use of all offices, departments and agencies, and for the use of interested persons and civic organizations and placed on file with the city secretary, municipal library, and on the city's website.

(As Amended 5-1-93)

**Sec. 6.12. Budget establishes appropriations.**

From the effective date of the budget, all amounts stated therein as proposed expenditures shall be and become appropriated to all objects and purposes therein named.

**Sec. 6.13. Amount to be raised by property tax.**

From the effective date of the budget, the amount stated therein as the amount to be raised by property tax shall constitute a determination of the amount of the levy for the purposes of the city in the corresponding tax year.

**Sec. 6.14. Contingent appropriations.**

Provision shall be made in the annual budget and in the appropriation ordinance for a contingent appropriation, in an amount not more than fifteen (15) per centum of the total general fund expenditure, to be used in case of unforeseen items of expenditures. Such contingent appropriation shall be under the control of the city manager and distributed by him/her after approval by the city council. A detailed account of such expenditures shall be recorded and reported. The proceeds of the contingent appropriation shall be disbursed only by transfer to other departmental appropriations, the spending of which shall be charged to the departments or activities for which the appropriations were made.

(Amended 4-2-83; As Amended 5-1-93)

**Sec. 6.15. Estimated expenditures shall not exceed estimated resources.**

The total estimated expenditures of the general fund and debit services fund shall not exceed the total estimated resources of each fund (projected income plus cash on hand). The classification of revenue and expenditure accounts shall conform as nearly as local conditions will permit to the uniform classification as promulgated by the National Committee on Municipal Accounting, or some other nationally accepted classification.

**Sec. 6.16. Amending the budget.**

(a) *Program/budget action conference.* Within fifteen (15) days after the end of the second quarter of the fiscal year the council will hold a program/budget action conference with the city

manager to determine the fiscal condition of the city at that time and to determine if the current budget for that fiscal year should be amended in any manner.

(b) *Budget amendments.*

(1) If, at any time, the council desires to amend the budget it will call for a public hearing and cause to be published, in local newspapers of general circulation in the city, at least five (5) days prior to such public hearing a description of the proposed amendments.

(2) After the public hearing mentioned above, the city council may adopt, modify and adopt, or decline to adopt the proposed amendments.

(3) In those cases where the council desires to move funds or make appropriations from reserve accounts, two (2) public hearings, held a minimum of five (5) days apart, must be held prior to such action being taken.

(4) In those cases where state law requires that a state of grave public necessity be declared prior to amending the budget, the actual fact of the grave public necessity may be established by an unanimous vote of the council or by the certification in writing by not less than one hundred fifty (150) resident qualified voters. If a grave public necessity is established as herein required, then the budget may be amended by customary council action.

(5) Transfers of appropriations authorized in Sec. 8.02 are budget actions that do not require the amendment procedures required elsewhere in this article.

(As Amended 5-1-93)

**State law references:** Municipal Budget, V.T.C.A., Local Government Code, Chap. 102 as amended, may be amended or disposed of in the future.

## ARTICLE VII. ISSUANCE AND SALE OF BONDS

### Sec. 7.01. Power to borrow.

The City of Copperas Cove shall have the right and power to issue its general obligation bonds on the full faith and credit of the city, payable from ad valorem taxes not to exceed the maximum rate permitted by the Texas constitution, for the purpose of providing permanent public improvements or for any other public purpose. The city shall also have the right and power to issue its revenue bonds payable from the revenues of any municipally owned utility or utilities, and may secure such revenue bonds by a mortgage or deed of trust on the physical properties of such utility or utilities. The city shall also have the right and power to issue interest bearing time warrants pursuant to Article 2368a., Vernon's Annotated Civil Statutes as amended, may be amended or disposed of in the future and interest bearing certificates of obligation pursuant to Acquisition, Sale or Lease of Property, V.T.C.A., Local Government Code, Chap. 271, Subchapter C, as amended, may be amended or disposed of in the future.  
(As Amended 5-1-93)

**State law references:** Street improvements and assessments, V.T.C.S. art. 1105b as amended, may be amended or disposed of in the future.

### Sec. 7.02. Issuance of bonds, time warrants, and certificates of obligation.

All bonds, warrants, and certificates of obligation of the City of Copperas Cove shall be issued pursuant to the procedures and requirements established by the Constitution and general laws of the State of Texas. All tax bond issues must be presented to the voters for referendum.

(As Amended 5-1-93)

**State law references:** Texas Constitution, Art. 11, Sec. 5 and V.T.C.A., Local Government Code, Sec. 402.041 et seq., as amended, may be amended or disposed of in the future.

## ARTICLE VIII. FINANCE ADMINISTRATION

### Sec. 8.01. Director of finance.

(a) *Appointment.* The council may set up a department of finance, the head of which shall be the director of finance, who shall be appointed by the city manager.

(b) *Qualifications.* The director of finance shall have the proper knowledge of municipal accounting and sufficient experience in budgeting and financial control to properly perform the duties of the office.

(c) *Power and duties.* Under the direction of the city manager, the director of finance shall have charge of the administration of the financial affairs of the city, and to that end he/she shall have the authority and shall be required to:

(1) Supervise and be responsible for the disbursement of all monies and have control over all expenditures to ensure that budget appropriations as established or changed by the city council are not exceeded.

(2) Maintain a general accounting system for the city government each of its offices, departments, and agencies; keep books for and exercise financial budgetary control over each office, department and agency; keep separate accounts for the items of appropriation contained in the city budget, each of which accounts shall show the amount of the appropriation, the amounts paid therefrom, the unpaid obligations against it and the unencumbered balance; require reports of receipts and disbursements from each receiving and spending agency of the city government to be made daily or at such intervals as may be deemed expedient.

(3) Submit to the 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.

(4) Prepare, as of the end of each fiscal year, a complete financial statement and report.

(5) Collect license fees and other revenues of the city, or for whose collection the city is responsible, and receive all money receivable by the city from state or federal government, or from any court, or from any office, department or agency of this city.

(6) Have custody of all public funds belonging to or under the control of the city of any office, department or agency of the city government, and deposit all funds coming into his/her hands in such depository or depositories as may be designated by the city council, subject to the requirements of law in force at the time as to the furnishing of bond or the deposit of securities and the payment of interest on deposits. All such interests shall be the property of the city and shall be accounted for and credited to the proper account.

(7) Have custody of all investments and invested funds of the city government, or in possession of such government in a fiduciary capacity, and have the safekeeping of all bonds and notes of the city and the receipt and delivery of city bonds and notes for transfer, registration or exchange.

(8) Supervise and be responsible for the purchase, storage and distribution of all supplies, materials, equipment and other articles used by any office, department or agency of the city government.

(9) Approve all proposed expenditures; provided that there is an unencumbered balance of appropriated and available funds.

(10) Supervise and be responsible for the sale or disposal of surplus or obsolete supplies, materials and equipment belonging to the city.

(d) *Acting.* In the absence of a director of finance, the city manager will serve in the capacity of director of finance.

(As Amended 5-1-93)

### Sec. 8.02. Transfers of appropriations.

The director of finance may at any time transfer any unencumbered appropriation balance or portion thereof between general classifications of expenditures within an office, department or agency (restrictions in Sec. 4.01(c)(8) apply). At the request of the city manager and within the last three (3) months of the fiscal year, the council may by resolution transfer any unencumbered appropriation balance or portion thereof from one office, department or agency to another.

(As Amended 5-1-93)

### **Sec. 8.03. Accounting supervision and control.**

The ~~director of finance~~city manager shall have power and shall be required to:

- (a) Prescribe the forms of receipts, vouchers, bills or claims to be used by all the offices, departments or agencies of the city government.
- (b) Examine and sign all contracts, orders and other documents by which the city government incurs financial obligations, having previously ascertained that monies have been appropriated and allotted and will be available when the obligations shall become due and payable.
- (c) Audit and approve, before payment, all bills, invoices, payrolls, and other evidence of claims, demands or charges against the city government and with the advice of the city attorney determine the regularity, legality and correctness of such claims, demands or charges.
- (d) Inspect and audit any accounts or records of financial transactions which may be maintained in any office, department or agency of the city government apart from or subsidiary to the accounts kept in his/her office.

(As Amended 5-1-93)

### **Sec. 8.04. Lapse of appropriations.**

All appropriations shall lapse at the end of the fiscal year to the extent that they shall not have been expended or lawfully encumbered. The finance director shall transfer such lapsed appropriations to the reserve account of the fund to which the lapsed appropriation belongs.

(As Amended 5-1-93)

### **Sec. 8.05. Fees shall be paid to city.**

All fees received by any officer or employee shall belong to the city government and shall be paid to the department of finance at such times as required by the director of finance.

### **Sec. 8.06. Sale of city property.**

Any sale, gift, or contract for the sale of any real property belonging to the City, either in form of land, real estate or other real properties, shall be in accordance with the Texas Constitution, Texas Local Government Code, Chapters 253 and 263, and the acts amendatory thereof and supplementary thereto, now or hereafter enacted, and all other applicable State law. Personal property shall be disposed of according to ordinance.

(Amended 5-1-93; As Amended 5-3-97; Ord. No. 2003-03, § 1, 2-4-03/5-3-03; Ord. No. 2003-09, §§ 1--3, 5-6-03/5-3-03)

### **Sec. 8.07. Purchase procedure.**

The Director of Finance shall have authority to make expenditures from one or more municipal funds without the approval of the City Council for all budgeted items up to that amount which, under State law, triggers the competitive ~~bid~~procurement process. All contracts or purchases requiring expenditures from one or more municipal funds in the amount involving more than the dollar amount which, according to Section 252.021 of the Local Government Code, or any successor statute thereto triggers the competitive bidding process, shall be let in compliance with the procedures prescribed by Chapter 252 of the Local Government Code and

the acts amendatory and supplementary thereto, now or hereafter enacted, for competitive sealed bidding or competitive sealed proposals.  
(Amended 5-1-93; As Amended 5-3-97; As Amended 5-8-01)

**Sec. 8.08. Contract for improvements.**

Any city contract requiring an expenditure by, or imposing an obligation or liability on the city shall be made in accordance with the requirements of the Constitution and statutes of the State of Texas. These contracts shall include, but are not limited to, contracts for the construction of public works or the purchase of materials, equipment, supplies, or machinery. If changes in plans or specifications are necessary after the performance of the contract is begun or it is necessary to decrease or increase the quantity of work to be performed or of materials, equipment, or supplies to be furnished, the changes shall be made in accordance with the requirements of the Constitution and statutes of the State of Texas. If contracts executed pursuant to Section 252 of the Local Government Code, require a change order involving a decrease or an increase equal to or less than the amount provided in Section 252.048(c) of the Texas Local Government Code and the acts amendatory thereof and supplementary thereto, the city manager may approve the change order.  
(Amended 5-1-93; As Amended 5-3-97; As Amended 5-8-01)

**State law references:** Acquisition, Sale or Lease of Property, V.T.C.A., Local Government Code, Chapters 251, 252, and 253 as amended, may be amended or disposed of in the future.

**Sec. 8.09. Disbursement of funds.**

All checks, vouchers or warrants for the withdrawal of money from the city depository shall be signed by the director of finance, or his/her deputy, and countersigned by the city manager. In the event the city manager is the director of finance, all checks signed by him/her shall be countersigned by the ~~city secretary~~assistant director of finance.  
(As Amended 5-1-93)

**Sec. 8.10. Accounting control of purchases.**

All purchases made shall be pursuant to a written requisition from the head of the office, department or agency whose appropriation will be charged, and no contract or order shall be issued to any seller unless and until the director of finance certifies that there is to the credit of such office, department or agency a sufficient unencumbered balance to pay for the supplies, materials, equipment or contractual services for which the contract or order is to be issued.

**Sec. 8.11. Borrowing in anticipation of property taxes.**

For the purpose of temporary borrowing, the city council shall have the power by ordinance to raise money on the credit of the city by the issuance of warrants and notes in anticipation of the collection of taxes and of special assessments.

**Sec. 8.12. Sale of notes: Report of sale.**

All notes issued pursuant to this article may be sold at not less than face value and accrued interest at private sale by the director of finance without previous advertisement, but such sale shall be authorized by Council. Issuance of notes pursuant to this section is specifically exempt from the provisions of section 8.07.  
(As Amended 5-8-01)

**Sec. 8.13. Surety bonds.**

The directors of all administrative departments whose duties include the handling of monies and all employees whose duties include the handling of monies belonging to the City of

Copperas Cove shall, before entering upon the duties of this office or employment, be bonded with a responsible surety company acceptable to the city council for such amount as the council may prescribe, the premium of which bond shall be paid by the city; and the city council may also require any such surety bond to be further conditioned that the principal thereon will faithfully perform and/or discharge the duties of his/her office, and if there are provisions of state law bearing upon the functions of his/her office under which the execution of a surety bond is required, it shall be further conditioned to comply therewith.  
(As Amended 5-1-93)

## ARTICLE IX. TAX ADMINISTRATION

### Sec. 9.01. Power to tax.

The city shall have all the same powers of taxation granted by the constitution and the general laws of the State of Texas governing cities with a population in excess of five thousand (5,000) inhabitants and by virtue of this charter shall have the power to:

~~(a) Regulate the manner and mode of making out tax lists, inventories and appraisements of property therein; to regulate how, when and where property shall be rendered; to adopt such measures as may be deemed advisable to secure the assessment of all property within the city limits and to assess and collect taxes thereon; to do all things necessary or proper to render effectual the collection of monies by taxation; and to prescribe the oath that shall be administered to each person rendering property for taxation.~~

(ba) Authorize the granting and issuance of licenses and direct the manner of issuing and registering the same and fix the fees therefor; but no license shall be issued for a longer period than one (1) year and shall not be assignable except by permission of the governing authority of the city; and may adopt such measures as may be deemed necessary to enforce the registration requirements;

(eb) Assessing the penalty and interest rate and the method of determining the amount of collector's cost to be charged to delinquent tax accounts;

~~(d) Create a board of equalization comprised of selected persons other than those elected city officials or city employees, whose duties shall be to equalize the values of all property rendered for taxation in the city; prescribe the qualifications, compensation and number necessary to constitute said board, and enact all ordinances necessary to regulate and control the equalization of values by such board.~~

~~It is further provided that a~~No irregularities in the time or manner of making or returning the city assessment rolls or the approval of such rolls shall invalidate any assessment.

(Ord. No. 1988-10, 4-5-88; As Amended 5-1-93)

**State law references:** Power to Tax, Texas Constitution Art. VIII. as amended or may be amended in the future.

## **ARTICLE X. FRANCHISES AND PUBLIC UTILITIES**

### **Sec. 10.01. Powers of the city.**

The city shall have the power to buy, construct, lease, maintain, operate and regulate public utilities and to manufacture, distribute and sell the output of such utility operations. In addition, the city shall have additional powers as granted by the constitution and the laws of the State of Texas. The city shall not provide any utility services outside the city limits except by a written contract with the prospective customer requesting such services.

(As Amended 5-1-93)

**State law references:** Utility Regulatory Act, V.T.C.S. Art. 1446c as amended, may be amended or disposed of in the future.

### **Sec. 10.02. Power to grant franchise.**

The council shall have the power, by ordinance, to grant, renew, extend and amend by mutual agreement, all franchises of all public utilities operating within the city. No franchise shall be granted, renewed or extended for an indeterminate period or for a term of more than twenty (20) years.

### **Sec. 10.03. Ordinance granting franchise.**

Each ordinance granting, renewing, extending or amending a public utility franchise shall be read at a public hearing during two (2) separate regular meetings of the council and shall not be acted upon until the second and final reading. Within seven (7) days following the first reading the ordinance shall be published once, as allowed by law. The prospective franchise holder shall be responsible for the expense of publication. No ordinance shall take effect until thirty (30) days after passage.

(As Amended 5-8-01)

### **Sec. 10.04. Grant not to be exclusive.**

No grant to construct, maintain or operate a public utility and no renewal or extension of such grant shall be exclusive.

### **Sec. 10.05. Transfer of franchise.**

No public utility franchise shall be transferable except by city ordinance. The term "transferable," as used in this article, shall not be interpreted in such a manner as to prevent the franchise holder from pledging the franchise as security for a valid debt or mortgage.

### **Sec. 10.06. Franchise value not to be allowed.**

No value shall be assigned to any franchisee granted by the city in:

- (a) Fixing reasonable rates and charges for utility services within the city.
- (b) Determining the just compensation to be paid by the city for public utility property which it may acquire.

(As Amended 5-1-93)

### **Sec. 10.07. Right of regulation.**

Each grant, renewal, extension and amendment of public utility franchises shall be subjected to the right of the city, and the city shall have the power in accordance with state law:

- (a) To forfeit any franchise, by ordinance, at any time if the holder fails to comply with the terms of the franchise. This power shall be exercised only after notice and hearing, and the franchise holder has had an opportunity to correct the default.

- (b) To, ~~in accordance with state law,~~ require expansion, extension and maintenance of plants and facilities as necessary to provide adequate service to the public at the highest reasonable standard of efficiency.
  - (c) To establish reasonable standards of service and quality of products and prevent discrimination in service or rates.
  - (d) To impose regulations to insure safe, efficient and continuous service to the public. The franchise holder, in opening and refilling of all openings and in the disturbance of property, shall do all work necessary to complete restoration to a condition as good as when disturbed.
  - (e) To examine and audit, at any time during regular businesses hours, the accounts and records of any public utility, providing such examination or audits is relevant to the city's right of regulation.
  - (f) To require compensation and rental permitted by the laws of the State of Texas.
  - (g) To require that each public utility maintain its accounts in accordance with the uniform systems of accounts prescribed by the National Association of Regulatory Commissioners, or the Federal Energy Regulatory Commission, or the Federal Communications Commission, or the Railroad Commission of Texas or their successor, as applicable. If the maintenance of accounts for any public utility is not prescribed by any federal or State of Texas agency, then the city shall prescribe the form of accounts.
  - (h) To establish specifications for materials and construction for public utilities used within or beyond the limits of the city.
  - (i) To prescribe penalties for noncompliance of this provision of the article or ordinances pertaining to franchises and public utilities.
- (As Amended 5-8-01)

#### **Sec. 10.08. Regulation of rates.**

The council shall have the power, after notice and hearing, to regulate by ordinance the rates, charges and fares of every public utility franchise holder to that which the council is permitted to regulate under state and federal law. However, no such ordinance shall be passed as an emergency measure. Every franchise holder requesting an increase in rates, charges or fares shall have, at the hearing called to consider such request, the burden of presenting clear, competent and convincing evidence to substantiate the increase. The council shall have the power to employ expert advice and assistance in determining rates, charges and fares and an equitable profit to the public utility and the franchise holders requesting the increase shall pay the cost of such expert ~~advise advice~~ and assistance.  
(Ord. No. 1988-10, 4-5-88; As Amended 5-1-93)

#### **Sec. 10.09. Submission of annual reports.**

Each franchise holder of a public utility operating in the city shall submit a sworn annual report to the city manager. The report will include receipts from the operation of the public utility for the current year, amount of expenditures to include the amounts for betterments or improvements, the rates, charges or fares for services rendered to the public and any other information that the council may require. The content, submission and inclusive dates of the report will be established by ordinance. The council shall review these reports at least once annually to determine if rates, charges or fares are right and proper.

#### **Sec. 10.10. Municipally owned utilities.**

An account will be maintained by the city manager for each public utility owned or operated. ~~by the city manager.~~ Each account will show the true and complete financial results of the city ownership and operation including assets and liabilities by classes, depreciation reserve, other reserves and surplus, revenues, operating expenses, depreciation, interest

payments, rental and disposition of annual income, capital cost of each city-owned utility, cost of and service rendered to any city department, and other information required by the council. Annually, a certified public accountant will prepare, and the council will cause to be published, a financial report for each public utility owned or operated by the city. Each report will contain the information specified in this section and such other information as required by the council. The council will establish, by ordinance, the submission and inclusive dates of each report.

**Sec. 10.11. Records.**

The city shall compile and maintain a public record of city-owned and operated public utilities, public utility franchises and related annual reports.

## ARTICLE XI. GENERAL PROVISIONS

### Sec. 11.01. Publicity of records.

All records of the city shall be open for inspection by any citizen or by any representative of a citizen's organization or the press during normal business hours subject only to the provisions and limitations of the Texas Public Information Act as now exists or hereafter amended.

(As Amended 5-1-93; As Amended 5-8-01)

**State law references:** Texas access to public information law, V.T.C.S. art. 6252-17 a.

### Sec. 11.02. Conflict of interest.

Any member of the city council, any city office, any city employee or any city board or commission member who has a substantial financial interest, direct or indirect, in any firm, or by reason of ownership of stock in any corporation, or employment with any employer in any contract with the city or in the sale of any land, material, supplies or services to the city or to a contractor supplying the city shall make known that interest and shall refrain from voting upon or otherwise participating in his/her capacity as a city council member, city officer or city employee in the making of such sale or the making or performance of such contract. Any city council member, city officer or city employee who willfully conceals such substantial financial interest or willfully violates the requirements of this section shall be guilty of malfeasance in office or position and shall forfeit his/her office or position. Violation of this section with the knowledge expressed or implied of the person or corporation contracting with or making a sale to the city shall render the contract or sale voidable by the city manager or the city council.

(As Amended 5-1-93; As Amended 5-8-01)

### Sec. 11.03. Gratuities.

Officers or employees of the City of Copperas Cove shall not accept, directly or indirectly, any gift, favor, privilege or employment from any public utility corporation enjoying the grant of any franchise, privilege or easement from the city during the term of office of such officer or during such employment of such employee, except as may be authorized by law or ordinance; provided, however, that policemen and firemen in uniform or wearing their official badges may accept such free service where the same is permitted by ordinance. Any officer or employee of the city who shall violate the provisions of this section shall be guilty of a misdemeanor and may be punished by any fine that may be prescribed by ordinance for this offense and shall forthwith be removed from office.

### Sec. 11.04. Equal employment opportunities.

All employment vacancies in the city shall be filled in a manner prescribed and based upon provisions of the Equal Employment Opportunity Act. Persons employed by the city shall not be related within the second degree of affinity, or within the third degree consanguinity, to any elected officer or the city manager. This provision shall not affect officers or employees who are already employed by the city at the time any elected official related within the named degree takes office. Further, this provision shall not affect officers or employees who obtain such degrees of affinity or consanguinity described above due to his/her marriage after they have become officers or employees of the City.

(As Amended 5-8-01)

### Sec. 11.05. Employee relations.

Nothing in this charter shall limit the City of Copperas Cove from terminating employment at will. The City of Copperas Cove is an at will employer. The employment

relationship between the employee and the City can be terminated at any time and by either party. Therefore, nothing herein is intended, nor shall it be construed, to confer on or award to any employee of the City any property right in his or her employment with the City of Copperas Cove, Texas.

(As Amended 5-1-93)

**Sec. 11.06. Damage suits.**

Before the city shall be liable to damage claim or suit for personal injury, or damage to property, which does not constitute a taking or damaging of property under Article 1, section 17 of the constitution of Texas, the person who is injured or whose property is damaged, or someone in his behalf, shall give the city manager or the city secretary notice in writing, duly verified, within thirty (30) days after the occurring of the alleged injury or damage, stating specifically in such notice when, where and how the injury or damage was sustained, and setting forth the extent of the injury or damage as accurately as possible, and giving the names and addresses of all witnesses upon whose testimony such person is relying to establish the injury or damage.

No action at law for damages shall be brought against the city for personal injury or damage to property prior to the expiration of sixty (60) days after the notice herein described has been filed with the city manager or the city secretary. After the expiration of the sixty (60) days aforementioned, the complainant may then have two (2) years in which to bring action of law.

In case of injuries resulting in death, before the city shall be liable in damages therefor, the person or persons claiming such damages shall, within thirty (30) days after the death of the injured persons, give notice as above required in case of personal injury.

(As Amended 5-1-93)

**State law references:** Texas Tort Claims Act, V.T.C.A., Civil Practices And Remedies, Chap. 101 as amended, may be amended or disposed of in the future.

**Sec. 11.07. Power to settle claims.**

The city council, and only 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. The city council may utilize the services of a negotiator so long as the negotiator works within the direction and guidelines set by the city council and the city council makes the final decision on the part of the city in any such negotiations. However, the foregoing notwithstanding, in any case where an insurance carrier with whom the city is insured assumes liability for the case, the insurance carrier may make the final settlement decision so long as the city is released from all liability, fiscal and other. Further, the city council may delegate final decision authority for delinquent tax settlements to retained counsel.

(As Amended 5-1-93)

**Sec. 11.08. Service of process against the city.**

All legal process against the city shall be served upon the mayor or city secretary.

(As Amended 5-1-93)

**State law references:** V.T.C.A., Civil Practices and Remedies Code, Sec. 17.024 as amended, may be amended or disposed of in the future.

**Sec. 11.09. City not required to give security or execute bond.**

It shall not be necessary in any action, suit or proceeding in which the City of Copperas Cove is a party, for any bond, undertaking or security to be demanded, executed by or on behalf

of said city in any of the state courts, but in all such actions, suits, appeals or proceedings, same shall be conducted in the same manner as if such bond, undertaking or security had been given as required by law, and said city shall be just as liable as if security of bond had been duly executed.

**Sec. 11.10. Liens against city property.**

No lien of any kind shall ever exist against any property, real or personal, owned by the city except that the same be created by this charter.

**Sec. 11.11. Provisions relating to assignment, execution and garnishment.**

The property, real and personal, belonging to the city shall not be liable to be sold or appropriated under any writ of execution or cost bill. The funds belonging to the city, in the hands of any person, firm or corporation, shall not be liable to garnishment, attachment, or sequestration; nor shall the city be liable to garnishment on account of any debt it may owe or funds or property it may have on hand or owing to any person. Neither the city nor any of its officers or agents shall be required to answer any such writ or garnishment on any account whatever. The city shall not be obligated to recognize any assignment of wages or funds by its employees, agents or contractors.

**Sec. 11.12. Power to remit penalties.**

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

**Sec. 11.13. Churches and school property not exempt from special assessments.**

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

**Sec. 11.14. Sale or lease of property other than public utilities or acquired by tax sale.**

Any real property owned by the City of Copperas Cove may be sold or leased by the city council when in its judgment such sale or lease will be for the best interests of the city; provided, however, a sale or a lease for more than five (5) years shall never become effective until thirty (30) days after passage of the ordinance or resolution affecting same. If, during such thirty (30) day period, a referendum petition is presented to the city secretary which in all respects conforms to the referendum provisions of Article II of this charter, and same is found sufficient, then the secretary shall certify the sufficiency of same to the city council, and an election shall be called submitting the question of whether or not the sale or lease shall be consummated. Provided, further, however, the provisions of this section shall not apply to public utilities nor to property purchased by the city at tax sales.

**Sec. 11.15. Effect of this charter on existing law.**

All ordinances, resolutions, rules and regulations now in force under the city government of Copperas Cove, and not in conflict with the provisions of this charter, shall remain in force under this charter until altered, amended or repealed by the council after this charter takes effect; and all rights of the City of Copperas Cove under existing franchises and contracts are preserved in full force and effect to the City of Copperas Cove. Upon adoption of this charter, it shall constitute the charter of the City of Copperas Cove.

**Sec. 11.16. Continuance of contracts and succession of rights.**

All contracts entered into by the city or for its benefit, prior to the taking effect of this charter, shall continue in full force and effect. Public improvements for which legislative steps have been taken under laws or ordinances existing at the time this charter takes effect may be carried to completion in accordance with the provisions of such existing laws or ordinances. All suits, taxes, penalties, forfeitures and all other rights, claims and demands, which have accrued under the laws heretofore in force governing the City of Copperas Cove, shall belong to and be vested in and shall be prosecuted by and for the use and benefit of the corporation hereby created, and shall not in any way be diminished, effected or prejudiced by the adoption and taking effect of this charter.

**Sec. 11.17. Construction and separability clause.**

The charter shall be liberally construed to carry out its intents and purposes. If any section or part of section of this charter shall be held invalid by a court of competent jurisdiction, such holding shall not affect the remainder of this charter nor the context in which such section or part of section may be inseparably connected in meaning and effect with the section or part of section to which such holding shall directly apply.

**Sec. 11.18. Amending the charter.**

Amendments to this charter may be framed and submitted to the qualified electors of the city by a charter commission in the manner provided by law for framing and submitting a new charter.

Amendments may also be proposed and submitted by ordinance, passed by a majority vote of the full membership of the council, or by a petition signed by not less than twenty-five (25) per cent of the number of those who voted at the last regular municipal election, or signed by ~~one~~ five hundred ~~fifty~~ (150)(500) qualified voters, whichever is greater.

When a charter amendment petition shall have been filed with the council in conformity with the provisions of this charter as to petitions for initiated ordinances, the council shall forth with provide by ordinance for submitting such proposed amendment to a vote of the qualified electors. Any ordinance for submitting a charter amendment to the qualified electors shall provide that such amendment be submitted at the next regular municipal election if one shall occur not less than thirty (30) days nor more than ninety (90) days after the passage of the ordinance; otherwise it shall provide for the submission of the amendment at a special election ~~to be called and held within the time aforesaid, held on a uniform election date in accordance with state law.~~

Notice of the election for the submission of said amendment or amendments shall be given by publication thereof, in some newspaper of general circulation in said city, on the same day in each of two (2) successive weeks; the date of the first publication to be not less than fourteen (14) days prior to the date set for said election. If a proposed amendment be approved by a majority of the qualified electors voting thereon, it shall become a part of the charter at the time fixed therein. Each amendment shall be confined to one subject; and when more than one amendment shall be submitted at the same time, they shall be so submitted as to enable the qualified electors to vote on each amendment separately.

**Sec. 11.19. Effective date and interim government.**

This charter shall take effect from and after the date of its adoption, and the date of the special election held for the purpose of voting upon the acceptance or rejection of this charter shall be considered the date of adoption if said charter is accepted at such election. From and after the effective date of this charter and until the completion of the first election under this

charter and the qualification of the mayor and council members thereby elected, the present qualified and acting mayor and the five (5) council members shall constitute the city council of the City of Copperas Cove and the city secretary shall remain in office and continue to conduct the same until said new council is elected and qualified. During the interim period the present city council shall have and possess all of the powers provided by this charter.

**Sec. 11.20. Submission of the charter to electors.**

The charter commission in preparing this charter finds that it is impractical to segregate each subject so as to permit a vote of "yes" or "no" on the same, for the reason that the charter is so constructed that in order to enable it to work and function it is necessary that it should be adopted in its entirety. For these reasons the charter commission directs that the said charter be voted upon as a whole and that it shall be submitted to the qualified voters of the City of Copperas Cove at an election to be held on January 20, 1979. If a majority of the qualified voters voting in such election shall vote in favor of the adoption of this charter, it shall become the charter of the City of Copperas Cove, and after the returns have been canvassed, the same shall be declared adopted.

Not less than thirty (30) days prior to such election the city council shall cause the city clerk to mail a copy of this charter to each qualified voter of the City of Copperas Cove.

An official copy of the charter shall be filed with the records of the city, and the mayor shall, as soon as practicable, certify to the secretary of state an authenticated copy under the seal of the city, showing the approval by the qualified voters of such charter.

**Sec. 11.21. Rules of construction.**

As used in this charter, a word importing the masculine gender only shall extend to, and be applied to, females as well as males. A word importing the singular number shall include the plural, and a word importing the plural number shall include the singular.  
(As Amended 5-8-01)

**CHARTER COMPARATIVE TABLE\***

**\*Note:** Charter Amendment No. 1 of 5-1-93 amended the charter by correcting spelling, punctuation, grammatical errors; by correcting legal references; and by changing masculine pronouns to masculine/feminine or gender free forms.

This table shows the disposition of amendments made to the city's Home Rule Charter as compiled in this volume.

TABLE INSET:

Home Rule Charter Section	Disposition this Charter
1.01--1.15	1.01--1.15
2.01--2.12	2.01--2.12
3.01--3.18	3.01--3.18
4.01--4.06	4.01--4.06
5.01--5.03	5.01--5.03
6.01--6.16	6.01--6.16
7.01, 7.02	7.01, 7.02
8.01--8.13	8.01--8.13
9.01	9.01
10.01--10.11	10.01--10.11
11.01--11.20	11.01--11.20

TABLE INSET:

Date	Amendment Number	Disposition
4- 2-83	1	2.06
	2	2.12
	3	4.01(c)(8)
	4	4.02
	5	5.03
	6	6.09
	7	6.14
4- 5-88	2	3.01(a)

	3	3.04(a)
	6	9.01[1], [2]
	7	10.08
5- 1-93	1	See Note*
	2	1.03
	3	1.04
	4	1.05
	5	1.07
	6	1.16
	7	2.01
	8	2.02
	9--11	2.03
	12	2.05
	14, 15	2.07
	16	2.08
	17	2.10
	18	2.12
	19, 20	3.02
	21	3.03
	22	3.05
	23	3.06
	24--26	3.13
	27, 28	4.01
	29	4.04
	30	5.01
	31	5.02
	32	5.03
	33	6.02
	34	6.02, 6.05, 6.06, 6.07, 6.08
	35	6.11

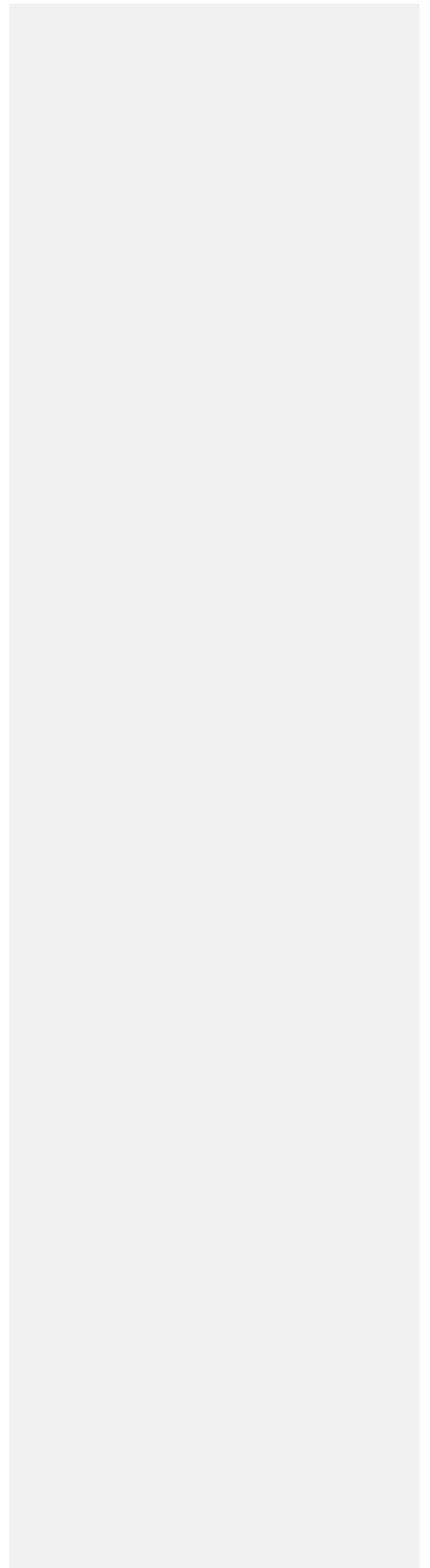
	36	6.14
	37	6.16
	38	7.02
	39	8.02
	40	8.04
	41, 42	8.06
	43	8.09
	44	10.07
	45	11.02
	46	11.04
	47, 48	11.05
	49	11.07
	50	11.08
5- 3-97	1	1.04
	2	2.03
	3	2.05
	4	2.07
	5	2.08
	6	2.12
	7	4.01
	8	5.01
	9	5.03
	10	8.06
	11	8.07
	12	8.08
5- 8-01 (Res.)	1--3	1.04
	4	2.07
	5	2.08(c)
	6	2.06
	7	2.10

	8--11	2.13--2.16
4- 2-83	1	2.06
	12	3.03(d)
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TABLE INSET:

Ord. No.	Adoption Date	Election Date	Section	Charter Section
2003-03	2- 4-03	5- 3-03	1	Char., art. II, § 2.12
				Char., art. IV, § 4.01
				Char., art. V, §§ 5.01, 5.03
				Char., art. VIII, § 8.06
2003-09	5- 6-03	5- 3-03	1--3	Char., art. II, § 2.12
				Char., art. IV, § 4.01
				Char., art. V, §§ 5.01, 5.03
				Char., art. VIII, § 8.06
2005-08	6-21-05	9-10-05	1	Char., art. II, § 2.07

				Char., art. III, § 3.04
2005-15	9-20-05	9-10-05	2(Prop. 5)	Char., art. II, § 2.07
			(Prop. 7)	Char., art. III, § 3.04



CHARTER\*

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**\*Editor's note:** This charter was adopted on Jan. 20, 1979. The charter appears herein as adopted, except that words and numerals have been inserted in brackets for clarification and footnotes have been inserted by the editor. Amendments are cited in parentheses following amended provisions.

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- Art. I. Incorporation: Form of Government: Corporate Powers, §§ 1.01--1.16
  - Art. II. The Council, §§ 2.01--2.16
  - Art. III. Elections, Initiative, Referendum and Recall, §§ 3.01--3.18
  - Art. IV. Administrative Services, §§ 4.01--4.06
  - Art. V. Legal Departments and Municipal Court, §§ 5.01--5.03
  - Art. VI. The Budget, §§ 6.01--6.16
  - Art. VII. Issuance and Sale of Bonds, §§ 7.01, 7.02
  - Art. VIII. Finance Administration, §§ 8.01--8.13
  - Art. IX. Tax Administration, § 9.01
  - Art. X. Franchises and Public Utilities, §§ 10.01--10.11
  - Art. XI. General Provisions, §§ 11.01--11.21

## **ARTICLE I. INCORPORATION: FORM OF GOVERNMENT: CORPORATE POWERS**

### **Sec. 1.01. Incorporation.**

The inhabitants of the City of Copperas Cove, within the corporate limits as now established or to be established in the future by law as directed by this charter, shall be a municipal body politic and corporate in continued growth under the name of the City of Copperas Cove.

(As Amended 5-1-93)

### **Sec. 1.02. Form of government.**

The municipal government provided by this charter shall be of the type known as the council-manager government. The municipal government provided by this charter shall consist of a mayor and council members, elected by the people and responsible to the people, and a city manager, appointed by and responsible to the council for proper administration of the affairs of the city.

(As Amended 5-1-93)

### **Sec. 1.03. Home rule.**

(a) The city shall be a home rule city with full powers of local self-government, including the right to amend this charter, as provided by the constitution and laws of this state. The city and its people shall have all the powers granted to cities by the Constitution of the State of Texas, V.T.C.S. Art 1175 as amended, may be amended or disposed of in the future and other laws of this state, together with all the implied powers necessary to carry into execution such granted powers.

(b) All powers of the city shall be vested in the city council, except as otherwise provided by law or this charter, and the council shall provide for the exercise thereof and for the performance of all duties and obligations imposed on the city by law.

(c) The powers of the city under this charter shall be construed liberally in favor of the city, and the specific mention of particular powers in the charter shall not be construed as limiting in any way the general power granted by the state or this charter.

(As Amended 5-1-93)

### **Sec. 1.04. Change of boundaries.**

*Annexation.* The boundaries of the City of Copperas Cove may be enlarged and extended by the annexation of additional territory in any of the methods and in any manner and by any procedure that may now be provided by state law, or that may be hereafter provided by such law. Any territory annexed shall become a part of the city, and said land and its residents and future residents shall be entitled to all the rights and privileges of other citizens of the city subject to federal, state and local laws and regulations.

*Disannexation.* Whenever there exists within the corporate limits of the City of Copperas Cove any territory not suitable or necessary for city purposes, or for the purpose of effectuating common boundary line agreements between the City of Copperas Cove and adjoining cities, the city council may, by ordinance duly passed, disannex said territory as a part of the city; said ordinance shall accurately describe the territory sought to be eliminated from the city and shall contain a plat designating such territory so that the same can be definitely ascertained, and when said ordinance has been duly passed the territory shall cease to be a part of said city, but said territory shall remain liable for its pro rata share of any debts incurred while said area was a part of the city, and the city shall continue to levy, assess and collect taxes on the property

within said territory to pay the indebtedness incurred while said area was a part of the city as though the same had not been excluded from the boundaries of the city.

*Agreement.* Upon mutual agreement between the City of Copperas Cove and any other adjacent municipality may, by ordinance duly passed, exchange territory with the other adjoining municipality for the purpose of effectuating a common boundary line agreement.  
(Amended 5-1-93; As Amended 5-3-97; As Amended 5-8-01)

#### **Sec. 1.05. Eminent domain.**

The city shall have the full right, power, and authority to exercise the right of eminent domain for public use when necessary or desirable to carry out any of the powers conferred upon it by this charter, or by the constitution or laws of the State of Texas.  
(As Amended 5-1-93)

**State law references:** V.T.C.A., Local Government Code, Title 8, Subtitle A and V.T.C.A., Property Code, Chapter 21, Subchapter B, as they are amended, may be amended or disposed of in the future.

#### **Sec. 1.06. Zoning and appeals.**

The city council shall have the power and authority to zone the city and to pass all necessary ordinances, rules and regulations governing same, under and by virtue of the authority given to cities and legislative bodies thereof, by V.T.C.A., Local Government Code Chapter 211, Subchapter A, as amended, may be amended or disposed of in the future.

The city council shall have the power to create a planning and zoning commission to act as an advisory body on all zoning matters.

The city council shall have further power to create a board of adjustments, as provided by V.T.C.A., Local Government Code, Chapter 211, Subchapter A, as amended, may be amended or disposed of in the future.  
(As Amended 5-1-93)

#### **Sec. 1.07. Establishment and control of streets.**

The city shall have the power to lay out, establish, open, alter, widen, lower, extend, grade, relocate, redefine, name, number and replat, abandon, discontinue, abolish, close, care for, pave, supervise, maintain and improve streets, alleys, sidewalks, parks, squares, public places and bridges, and regulate the use of them, and require the removal from streets, sidewalks, alleys and other public property or places of all obstructions and encroachments of every nature or character.  
(As Amended 5-1-93)

#### **Sec. 1.08. Garbage disposal.**

The city council shall have the right by ordinance to adopt and prescribe rules and regulations for the collection, handling and disposition of all garbage, trash, refuse, and rubbish within the City of Copperas Cove, and shall further have the right to fix charges and compensation to be charged by the city for the removal of garbage, trash, refuse and rubbish.

#### **Sec. 1.09. Sanitary sewer system.**

The city shall have the power to provide and own a sanitary sewer system and to require property owners to connect their premises with such sewer system where available; and to provide for fixing penalties for failure to make sanitary sewer connections; and shall further have the right to fix charges and compensation to be charged by the city for sewage service, providing rules and regulations for the collection thereof. The technical operational employees shall meet state certification requirements.

**Sec. 1.10. Water system.**

The city shall have the power to provide for and own a water system and to prescribe charges, rules, regulations, rates and restriction with reference to the use, consumption, waste, payment, cutoff, turn on, connections and management of such system and to prescribe penalties for violation of such rules and regulations. The technical operational employees shall meet state certification requirements.

**Sec. 1.11. Public library.**

The city shall have the right to establish and maintain a public library within the city and cooperate with any person, firm, association, corporation, or political subdivision of the State of Texas, or of the United States of America, under such terms as the city council may prescribe, for the establishment or maintenance of such public library.

**Sec. 1.12. Public parks and playgrounds.**

The city shall have control over all city parks and playgrounds with the right to control said property and to improve it in accordance with the desires of the citizens as approved by the city council.

**Sec. 1.13. Cemeteries.**

The city shall have the power to regulate burial grounds, cemeteries, and crematories owned by any person, corporation, firm, or association now or hereafter established, to purchase, establish, own, regulate and to maintain one or more cemeteries, and to condemn and close any such when public interest or public health may so demand.

**Sec. 1.14. Fire department.**

The city shall have the authority to establish and maintain a fire department within the city and to cooperate with any person, other governmental body, association or corporation in the operation of the fire department, under such terms as the city council may prescribe.

**Sec. 1.15. Police department.**

The city shall have the authority to establish and maintain a police department within the city and to cooperate with any person, other governmental body, association or corporation in the operation of the police department, under such terms as the city council may prescribe.

**Sec. 1.16. Other services.**

The city may establish other services as required as authorized by Sec. 1.03 (a).  
(As Amended 5-1-93)

## ARTICLE II. THE COUNCIL

### Sec. 2.01. Composition and terms of office.

(a) *Composition.* The council shall be composed of a mayor and seven (7) ~~other~~ council members. The mayor and all ~~other~~ council members shall be elected from the city at large, and each council member, ~~other than the mayor,~~ shall occupy a position on the council, such positions being numbered one (1) through seven (7) consecutively.

(b) *Terms of office.* At the first general election held under this charter, and each three (3) years thereafter, the mayor and two (2) ~~other~~ council members shall be elected, with the mayor filling the office of mayor and the ~~other~~ two (2) council members filling the office of numbered positions one (1) and two (2). The mayor will not be designated as a numbered position on the ballot but shall be designated as "MAYOR." The following year, and each three (3) years thereafter, three (3) council members shall be elected, to fill the office of numbered positions three (3), four (4) and five (5). The following year, and each three (3) years thereafter, two (2) council members shall be elected to fill the office of numbered positions six (6) and seven (7). A council member, unless sooner removed from office under the provisions of this charter, shall serve for a term of three (3) years, and shall serve not more than two (2) terms in succession in the office to which elected. Sec. 2.07(c) also applies.

(As Amended 5-1-93)

### Sec. 2.02. Restrictions.

If any member of the city council desires to run for a different council office other than that which he/she holds, he/she must resign and vacate his/her present office at least sixty (60) days prior to the next election for the desired office. The resignation shall be effective on the date of such resignation. For the purposes of this provision there shall be only two (2) offices; the office of mayor and the office of numbered council member.

(As Amended 5-1-93)

### Sec. 2.03. Presiding officer: Mayor and mayor pro tempore.

The mayor shall be elected in the manner provided by this charter to serve for a term of three (3) years and shall not serve more than two (2) terms in succession. The mayor shall preside at all meetings of the city council and shall be recognized as head of the city government for all ceremonial purposes and by the governor for purposes of martial law, but shall have no regular day-to-day administrative duties other than signatory duties where the mayor signs a variety of documents to give them official legal effect. The mayor shall vote at council meetings only when his/her vote will affect the result of the voting in progress in the following manner: he/she shall vote to break a tie, and he/she shall vote when his/her vote will cause the number of votes required elsewhere in this charter to cause a valid or binding action of the council. The mayor shall have no veto power.

At the city council's second regular meeting following each yearly regular election of council members, or runoff election if required, the council shall elect one of its members as mayor pro tem, for a period of one (1) year. The mayor pro tem shall act as mayor during the absence or disability of the mayor and, when so acting, shall have the same powers, duties, and restrictions as set forth for the office of mayor.

In the event that both the mayor and mayor pro tem are absent from a council meeting, if there be a quorum as elsewhere stated in this charter, the council members present shall elect a chairperson who shall have the authority to conduct the meeting as if he/she were the mayor.

(Amended 5-1-93; As Amended 5-3-97)

### Sec. 2.04. Absenteeism.

Any member of the council requiring absence for two (2) regular consecutive meetings, will first obtain a leave of absence at a regularly scheduled meeting.

### Sec. 2.05. Qualifications.

~~The mayor and other council members shall each be a citizen of the United States of America; be a qualified voter in the City of Copperas Cove, and shall have resided within the corporate limits of Copperas Cove for at least one (1) year next preceding the day of the election at which they are candidates; and shall not be disqualified by reason of any provision of any section of this Charter or of state law.~~ A candidate for office must:

- (1) be a United States citizen.
- (2) be 18 years of age or older upon the commencement of the term to be filled at the election.
- (3) be a qualified voter in the City of Copperas Cove.
- (4) be domiciled within the corporate limits of Copperas Cove for at least one (1) year next preceding the day of the election at which they are a candidate.
- (5) not have been convicted of a felony for which he or she has not been pardoned or otherwise released from the resulting disabilities.
- (6) not have been found mentally incompetent by a final judgment of the court, and
- (7) shall not be disqualified by reason of any section of this charter or by state or federal law.

(Amended 5-1-93; As Amended 5-3-97)

**Cross references:** Vacancies, forfeitures, filling of vacancies, § 2.07; eligibility of candidates, § 3.02(a).

**State law references:** V.T.C.A., Election Code, Chap. 141, Public Office Generally, Subchapter A, Eligibility for Public Office.

### Sec. 2.06. Compensation of council members and mayor.

~~The mayor and each council member shall receive compensation for attendance at council meetings. Each council member shall receive \$25.00 for each regular and specially called meeting attended and the mayor shall receive \$50.00 for each regular and specially called meeting attended and n~~ The mayor shall receive \$50 and all other council members shall receive \$25 for each regular and specially called meeting attended. ~~No council member and mayor~~ shall receive any compensation for attendance at any workshop meeting, except for any workshop meeting that is conducted on a date separate from a regular or special called meeting. In addition, city council shall establish by ordinance methods of reimbursement for all actual and necessary expenses incurred by the mayor and council members in the performance of their duties.

(As Amended 4-2-83; As Amended 5-8-01)

### Sec. 2.07. Vacancies, forfeitures, filling of vacancies.

(a) *Vacancies.* The office of a council member or office of the mayor shall become vacant upon death, resignation, removal from office by recall, or forfeiture of his/her office.

(b) *Forfeiture.*

(1) A council member or the mayor shall forfeit his/her office if he/she: (1) lacks at any time during the term of office any qualification for the office prescribed by this charter or by law, (2) violates any express prohibition of this charter, or (3) is convicted of a misdemeanor involving moral turpitude, felony or is assessed a deferred adjudication or probation for a felony, or (4) fails to attend two (2) consecutive regular meetings unless caused by sickness or emergency,

without first having obtained a leave of absence from the council, or (5) moves his/her permanent residence outside the city limits.

(2) If a council member forfeits his/her office; ~~and does not immediately resign from office;~~ the council and mayor may, ~~by an affirmative vote of five (5) members, declare the office of said council member to be forfeited and vacant.~~ conduct a hearing to determine if the office holder has forfeited and should vacate his/her office. The hearing shall be held within 30 days of the council, as a body, learning of the alleged forfeiture. The council may, by an affirmative vote of five (5) members, declare the office of said office holder to be forfeited and vacant. Disposition of the matter under this Charter is final and is res judicata. Further relief may be sought in a court of law. The office holder subject to the forfeiture shall not have a vote. The mayor shall vote unless he is the office holder subject to the forfeiture. The vacant position shall be filled as provided elsewhere in this Charter for vacant positions. Provisions found elsewhere in the Charter restricting the authority of the mayor to vote in council meetings not withstanding, the mayor shall vote in all cases concerning the forfeiture of a council member's office.

**Cross references:** Qualifications, § 2.05.

(c) *Filling of vacancies.* Any city council member or mayoral vacancy will be filled by majority vote of qualified voters at a special election called for that purpose. ~~The special election will be conducted not later than one hundred twenty (120) days after the vacancy occurs and may be held in conjunction with a general election, if the general election falls within forty-five (45) to one hundred twenty (120) days of the vacancy.~~ The special election will be conducted in accordance with state and federal election laws. The term of office will be for the unexpired term of the office vacated. If the unexpired term is one (1) year or less, that council member may seek re-election for two (2) additional consecutive terms. If the unexpired term exceeds one (1) year that council member may succeed himself/herself only once. For the purposes of this section the period from one annual general election to the next annual general election shall be considered as one year or less regardless of the number of calendar days involved.

(Amended 5-1-93; As Amended 5-3-97; As Amended 5-8-01; Ord. No. 2005-08, § 1, 6-21-05/9-10-05; Ord. No. 2005-15, Prop. No. 5, 9-20-05/9-10-05)

## Sec. 2.08. Prohibitions.

(a) *Holding other office.* Except where authorized by law, no mayor or council member shall hold any other city office or city employment during his/her term as mayor or council member, and no former mayor or council member shall hold any compensated appointive city office or city employment until one (1) year after the expiration of his/her term as mayor or council member.

(b) *Appointments and removals.* Neither the council nor any of its individual members, including the mayor, shall in any manner dictate the appointment or removal of any city administrative officer or employee whom the city manager or any of his/her subordinates are empowered to appoint, ~~but however,~~ the council may express its views and fully and freely discuss with the city manager anything pertaining to appointment and removal of such officers and employees.

(c) *Interference with administration.* Neither the council nor its individual members, including the mayor, shall give any orders or direction, public or private, to any officer or employee who is subject to the direction and supervision of the city manager. Council members, including the mayor, shall not give orders or direction to the city secretary, city judge, city attorney or city manager unless acting as a council as a whole. This is not to preclude the council or its individual members, including the mayor, from conducting a dialog with city staff where the spirit and intent is not to interfere with the management and administration of the city. The mayor is not prohibited from performing administrative duties under a Declaration of Emergency Disaster per Section 2.13 or when performing administrative duties as the Emergency Management

~~Director per Section 2.15, either publicly or privately. However, the council, acting as a whole, may give directions to the city secretary, city judge and the city attorney and city manager.~~  
(Amended 5-1-93; As Amended 5-3-97; As Amended 5-8-01)

### **Sec. 2.09. Meetings of council.**

The council shall hold at least two (2) regular meetings each month with the exception of December, which shall have a minimum of one (1) regular meeting, and as many additional meetings as it deems necessary to transact the business of the city and its citizens. The council shall fix, by ordinance, the days, time and place of the regular meetings. All meetings shall be open to the public, except as otherwise provided by law. Special meetings of the council shall be held at the call of the mayor or of four (4) or more council members.

**State law references:** Texas open meetings law, V.T.C.S. art. 6252-17.

### **Sec. 2.10. Rules of procedure.**

The council shall, by ordinance, determine its own rules and order of business and the rules shall provide that citizens of the city shall have a reasonable opportunity to be heard at all regular and special council meetings in regard to any matter under consideration. The council shall provide for minutes being taken and recorded of all meetings, and such minutes shall be a public record. Voting, except on unanimous votes, shall be by roll call and the yeas, nays, and abstentions shall be recorded in the minutes. Five (5) council members other than the mayor or the council member taking the mayor's place at the meeting, shall constitute a quorum for the purpose of transaction of business. No action of the council shall be valid or binding unless adopted by the affirmative vote of four (4) or more members of the council.

(As Amended 5-1-93; As Amended 5-8-01)

### **Sec. 2.11. Investigative power of the council.**

The council shall have the power to inquire into or investigate the official conduct of any department, agency, office, officer, ~~or employee,~~ **council members and mayor** of the city and for that purpose shall have the power to administer oaths, subpoena witnesses, compel the production of books, papers, records or other evidence, and as it shall provide by ordinance, to punish and fix penalties for contempt for failure or refusal to obey any such subpoena or to produce any such books, papers, records, or other evidence, unless otherwise stated by state law.

### **Sec. 2.12. City secretary.**

The city council shall appoint to the office of city secretary a person to serve as city secretary at the discretion of the council. Any adjustments to the salary, the compensation package or employment status of the city secretary will be approved by the city council.

The secretary shall be provided an office in the City Hall sufficient to maintain the records entrusted to his/her care and shall be entitled to a seat at the council table at all official meetings.

The secretary shall give notices of its meetings, shall keep the journal of its proceedings, shall authenticate by signature and record in full in a book kept and indexed for that purpose, all ordinances and resolutions, and shall perform such other duties as the council may assign.

The secretary shall recommend to the council rules and regulations to be adopted by ordinances to protect the safety and security of the municipal records.

The city secretary shall have such additional duties and authority not herein specified as shall be included for city secretaries in the Texas Civil or Penal Statutes presently existing or adopted in the future, except such duties and authority as may be expressly excluded by ordinance adopted by the city council consistent with the mandatory duties and authority

prescribed either by state or federal law. The city council and the mayor shall evaluate the city secretary in accordance with the city's personnel policies manual, and each council member and the mayor shall sign the evaluation. The city council shall also appoint an alternate city secretary to serve in the absence of the city secretary.

(Amended 4-2-83; Amended 5-1-93; As Amended 5-3-97; As Amended 5-8-01; Ord. No. 2003-03, § 1, 2-4-03/5-3-03; Ord. No. 2003-09, §§ 1--3, 5-6-03/5-3-03)

### **Sec. 2.13. Emergency Powers.**

A state of emergency shall be deemed to exist when, as the consequences of a major calamity, activities of a war-like nature, riots, or insurrection, the normal procedures of the municipal government are inadequate for the protection of persons or property. A Declaration of Local Disaster may be declared by the vote of council, or by order of the mayor, or, in his absence or disability, the mayor pro tempore, if a meeting of the council cannot be called within the time available, whenever conditions threaten to render inadequate the normal procedures of the municipal government for protection of persons or property. A Declaration of Local Disaster may not be continued or renewed for a period of more than seven (7) days except with the consent of council. An ordinance declaring, continuing, or terminating a local state of disaster shall be given prompt and general publicity and shall be promptly filed with the City Secretary.

(As Amended 5-8-01)

### **Sec. 2.14. Emergency ordinances.**

To meet a public emergency affecting life, health, property or the public peace, the council may adopt emergency ordinances, but such ordinances may not levy taxes, grant, renew or extend a franchise, regulate the rate charged by any public utility for its service, or authorize the borrowing of money except as provided in Sec. 2.14. An emergency ordinance shall be introduced in the form and manner prescribed for ordinances generally, except that it shall be plainly designated as an emergency ordinance and shall contain, after the enacting clause, a declaration stating that an emergency exists and describing the emergency in clear and specific terms. An emergency ordinance may be adopted, or amended by a simple majority of the council members present. After adoption, emergency ordinances shall be published and printed as prescribed for other ordinances. They shall become effective upon adoption or at such later time as the ordinance may specify. Every emergency ordinance except one made pursuant to Sec. 2.14 shall automatically stand repealed as of the sixty-first (61st) day following the date of adoption, but this shall not prevent re-enactment of the ordinance in the manner specified in this section if the emergency still exists. An emergency ordinance may also be repealed by adoption of a repealing ordinance in the same manner prescribed in this section for adoption of emergency ordinances.

(As Amended 5-8-01)

### **Sec. 2.15. Duties of the Mayor as Emergency Management Director and Powers of the Mayor during a Local State of Disaster.**

The Mayor is designated as the Emergency Management Director for the City of Copperas Cove, and shall serve as the Governor's designated agent in administration and supervision of the Texas Disaster Act of 1975, and may exercise powers, on an appropriate local scale, granted the Governor therein. During a state of emergency the mayor, or, in his absence or disability, the mayor pro tempore, ~~shall have all the powers which would be vested in the council under this Charter and may exercise those powers to the extent he considers to be reasonable or necessary for the protection of persons or property. In addition thereto, he~~ shall be specifically empowered:

- a. To place temporarily any city officers, employees, services, equipment or properties under the direction or control of any office or officers of the county, state, or federal governments, including the military services, and the duly constituted officers for the civil defense;
- b. To enter upon cooperative agreements with the proper authorities of county, state or federal governments, or other municipalities, for mutual assistance within the area of an existing or threatened emergency;
- c. To order the evacuation of persons from all or any part of the city and to close any buildings or areas within the city;
- d. To re-establish the seat of the city's government at another place, provided that such place, if outside the city's territorial limits, shall be at the place nearest thereto which is suitable and practical.

(As Amended 5-8-01)

**Sec. 2.16. When emergency powers of mayor to terminate.**

The emergency powers herein provided shall be exercised only to the extent made necessary by the nature of the emergency and during the continuation of the Declaration of Local Disaster. The Declaration of Local Disaster shall terminate when so ordered by the Governor, mayor, or by the mayor pro tempore in the absence or disability of the mayor, or may be terminated by vote of a majority of the council.

(As Amended 5-8-01)

## ARTICLE III. ELECTIONS, INITIATIVE, REFERENDUM AND RECALL

### Sec. 3.01. Municipal elections.

(a) *Schedule.* The general municipal election shall be held annually on the ~~first~~ second Saturday in May or such other date as may be required by state or federal law. The ~~last Saturday in May or such other date as may be required by state or federal law is designated as the~~ runoff election date will be held in accordance with state election law. The city council shall be responsible to specify places for holding ~~such~~ all elections.

(b) *Special elections.* The city council may order a special election for ordinances, bond issues, charter amendments, recall or other purposes deemed appropriate. ~~The city council shall fix time and places for holding such special elections and provide all means for holding same.~~ Special elections must be held on a uniform election date in accordance with state election law.

(c) *Voter eligibility.* A certified list of voter registrants within the city, ~~as taken from the~~ shall be requested by the city secretary from ~~official list prepared by~~ the county tax assessor-collector, ~~shall be maintained current by the city secretary.~~ If for a purpose relating only to a city election or to candidates or issues involved in such election, any organization, group or person may request a list of qualified voters of the city. Permission to copy the current list shall be granted by the city secretary.

(d) *Conduct and regulation of elections.* All city elections shall be governed by the constitution of the State of Texas, general laws of the state, this charter, and ordinances of the city, in the order named. Municipal elections shall be conducted by the election officials appointed or approved by the city council. Sample ballots for the specific election shall be posted in the voting place(s) for purpose of voter orientation.

(Ord. No. 1988-10, 4-5-88; As Amended 5-1-93)

**State law references:** V.T.C.A. Election Code, Chap. 41, as amended, may be amended or may be disposed of in the future.

### Sec. 3.02. Filing for office.

(a) *Eligibility to file.* Each candidate for an elective city office shall meet the following qualifications: listed in Section 2.05 and shall not file for more than one office or position number per election. No employee of the city shall continue in such position after becoming a candidate for an elective office.

~~(1) Shall be a qualified voter of the city.~~

~~(2) Shall have resided for at least twelve (12) months preceding the election within the corporate limits of the city.~~

~~(3) No candidate may file for more than one office or position number per election.~~

~~(4) No employee of the city shall continue in such position after becoming a candidate for an elective office.~~

(b) *How to get on ballot.* Any qualified person may have his or her name placed on the official ballot as a candidate for mayor or council member at any election held for the purpose of electing a mayor or council member by filing with the mayor or city secretary at least forty-five (45) days prior to the date of election before 5:00 p.m., a sworn application as provided in V.T.C.A. Election Code, 141.031 as amended, may be amended or disposed of in the future.

(As Amended 5-1-93)

**Cross references:** Qualifications of mayor and council members § 2.05.

**State law references:** Election Dates and Hours for Voting, V.T.C.A. Election Code, Chap. 41; Application for Home-Rule City Office, V.T.C.A. Chap. 143 as amended, may be amended or disposed of in the future.

### **Sec. 3.03. Official ballots.**

(a) *Names on ballot.* The names of all candidates for office shall be printed on the official ballots without party designation or symbol. If two (2) or more candidates have the same surname or surnames so similar as to be likely to cause confusion, their residence addresses shall be printed with their names on the ballot.

(b) *Order of listing.* The order on the ballot of the names of the candidates shall be determined in accordance with Texas state law.

(c) *Early voting ballots.* Procedures for voting by early voting ballot shall be consistent with the current edition of Texas election laws.

(d) *Ballots for ordinances and charter amendments.* An ordinance or charter amendment, to be voted on by the city, shall be presented for voting by ballot title. The ballot title of a measure may differ from its legal title and shall be a clear, concise statement, approved by majority of the whole city council, describing the substance of the measure without argument or prejudice. Below the ballot title shall appear the following question: "Shall the above described (ordinance) (amendment) be adopted?" Immediately below or to the left of such question shall appear, in the following order, the words "Yes" and "No" each with a square.

(e) *Write-in votes.* Procedures for write-in votes shall be consistent with current edition of Texas election laws.

(As Amended 5-1-93; As Amended 5-8-01)

**State law references:** Election Supplies, V.T.C.A. Election Code, Title 5, as amended, may be amended or disposed of in the future.

### **Sec. 3.04. Elections.**

(a) To be elected for the office of council member or mayor, the candidate must receive a majority vote of qualified voters who voted in the general election. If no candidate receives a majority vote, the two (2) candidates with the highest number of votes will participate in a runoff election.

(b) *Canvassing elections.* Returns of elections shall be accomplished according to state law.

(c) *Notification and taking office.* It shall be the duty of the city secretary to notify all persons elected. Those elected shall take office and enter upon their duties after qualifying by taking and subscribing to their oath of office at the second regular city council meeting after the election.

(Ord. No. 1988-10, 4-5-88; As Amended 5-1-93; As Amended 5-8-01; Ord. No. 2005-08, § 1, 6-21-05/9-10-05; Ord. No. 2005-15, Prop. No. 7, 9-20-05/9-10-05)

**State law references:** Conduct of Elections, V.T.C.A., Election Code Title 6, as amended, may be amended or disposed of in the future.

### **Sec. 3.05. Oath of office.**

Every officer of the city, whether elected or appointed, before entering upon the duties of office, shall take and subscribe to the appropriate oath or affirmation prescribed by the secretary of state of the State of Texas. The oath shall also contain a statement affirming that the officer will uphold and comply with the Charter of the City of Copperas Cove, Texas. Executed oaths of office to be filled and shall be kept in the office of the city secretary.

(As Amended 5-1-93)

**State law references:** Article 16, Section 1, of the Constitution of the State of Texas.

### **Sec. 3.06. Power of initiative.**

The voters of this city shall have the power to propose any ordinance, ~~repeal any ordinance,~~ or reject the same at the polls. An initiated ordinance may be submitted to the council by a petition signed by qualified voters of the city, equal in number to at least twenty-five (25) percent of the number of those voting at the last regular municipal election of the city, or

signed by ~~three~~ five hundred (~~5~~300) qualified voters, whichever is greater; ~~except in cases of recall which will require thirty-three (33) percent of the number voting at the last regular municipal election of the city, or signed by five hundred (500) voters, which ever is greater.~~  
(As Amended 5-1-93)

### **Sec. 3.07. Power of referendum.**

The voters of this city shall have the power to ~~approve or reject~~ repeal at the polls any ordinance enacted by the city council which is subject to the initiative process under this charter, except for bonds that have been legally awarded to a successful bidder or other legal obligations. The petition for referendum shall require the same number and qualification of signers as required by this charter for an initiative petition.  
(As Amended 5-1-93)

### **Sec. 3.08. Requirements of petition.**

Any five (5) qualified voters may begin initiative or referendum proceedings by filing with the city secretary an affidavit stating they constitute the petitioners committee and will be responsible for circulating the petition and filing it in proper form, stating their names and addresses, and setting out in full the proposed initiative ordinance or the ordinance sought to be considered. Petitions shall contain, or have attached to them, the full texts of the ordinance proposed or sought to be considered. The signatures to the initiative or referendum need not all be appended to one paper, but each signer shall sign his/her name in ink, ~~and~~ shall add his/her place of residence by street and number. shall include his/her date of birth or voter registration number, and shall state his/her county of residence. The circulators of each petition page shall make an affidavit that he/she, and he/she only, personally circulated that page of the petition, and that each signature is the genuine signature of the person as is written, and further, that no signatures shall have been placed there more than forty-five (45) days prior to the filing of such petition. Petitions shall be returned to the city secretary for filing within forty-five (45) days after ~~issuance of the appropriate blanks to the petitioners committee.~~ filing of the affidavit of petitioners committee.  
(As Amended 5-1-93)

### **Sec. 3.09. Filing, examination and certification of petition.**

Within ~~ten (10)~~ twenty (20) business days after an initiative, referendum or recall petition is filed, the city secretary shall determine whether such petition is signed by a sufficient number of qualified voters and has proper affidavit(s). After completing examination of the petition, the city secretary shall certify the results to the city council at its next regular meeting. If such petition is insufficient, the city secretary shall set forth in a certificate the particulars in which it is insufficient, and an additional ten (10) days shall be allowed in which to file an amendment or supplement which will correct the deficiency. No petition, once amended, may be amended again.

### **Sec. 3.10. Effect of certification of referendum petition.**

When a referendum petition or amended petition has been certified as sufficient by the city secretary, the ordinance specified in the petition shall not go into effect, or further action shall be suspended if it shall have gone into effect, until and unless it is approved by the voters.

### **Sec. 3.11. Council consideration and submission to voters.**

When the council receives a petition for initiative which has been certified by the city secretary to be sufficient, the council shall either enact the proposed ordinance within thirty (30) days, or after certification it shall submit the proposed ordinance shall be submitted to a vote of

the qualified voters of the city at a regular or special election to be held at the first uniform election date within ninety (90) days after the date of the certification to the council in accordance with state election law.

When the council receives a referendum petition certified by the city secretary to be sufficient, the council shall reconsider the referred ordinance within thirty (30) days; and if not repealed, it shall submit that ordinance to the qualified voters of the city at a regular or special election to be held at the first uniform election date not more than ninety (90) days after the date of the certification to the council in accordance with state election law.

### **Sec. 3.12. Ballot form and results of elections.**

The ballot used in voting upon an initiated or referred ordinance shall state the caption of the ordinance and below the caption shall set forth on separate lines the words: "For the Ordinance" "Against the Ordinance." Any number of ordinances may be voted upon at the same election in accordance with the provisions of this charter. An ordinance submitted, and receiving an affirmative majority of the votes cast, shall then become effective as an ordinance of the city. An ordinance so adopted may be repealed or amended at any time after the expiration of two (2) years by a majority vote of the entire city council. A referred ordinance which is not approved by a majority of the votes shall be deemed to be repealed.

### **Sec. 3.13. Power to recall.**

(a) *Power to recall.* The voters of ~~this city~~ the City of Copperas Cove shall have the power to recall any elected officer of this city ~~on grounds of incompetence, official misconduct, or malfeasance in office as defined herein.~~

~~(b) Definitions. In this section, the following words have the definitions assigned to them:~~

~~(1) Incompetence means: (1) gross ignorance of official duties; (2) gross carelessness in the discharge of official duties; of (3) inability or unfitness to promptly and properly discharge official duties because of a serious mental or physical defect that did not exist at the time of the officer's election. Such mental or physical defect must be certified as existing by a court of competent jurisdiction.~~

~~(2) Official misconduct means intentional unlawful behavior relating to official duties by an officer entrusted with the administration of justice or the execution of the law. The term includes an intentional or corrupt failure, refusal, or neglect of an officer to perform a duty imposed on the officer by law. To be recalled for official misconduct an officer must have been convicted of such official misconduct by a court of competent jurisdiction.~~

~~(3) Malfeasance means the unlawful performance of an act, which the officer has no right to perform. Therefore, the term shall be considered as the same as official misconduct and the same requirements for recall shall apply.~~

~~(4) Gross means flagrant or scandalous.~~

~~(d)~~ (b) *Requirements of a recall petition.*

(1) A petition for recall shall specifically state the grounds alleged for the removal of the officer in plain and intelligible language and must cite the time and place of the occurrence of each act alleged as a ground for removal with as much certainty as the nature of the case permits.

(2) The petition shall be signed by qualified voters of the city equal in number to ~~thirty-three percent (33%)~~ fifty-one percent (51%) of the number of those voting at the last regular municipal election of the city, or signed by ~~five hundred (500)~~ seven hundred fifty (750) qualified voters, whichever is greater. The petition shall be verified by the same number of signers, with the same qualifications, and in the same manner required in the charter for an initiative petition.

(e) *Ordering of an election.* If the petition is certified by the city secretary to be sufficient, the council shall order and hold, or cause to be held, on the next feasible date for such, an election as specified under state law, to determine whether such officer shall be recalled.

(d) *Limitation for removal.* An officer may not be removed for an act the officer committed before election to office.

(As Amended 5-1-93; As Amended 5-8-01)

**Sec. 3.14. Results of recall election.**

If the majority of the votes cast at a recall election shall be for the removal from office of the elected officer named on the petition and ballot, his/her office shall immediately be declared vacant and shall be filled as vacancies in the city council are filled, as provided in this charter. An elected officer who has been so removed from office shall not be eligible to succeed himself/herself.

(As Amended 5-1-93)

**Sec. 3.15. Limitation on recall.**

No petition shall be filed against an elected officer within ~~six (6) months~~ 180 days after he/she has taken office. A recall election need not be ordered by the council if the term of office of the elected officer against whom a petition is filed is to expire within ~~ninety (90)~~ 180 days after the petition is filed with the city secretary. An elected officer previously the subject of a recall election, shall not be listed on a recall petition within 365 days of the previous recall election.

(As Amended 5-1-93)

**Sec. 3.16. Public hearing.**

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

(As Amended 5-1-93)

**Sec. 3.17. Ballots in recall election.**

Ballots used at recall elections shall conform to the following requirements: (1) With respect to each person whose removal is sought, the question shall be submitted "Shall (name of person) be removed from the office of (mayor) (council member) by recall?" (2) immediately below the question, there shall be printed the two (2) following propositions, one above the other, in the order indicated: "For the recall of (name of person)." "Against the recall of (name of person)".

**Sec. 3.18. Failure of council to call a recall election.**

When all the requirements of this charter shall have been met and the council shall fail or refuse to receive the recall petition, or order such recall election, or discharge other duties imposed upon the council by the provisions of the charter with reference to such recall, then it shall be the duty of the district judge of Coryell County, Texas, upon proper application being made, to order such election and to enforce the carrying into effect of the provisions of the article of the charter.

## ARTICLE IV. ADMINISTRATIVE SERVICES

### Sec. 4.01. City manager.

(a) *Appointment and qualifications.*

(1) The council shall appoint a city manager, who shall be the chief administrative and executive officer of the city. He/she shall be chosen solely on the basis of his/her executive and administrative training, experience and ability. He/she need not be a resident of the city when appointed; however, during his/her tenure of office he/she shall reside in the city.

(2) No mayor or council member shall receive such appointment during the term for which he/she shall have been elected or within one (1) year after the expiration of his/her term.

(b) *Term and salary.* The city manager shall serve at the discretion of the city council and shall receive such salary as may be fixed by the council.

(c) *Powers and duties.* The city manager shall be responsible to the council for the administration of all the affairs of the city. The powers and duties conferred upon the city manager shall include, but shall not be limited by the following:

(1) He/she shall see that all laws, provisions of this charter, and acts of the city council, subject to enforcement by him/her, or by officers subject to his/her direction and supervision, are faithfully executed.

(2) Appoint, suspend or remove any employee of the city, including department heads, not appointed by council.

(3) Attend all meetings of the council.

(4) Prepare the annual budget and submit it to the council and be responsible for its administration after its adoption.

(5) Prepare and submit to council at the end of the fiscal year a complete report on the finances and administrative activities of the city for the preceding year.

(6) Keep the council advised of the financial condition and future needs of the city and make such recommendations as may seem necessary.

(7) Perform such other duties as may be prescribed by this charter or required of him/her by the council.

(8) Manage, as administrative head, all employees of the city. However, the city manager may not lower, change or alter in any manner the salary and/or the compensation package of personnel directly responsible to the city council.

(9) Reserved.

(10) The city council, including the mayor, shall evaluate the city manager annually in accordance with the city's personnel policies manual, and each council member shall sign the evaluation.

(Amended 4-2-83; Amended 5-1-93; As Amended 5-3-97; As Amended 5-8-01; Ord. No. 2003-03, § 1, 2-4-03/5-3-03; Ord. No. 2003-09, §§ 1--3, 5-6-03/5-3-03)

**State law references:** Municipal Form of Government V.T.C.A., Local Government Code, Sec. 25.029 as amended, may be amended or disposed of in the future.

### Sec. 4.02. ~~Appointment of city manager.~~ Reserved.

~~The city council shall appoint a city manager who shall have the powers and will perform the duties as provided in this charter. No mayor or council member shall receive such appointment during the term for which he/she shall have been elected or within one (1) year after the expiration of his/her term.~~

~~(Amended 4-2-83; As Amended 5-1-93)~~

**Sec. 4.03. Acting city manager.**

The city manager within sixty (60) days after taking office, shall designate by letter filed with the city secretary, a qualified administrative officer of the city to perform the duties of the city manager in his/her absence or disability. Such designation shall be approved by council.  
(As Amended 5-1-93; As Amended 5-8-01)

**Sec. 4.04. Department heads.**

The head of each department, except those specifically mentioned in this charter, shall be appointed by, responsible to, and removed by the city manager, and shall be directly responsible for the administration of his or her department. The city manager shall determine the salary of the head of each department under his or her supervision.

No department or office established by this charter shall be discontinued by the city council, and no duties of any such departments shall be transferred therefrom or added thereto.  
(As Amended 5-1-93; As Amended 5-8-01)

**Sec. 4.05. Participation of city manager and other department heads in meetings.**

The city manager shall have the right to ~~take part~~ participate in the discussion of all matters coming before the council. Other department heads shall take part in all discussions of the council relating their respective offices, departments or agencies, subject to the provisions of the Open Meetings Act.  
(As Amended 5-8-01)

**Sec. 4.06. Reserved.**

**Editor's note:** Res. No. 2001-15, adopted May 8, 2001, repealed § 4.06 in its entirety. Formerly, § 4.06 pertained to the city grants administrator and derived from original codification.

## ARTICLE V. LEGAL DEPARTMENTS AND MUNICIPAL COURT

### Sec. 5.01. City attorney.

The city council shall appoint a competent attorney, licensed by the State of Texas, who shall be its "city attorney". The city attorney shall serve at the discretion of the city council. The city attorney shall designate assistant(s) city attorney and submit the name(s) to the city council for concurrence, if the council appropriates sufficient funds for that position. The city attorney shall receive for his/her services such compensation as may be fixed by the council. The city attorney shall appear, in any court, on behalf of the city.

The city attorney shall represent the city in all litigation. He/she shall be the legal advisor, counsel for the city, and counsel for the departments of the city.

The city attorney shall review any and all ordinances considered suspect for change or deletion and cause said ordinance to be brought before the city council with his/her recommendations. The city council and the mayor shall evaluate the city attorney annually, and each council member and the mayor shall sign the evaluation.

(Amended 5-1-93; As Amended 5-3-97; Ord. No. 2003-03, § 1, 2-4-03/5-3-03)

### Sec. 5.02. Municipal court.

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

The municipal court shall be presided over by a magistrate, who shall be known as "the judge of the municipal court."

The court shall be served by a clerk, to be known as the "municipal court clerk", who shall be a city employee.

All fines imposed by the municipal court, or by any court in cases appealed from judgments of the municipal court, shall be paid into the city treasury for the use and benefit of the city. The municipal judge will review with the city attorney all ordinances that are suspected for or need review by the city council for updating or deletion as a city ordinance.

(As Amended 5-1-93)

**State law references:** Municipal Courts, V.T.C.A., Government Code, Chap. 29 as amended, may be amended or disposed of in the future.

### Sec. 5.03. Municipal judge.

There shall be a magistrate of the municipal court known as the "judge of the municipal court", appointed by the city council for a period of two years, or until resignation, or replacement by the city council for cause, whichever shall occur earlier. He/she shall receive such compensation as may be fixed by the city council.

The city council and the mayor shall evaluate the municipal judge annually, and each council member and the mayor shall sign the evaluation.

Further, the city council may appoint an associate municipal judge to serve in the absence of the municipal judge. The associate judge shall serve at the discretion of the city council, who shall fix his/her compensation.

(Amended 4-2-83; Amended 5-1-93; As Amended 5-3-97; Ord. No. 2003-03, § 1, 2-4-03/5-3-03; Ord. No. 2003-09, §§ 1--3, 5-6-03/5-3-03)

**State law references:** Municipal Courts, V.T.C.A., Government Code, Chap. 29 and Art XI, Sec. 11, Texas Constitution as they are amended, may be amended or disposed of in the future.

## **ARTICLE VI. THE BUDGET**

### **Sec. 6.01. Fiscal year.**

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

### **Sec. 6.02. Preparation and submission of proposed budget.**

The city manager, between ninety (90) and sixty (60) days prior to the beginning of each fiscal year, shall submit to the city council a proposed budget, which shall provide a complete financial plan for the fiscal year and shall contain the following:

- (a) A budget message, explanatory of the budget, shall contain an outline of the proposed financial policies of the city for the fiscal year, shall set forth the reasons for salient changes from the previous fiscal year in expenditures and revenue items, and shall explain any major changes in financial policy.
  - (b) A consolidated statement of receipts and expenditures of all funds.
  - (c) An analysis of property valuations.
  - (d) An analysis of the tax rate.
  - (e) Tax levies and tax collections by year for at least five (5) years or, if records for five (5) years are not available, for as many years as are available.
  - (f) General fund resources in detail.
  - (g) Summary of proposed expenditures by function, department, and activity.
  - (h) Summary of proposed expenditures by character and subject.
  - (i) Detailed estimates of expenditures shown separately for each activity to support the summaries numbers (g) and (h) above. Such estimates of expenditures are to include an itemization of positions showing the number of persons having each title and the rate of pay.
  - (j) A revenue and expense statement for all types of bonds.
  - (k) A description of all bond issues outstanding, showing rates of interest, date of issue, maturity date, amount and authorized amount issued, and amount outstanding.
  - (l) A schedule of requirements for the principal and interest of each issue of bonds.
  - (m) A special funds section.
  - (n) The appropriation ordinance.
  - (o) The tax levying ordinance.
  - (p) A capital program, which may be revised and extended each year to indicate capital improvements pending or in process of construction or acquisition and shall include the following items:
    - (1) A summary of proposed programs.
    - (2) A list of all capital improvements which are proposed to be undertaken during the next five (5) fiscal years, with appropriate supporting information as to the necessity for such improvements.
    - (3) Cost estimates, method of financing and recommended time schedules for each such improvement.
    - (4) The estimated annual cost of operating and maintaining the facilities to be constructed or acquired.
- (As Amended 5-1-93)

### **Sec. 6.03. Anticipated revenue compared with other years in budget.**

The city manager shall, in the preparation of the budget, place in parallel columns opposite all items of revenue the actual amount of each item for the last completed fiscal year,

the estimated amount for the current fiscal year, and the proposed amount for the ensuing fiscal year.

**Sec. 6.04. Proposed expenditures compared with other years.**

The city manager, in the preparation of the budget, shall place in parallel columns opposite all items of expenditures, the actual amount of such items of expenditures for the last completed fiscal year, the estimated amount for the current fiscal year, and the proposed amount for the ensuing fiscal year.

(As Amended 5-1-93)

**Sec. 6.05. Proposed budget: A public record.**

The proposed budget and all supporting schedules shall be filed with the city secretary when submitted to the council and shall be a public record for inspection by anyone.

(As Amended 5-1-93)

**Sec. 6.06. Notice of public hearing on proposed budget.**

At the meeting of the council at which the proposed budget is submitted, the council shall fix the time and place of a public hearing on the budget and shall cause to be published in a local newspaper a notice of the hearing, setting forth the time and place thereof at least five (5) days before the date of hearing.

(As Amended 5-1-93)

**Sec. 6.07. Public hearing on proposed budget.**

At the time and place set forth in the notice required by Section 6.06, the council shall hold a public hearing on the proposed budget submitted, and all interested persons shall be given an opportunity to be heard, for or against any item or the amount of any item therein contained.

(As Amended 5-1-93)

**Sec. 6.08. Public hearing amending or supplementing proposed budget.**

After the conclusion of such public hearing, the council may insert new items or may increase or decrease the items of the proposed budget, except items in proposed expenditures fixed by law. Before inserting any additional item or increasing any item of appropriation, it must cause to be published a notice setting forth the nature of the proposed changes and fixing a place and time, not less than five (5) days after publication, at which the council will hold a public hearing thereon.

After such further hearing, the council may insert the additional item or items and make the increase or increases to the amount in each case indicated by the published notice, or to a lesser amount; but where it shall increase the total proposed expenditures, it shall also provide for an increase in the total anticipated revenue to at least equal such total proposed expenditures.

(As Amended 5-1-93)

**Sec. 6.09. Vote required for adoption.**

The budget shall be adopted by a majority vote of the council.

(As Amended 4-2-83)

**Sec. 6.10. Date of final adoption.**

The budget shall be finally adopted not later than the ~~fifteenth (15<sup>th</sup>)~~ thirtieth (30<sup>th</sup>) of September. If the council fails to adopt the budget by the ~~fifteenth (15<sup>th</sup>)~~ thirtieth (30<sup>th</sup>) day of September, the amounts appropriated for the current fiscal year shall be deemed adopted for the ensuing fiscal year on a month-to-month basis with all items in it pro-rated accordingly, until such time as the council adopts a budget for the ensuing fiscal year. The levy of property tax ~~normally approved as a part of the budget adoption will be set to equal the total current fiscal year tax receipts~~ will be set based on the State Law provisions governing property tax levy and the adoption requirements for said levy.

(As Amended 5-1-93)

#### **Sec. 6.11. Effective date and distribution of budget.**

Upon final adoption, the budget shall be in effect for the ensuing fiscal year. A copy of the budget, as finally adopted, shall be filed with the city secretary, the county clerk of Coryell County, the county clerk of Lampasas County, and as required by state law. The final budget shall be printed, ~~mimeographed~~ or otherwise reproduced, and a reasonable number of copies shall be made available for the use of all offices, departments and agencies, and for the use of interested persons and civic organizations and placed on file with the city secretary, municipal library, and on the city's website.

(As Amended 5-1-93)

#### **Sec. 6.12. Budget establishes appropriations.**

From the effective date of the budget, all amounts stated therein as proposed expenditures shall be and become appropriated to all objects and purposes therein named.

#### **Sec. 6.13. Amount to be raised by property tax.**

From the effective date of the budget, the amount stated therein as the amount to be raised by property tax shall constitute a determination of the amount of the levy for the purposes of the city in the corresponding tax year.

#### **Sec. 6.14. Contingent appropriations.**

Provision shall be made in the annual budget and in the appropriation ordinance for a contingent appropriation, in an amount not more than fifteen (15) per centum of the total general fund expenditure, to be used in case of unforeseen items of expenditures. Such contingent appropriation shall be under the control of the city manager and distributed by him/her after approval by the city council. A detailed account of such expenditures shall be recorded and reported. The proceeds of the contingent appropriation shall be disbursed only by transfer to other departmental appropriations, the spending of which shall be charged to the departments or activities for which the appropriations were made.

(Amended 4-2-83; As Amended 5-1-93)

#### **Sec. 6.15. Estimated expenditures shall not exceed estimated resources.**

The total estimated expenditures of the general fund and debit services fund shall not exceed the total estimated resources of each fund (projected income plus cash on hand). The classification of revenue and expenditure accounts shall conform as nearly as local conditions will permit to the uniform classification as promulgated by the National Committee on Municipal Accounting, or some other nationally accepted classification.

#### **Sec. 6.16. Amending the budget.**

(a) *Program/budget action conference.* Within fifteen (15) days after the end of the second quarter of the fiscal year the council will hold a program/budget action conference with the city

manager to determine the fiscal condition of the city at that time and to determine if the current budget for that fiscal year should be amended in any manner.

(b) *Budget amendments.*

(1) If, at any time, the council desires to amend the budget it will call for a public hearing and cause to be published, in local newspapers of general circulation in the city, at least five (5) days prior to such public hearing a description of the proposed amendments.

(2) After the public hearing mentioned above, the city council may adopt, modify and adopt, or decline to adopt the proposed amendments.

(3) In those cases where the council desires to move funds or make appropriations from reserve accounts, two (2) public hearings, held a minimum of five (5) days apart, must be held prior to such action being taken.

(4) In those cases where state law requires that a state of grave public necessity be declared prior to amending the budget, the actual fact of the grave public necessity may be established by an unanimous vote of the council or by the certification in writing by not less than one hundred fifty (150) resident qualified voters. If a grave public necessity is established as herein required, then the budget may be amended by customary council action.

(5) Transfers of appropriations authorized in Sec. 8.02 are budget actions that do not require the amendment procedures required elsewhere in this article.

(As Amended 5-1-93)

**State law references:** Municipal Budget, V.T.C.A., Local Government Code, Chap. 102 as amended, may be amended or disposed of in the future.

## **ARTICLE VII. ISSUANCE AND SALE OF BONDS**

### **Sec. 7.01. Power to borrow.**

The City of Copperas Cove shall have the right and power to issue its general obligation bonds on the full faith and credit of the city, payable from ad valorem taxes not to exceed the maximum rate permitted by the Texas constitution, for the purpose of providing permanent public improvements or for any other public purpose. The city shall also have the right and power to issue its revenue bonds payable from the revenues of any municipally owned utility or utilities, and may secure such revenue bonds by a mortgage or deed of trust on the physical properties of such utility or utilities. The city shall also have the right and power to issue interest bearing time warrants pursuant to Article 2368a., Vernon's Annotated Civil Statutes as amended, may be amended or disposed of in the future and interest bearing certificates of obligation pursuant to Acquisition, Sale or Lease of Property, V.T.C.A., Local Government Code, Chap. 271, Subchapter C, as amended, may be amended or disposed of in the future.  
(As Amended 5-1-93)

**State law references:** Street improvements and assessments, V.T.C.S. art. 1105b as amended, may be amended or disposed of in the future.

### **Sec. 7.02. Issuance of bonds, time warrants, and certificates of obligation.**

All bonds, warrants, and certificates of obligation of the City of Copperas Cove shall be issued pursuant to the procedures and requirements established by the Constitution and general laws of the State of Texas. All tax bond issues must be presented to the voters for referendum.

(As Amended 5-1-93)

**State law references:** Texas Constitution, Art. 11, Sec. 5 and V.T.C.A., Local Government Code, Sec. 402.041 et seq., as amended, may be amended or disposed of in the future.

## ARTICLE VIII. FINANCE ADMINISTRATION

### Sec. 8.01. Director of finance.

(a) *Appointment.* The council may set up a department of finance, the head of which shall be the director of finance, who shall be appointed by the city manager.

(b) *Qualifications.* The director of finance shall have the proper knowledge of municipal accounting and sufficient experience in budgeting and financial control to properly perform the duties of the office.

(c) *Power and duties.* Under the direction of the city manager, the director of finance shall have charge of the administration of the financial affairs of the city, and to that end he/she shall have the authority and shall be required to:

(1) Supervise and be responsible for the disbursement of all monies and have control over all expenditures to ensure that budget appropriations as established or changed by the city council are not exceeded.

(2) Maintain a general accounting system for the city government each of its offices, departments, and agencies; keep books for and exercise financial budgetary control over each office, department and agency; keep separate accounts for the items of appropriation contained in the city budget, each of which accounts shall show the amount of the appropriation, the amounts paid therefrom, the unpaid obligations against it and the unencumbered balance; require reports of receipts and disbursements from each receiving and spending agency of the city government to be made daily or at such intervals as may be deemed expedient.

(3) Submit to the 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.

(4) Prepare, as of the end of each fiscal year, a complete financial statement and report.

(5) Collect license fees and other revenues of the city, or for whose collection the city is responsible, and receive all money receivable by the city from state or federal government, or from any court, or from any office, department or agency of this city.

(6) Have custody of all public funds belonging to or under the control of the city of any office, department or agency of the city government, and deposit all funds coming into his/her hands in such depository or depositories as may be designated by the city council, subject to the requirements of law in force at the time as to the furnishing of bond or the deposit of securities and the payment of interest on deposits. All such interests shall be the property of the city and shall be accounted for and credited to the proper account.

(7) Have custody of all investments and invested funds of the city government, or in possession of such government in a fiduciary capacity, and have the safekeeping of all bonds and notes of the city and the receipt and delivery of city bonds and notes for transfer, registration or exchange.

(8) Supervise and be responsible for the purchase, storage and distribution of all supplies, materials, equipment and other articles used by any office, department or agency of the city government.

(9) Approve all proposed expenditures; provided that there is an unencumbered balance of appropriated and available funds.

(10) Supervise and be responsible for the sale or disposal of surplus or obsolete supplies, materials and equipment belonging to the city.

(d) *Acting.* In the absence of a director of finance, the city manager will serve in the capacity of director of finance.

(As Amended 5-1-93)

### Sec. 8.02. Transfers of appropriations.

The director of finance may at any time transfer any unencumbered appropriation balance or portion thereof between general classifications of expenditures within an office, department or agency (restrictions in Sec. 4.01(c)(8) apply). At the request of the city manager and within the last three (3) months of the fiscal year, the council may by resolution transfer any unencumbered appropriation balance or portion thereof from one office, department or agency to another.

(As Amended 5-1-93)

### **Sec. 8.03. Accounting supervision and control.**

The ~~director of finance~~ city manager shall have power and shall be required to:

- (a) Prescribe the forms of receipts, vouchers, bills or claims to be used by all the offices, departments or agencies of the city government.
- (b) Examine and sign all contracts, orders and other documents by which the city government incurs financial obligations, having previously ascertained that monies have been appropriated and allotted and will be available when the obligations shall become due and payable.
- (c) Audit and approve, before payment, all bills, invoices, payrolls, and other evidence of claims, demands or charges against the city government and with the advice of the city attorney determine the regularity, legality and correctness of such claims, demands or charges.
- (d) Inspect and audit any accounts or records of financial transactions which may be maintained in any office, department or agency of the city government apart from or subsidiary to the accounts kept in his/her office.

(As Amended 5-1-93)

### **Sec. 8.04. Lapse of appropriations.**

All appropriations shall lapse at the end of the fiscal year to the extent that they shall not have been expended or lawfully encumbered. The finance director shall transfer such lapsed appropriations to the reserve account of the fund to which the lapsed appropriation belongs.

(As Amended 5-1-93)

### **Sec. 8.05. Fees shall be paid to city.**

All fees received by any officer or employee shall belong to the city government and shall be paid to the department of finance at such times as required by the director of finance.

### **Sec. 8.06. Sale of city property.**

Any sale, gift, or contract for the sale of any real property belonging to the City, either in form of land, real estate or other real properties, shall be in accordance with the Texas Constitution, Texas Local Government Code, Chapters 253 and 263, and the acts amendatory thereof and supplementary thereto, now or hereafter enacted, and all other applicable State law. Personal property shall be disposed of according to ordinance.

(Amended 5-1-93; As Amended 5-3-97; Ord. No. 2003-03, § 1, 2-4-03/5-3-03; Ord. No. 2003-09, §§ 1--3, 5-6-03/5-3-03)

### **Sec. 8.07. Purchase procedure.**

The Director of Finance shall have authority to make expenditures from one or more municipal funds without the approval of the City Council for all budgeted items up to that amount which, under State law, triggers the competitive bid-procurement process. All contracts or purchases requiring expenditures from one or more municipal funds in the amount involving more than the dollar amount which, according to Section 252.021 of the Local Government Code, or any successor statute thereto triggers the competitive bidding process, shall be let in compliance with the procedures prescribed by Chapter 252 of the Local Government Code and

the acts amendatory and supplementary thereto, now or hereafter enacted, for competitive sealed bidding or competitive sealed proposals.

(Amended 5-1-93; As Amended 5-3-97; As Amended 5-8-01)

**Sec. 8.08. Contract for improvements.**

Any city contract requiring an expenditure by, or imposing an obligation or liability on the city shall be made in accordance with the requirements of the Constitution and statutes of the State of Texas. These contracts shall include, but are not limited to, contracts for the construction of public works or the purchase of materials, equipment, supplies, or machinery. If changes in plans or specifications are necessary after the performance of the contract is begun or it is necessary to decrease or increase the quantity of work to be performed or of materials, equipment, or supplies to be furnished, the changes shall be made in accordance with the requirements of the Constitution and statutes of the State of Texas. If contracts executed pursuant to Section 252 of the Local Government Code, require a change order involving a decrease or an increase equal to or less than the amount provided in Section 252.048(c) of the Texas Local Government Code and the acts amendatory thereof and supplementary thereto, the city manager may approve the change order.

(Amended 5-1-93; As Amended 5-3-97; As Amended 5-8-01)

**State law references:** Acquisition, Sale or Lease of Property, V.T.C.A., Local Government Code, Chapters 251, 252, and 253 as amended, may be amended or disposed of in the future.

**Sec. 8.09. Disbursement of funds.**

All checks, vouchers or warrants for the withdrawal of money from the city depository shall be signed by the director of finance, or his/her deputy, and countersigned by the city manager. In the event the city manager is the director of finance, all checks signed by him/her shall be countersigned by the ~~city secretary~~ assistant director of finance.

(As Amended 5-1-93)

**Sec. 8.10. Accounting control of purchases.**

All purchases made shall be pursuant to a written requisition from the head of the office, department or agency whose appropriation will be charged, and no contract or order shall be issued to any seller unless and until the director of finance certifies that there is to the credit of such office, department or agency a sufficient unencumbered balance to pay for the supplies, materials, equipment or contractual services for which the contract or order is to be issued.

**Sec. 8.11. Borrowing in anticipation of property taxes.**

For the purpose of temporary borrowing, the city council shall have the power by ordinance to raise money on the credit of the city by the issuance of warrants and notes in anticipation of the collection of taxes and of special assessments.

**Sec. 8.12. Sale of notes: Report of sale.**

All notes issued pursuant to this article may be sold at not less than face value and accrued interest at private sale by the director of finance without previous advertisement, but such sale shall be authorized by Council. Issuance of notes pursuant to this section is specifically exempt from the provisions of section 8.07.

(As Amended 5-8-01)

**Sec. 8.13. Surety bonds.**

The directors of all administrative departments whose duties include the handling of monies and all employees whose duties include the handling of monies belonging to the City of

Copperas Cove shall, before entering upon the duties of this office or employment, be bonded with a responsible surety company acceptable to the city council for such amount as the council may prescribe, the premium of which bond shall be paid by the city; and the city council may also require any such surety bond to be further conditioned that the principal thereon will faithfully perform and/or discharge the duties of his/her office, and if there are provisions of state law bearing upon the functions of his/her office under which the execution of a surety bond is required, it shall be further conditioned to comply therewith.

(As Amended 5-1-93)

## ARTICLE IX. TAX ADMINISTRATION

### Sec. 9.01. Power to tax.

The city shall have all the same powers of taxation granted by the constitution and the general laws of the State of Texas governing cities with a population in excess of five thousand (5,000) inhabitants and by virtue of this charter shall have the power to:

~~(a) Regulate the manner and mode of making out tax lists, inventories and appraisements of property therein; to regulate how, when and where property shall be rendered; to adopt such measures as may be deemed advisable to secure the assessment of all property within the city limits and to assess and collect taxes thereon; to do all things necessary or proper to render effectual the collection of monies by taxation; and to prescribe the oath that shall be administered to each person rendering property for taxation.~~

~~(b)~~ Authorize the granting and issuance of licenses and direct the manner of issuing and registering the same and fix the fees therefor; but no license shall be issued for a longer period than one (1) year and shall not be assignable except by permission of the governing authority of the city; and may adopt such measures as may be deemed necessary to enforce the registration requirements;

~~(c)~~ Assessing the penalty and interest rate and the method of determining the amount of collector's cost to be charged to delinquent tax accounts;

~~(d) Create a board of equalization comprised of selected persons other than those elected city officials or city employees, whose duties shall be to equalize the values of all property rendered for taxation in the city; prescribe the qualifications, compensation and number necessary to constitute said board, and enact all ordinances necessary to regulate and control the equalization of values by such board.~~

~~It is further provided that n~~ No irregularities in the time or manner of making or returning the city assessment rolls or the approval of such rolls shall invalidate any assessment.

(Ord. No. 1988-10, 4-5-88; As Amended 5-1-93)

**State law references:** Power to Tax, Texas Constitution Art. VIII. as amended or may be amended in the future.

## **ARTICLE X. FRANCHISES AND PUBLIC UTILITIES**

### **Sec. 10.01. Powers of the city.**

The city shall have the power to buy, construct, lease, maintain, operate and regulate public utilities and to manufacture, distribute and sell the output of such utility operations. In addition, the city shall have additional powers as granted by the constitution and the laws of the State of Texas. The city shall not provide any utility services outside the city limits except by a written contract with the prospective customer requesting such services.

(As Amended 5-1-93)

**State law references:** Utility Regulatory Act, V.T.C.S. Art. 1446c as amended, may be amended or disposed of in the future.

### **Sec. 10.02. Power to grant franchise.**

The council shall have the power, by ordinance, to grant, renew, extend and amend by mutual agreement, all franchises of all public utilities operating within the city. No franchise shall be granted, renewed or extended for an indeterminate period or for a term of more than twenty (20) years.

### **Sec. 10.03. Ordinance granting franchise.**

Each ordinance granting, renewing, extending or amending a public utility franchise shall be read at a public hearing during two (2) separate regular meetings of the council and shall not be acted upon until the second and final reading. Within seven (7) days following the first reading the ordinance shall be published once, as allowed by law. The prospective franchise holder shall be responsible for the expense of publication. No ordinance shall take effect until thirty (30) days after passage.

(As Amended 5-8-01)

### **Sec. 10.04. Grant not to be exclusive.**

No grant to construct, maintain or operate a public utility and no renewal or extension of such grant shall be exclusive.

### **Sec. 10.05. Transfer of franchise.**

No public utility franchise shall be transferable except by city ordinance. The term "transferable," as used in this article, shall not be interpreted in such a manner as to prevent the franchise holder from pledging the franchise as security for a valid debt or mortgage.

### **Sec. 10.06. Franchise value not to be allowed.**

No value shall be assigned to any franchisee granted by the city in:

- (a) Fixing reasonable rates and charges for utility services within the city.
- (b) Determining the just compensation to be paid by the city for public utility property which it may acquire.

(As Amended 5-1-93)

### **Sec. 10.07. Right of regulation.**

Each grant, renewal, extension and amendment of public utility franchises shall be subjected to the right of the city, and the city shall have the power in accordance with state law:

- (a) To forfeit any franchise, by ordinance, at any time if the holder fails to comply with the terms of the franchise. This power shall be exercised only after notice and hearing, and the franchise holder has had an opportunity to correct the default.

- (b) To, ~~in accordance with state law,~~ require expansion, extension and maintenance of plants and facilities as necessary to provide adequate service to the public at the highest reasonable standard of efficiency.
  - (c) To establish reasonable standards of service and quality of products and prevent discrimination in service or rates.
  - (d) To impose regulations to insure safe, efficient and continuous service to the public. The franchise holder, in opening and refilling of all openings and in the disturbance of property, shall do all work necessary to complete restoration to a condition as good as when disturbed.
  - (e) To examine and audit, at any time during regular businesses hours, the accounts and records of any public utility, providing such examination or audits is relevant to the city's right of regulation.
  - (f) To require compensation and rental permitted by the laws of the State of Texas.
  - (g) To require that each public utility maintain its accounts in accordance with the uniform systems of accounts prescribed by the National Association of Regulatory Commissioners, or the Federal Energy Regulatory Commission, or the Federal Communications Commission, or the Railroad Commission of Texas or their successor, as applicable. If the maintenance of accounts for any public utility is not prescribed by any federal or State of Texas agency, then the city shall prescribe the form of accounts.
  - (h) To establish specifications for materials and construction for public utilities used within or beyond the limits of the city.
  - (i) To prescribe penalties for noncompliance of this provision of the article or ordinances pertaining to franchises and public utilities.
- (As Amended 5-8-01)

#### **Sec. 10.08. Regulation of rates.**

The council shall have the power, after notice and hearing, to regulate by ordinance the rates, charges and fares of every public utility franchise holder to that which the council is permitted to regulate under state and federal law. However, no such ordinance shall be passed as an emergency measure. Every franchise holder requesting an increase in rates, charges or fares shall have, at the hearing called to consider such request, the burden of presenting clear, competent and convincing evidence to substantiate the increase. The council shall have the power to employ expert advice and assistance in determining rates, charges and fares and an equitable profit to the public utility and the franchise holders requesting the increase shall pay the cost of such expert ~~advise~~ advice and assistance.

(Ord. No. 1988-10, 4-5-88; As Amended 5-1-93)

#### **Sec. 10.09. Submission of annual reports.**

Each franchise holder of a public utility operating in the city shall submit a sworn annual report to the city manager. The report will include receipts from the operation of the public utility for the current year, amount of expenditures to include the amounts for betterments or improvements, the rates, charges or fares for services rendered to the public and any other information that the council may require. The content, submission and inclusive dates of the report will be established by ordinance. The council shall review these reports at least once annually to determine if rates, charges or fares are right and proper.

#### **Sec. 10.10. Municipally owned utilities.**

An account will be maintained by the city manager for each public utility owned or operated. ~~by the city manager.~~ Each account will show the true and complete financial results of the city ownership and operation including assets and liabilities by classes, depreciation reserve, other reserves and surplus, revenues, operating expenses, depreciation, interest

payments, rental and disposition of annual income, capital cost of each city-owned utility, cost of and service rendered to any city department, and other information required by the council. Annually, a certified public accountant will prepare, and the council will cause to be published, a financial report for each public utility owned or operated by the city. Each report will contain the information specified in this section and such other information as required by the council. The council will establish, by ordinance, the submission and inclusive dates of each report.

**Sec. 10.11. Records.**

The city shall compile and maintain a public record of city-owned and operated public utilities, public utility franchises and related annual reports.

## **ARTICLE XI. GENERAL PROVISIONS**

### **Sec. 11.01. Publicity of records.**

All records of the city shall be open for inspection by any citizen or by any representative of a citizen's organization or the press during normal business hours subject only to the provisions and limitations of the Texas Public Information Act as now exists or hereafter amended.

(As Amended 5-1-93; As Amended 5-8-01)

**State law references:** Texas access to public information law, V.T.C.S. art. 6252-17 a.

### **Sec. 11.02. Conflict of interest.**

Any member of the city council, any city officer, any city employee or any city board or commission member who has a substantial financial interest, direct or indirect, in any firm, or by reason of ownership of stock in any corporation, or employment with any employer in any contract with the city or in the sale of any land, material, supplies or services to the city or to a contractor supplying the city shall make known that interest and shall refrain from voting upon or otherwise participating in his/her capacity as a city council member, city officer or city employee in the making of such sale or the making or performance of such contract. Any city council member, city officer or city employee who willfully conceals such substantial financial interest or willfully violates the requirements of this section shall be guilty of malfeasance in office or position and shall forfeit his/her office or position. Violation of this section with the knowledge expressed or implied of the person or corporation contracting with or making a sale to the city shall render the contract or sale voidable by the city manager or the city council.

(As Amended 5-1-93; As Amended 5-8-01)

### **Sec. 11.03. Gratuities.**

Officers or employees of the City of Copperas Cove shall not accept, directly or indirectly, any gift, favor, privilege or employment from any public utility corporation enjoying the grant of any franchise, privilege or easement from the city during the term of office of such officer or during such employment of such employee, except as may be authorized by law or ordinance; provided, however, that policemen and firemen in uniform or wearing their official badges may accept such free service where the same is permitted by ordinance. Any officer or employee of the city who shall violate the provisions of this section shall be guilty of a misdemeanor and may be punished by any fine that may be prescribed by ordinance for this offense and shall forthwith be removed from office.

### **Sec. 11.04. Equal employment opportunities.**

All employment vacancies in the city shall be filled in a manner prescribed and based upon provisions of the Equal Employment Opportunity Act. Persons employed by the city shall not be related within the second degree of affinity, or within the third degree consanguinity, to any elected officer or the city manager. This provision shall not affect officers or employees who are already employed by the city at the time any elected official related within the named degree takes office. Further, this provision shall not affect officers or employees who obtain such degrees of affinity or consanguinity described above due to his/her marriage after they have become officers or employees of the City.

(As Amended 5-8-01)

### **Sec. 11.05. Employee relations.**

Nothing in this charter shall limit the City of Copperas Cove from terminating employment at will. The City of Copperas Cove is an at will employer. The employment

relationship between the employee and the City can be terminated at any time and by either party. Therefore, nothing herein is intended, nor shall it be construed, to confer on or award to any employee of the City any property right in his or her employment with the City of Copperas Cove, Texas.

(As Amended 5-1-93)

**Sec. 11.06. Damage suits.**

Before the city shall be liable to damage claim or suit for personal injury, or damage to property, which does not constitute a taking or damaging of property under Article 1, section 17 of the constitution of Texas, the person who is injured or whose property is damaged, or someone in his behalf, shall give the city manager or the city secretary notice in writing, duly verified, within thirty (30) days after the occurring of the alleged injury or damage, stating specifically in such notice when, where and how the injury or damage was sustained, and setting forth the extent of the injury or damage as accurately as possible, and giving the names and addresses of all witnesses upon whose testimony such person is relying to establish the injury or damage.

No action at law for damages shall be brought against the city for personal injury or damage to property prior to the expiration of sixty (60) days after the notice herein described has been filed with the city manager or the city secretary. After the expiration of the sixty (60) days aforementioned, the complainant may then have two (2) years in which to bring action of law.

In case of injuries resulting in death, before the city shall be liable in damages therefor, the person or persons claiming such damages shall, within thirty (30) days after the death of the injured persons, give notice as above required in case of personal injury.

(As Amended 5-1-93)

**State law references:** Texas Tort Claims Act, V.T.C.A., Civil Practices And Remedies, Chap. 101 as amended, may be amended or disposed of in the future.

**Sec. 11.07. Power to settle claims.**

The city council, and only 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. The city council may utilize the services of a negotiator so long as the negotiator works within the direction and guidelines set by the city council and the city council makes the final decision on the part of the city in any such negotiations. However, the foregoing notwithstanding, in any case where an insurance carrier with whom the city is insured assumes liability for the case, the insurance carrier may make the final settlement decision so long as the city is released from all liability, fiscal and other. Further, the city council may delegate final decision authority for delinquent tax settlements to retained counsel.

(As Amended 5-1-93)

**Sec. 11.08. Service of process against the city.**

All legal process against the city shall be served upon the mayor or city secretary.

(As Amended 5-1-93)

**State law references:** V.T.C.A., Civil Practices and Remedies Code, Sec. 17.024 as amended, may be amended or disposed of in the future.

**Sec. 11.09. City not required to give security or execute bond.**

It shall not be necessary in any action, suit or proceeding in which the City of Copperas Cove is a party, for any bond, undertaking or security to be demanded, executed by or on behalf

of said city in any of the state courts, but in all such actions, suits, appeals or proceedings, same shall be conducted in the same manner as if such bond, undertaking or security had been given as required by law, and said city shall be just as liable as if security of bond had been duly executed.

**Sec. 11.10. Liens against city property.**

No lien of any kind shall ever exist against any property, real or personal, owned by the city except that the same be created by this charter.

**Sec. 11.11. Provisions relating to assignment, execution and garnishment.**

The property, real and personal, belonging to the city shall not be liable to be sold or appropriated under any writ of execution or cost bill. The funds belonging to the city, in the hands of any person, firm or corporation, shall not be liable to garnishment, attachment, or sequestration; nor shall the city be liable to garnishment on account of any debt it may owe or funds or property it may have on hand or owing to any person. Neither the city nor any of its officers or agents shall be required to answer any such writ or garnishment on any account whatever. The city shall not be obligated to recognize any assignment of wages or funds by its employees, agents or contractors.

**Sec. 11.12. Power to remit penalties.**

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

**Sec. 11.13. Churches and school property not exempt from special assessments.**

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

**Sec. 11.14. Sale or lease of property other than public utilities or acquired by tax sale.**

Any real property owned by the City of Copperas Cove may be sold or leased by the city council when in its judgment such sale or lease will be for the best interests of the city; provided, however, a sale or a lease for more than five (5) years shall never become effective until thirty (30) days after passage of the ordinance or resolution affecting same. If, during such thirty (30) day period, a referendum petition is presented to the city secretary which in all respects conforms to the referendum provisions of Article II of this charter, and same is found sufficient, then the secretary shall certify the sufficiency of same to the city council, and an election shall be called submitting the question of whether or not the sale or lease shall be consummated. Provided, further, however, the provisions of this section shall not apply to public utilities nor to property purchased by the city at tax sales.

**Sec. 11.15. Effect of this charter on existing law.**

All ordinances, resolutions, rules and regulations now in force under the city government of Copperas Cove, and not in conflict with the provisions of this charter, shall remain in force under this charter until altered, amended or repealed by the council after this charter takes effect; and all rights of the City of Copperas Cove under existing franchises and contracts are preserved in full force and effect to the City of Copperas Cove. Upon adoption of this charter, it shall constitute the charter of the City of Copperas Cove.

**Sec. 11.16. Continuance of contracts and succession of rights.**

All contracts entered into by the city or for its benefit, prior to the taking effect of this charter, shall continue in full force and effect. Public improvements for which legislative steps have been taken under laws or ordinances existing at the time this charter takes effect may be carried to completion in accordance with the provisions of such existing laws or ordinances. All suits, taxes, penalties, forfeitures and all other rights, claims and demands, which have accrued under the laws heretofore in force governing the City of Copperas Cove, shall belong to and be vested in and shall be prosecuted by and for the use and benefit of the corporation hereby created, and shall not in any way be diminished, effected or prejudiced by the adoption and taking effect of this charter.

**Sec. 11.17. Construction and separability clause.**

The charter shall be liberally construed to carry out its intents and purposes. If any section or part of section of this charter shall be held invalid by a court of competent jurisdiction, such holding shall not affect the remainder of this charter nor the context in which such section or part of section may be inseparably connected in meaning and effect with the section or part of section to which such holding shall directly apply.

**Sec. 11.18. Amending the charter.**

Amendments to this charter may be framed and submitted to the qualified electors of the city by a charter commission in the manner provided by law for framing and submitting a new charter.

Amendments may also be proposed and submitted by ordinance, passed by a majority vote of the full membership of the council, or by a petition signed by not less than twenty-five (25) per cent of the number of those who voted at the last regular municipal election, or signed by ~~one~~ ~~five~~ hundred ~~fifty~~ ~~(150)~~ ~~(500)~~ qualified voters, whichever is greater.

When a charter amendment petition shall have been filed with the council in conformity with the provisions of this charter as to petitions for initiated ordinances, the council shall forth with provide by ordinance for submitting such proposed amendment to a vote of the qualified electors. Any ordinance for submitting a charter amendment to the qualified electors shall provide that such amendment be submitted at the next regular municipal election if one shall occur not less than thirty (30) days nor more than ninety (90) days after the passage of the ordinance; otherwise it shall provide for the submission of the amendment at a special election ~~to be called and held within the time aforesaid.~~ held on a uniform election date in accordance with state law.

Notice of the election for the submission of said amendment or amendments shall be given by publication thereof, in some newspaper of general circulation in said city, on the same day in each of two (2) successive weeks; the date of the first publication to be not less than fourteen (14) days prior to the date set for said election. If a proposed amendment be approved by a majority of the qualified electors voting thereon, it shall become a part of the charter at the time fixed therein. Each amendment shall be confined to one subject; and when more than one amendment shall be submitted at the same time, they shall be so submitted as to enable the qualified electors to vote on each amendment separately.

**Sec. 11.19. Effective date and interim government.**

This charter shall take effect from and after the date of its adoption, and the date of the special election held for the purpose of voting upon the acceptance or rejection of this charter shall be considered the date of adoption if said charter is accepted at such election. From and after the effective date of this charter and until the completion of the first election under this

charter and the qualification of the mayor and council members thereby elected, the present qualified and acting mayor and the five (5) council members shall constitute the city council of the City of Copperas Cove and the city secretary shall remain in office and continue to conduct the same until said new council is elected and qualified. During the interim period the present city council shall have and possess all of the powers provided by this charter.

**Sec. 11.20. Submission of the charter to electors.**

The charter commission in preparing this charter finds that it is impractical to segregate each subject so as to permit a vote of "yes" or "no" on the same, for the reason that the charter is so constructed that in order to enable it to work and function it is necessary that it should be adopted in its entirety. For these reasons the charter commission directs that the said charter be voted upon as a whole and that it shall be submitted to the qualified voters of the City of Copperas Cove at an election to be held on January 20, 1979. If a majority of the qualified voters voting in such election shall vote in favor of the adoption of this charter, it shall become the charter of the City of Copperas Cove, and after the returns have been canvassed, the same shall be declared adopted.

Not less than thirty (30) days prior to such election the city council shall cause the city clerk to mail a copy of this charter to each qualified voter of the City of Copperas Cove.

An official copy of the charter shall be filed with the records of the city, and the mayor shall, as soon as practicable, certify to the secretary of state an authenticated copy under the seal of the city, showing the approval by the qualified voters of such charter.

**Sec. 11.21. Rules of construction.**

As used in this charter, a word importing the masculine gender only shall extend to, and be applied to, females as well as males. A word importing the singular number shall include the plural, and a word importing the plural number shall include the singular.  
(As Amended 5-8-01)

## CHARTER COMPARATIVE TABLE\*

**\*Note:** Charter Amendment No. 1 of 5-1-93 amended the charter by correcting spelling, punctuation, grammatical errors; by correcting legal references; and by changing masculine pronouns to masculine/feminine or gender free forms.

This table shows the disposition of amendments made to the city's Home Rule Charter as compiled in this volume.

TABLE INSET:

Home Rule Charter Section	Disposition this Charter
1.01--1.15	1.01--1.15
2.01--2.12	2.01--2.12
3.01--3.18	3.01--3.18
4.01--4.06	4.01--4.06
5.01--5.03	5.01--5.03
6.01--6.16	6.01--6.16
7.01, 7.02	7.01, 7.02
8.01--8.13	8.01--8.13
9.01	9.01
10.01--10.11	10.01--10.11
11.01--11.20	11.01--11.20

TABLE INSET:

Date	Amendment Number	Disposition
4- 2-83	1	2.06
	2	2.12
	3	4.01(c)(8)
	4	4.02
	5	5.03
	6	6.09
	7	6.14
4- 5-88	2	3.01(a)

	3	3.04(a)
	6	9.01[1], [2]
	7	10.08
5- 1-93	1	See Note*
	2	1.03
	3	1.04
	4	1.05
	5	1.07
	6	1.16
	7	2.01
	8	2.02
	9--11	2.03
	12	2.05
	14, 15	2.07
	16	2.08
	17	2.10
	18	2.12
	19, 20	3.02
	21	3.03
	22	3.05
	23	3.06
	24--26	3.13
	27, 28	4.01
	29	4.04
	30	5.01
	31	5.02
	32	5.03
	33	6.02
	34	6.02, 6.05, 6.06, 6.07, 6.08
	35	6.11

	36	6.14
	37	6.16
	38	7.02
	39	8.02
	40	8.04
	41, 42	8.06
	43	8.09
	44	10.07
	45	11.02
	46	11.04
	47, 48	11.05
	49	11.07
	50	11.08
5- 3-97	1	1.04
	2	2.03
	3	2.05
	4	2.07
	5	2.08
	6	2.12
	7	4.01
	8	5.01
	9	5.03
	10	8.06
	11	8.07
	12	8.08
5- 8-01 (Res.)	1--3	1.04
	4	2.07
	5	2.08(c)
	6	2.06
	7	2.10

	8--11	2.13--2.16
4- 2-83	1	2.06
	12	3.03(d)
	13	3.04(b)
	14, 15	3.13
	16, 17	4.01
	18	4.03
	19, 20	4.04
	21	4.05
	22	4.06
	23	2.12
	24, 25	8.07, 8.08
	26	8.12
	27	10.03
	28	10.07
	29, 30	11.01, 11.02
	31	11.04
	32	11.22

TABLE INSET:

Ord. No.	Adoption Date	Election Date	Section	Charter Section
2003-03	2- 4-03	5- 3-03	1	Char., art. II, § 2.12
				Char., art. IV, § 4.01
				Char., art. V, §§ 5.01, 5.03
				Char., art. VIII, § 8.06
2003-09	5- 6-03	5- 3-03	1--3	Char., art. II, § 2.12
				Char., art. IV, § 4.01
				Char., art. V, §§ 5.01, 5.03
				Char., art. VIII, § 8.06
2005-08	6-21-05	9-10-05	1	Char., art. II, § 2.07

				Char., art. III, § 3.04
2005-15	9-20-05	9-10-05	2(Prop. 5)	Char., art. II, § 2.07
			(Prop. 7)	Char., art. III, § 3.04

**RESOLUTION NO. 2008-02**

**A RESOLUTION AND ORDER OF THE CITY COUNCIL OF THE CITY OF COPPERAS COVE, ORDERING A GENERAL ELECTION TO BE HELD ON MAY 10, 2008 AND, IF NECESSARY, A RUNOFF ELECTION TO BE HELD ON JUNE 7, 2008; ESTABLISHING POLLING PLACES; NAMING THE PRESIDING JUDGE AND ALTERNATE; AND ESTABLISHING PROCEDURES FOR SAID ELECTIONS.**

**WHEREAS,** the laws of the State of Texas and the Charter of the City of Copperas Cove provide that on May 10, 2008, there shall be an election held to consider the following:

**GENERAL ELECTION**

Council member – Position 6

Council member – Position 7

**WHEREAS,** if no candidate in the election receives a majority of all the votes cast in that race, a runoff election shall be conducted on June 7, 2008, between the two candidates for that office receiving the highest number of votes cast; and

**WHEREAS,** the City of Copperas Cove wishes to hold the May 10, 2008 election jointly and share expenses with the Copperas Cove Independent School District (CCISD); and

**WHEREAS,** the City of Copperas Cove wishes to contract with the Coryell County Tax Assessor-Collector to administer the May 10, 2008 joint election; and

**WHEREAS,** the laws of the State of Texas and the Charter of the City of Copperas Cove, further provide that the Election Code of the State of Texas is applicable to said elections and in order to comply with said code, a Resolution and Order of Election, for the General Election should be passed establishing the procedure to be followed in said elections as outlined below.

**NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF COPPERAS COVE, TEXAS:**

1. That all independent candidates at the election to be held on the second Saturday in May for the above-mentioned offices, file their application to become candidates with the City Secretary of the City at 507 South Main Street, Copperas Cove, Texas, from February 11, 2008, through March 10, 2008, and that all said

applications shall be on a form as prescribed by the Election Code of the State of Texas.

2. That the order in which the names of the candidates are to be printed on the ballot shall be determined by a drawing in the City Council Chambers on March 12, 2008 at 9:00 a.m.
3. That only resident qualified voters of said City shall be eligible to vote.
4. That said elections will be held at Copperas Cove City Hall, 507 South Main Street, in said city.
5. That Mary Howell will serve as Presiding Election Judge and Rita Burgess as the Alternate Presiding Election Judge and paid by the Coryell County Tax Assessor-Collector.
6. That the Early Voting Clerks and Election Day Clerks will be appointed and paid by the Coryell County Tax Assessor-Collector.
7. That the designated polling place shall, on Election Day, be open from 7:00 a.m. to 7:00 p.m.
8. That Mary Howell will serve as the Early Voting Ballot Board Presiding Officer and additional Clerks will be appointed and paid by the Coryell County Tax Assessor-Collector.
9. That Early Voting will be conducted by the Coryell County Tax Assessor-Collector and held in the City Hall Council Chambers, 507 South Main Street, Copperas Cove, Texas as follows:

April 28, 2008	7:00 a.m. – 7:00 p.m.
April 29, 2008	8:00 a.m. – 5:00 p.m.
April 30, 2008	8:00 a.m. – 5:00 p.m.
May 1, 2008	7:00 a.m. – 7:00 p.m.
May 2, 2008	8:00 a.m. – 5:00 p.m.
May 5, 2008	8:00 a.m. – 5:00 p.m.
May 6, 2008	8:00 a.m. – 5:00 p.m.

As required under Section 85.005 (d), Election Code, early voting by personal appearance at the main early voting polling place shall be conducted for at least 12 hours on two weekdays, if the early voting period consists of six or more weekdays.

10. That all applications for ballot by mail shall be mailed to City Secretary, P.O. Drawer 1449, Copperas Cove, Texas 76522.

11. That all ballots shall be prepared in accordance with Texas Election Code. Paper ballots shall be used for early voting by mail and paper ballots and the eSlate Direct Recording Electronic (DRE) Voting System shall be used for early voting by personal appearance and voting on Election Day, both of which are part of the eSlate DRE Voting System. The City Council hereby authorizes the Coryell County Tax Assessor-Collector to administer the May 10, 2008 General Election and the expenditures necessary for the conduct of the election.

12. That the City Secretary is hereby authorized and directed to contract with the Coryell County Tax Assessor-Collector to administer the May 10, 2008 election and to interface with the Coryell County Tax Assessor-Collector on all election matters pertaining to the election.

13. Said election shall be held in accordance with the Elections Code and the State of Texas. Notice of said elections shall be given in accordance with the terms and provisions of the Elections Code and the City Secretary is hereby instructed to have said notice posted and published in accordance with state law. A copy of this order shall also serve as a Writ of Election, which shall be delivered to the above-appointed Presiding Election Judge for said elections.

**PASSED, APPROVED, AND ADOPTED** on this 19th day of February 2008, at a regular meeting of the City Council of the City of Copperas Cove, Texas which meeting was held in compliance with the Open Meetings Act, *Tex. Gov't. Code, §551.001, et.seq.* at which meeting a quorum was present and voting.

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Roger P. O'Dwyer, Mayor

**ATTEST:**

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Jane Lees, CMC, City Secretary

**APPROVED AS TO FORM:**

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James R. Thompson, City Attorney

# City of Copperas Cove City Council Agenda Item Report

February 19, 2008

## Agenda Item No. I-6

Contact – Jane Lees, City Secretary, 547-4221

jlees@ci.copperas-cove.tx.us

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**SUBJECT:** Consideration and action on Ordinance No. 2008-01, ordering a special election to be held May 10, 2008, in conjunction with the general election, for the purpose of proposing amendments to the Charter of the City of Copperas Cove to the qualified voters of the City.

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### 1. BACKGROUND/HISTORY

The City of Copperas Cove City Charter was last amended at a Special Election on September 10, 2005. The Texas Constitution Article 11 – Municipal Corporations Section 5 – Cities of more than 5,000 population; adoption or amendment of charters; taxes; debt restrictions states: *Cities having more than five thousand (5,000) inhabitants may, by a majority vote of the qualified voters of said city, at an election held for that purpose, adopt or amend their charters. The adoption or amendment of charters is subject to such limitations as may be prescribed by the Legislature, and no charter or any ordinance passed under said charter shall contain any provision inconsistent with the Constitution of the State, or of the general laws enacted by the Legislature of this State. Furthermore, no city charter shall be altered, amended or repealed oftener than every two years.*

Local Government Code § 9.002 Selection of a charter commission (1)(c) authorizes the Mayor of the municipality to appoint a charter commission.

### 2. FINDINGS/CURRENT ACTIVITY

On May 15, 2007, the Council approved the formation of a Charter Review Committee and appointed Council Member Frank D. Somera, Jr. and the winner of the upcoming runoff election to the Committee. On July 17, 2007, the Council appointed the following individuals to serve on the Charter Amendment Committee: L.O. Bud Owsley, Jack Widup, Jay Manning, Billy F. (Bill) Minton, Coley Howell, Inez Faison, and Jim Schmitz. Alternates appointed were: Daniel Kinn, William Waltz, Diana Castillo, and Robert Clark. Staff members assigned to the Committee were: City Attorney, James Thompson, and City Secretary, Jane Lees. The committee held nine meetings between August 6, 2007 and December 17, 2007. The City Charter was studied in its entirety. In addition, two

public meetings were held on November 27 and December 6, 2007 for citizen input. At the January 3, 2008 Council Meeting, Chairperson Jim Schmitz submitted the Charter Committee's recommendations to the Council. At the January 15, 2008 Council Meeting, the Council voted to accept the Charter Committee's recommendations and place them on the ballot at the upcoming May 10, 2008 election.

The Council voted at the January 15, 2008 meeting to place an additional question on the ballot asking voters whether or not they wished to keep Charter Section 2.15 in the Charter because it is already provided for in State Law.

In addition, an initiative petition was received and certified by the City Secretary which proposed to repeal Charter Section 3-13(a) Power to Recall and 3-13(b) 1-4 Definitions and adopt the following: "Section 3-13(a) Any city council member can be recalled from office for any stated reason." The Council approved placing this initiative petition proposal on the May 10, 2008 ballot as well.

The City Charter is attached as "Exhibit A" and made a part of Ordinance No. 2008-01, showing the proposed charter amendments as approved by the City Council.

### **3. FINANCIAL IMPACT**

Local Government Code §9.006 Concurrent Elections states: *This chapter does not prevent voters at an election to adopt a charter or an amendment to a charter from electing at the same election persons to hold office under the charter or amendment.*

The Special Election for proposed amendments to the City Charter will be held in conjunction with the General Election to be held on May 10, 2008. The cost of this election is estimated at \$6,280 (City's share in a joint election with Copperas Cove Independent School District) and will be administered by Coryell County. Additional costs for the Charter Amendment election are estimated at \$500 for required publication of "a substantial copy of the proposed amendment." Local Government Code §9.004 (c)(1), and ballot printing.

### **4. ACTION OPTIONS/RECOMMENDATION**

City Staff recommends approving Ordinance No. 2008-01; calling for a Special Election for proposed amendments to the Charter of the City of Copperas Cove to be held on May 10, 2008, in conjunction with the general election.

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**RESOLUTION NO. 2008-05**

**A RESOLUTION OF THE CITY OF COPPERAS COVE DETERMINING THE CURRENT RATES OF THE ATMOS ENERGY CORPORATION, MID-TEX DIVISION TO BE UNJUST AND UNREASONABLE; PROVIDING FOR A REASONABLE NOTICE AND HEARING; FINDING THAT THE MEETING COMPLIED WITH THE OPEN MEETINGS ACT; AND DECLARING AN EFFECTIVE DATE.**

**WHEREAS**, Atmos Energy Corporation – Mid-Tex Division (“Atmos”) filed a Statement of Intent with the City of Copperas Cove, Texas (“City”) on September 20, 2007 to increase its system-wide, annual revenue requirement, by approximately \$51.9 million; and

**WHEREAS**, the City is a regulatory authority under the Gas Utility Regulatory Act (“GURA”) and under § 103.001 of GURA has exclusive original jurisdiction over Atmos’ rates, operations, and services of a gas utility within the municipality; and

**WHEREAS**, the City has, by previous ordinance or resolution, denied the requested rate increase, authorized participation in a coalition of cities known as Atmos Texas Municipalities (“ATM”) and authorized the hiring of lawyers and rate experts; and

**WHEREAS**, Atmos has appealed the previous ordinance or resolution to the Railroad Commission of Texas, which has docketed the appeal along with other appeals as Gas Utilities Docket No. 9762; and

**WHEREAS**, ATM has conducted extensive discovery upon Atmos and has engaged in extensive negotiations regarding the appropriate rates and rate structure for Atmos; and

**WHEREAS**, Atmos and ATM have entered into a settlement agreement resolving all disputes regarding the appropriate rates, terms and conditions for Atmos; and

**WHEREAS**, Atmos and ATM have determined that the best method to implement such settlement agreement is to have it approved by each ATM city; and

**WHEREAS**, in order for City to examine the settlement agreement, it must reestablish its original jurisdiction over the rates of Atmos; and

**WHEREAS**, the Gas Utilities Regulatory Act authorizes municipalities exercising original jurisdiction over gas utilities to issue a Show Cause as to their rates, terms and conditions.

**NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF COPPERAS COVE THAT:**

**Section 1.** That the statements set out in the preamble to this resolution are hereby in all things approved and adopted.

**Section 2.** Pursuant to Utilities Code Section 104.151, the City finds that the existing rates, terms and conditions of Atmos are unreasonable and determines that Atmos should Show Cause why such rates, terms and conditions should not be changed.

**Section 3.** In light of the fact that a settlement agreement has been reached between Atmos and ATM resolving all issues, it is reasonable to proceed to a hearing on the settlement agreement without additional notice to Atmos and it is reasonable to hold such hearing at the same city council meeting as the meeting at which this resolution is adopted.

**Section 4.** The meeting at which this resolution was approved was in all things conducted in strict compliance with the Texas Open Meetings Act, Texas Government Code, Chapter 551.

**Section 5.** This resolution shall become effective from and after its passage.

**PASSED, APPROVED, AND ADOPTED** on this 19th day of February 2008, at a regular meeting of the City Council of the City of Copperas Cove, Texas which meeting was held in compliance with the Open Meetings Act, *Tex. Gov't. Code, §551.001, et.seq.* at which meeting a quorum was present and voting.

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Roger P. O'Dwyer, Mayor

**ATTEST:**

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Jane Lees, City Secretary

**APPROVED AS TO FORM:**

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James R. Thompson, City Attorney

# City of Copperas Cove City Council Agenda Item Report

February 19, 2008

## Agenda Item No. I-7

Contact – Andrea M. Gardner, City Manager- 547-4221  
agardner@ci.copperas-cove.tx.us

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**SUBJECT:** Consideration and action on Resolution No. 2008-05, determining the current rates of the Atmos Energy Corporation, Mid-Tex Division to be unjust and unreasonable; providing for a reasonable notice and hearing; finding that the meeting complied with the open meetings act; and declaring an effective date.

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### 1. BACKGROUND/HISTORY

Atmos appealed the Council's denial of its request for a \$52 million increase in rates to the Railroad Commission of Texas. The appeal was consolidated with GUD Docket No. 9762.

### 2. FINDINGS/CURRENT ACTIVITY

While at the Commission, ATM and Atmos were able to work out a settlement of their differences. Part of the Settlement included matters not appropriate to the jurisdiction of the Railroad Commission, like the agreement to allow ATM Cities to increase the municipal franchise compensation rate to 5% of gross receipts.

Also, by continuing with the Settlement at the Commission, it was felt by legal counsel for ATM that there was some risk that the delicate balance of costs and benefits resulting from the Settlement might be undone. For these reasons, it was felt that it is prudent to re-establish jurisdiction before each ATM municipality. Jurisdiction can be re-established through the adoption of the Show Cause Resolution.

ATM recommends adoption of the Show Cause Resolution so that the City may re-establish jurisdiction over the rates of Atmos Energy Corp., Mid-Tex Division in order to be able to consider the Settlement Agreement which is before the Council later in this agenda.

### 3. FINANCIAL IMPACT

Gas utilities are under an obligation to reimburse reasonable rate case expenses in general rate cases, which are initiated by the utility.

**4. ACTION OPTIONS/RECOMMENDATION**

City Staff recommends that the City Council adopt Resolution No. 2008-05 determining the current rates of the Atmos Energy Corporation, Mid-Tex Division to be unjust and unreasonable; providing for a reasonable notice and hearing; finding that the meeting complied with the open meetings act; and declaring an effective date.

**RESOLUTION NO. 2008-06**

**A RESOLUTION OF THE OF THE CITY OF COPPERAS COVE, TEXAS, APPROVING A SETTLEMENT AGREEMENT BETWEEN ATMOS ENERGY CORPORATION, MID-TEX DIVISION AND ATMOS TEXAS MUNICIPALITIES; DECLARING EXISTING RATES TO BE UNREASONABLE; ADOPTING RATE ADJUSTMENTS CONSISTENT WITH THE SETTLEMENT AGREEMENT; FINDING THE RATES TO BE SET BY THE ATTACHED TARIFFS TO BE JUST AND REASONABLE; FINDING THAT THE MEETING COMPLIED WITH THE OPEN MEETINGS ACT; DECLARING AN EFFECTIVE DATE; AND REQUIRING DELIVERY OF THIS RESOLUTION TO THE COMPANY AND LEGAL COUNSEL.**

**WHEREAS**, the City of Copperas Cove (“City”) is a regulatory authority under the Gas Utility Regulatory Act (“GURA”) and under § 103.001 of GURA has exclusive original jurisdiction over Atmos Energy Corporation – Mid-Tex Division (“Atmos”) rates, operations, and services of a gas utility within the municipality; and

**WHEREAS**, the City has participated in prior cases regarding Atmos as a part of a coalition of cities known as the Atmos Texas Municipalities (“ATM”), including Railroad Commission Gas Utilities (“GUD”) Docket No. 9400, numerous filings by Atmos pursuant to Section 104.301 of GURA, and GUD Docket No. 9670; and

**WHEREAS**, (“Atmos”) filed a Statement of Intent with the City on or about September 20, 2007 to increase its system-wide, annual revenue requirement, by approximately \$51.9 million; and

**WHEREAS**, the City has, by previous ordinance or resolution, denied the requested rate increase, authorized participation in ATM and authorized the hiring of lawyers and rate experts; and

**WHEREAS**, Atmos has appealed the previous ordinance or resolution to the Railroad Commission of Texas, which has docketed the appeal along with other appeals as GUD No. 9762; and

**WHEREAS**, ATM has conducted extensive discovery upon Atmos and has engaged in extensive negotiations regarding the appropriate rates and rate structure for Atmos; and

**WHEREAS**, Atmos and ATM have entered into a Settlement Agreement resolving all disputes regarding the appropriate rates, terms and conditions for Atmos; and

**WHEREAS**, Atmos and ATM have determined that the best method to implement such settlement agreement is to have it approved by each ATM city; and

**WHEREAS**, in order for City to examine the Settlement Agreement, it has reestablished its original jurisdiction over the rates of Atmos by issuing a Show Cause against Atmos; and

**WHEREAS**, the City has given reasonable notice to Atmos regarding the consideration of the Settlement Agreement; and

**WHEREAS**, the Settlement Agreement will resolve several previously-litigated cases and will resolve all issues currently pending before the Railroad Commission in GUD No. 9762, as well as issues relating to franchise agreements with Atmos; and

**WHEREAS**, the Settlement Agreement will result in Atmos receiving a \$10 million system-wide rate increase, which is significantly smaller than the \$51.9 million sought by Atmos, and

**WHEREAS**, the Settlement Agreement creates an experimental and expedited rate review process , called the Rate Review Mechanism (“RRM”) in lieu of the Section 104.301 filings, which will allow for a consideration of both increases and decreases in expenses and investments and will allow for increased participation by City regulators in future rate cases; and

**WHEREAS**, the RRM will also allow Atmos a greater opportunity to earn its authorized rate of return, but no more, by use of a “true-up” calculation contained within the RRM tariff; and

**WHEREAS**, the Settlement Agreement calls for a reduction in customer charges for residential and commercial customers and

**WHEREAS**, the Settlement Agreement excludes specified expenses from recovery by Atmos; and

**WHEREAS**, the Settlement Agreement contains a “most-favored-nations” clause that provides City with the benefit of any other RRM settlement or any other settlement of the issues related to the September 20, 2007 Statement of Intent or GUD No. 9672, under certain conditions; and

**WHEREAS**, the Settlement Agreement authorizes other changes in rates and tariffs that should enable Atmos to provide efficient service at reasonable rates and provides for the reimbursement of ATM expenses; and

**WHEREAS**, the Settlement Agreement provides for quarterly meetings between Atmos and City representatives in order to improve communication and cooperation; and

**WHEREAS**, the Settlement Agreement provides a mechanism for the City to amend or renew its franchise agreement with Atmos at 5% of Gross Revenues; and

**WHEREAS**, the Settlement Agreement resolves numerous cases currently pending on appeal and provides for payment to ATM associated with such cases; and

**WHEREAS**, the City desires to avoid the cost and uncertainty of litigating the cases at the Railroad Commission and the courts; and

**WHEREAS**, the ATM lawyers as well as numerous representatives from the ATM Cities have negotiated with Atmos on several occasions; and

**WHEREAS**, the ATM lawyers have recommended the approval of the Settlement Agreement; and

**WHEREAS**, the City has examined the Settlement Agreement and its attached tariffs, rates, terms and conditions; and

**WHEREAS**, the Settlement Agreement as a whole is consistent with the public interest; and

**WHEREAS**, the tariffs, rates, terms and conditions attached to the Settlement Agreement should be found to be just, reasonable and in the public interest.

**NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF COPPERAS COVE, TEXAS THAT:**

**Section 1.** That the statements set out in the preamble to this resolution are hereby in all things approved and adopted.

**Section 2.** Pursuant to Utilities Code Section 104.151, the City finds that the existing rates, terms and conditions of Atmos are unreasonable and determines that such rates, terms and conditions should be changed.

**Section 3.** The City Council finds that the Settlement Agreement, which is attached hereto and incorporated herein as Attachment A, is in the public interest and is hereby endorsed in all respects.

**Section 4.** The City Council finds that the new tariffs, which are attached hereto and incorporated herein as Attachment B, are just and reasonable and are hereby adopted.

**Section 5.** To the extent any resolution or ordinance previously adopted by the Council is inconsistent with this Resolution, it is hereby repealed.

**Section 6.** The meeting at which this resolution was approved was in all things conducted in strict compliance with the Texas Open Meetings Act, Texas Government Code, Chapter 551.

**Section 7.** This resolution shall become effective from and after its passage with rates authorized by the Attached Tariffs to be effective in accordance with the terms of the Settlement Agreement.

**Section 8.** A copy of this Resolution shall be sent to Atmos Mid-Tex, care of Joe T. Christian, Director of Rates, at Atmos Energy Corporation, 5420 LBJ Freeway, Suite 1800, Dallas, Texas 75204, and to Jim Boyle, Counsel to ATM, Herrera and Boyle, PLLC, 860 Congress Avenue, Suite 1120, Austin, TX 78701.

**PASSED, APPROVED, AND ADOPTED** on this 19th day of February 2008, at a regular meeting of the City Council of the City of Copperas Cove, Texas which meeting was held in compliance with the Open Meetings Act, *Tex. Gov't. Code, §551.001, et.seq.* at which meeting a quorum was present and voting.

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Roger P. O'Dwyer, Mayor

**ATTEST:**

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Jane Lees, City Secretary

**APPROVED AS TO FORM:**

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James R. Thompson, City Attorney

# **ATTACHMENT A**

**SETTLEMENT AGREEMENT BETWEEN ATMOS ENERGY CORP., MID-TEX  
DIVISION AND ATMOS TEXAS MUNICIPALITIES**

WHEREAS, this settlement agreement is entered into and by Atmos Energy Corp's Mid-Tex Division and Atmos Texas Municipalities ("ATM") whose members include the Cities of Austin, Balch Springs, Bandera, Bartlett, Belton, Blooming Grove, Bryan, Cameron, Cedar Park, Clifton, Commerce, Copperas Cove, Corsicana, Denton, Electra, Fredericksburg, Gatesville, Georgetown, Goldthwaite, Granbury, Greenville, Groesbeck, Hamilton, Henrietta, Hickory Creek, Hico, Hillsboro, Hutto, Kerens, Lampasas, Leander, Lometa, Longview, Mart, Mexia, Olney, Pflugerville, Ranger, Rice, Riesel, Rogers, Round Rock, San Angelo, Sanger, Somerville, Star Harbor, Trinidad, Trophy Club, and Whitney; and

WHEREAS, ATM is an active intervenor in *Statement of Intent Filed by Atmos Energy Corporation to Increase Utility Rates Within the Unincorporated Areas Served by the Atmos Energy Corp., Mid-Tex Division*, GUD Docket No. 9762 at the Railroad Commission of Texas ("Commission"); and

WHEREAS, ATM has hired experts and lawyers to analyze the rates and riders proposed by Atmos Energy Corp's, Mid-Tex Division ("Atmos" or "Company") in GUD Docket No. 9762; and

WHEREAS, the Settlement Agreement resolves all issues between Atmos and ATM ("the Signatories") regarding GUD Docket No. 9762, which is currently pending before the Commission, in a manner that the Signatories believe is consistent with the public interest, and the Signatories represent diverse interests; and

WHEREAS, the Signatories believe that the resolution of the issues raised in GUD Docket No. 9762 can best be accomplished by each ATM City approving this Settlement Agreement and the rates, terms and conditions reflected in the tariffs attached to this Settlement Agreement as Exhibit A;

NOW, THEREFORE, in consideration of the mutual agreements and covenants established herein, the Signatories, through their undersigned representatives, agree to the following Settlement Terms as a means of fully resolving all issues in the pending appeal between the ATM Cities and Atmos:

**Settlement Terms**

1. Upon the execution of this Settlement Agreement, each ATM city will issue a show cause against Atmos, following appropriate city procedures. After the issuance of the show cause, Atmos and the counsel for the ATM cities will recommend that an ordinance or resolution be adopted to approve this Settlement Agreement and implement the rates, terms and conditions reflected in the tariffs attached to this Settlement Agreement as Exhibit A. Said tariffs should allow Atmos an additional \$10 million in annual revenue by implementation of rates shown in the proof of revenues attached as Exhibit B. The uniform implementation of gas rates, terms and conditions established by this Settlement Agreement shall be effective for bills rendered on or after March 1, 2008, or as soon thereafter as the ATM city adopts an

SETTLEMENT AGREEMENT  
GAS UTILITIES DOCKET NO. 9762 (AND CONSOLIDATED CASES)  
FEBRUARY 11, 2008

- ordinance or resolution to implement for the ATM city the rates, terms, and conditions reflected in the tariffs attached to this Settlement Agreement.
2. The net plant amount of \$1,243,607,206 is reasonable for the plant that is used and useful in providing gas utility service.
  3. In an effort to streamline the regulatory review process, Atmos and ATM have agreed to undertake a new mechanism for reviewing the Company's cost of service on an annual basis. The new mechanism is known as the Rate Review Mechanism ("Rider RRM"). Rider RRM provides for an annual rate adjustment to reflect changes in billing determinants, operating and maintenance expense, depreciation expense, other taxes expense, and revenues as well as changes in capital investment and associated changes in gross revenue related taxes.
  4. Atmos and ATM agree that the Rider RRM shall be implemented annually over a three-year trial period. On or after December 31, 2010, any ATM City that opposes the continued use of the Rider RRM to set rates for areas within its original jurisdiction shall provide written notification to the Company of this fact. Such notice shall be provided no later than January 31, 2011. Upon receipt of such written notification, Atmos shall cease making an annual Rider RRM filing with the notifying ATM City and instead, shall file a general rate case with the notifying ATM City within eighteen months from the date the notification is received by the Company. The last effective rates under the Rider RRM shall remain in effect for the notifying ATM City until such time as new rates are established for that city in a general rate case. In the absence of such notification, Rider RRM shall continue subject to any changes that may be agreed to in writing between the ATM Cities and Atmos.
  5. Atmos agrees that effective with the implementation of the first RRM rate adjustment, Atmos shall file with the ATM Cities a revised Rate R-Residential Sales Tariff to reduce the customer charge per bill from \$10.69 per month to \$7.00 per month and to increase the volumetric portion of the rate (shown as \$1 271 in Exhibit A) to the appropriate level to reflect the reduction in customer charge from \$10.69 to \$7.00, as well as to reflect any change resulting from the RRM implementation. Atmos further agrees that effective with the implementation of the first RRM adjustment, Atmos shall file with the ATM Cities a revised Rate C- Commercial Sales Tariff to reduce the customer charge per bill from \$20.28 to \$13.50 per month and to increase the volumetric portion of the rate (shown as \$.7104 in Exhibit A) to the appropriate level to reflect the reduction in customer charge from \$20.28 to \$13.50, as well as to reflect any change resulting from the RRM implementation. The first RRM rate adjustment shall occur October 1, 2008. Atmos and the ATM Cities agree that following the initial RRM adjustment any subsequent implementation of RRM adjustments shall be supported as described in the Rider RRM, and shall limit changes to residential and commercial customer charge to no more than 20%. Further, the parties agree that any approved adjustment in excess of the 20% limitation on the residential and commercial customer charge shall be recovered through the volumetric portion of the rate.

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6. The following types of expenses shall be removed from all expense and rate base amounts included within Rider RRM filings for each Evaluation Period and corresponding Rate Effective Period:
  - Amounts incurred for travel, meals or entertainment of employee spouses.
  - Amounts for air travel that exceed published commercial coach air fares.
  - Amounts incurred for hotel rooms exceeding \$250 per night inclusive of taxes and fees assessed on such rooms.
  - Amounts for alcoholic beverages.
  - Amounts paid for admission to entertainment, sports, art or cultural events, and all event sponsorship costs
  - Amounts for social club dues or fees.
7. With respect to the RRM, Atmos further agrees to pay all reasonable and necessary expenses of each entity having original jurisdiction that are incurred to review the Company's annual RRM filings. Atmos further agrees that in calculating the proposed rate for any Rate Effective Period, the Company shall not include: (1) any external legal, expert, or consultant costs to prepare and/or provide supportive information related to its filing; or (2) reimbursements to original jurisdiction entities.
8. Notwithstanding paragraph 7 of this Settlement Agreement, Atmos and ATM agree that in the event of an appeal of an original jurisdiction entity's decision regarding a proposed RRM adjustment, recovery of rate case expenses shall be determined according to Chapters 103 and 104, TEX. UTIL. CODE ANN. Further, in the event of such appeal(s), Atmos shall recover any reimbursement made to the original jurisdiction entity through a surcharge to all customer rates that are subject to the Commission's jurisdiction in that proceeding or proceedings that might be joined therewith, regardless of whether such reimbursements are made during the initial review period or appeal period.
9. It is the intention of the Signatories that the ATM Cities receive the benefit of any agreed upon annual RRM adjustment that Atmos enters into with any other RRM-implementing city within the Mid-Tex division during the same year. Therefore, Atmos agrees that if, as determined by the ATM Cities, the annual RRM adjustment agreed to between Atmos and an RRM-implementing city is more beneficial to the ATM Cities, Atmos will make the more beneficial annual RRM adjustment available to the ATM Cities for adoption.
10. The ATM Cities agree that they will not challenge the legal basis of the rates, terms, and conditions reflected in Exhibit A, or any annual RRM adjustment that is implemented pursuant to Rider RRM.
11. Atmos and the ATM Cities further agree that the express terms of the Rider RRM are supplemental to the filing, notice, regulatory review, or appellate procedural process of the ratemaking provisions of Chapter 104 of the Texas Utilities Code. If the statute requires a mandatory action on behalf of the municipal regulatory authority or Atmos, the parties will follow the provisions of such statute. If the statute allows discretion on behalf of the municipal regulatory authority, the ATM

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Cities agree that they shall exercise such discretion in such a way as to implement the provisions of the RRM tariff. If Atmos appeals an action or inaction of an ATM City regarding an RRM filing to the Railroad Commission, the ATM Cities agree that they will not oppose the implementation of interim rates or advocate the imposition of a bond by Atmos consistent with the RRM tariff. Atmos agrees that it will make no filings on behalf of its Mid-Tex division under the provisions of TEX. UTIL. CODE ANN. § 104.301 while the Rider RRM is in place, and any such filings pending at the time the RRM is approved will be tried-up for revenue and rate base components prior to implementation of the annual RRM. In the event that a regulatory authority fails to act or enters an adverse decision regarding the proposed annual RRM adjustment, the Railroad Commission of Texas shall, pursuant to the provisions of the Texas Utilities Code, have exclusive appellate jurisdiction to review the action or inaction of the regulatory authority exercising exclusive original jurisdiction over the RRM request. In addition, the Signatories agree that this Settlement Agreement shall not be construed as a waiver of the ATM Cities' right to initiate a show cause proceeding or the Company's right to file a Statement of Intent under the provisions of the Texas Utilities Code.

12. Atmos and ATM commit that during the Initial Implementation Period, as defined in the RRM tariff, Atmos and the ATM Cities will not devote resources or efforts to advocate statutory changes involving rate stabilization mechanisms or the Gas Reliability Infrastructure Program that is currently codified under TEX. UTIL. CODE §104.301.
13. Atmos and the ATM Cities agree that the gas cost portion of uncollectible expense shall be recovered through the Company's Rider GCR rather than through base rates. The change in accounting for the gas cost portion of uncollectible expense (including both the accrual of expense and write-off of accounts) shall become effective with the implementation of the first RRM rate adjustment. The first RRM rate adjustment is expected to occur October 1, 2008. In calculating the rate for the first Rate Effective Period, the Company shall utilize the same methodology as used in the Company's September 20, 2007 Statement of Intent with the only modification being to exclude the effects of the gas cost portion of uncollectible expense from the base rate calculation.
14. Atmos and the ATM Cities further agree that expense associated with lost and unaccountable gas shall, based on an annual period, be recoverable through the Company's Rider GCR up to a maximum of five (5) percent of the quantity of metered gas, as provided under Commission Rule 7.5525, Lost and Unaccounted for Gas. Such change shall be effective with the complete 12 month reporting period ending June 30, 2008.
15. Included as part of Exhibit A to this Settlement Agreement is a new gas conservation program tariff (Rider CEE) that will be effective October 1, 2008. Atmos and the ATM Cities agree that Atmos will fund \$1 million of the allowable expenses incurred annually, with a customer rate component providing the remainder \$1 million of funding. All customer-supplied funds will, prior to the commencement of the program, be used toward program implementation efforts

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and, upon implementation, be applied directly to the gas conservation materials and supplies.

16. Atmos and the ATM Cities agree that the Company's requested revision of its weather normalization adjustment ("WNA") mechanism is appropriate and should be approved as set forth in Exhibit A to this Settlement Agreement. Specifically, the revision excludes non-weather sensitive commercial customers and modifies the WNA mechanism to calculate the WNA adjustment based on weather stations at a regional level rather than under the current practice of associating all customers with a single weather location for purposes of determining the WNA adjustment.
17. Atmos and the ATM Cities agree that the three-year gas cost review process that is currently in effect for the Mid-Tex division should be eliminated. Atmos and the ATM Cities further agree to collaborate to establish an alternate process wherein the prudence of gas costs recovered through the Rider GCR can be addressed. Until an agreed upon replacement mechanism has been established, the current gas cost review process shall remain in effect, unless changed by order of the Commission.
18. It is the intention of the Signatories that the ATM Cities receive the benefit of any settlement agreement that Atmos enters into with other entities arising out of the September 20, 2007 Statement of Intent or GUD No. 9672 (consolidated cases) or any associated appeals of GUD No. 9672. Therefore, Atmos agrees that if the rates, revenues, terms and conditions, or benefits accruing to the settling entity would be more beneficial to the ATM Cities than the terms of this Settlement Agreement, as determined by the ATM Cities, such more favorable rates, revenues, terms and conditions, or benefits shall additionally accrue to the ATM Cities. Similarly, if the Final Order in GUD No. 9672 or orders resulting from any associated appeals are determined by the ATM Cities to result in rates, revenues, terms and conditions, or benefits that are more beneficial than the terms of this Settlement Agreement, such more favorable terms, revenues, terms and conditions shall additionally accrue to the ATM Cities. The ATM Cities' exercise of this right is conditioned upon the ATM Cities' acceptance of all rates, revenues, terms and conditions of the Final Order in GUD No. 9672 *in toto*. If there is a subsequent settlement agreement arising out of the September 20, 2007 Statement of Intent or GUD No. 9672 (consolidated cases) or any associated appeals of GUD No. 9672 that is deemed by the ATM Cities to be more beneficial than this Settlement Agreement, the ATM Cities shall be required to accept all of the rates, revenues, terms and conditions of such settlement agreement *in toto*.
19. Atmos and the ATM Cities agree that all reasonable rate case expenses directly incurred by Atmos in connection with the September 20, 2007 Statement of Intent filed on behalf of its Mid-Tex Division through February 29, 2008, as well as all expenses reimbursed to the ATM Cities for such cases shall be recoverable through a surcharge to all customer rates within the ATM Cities. The amount to be recovered through the surcharge to customers within the ATM Cities shall be determined on a pro rata basis, consistent with the ATM Cities' percentage of total Mid-Tex residential load. The surcharge shall be recovered over a thirty-six month period beginning in April of 2008, or as soon thereafter as approved by the last

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ATM City. Atmos further agrees that it will continue to reimburse ATM Cities for the rate case expenses incurred in connection with the September 20, 2007 Statement of Intent on a monthly basis in accordance with the agreement entered between the Signatories on October 15, 2007.

20. Atmos and the ATM Cities agree that Atmos may make all future filings, including, but not limited to, the annual RRM adjustment and any Statement of Intent filing with the ATM Cities on an electronic basis, rather than by paper copy. Electronic Filings shall fulfill the requirements of TEX. UTIL. CODE §104.103. The appropriate ATM Cities representative shall provide a list of the ATM Cities to Atmos by March 1, 2008, and agrees to notify Atmos of any change in the ATM Cities Coalition within 30 days of the effective date of any such change in order for Atmos to maintain adequate service records. Atmos further agrees to make paper copies of filings available to any ATM City that requests a copy.
21. In the spirit of improving communication and cooperation, Atmos agrees to initiate quarterly meetings with the ATM Cities to provide information, answer questions, and receive input from the ATM Cities regarding capital projects in the Mid-Tex service territory. As part of the quarterly meetings, Atmos will update the ATM Cities of its activities in the cities, as well as any service related issues associated with the provision of gas utility services to ATM city customers. Atmos and the ATM Cities will work cooperatively regarding the level of project detail to be presented at the quarterly meetings. Until changed by the parties, the level of project detail supplied by Atmos at such meetings shall be similar to the project spreadsheets on GRIP projects attached to the prefiled direct testimony of James S. Powell in GUD No. 9762. Atmos shall not be required to obtain the pre-approval of the ATM Cities to place projects in service.
22. Atmos and the ATM Cities agree that each ATM city should approve this Settlement Agreement and adopt an ordinance or resolution to implement for the ATM Cities the rates, terms, and conditions reflected in the tariffs attached to this Settlement Agreement as Exhibit A.
23. The Signatories agree that the terms of the Settlement Agreement are interdependent and indivisible, and that if any ATM city enters an order that is inconsistent with this Settlement Agreement, then any Signatory may withdraw without being deemed to have waived any procedural right or to have taken any substantive position on any fact or issue by virtue of that Signatory's entry into the Settlement Agreement or its subsequent withdrawal. If any ATM city rejects this Settlement Agreement, then this Settlement Agreement shall be void *ab initio* and counsel for the ATM Cities shall thereafter only take such actions as are in accordance with the Texas Disciplinary Rules of Professional Conduct.
24. Atmos agrees that it will accept and approve a request pursuant to this Agreement by any municipality that is currently receiving franchise payment from the Company to execute or amend that municipality's applicable franchise agreement to increase the franchise fee payment payable by the Company under the terms of the municipality's franchise agreement to not more than 5% of Gross Revenues (as that

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term is defined in the applicable franchise. The terms of this paragraph shall supersede any and all language currently contained in the applicable franchise, as amended or extended, granting the right to increase the periodic franchise fee payment following the passage and approval of a new, amended, or renewed franchise that provides for a higher franchise fee payment with another municipality. Any municipality that elects to exercise the option granted herein shall notify the Company of such election by written notice given not less than sixty (60) days prior to the effective date of the increase. Upon receipt of the written notice from the electing municipality, the Company and the municipality shall enter into a new, amended or renewed franchise agreement (hereinafter referred to as an "Amendment"). The Company shall calculate the 5% on the gross revenue (as that term is defined in the applicable franchise) from the prior year or the prior quarter, depending on the franchise terms, based upon the gross revenue for the prior year or quarter, respectively. The payment that is made during the current year or quarter is for the privilege of gas operations during that time period. This interpretation applies to all payments made or to be made under the franchise agreement. Each city shall adopt the Amendment in a manner that is consistent with their charter or applicable laws in the case of a general law city. The effective date of the Amendment shall be May 1, 2008 or the date the Amendment is adopted if after May 1, 2008. The Company shall be entitled to collect any franchise fees, whether or not increased under the terms hereof, from customers within each municipality pursuant to the terms of the Company's Rider FF.

25. In exchange for ATM's dismissal or non-suit of the suits specified below, Atmos agrees to pay the ATM Cities \$560,000 for expenses associated with all 2003, 2004, 2005, and 2006 GRIP filings and related court appeals within 30 days of the date of the last ATM city ordinance or resolution approving this Settlement Agreement is entered. Such payment shall be recovered through the surcharge to customers within the ATM Cities at a rate of \$.0053 per Mcf. Atmos and the ATM Cities further agree that the surcharge shall be recovered over a twelve month period beginning with the implementation of the first annual Rate Review Mechanism ("RRM") adjustment, which is expected to occur on October 1, 2008.
26. Within 30 days following the date the last ATM city ordinance or resolution approving this Settlement Agreement is entered, Atmos and the ATM Cities agree to file a Notice of Non-Suit or Motion to Dismiss, whichever is applicable, in the following proceedings:
- Cause No. D-1-GN-06-000337 (Consolidated), *Atmos Cities Steering Committee v. The Railroad Commission of Texas*, In the 345th District Court, Travis County, Texas. This case includes the following cases:
- a. Cause No. D-1-GN-502179 – *Atmos Texas Municipalities v The Railroad Commission of Texas*, In the 250<sup>th</sup> District Court, Travis County, Texas.\*\*
  - b. Cause No. D-1-GV-06-000057 – *Cities of Caldwell, Celina, Copperas Cove, Corsicana, Crowley, Denton, Fredericksburg, Frost, Gatesville, Goldthwaite, Greenville, Groesback, Hamilton, Hickory Creek, Hillsboro,*

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*Lexington, Llano, Longview, Mart, Mexia, Somerville, Thorndale, and Whitney ("Cities") v. The Railroad Commission of Texas, In the 353<sup>rd</sup> District Court, Travis County, Texas.*

- c. Cause No. D-1-GV-06-000061 – *City of Ranger ("City") v. The Railroad Commission of Texas, In the 200<sup>th</sup> District Court, Travis County, Texas.*
- d. Cause No. D-1-GV-06-000076 – *City of McGregor ("City") v. The Railroad Commission of Texas, In the 126<sup>th</sup> District Court, Travis County, Texas.*
- e. Cause No. D-1-GV-06-000077 – *City of West ("City") v. The Railroad Commission of Texas, In the 200<sup>th</sup> District Court, Travis County, Texas.*
- f. Cause No. D-1-GV-06-000078 – *Cities of Balch Springs, Belton, Clifton, Commerce, Dublin, Electra, Lampasas, Lometa, Pflugerville, San Saba and Seymour ("Cities") v. The Railroad Commission of Texas, In the 201<sup>st</sup> District Court, Travis County, Texas.*
- g. Cause No. D-1-GV-06-000079 – *Cities of Burnet, Coleman and Round Rock ("Cities") v. The Railroad Commission of Texas, In the 250<sup>th</sup> District Court, Travis County, Texas.*
- h. Cause No. D-1-GV-06-000106 – *City of Kemp ("City") v. The Railroad Commission of Texas, In the 98<sup>th</sup> District Court, Travis County, Texas.*
- i. Cause No. D-1-GV-06-001095 – *The Cities of Balch Springs, Belton, Burnet, Clifton, Coleman, Copperas Cove, Corsicana, Denton, Dublin, Fredericksburg, Frost, Gatesville, Goldthwaite, Granbury, Grandview, Greenville, Groesbeck, Hillsboro, Lampasas, Leander, Llano, Lometa, Longview, Mexia, Pflugerville, Ranger, Riesel, Round Rock, San Saba, Somerville, Trinidad and Whitney ("Atmos Texas Municipalities" or "ATM") v. The Railroad Commission of Texas, In the 126<sup>th</sup> District Court, Travis County.*
- j. Cause No. D-1-GV-06-000578 – *Atmos Texas Municipalities v. The Texas Railroad Commission of Texas, In the 201<sup>st</sup> District Court, Travis County, Texas.\*\**
- k. Cause Number: 03-06-00580-CV; Atmos Energy Corporation, as successor by merger to TXU Gas Company, Allied Coalition of Cities, and City of Dallas v. Railroad Commission of Texas; In the Third District Court of Appeals at Austin, Texas.

\*\*Non-suit or Dismissal will occur only with respect to the defendant, Atmos Energy, Corp., Mid-Tex division.

SETTLEMENT AGREEMENT  
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27. The Signatories agree that all negotiations, discussions and conferences related to the Settlement Agreement are privileged, inadmissible, and not relevant to prove any issues associated with GUD Docket No. 9762.
28. The Signatories agree that neither this Settlement Agreement nor any oral or written statements made during the course of settlement negotiations may be used for any purpose other than as necessary to support the entry by the ATM Cities of an ordinance or resolution implementing this Settlement Agreement.
29. The Signatories agree that this Settlement Agreement is binding on each Signatory only for the purpose of settling the issues set forth herein and for no other purposes, and, except to the extent the Settlement Agreement governs a Signatory's rights and obligations for future periods, this Settlement Agreement shall not be binding or precedential upon a Signatory outside this proceeding.
30. The Signatories agree that this Settlement Agreement may be executed in multiple counterparts and may be filed with facsimile signatures.

SETTLEMENT AGREEMENT  
GAS UTILITIES DOCKET NO. 9762 (AND CONSOLIDATED CASES)  
FEBRUARY 11, 2008  
Agreed to this 11<sup>th</sup> day of February, 2008

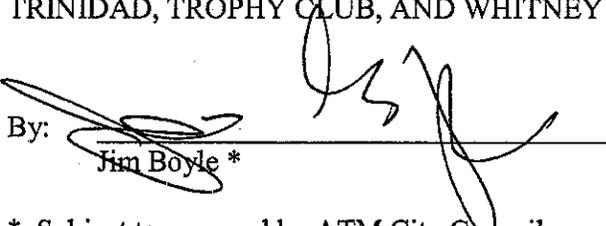
ATMOS ENERGY CORP., MID-TEX DIVISION

By: John A. Paris  
John A. Paris  
President, Mid-Tex Division

SETTLEMENT AGREEMENT  
GAS UTILITIES DOCKET NO 9762 (AND CONSOLIDATED CASES)  
FEBRUARY 11, 2008  
Agreed to this 11<sup>th</sup> day of February 2008

ATTORNEY FOR ATMOS TEXAS MUNICIPALITIES,  
WHOSE MEMBERS INCLUDE THE CITIES OF  
AUSTIN, BALCH SPRINGS, BANDERA, BARTLETT,  
BELTON, BLOOMING GROVE, BRYAN, CAMERON,  
CEDAR PARK, CLIFTON, COMMERCE, COPPERAS  
COVE, CORSICANA, DENTON, ELECTRA,  
FREDERICKSBURG, GATESVILLE, GEORGETOWN,  
GOLDTHWAITE, GRANBURY, GREENVILLE,  
GROESBECK, HAMILTON, HENRIETTA, HICKORY  
CREEK, HICO, HILLSBORO, HUTTO, KERENS,  
LAMPASAS, LEANDER, LOMETA, LONGVIEW,  
MART, MEXIA, OLNEY, PFLUGERVILLE, RANGER,  
RICE, RIESEL, ROGERS, ROUND ROCK, SAN  
ANGELO, SANGER, SOMERVILLE, STAR HARBOR,  
TRINIDAD, TROPHY CLUB, AND WHITNEY

By:

  
Jim Boyle \*

\* Subject to approval by ATM City Councils

# **ATTACHMENT B**

**EXHIBIT A  
TARIFF FOR GAS SERVICE**

**ATMOS ENERGY CORP.,  
MID-TEX DIVISION**

<b>RATE SCHEDULE:</b>	<b>TABLE OF CONTENTS</b>	
<b>APPLICABLE TO:</b>	Entire System	<b>REVISION DATE:</b>
<b>EFFECTIVE DATE:</b>		<b>PAGE: 1 OF 1</b>

**I. UTILITY OPERATIONS**

**II. CITIES AND COUNTIES SERVED**

**III. DEFINITIONS**

**IV. GAS SERVICE RATES & RIDERS**

Rate R - Residential Sales  
Rate C - Commercial Sales  
Rate I - Industrial Sales  
Rate T - Transportation  
Rider CT - Competitive Transport  
Rider GCR - Gas Cost Recovery  
Rider FF - Franchise Fee Adjustment  
Rider SUR - Surcharges  
Rate LEP - Line Extension Policy  
Rate M - Miscellaneous Charges  
Rider RA - Retention Adjustment  
Rider TAX - Tax Adjustment  
Rider WNA - Weather Normalization Adjustment  
Rider RRM - Rate Review Mechanism  
Rider CEE - Conservation and Energy Efficiency

**V. SERVICE RULES AND REGULATIONS**

**EXHIBIT A**

**TARIFF FOR GAS SERVICE**

**ATMOS ENERGY CORP.,  
MID-TEX DIVISION**

<b>RATE SCHEDULE:</b>	<b>Rate R - Residential Sales</b>	
<b>APPLICABLE TO:</b>	<b>Entire System</b>	<b>REVISION: DATE:</b>
<b>EFFECTIVE DATE:</b>		<b>PAGE: 1 OF 1</b>

**RATE R - RESIDENTIAL SALES**

**Application**

Applicable to Residential Customers for all natural gas provided at one Point of Delivery and measured through one meter.

**Type of Service**

Where service of the type desired by Customer is not already available at the Point of Delivery, additional charges and special contract arrangements between Company and Customer may be required prior to service being furnished.

**Monthly Rate**

Customer's monthly bill will be calculated by adding the following Customer and Mcf charges to the amounts due under the riders listed below:

<b>Charge</b>	<b>Amount</b>
Customer Charge per Bill	\$ 10.69 per month
Commodity Charge – All Mcf	\$1.2710 per Mcf

**Gas Cost Recovery:** Plus an amount for gas costs and upstream transportation costs calculated in accordance with Part (a) and Part (b), respectively, of Rider GCR.

**Weather Normalization Adjustment:** Plus or Minus an amount for weather normalization calculated in accordance with Rider WNA.

**Rate Review Mechanism:** Plus or Minus an amount for rates as calculated in accordance with Rider RRM.

**Franchise Fee Adjustment:** Plus an amount for franchise fees calculated in accordance with Rider FF.

**Tax Adjustment:** Plus an amount for tax calculated in accordance with Rider TAX

**Surcharges:** Plus an amount for surcharges calculated in accordance with the applicable rider(s).

**Agreement**

An Agreement for Gas Service may be required.

**Notice**

Service hereunder and the rates for services provided are subject to the orders of regulatory bodies having jurisdiction and to the Company's Tariff for Gas Service.

EXHIBIT A

TARIFF FOR GAS SERVICE

ATMOS ENERGY CORP.,  
MID-TEX DIVISION

<b>RATE SCHEDULE:</b>	Rate C - Commercial Sales	
<b>APPLICABLE TO:</b>	Entire System	<b>REVISION: DATE:</b>
<b>EFFECTIVE DATE:</b>		<b>PAGE: 1 OF 1</b>

**RATE C - COMMERCIAL SALES**

**Application**

Applicable to Commercial Customers for all natural gas provided at one Point of Delivery and measured through one meter and to Industrial Customers with an average annual usage of less than 3,000 Mcf

**Type of Service**

Where service of the type desired by Customer is not already available at the Point of Delivery, additional charges and special contract arrangements between Company and Customer may be required prior to service being furnished.

**Monthly Rate**

Customer's monthly bill will be calculated by adding the following Customer and Mcf charges to the amounts due under the riders listed below:

Charge	Amount
Customer Charge per Bill	\$ 20.28 per month
Commodity Charge - All Mcf	\$ 0.7104 per Mcf

Gas Cost Recovery: Plus an amount for gas costs and upstream transportation costs calculated in accordance with Part (a) and Part (b), respectively, of Rider GCR.

Weather Normalization Adjustment: Plus or Minus an amount for weather normalization calculated in accordance with Rider WNA.

Rate Review Mechanism: Plus or Minus an amount for rates as calculated in accordance with Rider RRM.

Franchise Fee Adjustment: Plus an amount for franchise fees calculated in accordance with Rider FF.

Tax Adjustment: Plus an amount for tax calculated in accordance with Rider TAX

Surcharges: Plus an amount for surcharges calculated in accordance with the applicable rider(s).

**Agreement**

An Agreement for Gas Service may be required.

**Notice**

Service hereunder and the rates for services provided are subject to the orders of regulatory bodies having jurisdiction and to the Company's Tariff for Gas Service.

**EXHIBIT A**

**TARIFF FOR GAS SERVICE**

**ATMOS ENERGY CORP.,  
MID-TEX DIVISION**

<b>RATE SCHEDULE:</b>	<b>Rate I - Industrial Sales</b>	
<b>APPLICABLE TO:</b>	<b>Entire System</b>	<b>REVISION: DATE:</b>
<b>EFFECTIVE DATE:</b>		<b>PAGE: 1 OF 2</b>

**RATE I - INDUSTRIAL SALES**

**Application**

Applicable to Industrial Customers with a maximum daily usage (MDU) of less than 3,500 MMBtu per day for all natural gas provided at one Point of Delivery and measured through one meter. Service for Industrial Customers with an MDU equal to or greater than 3,500 MMBtu per day will be provided at Company's sole option and will require special contract arrangements between Company and Customer.

**Type of Service**

Where service of the type desired by Customer is not already available at the Point of Delivery, additional charges and special contract arrangements between Company and Customer may be required prior to service being furnished.

**Monthly Rate**

Customer's monthly bill will be calculated by adding the following Customer and MMBtu charges to the amounts due under the riders listed below:

<b>Charge</b>	<b>Amount</b>
Customer Charge per Meter	\$ 344.75 per month
First 0 MMBtu to 1,500 MMBtu	\$ 0.2200 per MMBtu
Next 3,500 MMBtu	\$ 0.1600 per MMBtu
All MMBtu over 5,000 MMBtu	\$ 0.0493 per MMBtu

**Gas Cost Recovery:** Plus an amount for gas costs and upstream transportation costs calculated in accordance with Part (a) and Part (b), respectively, of Rider GCR.

**Rate Review Mechanism:** Plus or Minus an amount for rates as calculated in accordance with Rider RRM.

**Franchise Fee Adjustment:** Plus an amount for franchise fees calculated in accordance with Rider FF.

**Tax Adjustment:** Plus an amount for tax calculated in accordance with Rider TAX.

**Surcharges:** Plus an amount for surcharges calculated in accordance with the applicable rider(s).

**Curtailment Overpull Fee**

Upon notification by Company of an event of curtailment or interruption of Customer's deliveries, Customer will, for each MMBtu delivered in excess of the stated level of curtailment or interruption, pay Company 200% of the midpoint price for the Katy point listed in *Platts Gas Daily* published for the applicable Gas Day in the table entitled "Daily Price Survey."

EXHIBIT A

TARIFF FOR GAS SERVICE

ATMOS ENERGY CORP.,  
MID-TEX DIVISION

<b>RATE SCHEDULE:</b>	Rate I - Industrial Sales	
<b>APPLICABLE TO:</b>	Entire System	<b>REVISION:</b> <b>DATE:</b>
<b>EFFECTIVE DATE:</b> February 1, 2008		<b>PAGE: 2 OF 2</b>

**Replacement Index**

In the event the "midpoint" or "common" price for the Katy point listed in *Platts Gas Daily* in the table entitled "Daily Price Survey" is no longer published, Company will calculate the applicable imbalance fees utilizing a daily price index recognized as authoritative by the natural gas industry and most closely approximating the applicable index.

**Agreement**

An Agreement for Gas Service may be required.

**Notice**

Service hereunder and the rates for services provided are subject to the orders of regulatory bodies having jurisdiction and to the Company's Tariff for Gas Service.

**Special Conditions**

In order to receive service under Rate I, Customer must have the type of meter required by Company. Customer must pay Company all costs associated with the acquisition and installation of the meter.

**EXHIBIT A**

**TARIFF FOR GAS SERVICE**

**ATMOS ENERGY CORP.,  
MID-TEX DIVISION**

<b>RATE SCHEDULE:</b>	<b>Rate T – Transportation</b>	
<b>APPLICABLE TO:</b>	<b>Entire System</b>	<b>REVISION: DATE:</b>
<b>EFFECTIVE DATE:</b>		<b>PAGE: 1 OF 2</b>

**RATE T - TRANSPORTATION**

**Application**

Applicable, in the event that Company has entered into a Transportation Agreement, to a customer directly connected to the Atmos Energy Corp , Mid-Tex Division Distribution System (Customer) for the transportation of all natural gas supplied by Customer or Customer's agent at one Point of Delivery for use in Customer's facility.

**Type of Service**

Where service of the type desired by Customer is not already available at the Point of Delivery, additional charges and special contract arrangements between Company and Customer may be required prior to service being furnished.

**Monthly Rate**

Customer's bill will be calculated by adding the following Customer and MMBtu charges to the amounts and quantities due under the riders listed below:

<b>Charge</b>	<b>Amount</b>
Customer Charge per Meter	\$ 344.75 per month
First 0 MMBtu to 1,500 MMBtu	\$ 0.2200 per MMBtu
Next 3,500 MMBtu	\$ 0.1600 per MMBtu
All MMBtu over 5,000 MMBtu	\$ 0.0493 per MMBtu

Upstream Transportation Cost Recovery: Plus an amount for upstream transportation costs in accordance with Part (b) of Rider GCR.

Rate Review Mechanism: Plus or Minus an amount for rates as calculated in accordance with Rider RRM.

Retention Adjustment: Plus a quantity of gas as calculated in accordance with Rider RA.

Franchise Fee Adjustment: Plus an amount for franchise fees calculated in accordance with Rider FF.

Tax Adjustment: Plus an amount for tax calculated in accordance with Rider TAX.

Surcharges: Plus an amount for surcharges calculated in accordance with the applicable rider(s).

**Imbalance Fees**

All fees charged to Customer under this Rate Schedule will be charged based on the quantities determined under the applicable Transportation Agreement and quantities will not be aggregated for any Customer with multiple Transportation Agreements for the purposes of such fees.

**Monthly Imbalance Fees**

Customer shall pay Company the greater of (i) \$0.10 per MMBtu, or (ii) 150% of the difference per MMBtu between the highest and lowest "midpoint" price for the Katy point listed in *Platts Gas Daily* in the table entitled "Daily Price Survey" during such month, for the MMBtu of Customer's monthly Cumulative Imbalance, as

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TARIFF FOR GAS SERVICE

ATMOS ENERGY CORP.,  
MID-TEX DIVISION

<b>RATE SCHEDULE:</b>	Rate T - Transportation	
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<b>EFFECTIVE DATE:</b> February 1, 2008		<b>PAGE: 2 OF 2</b>

defined in the applicable Transportation Agreement, at the end of each month that exceeds 10% of Customer's receipt quantities for the month.

**Curtailement Overpull Fee**

Upon notification by Company of an event of curtailement or interruption of Customer's deliveries, Customer will, for each MMBtu delivered in excess of the stated level of curtailement or interruption, pay Company 200% of the midpoint price for the Katy point listed in *Platts Gas Daily* published for the applicable Gas Day in the table entitled "Daily Price Survey."

**Replacement Index**

In the event the "midpoint" or "common" price for the Katy point listed in *Platts Gas Daily* in the table entitled "Daily Price Survey" is no longer published, Company will calculate the applicable imbalance fees utilizing a daily price index recognized as authoritative by the natural gas industry and most closely approximating the applicable index.

**Agreement**

A transportation agreement is required.

**Notice**

Service hereunder and the rates for services provided are subject to the orders of regulatory bodies having jurisdiction and to the Company's Tariff for Gas Service.

**Special Conditions**

In order to receive service under Rate T, customer must have the type of meter required by Company. Customer must pay Company all costs associated with the acquisition and installation of the meter.

**EXHIBIT A**

**TARIFF FOR GAS SERVICE**

**ATMOS ENERGY CORP.,  
MID-TEX DIVISION**

<b>RIDER:</b>	<b>Rider GCR - Gas Cost Recovery</b>	
<b>APPLICABLE TO:</b>	<b>Entire System</b>	<b>REVISION: DATE:</b>
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**Rider GCR - Gas Cost Recovery**

Applicable to Rate R, Rate C, and Rate I for all gas sales made by Company, and applicable to Rate R, Rate C, Rate I, and Rate T for recovery of Pipeline System costs. The total gas cost recovery amount due is determined by adding the gas cost calculated in Section (a) below and the pipeline cost calculated in Section (b) below

The amount due for gas cost (Section (a)) is determined by multiplying the Gas Cost Recovery Factor (GCRF) by the Customer's monthly volume. For Customers receiving service under Rate R and Rate C, monthly volume will be calculated on an Mcf basis. For Customers receiving service under Rate I, monthly volume will be calculated on an MMBtu basis and the quantities will be adjusted as necessary to recover actual costs

The amount due for pipeline cost (Section (b)) is determined by multiplying the Pipeline Cost Factor (PCF) by the Customer's monthly volume. For Customers receiving service under Rate R and Rate C, monthly volume will be calculated on an Mcf basis. For Customers receiving service under Rate I and Rate T, monthly volume will be calculated on an MMBtu basis and the quantities will be adjusted as necessary to recover actual costs

**(a) Gas Cost**

**Method of Calculation**

The monthly gas cost adjustment is calculated by the application of a Gas Cost Recovery Factor (GCRF), as determined with the following formula:

$$\text{GCRF} = \text{Estimated Gas Cost Factor (EGCF)} + \text{Reconciliation Factor (RF)} + \text{Taxes (TXS)} + \text{Adjustments (ADJ)}$$

EGCF = Estimated cost of gas, including lost and unaccounted for gas attributed to residential, commercial, and industrial sales, and any reconciliation balance of unrecovered gas costs, divided by the estimated total residential, commercial, and industrial sales.

RF = Calculated by dividing the difference between the Actual Gas Cost Incurred, inclusive of interest, over the preceding twelve-month period ended June 30 and the Actual Gas Cost Billed over that same twelve-month period by the estimated total residential, commercial, and industrial sales for the succeeding October through June billing months

Actual Gas Cost Incurred = The sum of the costs booked in Atmos Energy Corp., Mid-Tex Division account numbers 800 through 813 and 858 of the NARUC Uniform System of Accounts, including the net impact of injecting and withdrawing gas from storage. Also includes a credit or debit for any out-of-period adjustments or unusual or nonrecurring costs typically considered gas costs and a credit for amounts received as Imbalance Fees or Curtailment Overpull Fees.

Actual Gas Cost Billed = EGCF multiplied by the monthly volumes billed to Residential, Commercial and Industrial Sales customers, less the total amount of gas cost determined to have been uncollectible and written off which remain unpaid for each month of the reconciliation period.

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**TARIFF FOR GAS SERVICE**

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MID-TEX DIVISION**

<b>RIDER:</b>	<b>Rider GCR - Gas Cost Recovery</b>	
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Any amount remaining in the reconciliation balance after the conclusion of the period of amortization will be maintained in the reconciliation balance and included in the collection of the next RF.

Atmos Energy shall file annual reports with the Commission, providing by month the following amounts: Gas Cost Written Off, Margin Written Off, Tax and Other Written Off, Total Written Off, Gas Cost Collected and Margin Collected

TXS = Any statutorily imposed assessments or taxes applicable to the purchase of gas divided by the estimated total residential, commercial, and industrial sales

ADJ = Any surcharge or refund ordered by a regulatory authority, inclusive of interest, divided by the estimated total residential, commercial, and industrial sales.

**(b) Pipeline Cost**

**Method of Calculation**

Each month, a Pipeline Cost Factor (PCF) is calculated separately for each Pipeline Cost Rate Class listed below. The formula for the PCF is:

PCF = PP / S, where:

PP = (P - A) x D, where:

P = Estimated monthly cost of pipeline service calculated pursuant to Rate CGS

D = Pipeline service allocation factor for the rate class as approved in the Company's most recent rate case, as follows:

<b>Pipeline Cost Rate Class</b>	<b>Allocation Factor (D)</b>
Rate R - Residential Service	.634783
Rate C - Commercial Service	.302805
Rate I - Industrial Service and Rate T - Transportation Service	.062412

A = Adjustment applied in the current month to correct for the difference between the actual and estimated pipeline cost revenue of the second preceding month, calculated by the formula:

A = R - (C - A2), where:

R = Actual revenue received from the application of the PP component in the second preceding month.

C = Actual pipeline costs for the second preceding month.

A2 = The adjustment (A) applied to the PP component in the second preceding month.

S = Estimated Mcf or MMBtu for the rate class for the current billing month.

The PCF is calculated to the nearest 0.0001 cent

**TARIFF FOR GAS SERVICE****EXHIBIT A****ATMOS ENERGY CORP.,  
MID-TEX DIVISION**

<b>RIDER:</b>	<b>Rider GCR - Gas Cost Recovery</b>	
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The Pipeline Cost to be billed is determined by multiplying the Mcf or MMBtu used by the appropriate PCF. The Pipeline Cost is determined to the nearest whole cent

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TARIFF FOR GAS SERVICE

ATMOS ENERGY CORP.,  
MID-TEX DIVISION

<b>RIDER:</b>	Rider CEE – Conservation & Energy Efficiency	
<b>APPLICABLE TO:</b>	Entire System	<b>REVISION: DATE:</b>
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**RIDER CEE – Conservation & Energy Efficiency**

Purpose

Atmos Energy Mid-Tex is proposing to institute a complete Conservation & Energy Efficiency program which will offer assistance to qualified customer segments in reducing energy consumption and lowering energy utility bills. The proposal is one where Atmos Energy shareholders will fund a percentage of the allowable expenses incurred annually, with a customer rate component providing the remainder of the funding. Following is a high-level, concept summary of the proposal. Atmos Energy Mid-Tex Division proposes to work with the communities it serves to develop the details of a new tariff and programs addressing conservation and energy efficiency.

Synopsis:

Voucher system to provide free energy savings materials and supplies to qualifying customers of Atmos Mid-Tex. Qualified Customers will receive up to two hundred dollars (\$200.00) worth of caulking, weather-stripping, sheathing, sealing, water heater blankets, and like materials, other energy saving devices such as clock-thermostats, set-back devices ("covered items") from approved suppliers / retailers. Company will undertake efforts to enlist support from community groups, including its own Employee Action Program, to assist customers with installation. If it is determined that professional installation capabilities are necessary, the parties will agree on labor assistance amounts.

Eligibility

Low Income – Low-income rate-payers that qualify for heating bill assistance through LIHEAP agencies and all agencies that distribute Atmos "Share the Warmth" funds. Agencies that allocate assistance funds denote customer as Low Income, a status that lasts for one year.

Senior Citizen – Primary account holder can request eligibility through ATM call center or web-site. Customer provides primary SSN which is verified through Social Security Administration. And account holder that is or turns 65 years old in that year becomes eligible.

Funding

Initial program funding will be at two million dollars (\$2,000,000). Atmos Energy shareholders will contribute one million dollars (\$1,000,000.00) to this initiative annually with ratepayers providing one million dollars (\$1,000,000.00) per year. It is proposed that the program operate on an October 1 through September 30 year, with benefits being capped at the two million dollar level for the initial program period.

Administration:

A third-party administrator will coordinate qualification of customers, voucher distribution, subsequent verification and reimbursement of eligible expenditures and general program administration. Program administration expenses will be funded from the annual approved budget.

Program audits will be conducted and the results provided to any interested party within 120 days of the end of each program year to determine effectiveness.

<b>RIDER:</b>	<b>Rider WNA – Weather Normalization Adjustment</b>	
<b>APPLICABLE TO:</b>	<b>Entire System</b>	<b>REVISION: DATE:</b>
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**RIDER WNA – Weather Normalization Adjustment**

Provisions for Adjustment

The base rate per Mcf (1,000,000 Btu) for gas service set forth in any Rate Schedules utilized by the cities of the Mid-Tex Division service area for determining normalized winter period revenues shall be adjusted by an amount hereinafter described, which amount is referred to as the "Weather Normalization Adjustment." The Weather Normalization Adjustment shall apply to all temperature sensitive residential, and commercial bills based on meters read during the revenue months of November through April.

Computation of Weather Normalization Adjustment

The Weather Normalization Adjustment Factor shall be computed to the nearest one-hundredth cent per Mcf by the following formula:

$$WNAF_i = R_i \frac{(HSF_i \times (NDD-ADD))}{(BL_i + (HSF_i \times ADD))}$$

Where

- i = any particular Rate Schedule or billing classification within any such particular Rate Schedule that contains more than one billing classification
- WNAF<sub>i</sub> = Weather Normalization Adjustment Factor for the i<sup>th</sup> rate schedule or classification expressed in cents per Mcf
- R<sub>i</sub> = base rate of temperature sensitive sales for the i<sup>th</sup> schedule or classification approved by the entity exercising original jurisdiction.
- HSF<sub>i</sub> = heat sensitive factor for the i<sup>th</sup> schedule or classification calculated as the slope of the linear regression of average sales per bill (Mcf) and actual heating degree days by month for the test year by schedule or classification and weather station as part of the RRM filing.
- NDD = billing cycle normal heating degree days calculated as the simple ten-year average of actual heating degree days.
- ADD = billing cycle actual heating degree days.
- BL<sub>i</sub> = base load sales for the i<sup>th</sup> schedule or classification calculated as the y-intercept of the linear regression of average sales per bill (Mcf) and actual heating degree days by month for the test year by schedule or classification

RIDER:	Rider WNA – Weather Normalization Adjustment	
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and weather station as part of the RRM filing

The Weather Normalization Adjustment for the jth customer in ith rate schedule is computed as:

$$WNA_i = WNAF_i \times q_{ij}$$

Where  $q_{ij}$  is the relevant sales quantity for the jth customer in ith rate schedule.

Filings with Entities Exercising Original Jurisdiction

As part of its annual RRM filing the Company will file (a) a copy of each computation of the Weather Normalization Adjustment Factor, (b) a schedule showing the effective date of each such Weather Normalization Adjustment, (c) a schedule showing the factors of values used in calculating such Weather Normalization Adjustment and (d) a random sample and audit of thirty (30) actual customer bills, with customer information deleted, for each rate schedule or classification to which the WNA was applied in the preceding 12 month period. To the extent that source data is needed to audit the WNA application, such data will be provided by the Company as part of the annual RRM filing.

If the RRM is discontinued, as provided in the Rider RRM tariff, the information required herein to be filed with the entities exercising original jurisdiction shall be filed on March 1 of each year.

Base Use/Heat Sensitivity (HSF) Factors

Weather Station	<u>Residential</u>		<u>Commercial</u>	
	Base use Mcf	HSF Mcf/HDD	Base use Mcf	HSF Mcf/HDD
Abilene	1.14	.0131	8.11	.0631
Austin	1.31	.0136	18.05	.0669
Dallas	1.57	.0185	18.08	.0925
Waco	1.20	.0138	10.97	.0606
Wichita Falls	1.27	.0147	11.58	.0581

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Sample WNAF<sub>i</sub> Calculation:

$$.1533 \text{ per Mcf} = 1.2267 \times \frac{(.0131 \times (30-17))}{(1.14 + (.0131 \times 17))}$$

Where

- i = Residential Single Block Rate Schedule
- R<sub>i</sub> = 1.2267 per MCF (Rate R - Final Order GUD No. 9670)
- HSF<sub>i</sub> = .0131 (Residential - Abilene Area)
- NDD = 30 HDD (Simple ten-year average of Actual HDD for Abilene Area – 9/15/06 – 10/14/06)
- ADD = 17 HDD (Actual HDD for Abilene Area – 9/15/06 – 10/14/06)
- Bl<sub>i</sub> = 1.14 Mcf (Residential - Abilene Area)

## EXHIBIT A

TARIFF FOR GAS SERVICE

ATMOS ENERGY CORP.,  
MID-TEX DIVISION

RIDER:	Rider RRM – Rate Review Mechanism	
APPLICABLE TO:	Entire Mid-Tex Division	REVISION DATE:
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**RIDER RRM – RATE REVIEW MECHANISM****Purpose:**

This mechanism is designed to provide annual earnings transparency. All rate calculations under this tariff shall be made on a system wide basis. If, through the implementation of the provisions of this mechanism, it is determined that rates should be decreased or increased, then rates will be adjusted accordingly in the manner set forth herein. The rate adjustments implemented under this mechanism will reflect annual changes in the Company's cost of service and rate base. This adjustment will be authorized for an Initial Implementation Period. With the conclusion of the final rate adjustment, if any, for the Initial Implementation Period, each entity having original jurisdiction may revoke, amend, or approve Subsequent Implementation Period(s) for the mechanism.

**Definitions**

- a) The **Annual Evaluation Date** shall be the date the Company will make its annual filing under this mechanism. The Annual Evaluation Date shall be no later than March 1, of each year. This filing shall be effective in electronic form where practicable. The initial filing shall be made the later of March 31, 2008 or upon approval of this tariff.
- b) **Audited Financial Data** shall mean the Company's books and records related to the Company's Mid-Tex operating area and shared services operations. Audited Financial Data shall not require the schedules and information provided under this tariff to undergo a separate financial audit by an outside auditing firm similar to the Company's annual financial audit.
- c) The **Evaluation Period** is defined as the twelve month period ending December 31, of each calendar year. The initial Evaluation Period shall be calendar year 2007.
- d) The **Rate Effective Period** is defined as the earlier of the twelve month period for which rates determined under this mechanism will be in effect or subsequent rates are implemented.
- e) **Per Connection Basis** is defined as the existing average number of Mid-Tex active meters to customers during the Evaluation Period.
- f) **Initial Implementation Period** is defined as the three (3) year period commencing with the Company's filing under this mechanism for the calendar year 2007, effective October 1, 2008, and shall conclude with the implementation of rate adjustments, if any, for the third Rate Effective Period.
- g) **Subsequent Implementation Period** is defined as any three (3) year period after the conclusion of the Initial Implementation Period.
- h) **Final Order** is defined as the most recent order establishing the Company's latest effective rates for the area in which the mechanism is implemented, and shall include municipal rate ordinances and resolutions.
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## EXHIBIT A

TARIFF FOR GAS SERVICE

ATMOS ENERGY CORP.,  
MID-TEX DIVISION

RIDER:	Rider RRM – Rate Review Mechanism	
APPLICABLE TO:	Entire Mid-Tex Division	REVISION DATE:
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Rate Review Mechanism

The Company shall file with each regulatory authority having original jurisdiction over the Company's rates the schedules specified below for the Evaluation Period, with the filing to be made by the Annual Evaluation Date following the end of the Evaluation Period. The schedules, which will be based upon the Company's Audited Financial Data, as adjusted, and provided in the same format as Atmos' rate filing with municipalities on September 20, 2007, will include the following:

- a) Company's 13 month average actual gross plant in service, accumulated depreciation, accumulated deferred income taxes, inventory, working capital, and other rate base components for the Evaluation Period. A 13 month average will be used for these items for the true up calculation; Evaluation Period ending balances for these items will be used for the calculation of rates for the Rate Effective Period. The ratemaking treatments, principles, findings and adjustments included in the Final Order will apply. Regulatory adjustments due to prior regulatory rate base adjustment disallowances will be maintained. Cash working capital will be calculated using the lead/lag days approved in the Final Order. Accumulated deferred income taxes (ADIT) will be calculated using the methodology used in the Final Order. The RRM Schedules & Information section of this tariff identifies those ADIT components to be included in the calculation of rate base for both the Evaluation Period and Rate Effective Period calculations.
  - b) The Company's depreciation expense, operating and maintenance expense, and taxes other than income taxes booked in the period will be used for the true-up calculation purposes. Depreciation rates booked in the period will be those approved in the Final Order, or the rate most recently approved. All calculation methodologies will be those approved in the Final Order except where noted or included in this tariff, or in the most recent order addressing the methodology. In addition, the Company shall exclude from operating and maintenance expense the discretionary costs to be disallowed from Rider RRM filings listed in the RRM Schedules and Information section of this tariff.
  - c) Return on Equity (ROE) shall be maintained at 9.6%.
  - d) Cost of debt will reflect actual cost for the Evaluation Period. A 13 month average cost of debt and capital structure will be used for the true up calculation; Evaluation Period ending balances for cost of debt and capital structure will be used for the calculation of rates for the Rate Effective Period. Capital structure will be the actual Evaluation Period ratio of long-term debt and equity, with percentage equity not to exceed the percentage established in the Final Order in G.U.D. No. 9670 (48.1% equity), based on the calculation methodology outcomes used above.
  - e) All applicable accounting adjustments along with all supporting work papers. Such adjustments may include:
-

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TARIFF FOR GAS SERVICE

ATMOS ENERGY CORP.,  
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- 1) Pro-forma adjustments to update and annualize costs and revenue billing determinants for the Rate Effective Period.
  - 2) Pro-forma or other adjustments required to properly account for atypical, unusual, or nonrecurring events recorded during the Evaluation Period.
- f) Shared Services allocation factors shall be recalculated each year based on the latest component factors used during the Evaluation Period, but the methodology used will be that approved in the Final Order.

Calculation of Rate Adjustment

- a) The Company shall provide additional schedules indicating the following revenue deficiency/sufficiency calculations using the methodology accepted in the Final Order, a 13 month average will be used for the specified items for the true up calculation, Evaluation Period ending balances will be used for the calculation of rates for the Rate Effective Period. These schedules shall identify the rate adjustments necessary for both a true-up of revenue for the Evaluation Period and the setting of prospective rates for the Rate Effective Period. The net result of these rate adjustments shall be reflected in the proposed new rates to be established for the Rate Effective Period. In calculating the required rate adjustments, such adjustments will be made pro-ratably to the customer charge and usage charge based upon actual revenue generated, as adjusted under the Company's approved Weather Normalization Adjustment (WNA) Rider. Provided, however, that neither the Residential nor the Commercial customer charges may increase more than 20% per year
- b) If Company's earnings during the Evaluation Period exceed 9.6% return on common equity, the Company shall calculate a decrease to rates to reduce the revenue required to achieve a return on equity of 9.6% for the Evaluation Period. If Company's earnings during the Evaluation Period are below 9.6% return on common equity, the Company shall calculate an increase in rates to collect the additional revenue required to increase its return on equity for the Evaluation Period to 9.6%. In order to avoid double-counting of true-up revenues, any true-up revenue booked during the Evaluation Period that is related to prior periods will be removed in determining both the prospective rates for the Rate Effective Period and the true-up increase or decrease related to the current Evaluation Period. The RRM Schedule & Information section of this tariff provides an example calculation. After the prospective rates for the Rate Effective Period are calculated, the true-up element shall be added to or deducted from those rates in order to determine the rates that shall thereafter be recovered
- c) The Company may also adjust rates for the Rate Effective Period to include recovery of any known and measurable changes to operating and maintenance costs including, but not limited to, all payroll and compensation expense, all benefit expense, all pension expense, insurance costs, materials and supplies, bad debt costs, all medical expense, transportation and building and lease costs for the Rate Effective Period. Provided, however, that adjustments may only be made for costs that are reasonable and necessary. Additionally, utility plant and rate base for the Rate

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Effective Period will be established by using the Evaluation Period ending balances, including associated changes in depreciation and amortization expense and taxes. In calculating the Company's known and measurable changes for prospective RRM adjustment purposes, the following limitations will apply, on a Per Connection Basis.

1. Operating and Maintenance expenses per connection for the Rate Effective Period cannot increase more than 5% per year without specific identification and justification. Any proposed adjustment above 5% per year, is subject to the provisions of the Evaluation Procedures of this tariff. Such procedures provide that the regulatory authority will review the proposed adjustment and that the Company and regulatory authority will work collaboratively to seek agreement on the proposed adjustments to the Company's schedules and proposed rates. Justification for such expenditures over the cap shall include an event or combination of events beyond the control of the Company. The beginning adjusted Operation and Maintenance expense per connection for the 2007 RRM Evaluation Period will be limited to not exceed \$151 million divided by the connections for the period. The increase in adjusted Operation and Maintenance expenses per connection for the 2008 Rate Effective Period and subsequent Rate Effective periods cannot exceed 5% per year, without specific identification and justification. The RRM Schedule & Information section of this tariff provides an example calculation of the 5% limit.
2. Net plant investment per connection for the Rate Effective Period cannot increase more than 5% per year without specific identification and justification. Any proposed adjustment above 5% per year, is subject to the provisions of the Evaluation Procedures of this tariff. Such procedures provide that the regulatory authority will review the proposed adjustment and that the Company and regulatory authority will work collaboratively seek agreement on the proposed adjustments to the Company's schedules and proposed rates. However, in performing a cap test to verify compliance, Company shall exclude any changes in net plant investment associated with federal, state, or local mandates related to safety, compliance, or road moves. The 2007 true up calculation shall be made using the net plant investment of \$1,243,607,206. The initial 2008 prospective rate will be set using net plant limited to not exceed [ $\$1,243,607,206$  divided by average active meters for the 12 months ended June 30 2007] times 1.025 times the average active meters for calendar year 2007. Subsequent filing calculations of net plant investment will be made using the same method used in the Company's September 20, 2007 Statement of Intent with the following exceptions: 1) A 13 month average will be used for net plant in the true up calculation and 2) Evaluation Period ending balances will be used for net plant in the calculation of rates for the Rate Effective Period.

The rate increase limitations set forth in this tariff shall not preclude the Company from recovering any excluded net plant costs during a subsequent Evaluation Period in which the 5% limitation for net plant investment is not reached or in a subsequent Statement of Intent case. To the extent that the Company seeks to recover any excluded net plant costs during a subsequent Evaluation Period in which the 5% limitation for net plant investment is not reached or in a subsequent Statement of Intent case, the Company shall

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TARIFF FOR GAS SERVICE

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RIDER:	Rider RRM – Rate Review Mechanism	
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identify these costs as a specific line item in the schedule accompanying the RRM rate adjustment filing.

The regulatory authority may disallow any net plant investment that is not shown to be prudently incurred. Approval by the regulatory authority of net plant investment pursuant to the provisions of this tariff shall constitute a finding that such net plant investment was prudently incurred. Such finding of prudence shall not be subject to further review in a subsequent Evaluation Period or Statement of Intent filing.

- d) The Company also shall provide a schedule demonstrating the “proof of revenues” relied upon to calculate the proposed rate for the Rate Effective Period. The proposed rates shall conform as closely as is practicable to the revenue allocation principles approved in the Final Order

Attestation

A sworn statement shall be filed by the Company’s Chief Officer in Charge of Mid-Tex Operations affirming that the filed schedules are in compliance with the provisions of this mechanism and are true and correct to the best of his/her knowledge, information and belief. No testimony shall be filed.

Evaluation Procedures

The regulatory authority having original jurisdiction over the Company’s rates shall have no less than ninety (90) days to review the Company’s filed schedules and work papers. The Company will be prepared to provide all supplemental information as may be requested to ensure adequate review by the relevant regulatory authority. The Company shall not unilaterally impose any limits upon the provision of supplemental information and such information shall be provided within ten (10) working days of the original request. The regulatory authority may propose any adjustments it determines to be required to bring the schedules into compliance with the above provisions.

During and following the ninety (90) day review period and a thirty (30) day response period, the Company and the regulatory authority will work collaboratively and seek agreement on the proposed adjustments to the Company’s schedule and proposed rates. If agreement has been reached by the Company and the regulatory authority, the regulatory authority shall authorize an increase or decrease to the Company’s rates so as to achieve the revenue levels indicated for the Rate Effective Period. If, at the end of the thirty (30) day response period, the Company and the regulatory authority have not reached agreement on the proposed adjustments, the Company shall have the right to appeal the regulatory authority’s action or inaction to the Railroad Commission of Texas. Upon the filing of any appeal, the Company shall have the right to implement the proposed RRM rate adjustment, subject to refund.

If approved by the entity exercising original jurisdiction, the rates established pursuant to the Rate Review Mechanism for the first Rate Effective Period shall be effective on October 1, 2008. Thereafter, rates established pursuant to the Rate Review Mechanism for subsequent Rate Effective Periods, if approved as provided herein, shall be effective on July 15 of each year.

Reconsideration and Appeal

EXHIBIT A

TARIFF FOR GAS SERVICE

ATMOS ENERGY CORP.,  
MID-TEX DIVISION

RIDER:	Rider RRM – Rate Review Mechanism	
APPLICABLE TO:	Entire Mid-Tex Division	REVISION DATE:
EFFECTIVE DATE:		PAGE: 6 of 10

Orders issued pursuant to this mechanism are ratemaking orders and shall be subject to appeal under Sections 102.001(b) and 103.021, et seq, of the Texas Utilities Code (Vernon 2007).

Notice

Notice of the annual Rate Review Mechanism filing shall be provided pursuant to Section 104.103, TEX. UTIL. CODE ANN. no later than forty-five (45) days after the Company makes its annual filing pursuant to this tariff. The notice to customers shall include the following information:

- a) a description of the proposed revision of rates and schedules;
- b) the effect the proposed revision of rates is expected to have on the rates applicable to each customer class and on an average bill for each affected customer;
- c) the service area or areas in which the proposed rate adjustment would apply;
- d) the date the proposed rate adjustment was filed with the regulatory authority; and
- e) the Company's address, telephone number and website where information concerning the proposed rate adjustment may be obtained.

**RRM Schedules and Information**

**Accumulated Deferred Income Tax ("ADIT") Items To Be Recognized in Rate Base**

The following list identifies those ADIT components to be included in the calculation of rate base for both the Evaluation Period and Rate Effective Period calculations:

**Mid-Tex:**

- Gas Plant in Service
- Insurance Accruals
- Benefit Accruals
- Deferred Expense Projects
- Allowance for Doubtful Accounts
- Customer Advances
- UNICAP Section 263A Costs (which shall be removed from Atmos Mid-Tex when these costs are transferred to Atmos Pipeline Texas)
- Regulatory Asset - Mid Tex
- Regulatory Liability - Mid-Tex
- Other Plant

TARIFF FOR GAS SERVICE

EXHIBIT A

ATMOS ENERGY CORP.,  
MID-TEX DIVISION

RIDER:	Rider RRM -- Rate Review Mechanism	
APPLICABLE TO:	Entire Mid-Tex Division	REVISION DATE:
EFFECTIVE DATE:		PAGE: 7 of 10

Accumulated Deferred Income Tax ("ADIT") Items To Be Recognized in Rate Base (continued):

**SSU - Customer Support:**

Gas Plant in Service

**SSU - General Office:**

Gas Plant in Service

- Insurance Accruals
- Benefits Accruals
- Deferred Expense Projects
- Prepaid Expenses
- Regulatory Liability - Atmos 109
- FAS 115 Adjustment
- Treasury Lock Adjustment
- Revenue Agent Report Carryforward Adjustments 1990-1985
- Tax Net Operating Loss Credit Carryforwards
- State Bonus Depreciation
- R & D Credit Valuation Allowance
- Other Plant

Discretionary Costs to Be Disallowed from Rider RRM filings

The following types of employee reimbursed expenses and directly incurred costs are to be removed from all expense and rate base amounts included within Rider RRM filings for the Evaluation Period and for the Rate Effective Period:

- Amounts incurred for travel, meals or entertainment of employee spouses
- Amounts for air travel that exceed published commercial coach air fares
- Amounts incurred for hotel rooms exceeding \$250 per night inclusive of taxes and fees assessed on such rooms.
- Amounts for alcoholic beverages.
- Amounts paid for admission to entertainment, sports, art or cultural events, and all event sponsorship costs
- Amounts for social club dues or fees.

## EXHIBIT A

## TARIFF FOR GAS SERVICE

ATMOS ENERGY CORP.,  
MID-TEX DIVISION

RIDER:	Rider RRM – Rate Review Mechanism	
APPLICABLE TO:	Entire Mid-Tex Division	REVISION DATE:
EFFECTIVE DATE:		PAGE: 8 of 10

## Example Calculation A - Revenue for RRM True-Up Portion of Rate

\*\*FOR ILLUSTRATION PURPOSES ONLY.  
AMOUNTS ARE HYPOTHETICAL, AND DO NOT CORRESPOND  
WITH OTHER EXAMPLE SCHEDULES\*\*

	Calendar 2007	Calendar 2008	Calendar 2009	Calendar 2010	Calendar 2011
Per Books Revenue, excluding True-Up Revenue from prior Evaluation Periods	\$150,000	\$156,000	\$157,700	\$158,200	\$158,700
Per-Books True-Up Revenue based on 2007 Evaluation Period [1]		800	1,200		
Per-Books True-Up Revenue based on 2008 Evaluation Period [1]			(364)	(546)	
Per-Books True-Up Revenue based on 2009 Evaluation Period [1]				234	351
Total Per-Books Revenue	\$150,000	\$156,800	\$158,536	\$157,888	\$159,051
Add / (Subtract):					
Revenue from Riders GCR, FF, & TAX	(110,000)	(111,000)	(112,000)		
Surcharges for Rate Case Cost Recovery	(200)	(200)	(200)		
True-Up Revenue for 2007 Evaluation Period [1]		(800)	(1,200)		
True-Up Revenue for 2008 Evaluation Period [1]			364		
Remove out-of-period and unusual items	-	-	-		
Realized Revenue for True-Up Calculation	39,800	44,800	45,500		
Revenue Requirement at 9.6% ROE [2]	41,800	43,890	46,085		
True-Up Increase (Decrease), subject to Revenue-Related Tax Gross-up	\$ 2,000	\$ (910)	\$ 585		

[1] For illustration purposes, example assumes 40% of the total calculated true-up is collected in the following calendar year. Each true-up is subject to a proof of collection or refund after the collection/refund period, and any residual amount will be refunded or collected in the subsequent period.

[2] Since realized revenue for the true-up calculation excludes Riders GCR, FF, and TAX, as well as surcharges for rate case cost recovery, the revenue requirement for purposes of the true-up calculation also excludes all corresponding expenses for the Evaluation Period.

EXHIBIT A

TARIFF FOR GAS SERVICE

ATMOS ENERGY CORP.,  
MID-TEX DIVISION

RIDER:	Rider RRM – Rate Review Mechanism	
APPLICABLE TO:	Entire Mid-Tex Division	REVISION DATE:
EFFECTIVE DATE:		PAGE: 9 of 10

Example Calculation B - Revenue for RRM Prospective Portion of Rate

**\*\*FOR ILLUSTRATION PURPOSES ONLY.  
AMOUNTS ARE HYPOTHETICAL, AND DO NOT CORRESPOND  
WITH OTHER EXAMPLE SCHEDULES\*\***

	Oct 2008 - Sept 2009	July 15, 2009 - July 14, 2010	July 15, 2010 - July 14, 2011
Rate Effective Period Revenue Price-Out at Current Rates [1]	\$ 60,000	\$ 65,000	\$ 68,000
Remove True-Up Portion of Revenue [2]		(2,500)	1,100
Revenue at Current Rates for Rate Effective Period Deficiency Calculation	60,000	62,500	69,100
Revenue Requirement for Rate Effective Period	65,000	68,250	71,663
Rate Effective Period Revenue Increase / (Decrease) before True-Up, subject to Revenue Tax Gross-Up [3]	\$ 5,000	\$ 5,750	\$ 2,563

- [1] To be calculated using pro-forma annualized billing determinants, as provided for in this tariff, priced out at the current rates at the time of the deficiency calculation.
- [2] To be calculated using pro-forma annualized billing determinants, as provided for in this tariff, priced out at the portion of current rates at the time of the deficiency calculation intended to true up prior Evaluation Period(s)
- [3] This represents the prospective deficiency portion of the RRM adjustment. The true-up adjustment, demonstrated in Example Calculation A, will be combined with this adjustment to determine the total adjustment for the Rate Effective Period.

TARIFF FOR GAS SERVICE

EXHIBIT A

ATMOS ENERGY CORP.,  
MID-TEX DIVISION

RIDER:	Rider RRM – Rate Review Mechanism	
APPLICABLE TO:	Entire Mid-Tex Division	REVISION DATE:
EFFECTIVE DATE:		PAGE: 10 of 10

Example Calculation C - Operation & Maintenance Expense Cap Test

**\*\*All Amounts are Hypothetical, and do not correspond with other example calculations\*\***

Evaluation Period (Calendar Year)	<u>2007</u>	<u>2008</u>	<u>2009</u>
Benchmark O&M Per Connection (increased 5% annually)	\$ 97.23	\$ 102.09	\$ 107.19
Gas Service Connections [1]	1,553,000	1,560,000	1,567,000
Maximum O&M Allowed	\$ 151,000,000	\$ 159,260,400	\$ 167,966,730

[1] For illustration purposes only, Gas Service Connections are estimated for 2007 and are assumed to increase 7,000 connections per year. Therefore, 'Maximum O&M Allowed' is estimated for 2008 and 2009. Actual Gas Service Connections for 2007 will be used to calculate the 2007 O&M per Connection. For each subsequent Evaluation Period, the prior period O&M per Connection will be increased by 5%, and then multiplied by the actual Gas Service Connections for the same period to derive the 'Maximum O&M Allowed'.

**ATMOS ENERGY CORP., MID-TEX DIVISION  
REVENUE REQUIREMENTS BY SERVICE CLASS  
TEST YEAR ENDING JUNE 30, 2007  
EXHIBIT B TO SETTLEMENT AGREEMENT BETWEEN ATMOS ENERGY AND THE ATM CITIES**

Line No.	Description (a)	Current Revenues (b)	Proposed Revenues <sup>1</sup> (c)	Proposed Change (d)	Percent Change (e)
1	Residential (Base Revenue)	\$ 277,485,494	\$ 280,887,686	\$ 3,402,192	1.23%
2	Residential (Rider GCR)	625,991,761	625,991,761	-	0.00%
3	Residential (Rider FF & Rider TAX)	52,488,696	52,686,332	197,637	0.38%
4	Total Residential	\$ 955,965,951	\$ 959,565,779	\$ 3,599,828	0.38%
5	Commercial (Base Revenue)	\$ 59,666,416	\$ 65,119,647	\$ 5,453,231	9.14%
6	Commercial (Rider GCR)	399,910,917	399,910,917	-	0.00%
7	Commercial (Rider FF & Rider TAX)	26,699,748	27,016,551	316,803	1.19%
8	Total Commercial	\$ 486,277,080	\$ 492,047,115	\$ 5,770,035	1.19%
9	Industrial/Transportation (Base Revenue)	\$ 8,461,218	\$ 9,057,219	\$ 596,001	7.04%
10	Industrial/Transportation (Rider GCR)	33,616,178	33,616,178	-	0.00%
11	Industrial/Transportation (Rider FF & Rider TAX)	2,444,541	2,479,166	34,625	1.42%
12	Total Industrial/Transportation	\$ 44,521,937	\$ 45,152,563	\$ 630,625	1.42%
13	Other Revenue (Base Revenue)	\$ 17,418,758	\$ 17,418,758	\$ -	0.00%
14	Other Revenue (Rider GCR)	-	-	-	0.00%
15	Other Revenue (Rider FF & Rider TAX)	1,011,966	1,011,966	-	0.00%
16	Total Other Revenue	\$ 18,430,724	\$ 18,430,724	\$ -	0.00%
17	Base Revenue	\$ 363,031,887	\$ 372,483,310	\$ 9,451,423	2.60%
18	Rider GCR	1,059,518,856	1,059,518,856	-	0.00%
19	Rider FF & Rider TAX	82,644,951	83,194,015	549,064	0.66%
20	Total Operating Revenues	\$ 1,505,195,693	\$ 1,515,196,181	\$ 10,000,488	0.66%

Note:

<sup>1</sup> Proposed Revenues are the result of the application of the proposed rates to billing determinants.

**ATMOS ENERGY CORP., MID-TEX DIVISION  
REVENUE REQUIREMENTS  
TEST YEAR ENDING JUNE 30, 2007  
Settlement Proposal**

Line No.	Description (a)	Ref (b)	(c)	Base Revenue (d)	Rider GCR (e)	Rider FF & Rider TAX (f)	Total (g)
1							
2	Rider GCR Part A	Schedule H		\$ -	\$ 976,143,417	\$ -	\$ 976,143,417
3	Rider GCR Part B	Schedule I			83,375,439		83,375,439
4	Total Rider GCR			\$ -	\$ 1,059,518,856	\$ -	\$ 1,059,518,856
5							
6	Operation and Maintenance Expenses	Schedule F-1		\$ 150,891,394			\$ 150,891,394
7							
8	Taxes Other than Income Taxes	Schedule F-5		20,756,918		\$ 83,194,015	103,950,933
9							
10	Depreciation and Amortization Expense	Schedule F-3		79,148,614			79,148,614
11							
12	Interest on Customer Deposits	Schedule F-7		1,593,388			1,593,388
13							
14	Rate Base	Schedule B	\$ 1,123,773,895				
15	Rate of Return	Schedule G	7.79%				
16				87,535,806			87,535,806
17							
18	Income Taxes	Schedule F-6		32,556,703			32,556,703
19							
20	Revenue Requirements			\$ 372,482,822	\$ 1,059,518,856	\$ 83,194,015	\$ 1,515,195,693
21							
22	Current Revenues	Schedule A					\$ 1,505,195,693
23							
24	Proposed Change						\$ 10,000,000

**ATMOS ENERGY CORP., MID-TEX DIVISION  
SUMMARY PROOF OF REVENUE AT PROPOSED RATES  
TEST YEAR ENDING JUNE 30, 2007**

Line	Description (a)	Total (b)	Reference (c)
	<b>Rate R</b>		
1	<u>Rate Characteristics:</u>		
2	Customer Charge	\$10.69	CCS
3			
4	Consumption Charge (\$/Mcf)	\$1.2710	CCS
5			
6	Rider GCR Part A	\$7,5520	Schedule H
7	Rider GCR Part B	\$0.5990	Schedule I
8			
9	<u>Billing Units (1):</u>		
10	Bills	17,144,647	WP_J-1 1
11	Total MCF	<u>76,798,906</u>	WP_J-1 1
12			
13	<u>Present Revenue:</u>		
14	Customer Charge	\$ 183,276,276	
15	Consumption Charge	<u>97,611,410</u>	
16	Base Revenue	\$ 280,887,686	
17	Rider GCR Part A	579,988,302	
18	Rider GCR Part B	46,003,459	
19	Subtotal	\$ 906,879,447	
20	Revenue Related Taxes	52,686,332	
21			
22	Total Proposed Revenue- Rate R	<u>\$ 959,565,779</u>	
23			
24	Note 1: See Billing Determinants Study for details.		

**ATMOS ENERGY CORP., MID-TEX DIVISION  
SUMMARY PROOF OF REVENUE AT PROPOSED RATES  
TEST YEAR ENDING JUNE 30, 2007**

Line	Description (a)	Total (b)	Reference (c)
<b>Rate C</b>			
1	<u>Rate Characteristics:</u>		
2	Customer Charge	\$20.28	CCS
3			
4	Consumption Charge (\$/Mcf)	\$0.7104	CCS
5			
6	Rider GCR Part A	\$7.5520	Schedule H
7	Rider GCR Part B	\$0.5001	Schedule I
8			
9	<u>Billing Units (1):</u>		
10	Bills	1,471,279	WP_J-12
11	Total MCF	49,665,131	WP_J-12
12			
13	<u>Present Revenue:</u>		
14	Customer Charge	\$ 29,837,538	
15	Consumption Charge	35,282,109	
16	Base Revenue	\$ 65,119,647	
17	Rider GCR Part A	375,072,987	
18	Rider GCR Part B	24,837,930	
19	Subtotal	\$ 465,030,564	
20	Revenue Related Taxes	27,016,551	
21			
22	Total Proposed Revenue- Rate C	\$ 492,047,115	
23			
24	Note 1: See Billing Determinants Study for details.		

**ATMOS ENERGY CORP., MID-TEX DIVISION  
SUMMARY PROOF OF REVENUE AT PROPOSED RATES  
TEST YEAR ENDING JUNE 30, 2007**

Line	Description (a)	Total (b)	Reference (c)
<b>Rate I &amp; T</b>			
1	<u>Rate Characteristics:</u>		
2	Customer Charge	\$344.75	CCS
3			
4	Block 1 (\$/MMBTU)	\$0.2200	CCS
5	Block 2 (\$/MMBTU)	\$0.1600	CCS
6	Block 3 (\$/MMBTU)	\$0.0493	CCS
7			
8	Rider GCR Part A	\$7.5520	Schedule H
9	Rider GCR Part B	\$0.2804	Schedule I
10			
11	<u>Consumption Characteristics:</u>		
12	Block 1 (First 1,500 MMBTU)	0.21691	(1)
13	Block 2 (Next 3,500 MMBTU )	0.24651	(1)
14	Block 3 (Over 5,000 MMBTU )	0.53657	(1)
15			
16	<u>Billing Units (1):</u>		
17	Bills	11,542	WP_J-1 3
18	Block 1	9,694,939	WP_J-1 3
19	Block 2	11,018,084	WP_J-1 3
20	Block 3	23,982,442	WP_J-1 3
21	Total MMBTU	<u>44,695,465</u>	
22			
23	Sales Volumes	<u>2,858,579</u>	WP_J-1 3
24			
25	<u>Present Revenue:</u>		
26	Customer Charge	\$ 3,979,105	
27	Block 1	2,132,887	
28	Block 2	1,762,893	
29	Block 3	1,182,334	
30	Base Revenue	\$ 9,057,219	
31	Rider GCR Part A	21,082,128	
32	Rider GCR Part B	12,534,050	
33	Subtotal	\$ 42,673,397	
34	Revenue Related Taxes	2,479,166	
35			
36	Total Proposed Revenue- Rate I&T	<u>\$ 45,152,563</u>	
37			
38	Note 1: See Billing Determinants Study for details.		

# City of Copperas Cove

## City Council Agenda Item Report

February 19, 2008

### Agenda Item No. I-8

Contact – Andrea M. Gardner, City Manager- 547-4221  
 agardner@ci.copperas-cove.tx.us

**SUBJECT:** Consideration and action on Resolution No. 2008-06, approving a Settlement Agreement between Atmos Energy Corporation, Mid-Tex Division and Atmos Texas Municipalities; declaring existing rates to be unreasonable; adopting rate adjustments consistent with the settlement agreement; finding the rates to be set by the attached tariffs to be just and reasonable; finding that the meeting complied with the open meetings act; declaring an effective date; and requiring delivery of this resolution to the company and legal counsel.

#### 1. BACKGROUND/HISTORY

Atmos appealed the Council's denial of its request for a \$52 million increase in rates to the Railroad Commission of Texas. The appeal was consolidated with GUD Docket No. 9762. While at the Commission, ATM and Atmos were able to work out a settlement of their differences.

#### 2. FINDINGS/CURRENT ACTIVITY

The settlement agreement consists of the following:

- Reduction in rate request by 80%
  - Atmos requested a \$52 million rate increase. The settlement provides for a \$10 million increase, this is more than an 80% reduction in the requested increase in rates. Under the settlement, residential rates will increase by 20 cents per month.

	Current Monthly Bill	Atmos Requested Rates			Settlement Agreement		
		Atmos Req Monthly Bill	Change		Settlement Monthly Bill	Change	
			\$	%		\$	%
<b>Residential</b> (using 4.4 Mcf per month)	\$54.99	\$57.07	\$2.08	3.77%	\$55.19	\$0.20	0.37%
<b>Commercial</b> (using 30 Mcf per month)	\$296.15	\$305.36	\$9.21	3.11%	\$299.60	\$3.48	1.18%

- Grip is eliminated
  - Atmos has been making filings annually under its Gas Reliability Infrastructure Program (“GRIP”). The agreement calls for the end of GRIP filings. It will be replaced by a Rate Review Mechanism (“RRM”). The RRM will permit participation by ATM to review each expenditure. This was not possible under the GRIP filings. Under GRIP, cities did not get to review expenditures for reasonableness or prudence.
- Increase in franchise compensation
  - The Settlement also provides that as a member of ATM, the City Council may increase franchise compensation up to 5% of gross revenue. ATM will provide the forms for making the request to increase franchise compensation.
- Atmos to discuss pipeline projects quarterly
  - Atmos will meet quarterly with representatives of ATM to discuss pipeline projects and other capital expenditures so that ATM Cities can have dialogue about such investments.
- Conservation project initiated
  - The Settlement calls for a conservation program to be initiated which is aimed at modest income customers. ATM will have input in developing the program. To start with, ratepayers and shareholders will contribute \$1 million to the program.
- Funds are provided for rate reviews
  - The Settlement provides funds for consultants to review the changes in rates sought by Atmos. Such finding was not available to review the annual GRIP filings.
- Customer charge reductions
  - On October 1, 2008, the residential customer charge is to be reduced from \$10.69 to \$7.00 and the commercial customer charge is to be reduced from \$20.28 to \$13.50. These changes promote conservation. They provide an incentive to use less gas. In general, low-income customers and low use small businesses will benefit from the customer charge reductions.
- Improvements in rate review mechanism (“RRM”)
  - ATM began its negotiations with Atmos by focusing upon the RRM Rider, which had been agreed to by another group of cities. Over 60% of the RRM Rider was redrafted. The changes, which were made to the Rider by ATM Cities, should result in significantly reduced rate requests from what Atmos could have requested under the prior version of the RRM.
- Expenses removed from rate filings
  - Atmos has agreed to remove all of the following types of expenses from any RRM filing.
    - Amounts incurred for travel, meals or entertainment of employee spouses.
    - Amounts for air travel that exceed published commercial coach airfares.

- Amounts incurred for hotel rooms exceeding \$250 per night inclusive of taxes and fees assessed on such rooms.
- Amounts for alcoholic beverages.
- Amounts paid for admission to entertainment, sports, art or cultural events, and all event sponsorship costs.
- Amounts for social club dues or fees.

ATM recommends that the Settlement Agreement be adopted. There was a serious risk that the ultimate increase to be awarded by the Railroad Commission would be considerably higher than \$10 million. Taking into consideration the benefits set forth above, the Settlement Agreement with the attached tariffs and riders is in the public interest.

**3. FINANCIAL IMPACT**

Gas utilities are under an obligation to reimburse reasonable rate case expenses in general rate cases, which are initiated by the utility.

**4. ACTION OPTIONS/RECOMMENDATION**

City Staff recommends that the City Council adopt Resolution No. 2008-06, approving a Settlement Agreement between Atmos Energy Corporation, Mid-Tex Division and Atmos Energy Texas Municipalities.

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# Music at the Gap

## Boys & Girls Club of Copperas Cove year end report for FY 2006-07

### FINDINGS/CURRENT ACTIVITY

Outcome measures \* had been determined by performing gate inquiries on every Music at the Gap attendee. The results are as follows:

#### June 23, 2007 – Bill Ward & Shake Russell, Performers

Total attending                   **164**

Visitors from Out of Town **76 (46%)**

Other Communities Represented

Killeen, Belton, Kempner, Gatesville, Houston, Austin, Kerrville, Devine, Edmond (OK), Temple

#### July 21, 2007 – Jud Caswell, Saylor White & David Allen, Performers

Total attending                   **120**

Visitors from Out of Town **49 (41%)**

Other Communities Represented

Stephenville, Houston, Kerrville, Austin, Edmond (OK), Ft. Hood, Harker Heights, Killeen, Georgetown, Waco, Gatesville, Kempner, Connecticut

#### August 11, 2007 – Terri Hendrix, Lloyd Maines & Band, Performers

Total attending                   **194**

Visitors from Out of Town **79 (41%)**

Other Communities Represented

Killeen, Austin, Houston, Georgetown, Kempner, Oklahoma City, Stephenville, Kerrville, Temple, Lampasas, Gatesville, Florida, Fort Worth, San Antonio, California, Pidcoke, Harker Heights

- **2008 Music at the Gap Outcome Measures will also be determined by canvassing attendees to determine lodging and restaurant visits. It has been difficult to get accurate data from local hotels on guest totals.**

## FY 07 MAG Income and Expense

<b>INCOME</b>	
Ticket Sales, Donations & Local Sponsorships	\$9,912.00
City Sponsorship	\$10,000.00
<b>TOTAL INCOME</b>	<b>\$19,912.00</b>

<b>EXPENSES</b>	
Performer Fees	\$8,850.00
Sound & Lights	\$1,050.00
Performer's Lodging	\$386.00
Advertising	\$1,029.00
Printing Posters & Tickets	\$642.00
Website Design & Graphic Work	\$700.00
Dinners & VIP Reception Expenses	\$2,446.00
<b>TOTAL EXPENSES</b>	<b>\$15,103.00</b>

## SUMMARY

Total Income	\$19,912.00
Less Total Expense	(\$15,103.00)
<b>SPECIAL EVENT NET</b>	<b>\$4,809.00</b>

Please note that Time Warner Cable provided an estimated \$3,200.00 in-kind donated advertising.

Subsequent changes that will be noticeably different than previous years include:

- 1) Free Music at the Gap Concerts (open to the public) subsidized with local business sponsorships and advertising.
- 2) (2) Children's Concerts are planned for 2008. These will be free concerts as well.

# City of Copperas Cove City Council Agenda Item Report

February 19, 2008

## Agenda Item No. J-1

Contact – Francie Charles, Boys and Girls Club of Copperas Cove, 547-5578  
[fcharles@cbgclub.org](mailto:fcharles@cbgclub.org)

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**SUBJECT: Boys & Girls Club of Copperas Cove year end report for FY 2006-07.**

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**1. BACKGROUND/HISTORY**

The Boys and Girls Club of Copperas Cove has a Hotel Occupancy Tax Agreement with the City of Copperas Cove associated with “Music at the Gap”. The “Music at the Gap” events were held on June 23, 2007, July 21, 2007 and August 11, 2007. It is the responsibility of The Boys and Girls Club of Copperas Cove to provide an annual report on revenue, expenditures, and performance measures related to this event.

**2. FINDINGS/CURRENT ACTIVITY**

See attached report.

**3. FINANCIAL IMPACT**

None.

**4. ACTION OPTIONS/RECOMMENDATION**

None.