

AMENDED TOOELE CITY CHARTER
(Effective January 2, 2006)

WHEREAS, Article XI, §5 of the Utah Constitution sets forth a process by which Utah municipalities can frame, propose, and enact a Charter for self-governance; and

WHEREAS, after receiving the March 22, 1965, recommendation of the Charter Commission, the voters of Tooele City Corporation approved the Tooele City Charter at a special election held on July 13, 1965; and

WHEREAS, in the November 1975 regular municipal election, the voters of Tooele City Corporation approved several amendments to the Tooele City Charter; and

WHEREAS, the voters of Tooele City Corporation have determined that the charter provisions of the Utah Constitution provide unique opportunities for self-governance which are not enjoyed by municipalities without charters, and they further have determined that the Tooele City Charter is a unique document which is worthy of preservation, in that it allows for better and more-efficient government; and

WHEREAS, the voters of Tooele City Corporation have determined that the existing, amended Tooele City Charter, while unique and special, is in need of further amendment and clarification;

NOW, THEREFORE, the voters of Tooele City Corporation, in accordance with the requirements of law, do hereby enact this Amended Tooele City Charter, which Amended Tooele City Charter shall become effective at 12:01 a.m. on Monday, January 2, 2006.

ARTICLE 1.

POWERS OF THE CITY

Section 1-01. Grant of Powers. Tooele City Corporation (the “City”) shall have and possess all rights, powers and privileges relating to municipal affairs as are derived from the people and as are allowed by law, and may propose, enact, adopt and enforce within its jurisdictional limits such regulations, not in conflict with the general law, that it deems necessary to promote the general health, welfare and protection of its citizens, subject only to the limits set forth in the Constitution of the State of Utah, all of which rights, powers and privileges it may exercise as fully and completely and as if they were specifically enumerated in this Charter.

Section 1-02. Construction. The rights, powers and privileges of the City granted herein shall be liberally construed in favor of the City, and the enumeration or specific mention of certain rights, powers, and privileges in this Charter shall not be interpreted as limiting the exercise of other rights, powers or privileges not so enumerated or mentioned.

Section 1-03. Intergovernmental Relations. The City may cooperate with, and may

enter into written agreements with, other units of local government, or with the State of Utah, or with the United States of America, or with any agencies or subdivisions thereof, in accomplishing projects of common interest to the City and one or more of the other governmental units, to the extent and in accordance with the Constitution and laws of the United States and of the State of Utah.

ARTICLE 2.

MUNICIPAL GOVERNMENT

Section 2-01. Vesting of Powers of Municipal Government. All rights, powers and privileges of the municipal government of the City shall be vested in a Mayor and in a City Council (the “Council”) of five members, to be elected at large on a non-partisan ballot as provided elsewhere in this Charter.

Section 2-02. Legislative and Executive Powers. The Council shall be the Legislative Body of the City, shall possess all legislative powers of the municipal government of the City, shall propose and adopt such ordinances and resolutions as it deems appropriate, shall budget and appropriate all funds, and shall perform all rights, powers, privileges and duties as may be required of them by this Charter or the laws of the State of Utah. The Council, or any member thereof, also is empowered to review, examine and comment upon administrative or executive decisions. The Council, or any member thereof, may at any time examine and inspect the books, records, papers and documents of the City, or of any officer or agent employed by the City, except where such examination or inspection is prohibited by federal or state law.

The Mayor shall be the Chief Executive Officer of the City, shall see that all laws, ordinances and resolutions are faithfully executed, and shall, subject to the provisions of this Charter and the laws of the State of Utah, possess all executive and administrative powers of the municipal government of the City. The Mayor may review, examine and comment upon proposed decisions of the Council.

Section 2-03. Elected Officials -Elections - Term. On the first Tuesday following the first Monday in November of odd numbered years there shall be held an election to fill all elective offices to be vacated in the City at 12:00 o’clock p.m. MST on the first Monday of the January following. Such elected officials shall continue in office for a term of four years and until their successors are elected and qualified, except as provided herein, or unless earlier removed by law. The officials so elected shall enter upon their duties at 12:00 o’clock p.m. MST on the first Monday in January next succeeding their election.

Section 2-04. Council Chairperson -Meeting- Quorum - Transaction of Business. The Council shall, either by resolution or by order entered in the official minutes, select one of their number to act as Chairperson. Pending the selection of a Chairperson, the City Recorder shall preside for the sole purpose of the selection of a Chairperson. The Council also shall select such other Council officers as the Council deems necessary, with such designations made either by resolution or by order entered in the official minutes.

The Council shall prescribe by ordinance the date, time and place of its regular public

meetings, provided at least one regular public meeting is held each month, and the ordinance shall be published at least once in a newspaper of general circulation in Tooele County. Moreover, the Council shall timely cause a listing of its scheduled regular public meetings to be published at least once in a newspaper of general circulation in Tooele County.

Not less than three members of the Council shall constitute a quorum for the transaction of business, and no act of the Council shall be valid or binding unless three members concur thereon, provided, however, that members of the Council may appear at any Council meeting by telephone or by other electronic means with the consent of the Chairperson of the Council. Upon every vote the yeas and nays shall be called and recorded, and every order, motion, resolution or ordinance shall either be reduced to writing or read into the public record before the vote is taken thereon.

The Council shall have the power to make and enforce such rules and regulations for the administration of the Council, the preservation of order, and the transaction of the business of the Council as may be necessary or proper. All meetings of the Council are presumed to be open to the public, but the Council may close any meeting or any portion of a meeting of the Council as long as the closure is allowed by applicable law, and the procedures and requirements for closing the meeting or portion of the meeting have been followed.

If at any time the business of the City requires a special meeting of the Council, such meeting may be called by the Chairperson of the Council, or by the written request of a majority of the Council. If a majority of the Council calls the meeting, the request must be filed with the City Recorder and entered in the minutes of the Council. Except in case of an emergency, not less than two (2) business days notice of such special meeting must be given by the Recorder to each member not joining in the order, such notice to be served either personally or upon a person of suitable age and discretion who resides with the member, by electronic e-mail or facsimile delivery to the e-mail address or facsimile number of the member that is on file with the City Recorder, or by certified mail addressed to the member at the address on file with the City Recorder. If a member of the Council attends a special meeting of the Council, the member waives any right to object to the appropriateness of the notice concerning the special meeting.

Section 2-05. Ordinances and Resolutions. - Publication or Posting - Effective Date. Every resolution or ordinance passed by the Council must be signed by a majority of the Council members, and shall then be presented to the Mayor for his or her review. If the Mayor approves, he or she shall sign the resolution or ordinance and then transmit it to the City Recorder for filing in the official records of the City. If the Mayor disapproves of the resolution or ordinance, he or she shall return the resolution or ordinance unsigned to the Council, together with a written statement of his or her objections, within fifteen (15) calendar days, and the Council shall at its next meeting reconsider the resolution or ordinance. If after reconsideration it again passes with the concurrence of at least four members of the Council, it shall be filed with the Recorder and shall have the same force and effect as if signed by the Mayor. If any resolution or ordinance be not returned by the Mayor within fifteen (15) calendar days after its initial approval by the Council, it shall be filed with the Recorder and shall have the same force and effect as if signed by the Mayor.

All resolutions and ordinances of the City, unless otherwise indicated on the face of the resolution or ordinance or unless otherwise required by law, shall take effect immediately upon their passage in conformance with the requirements of this Charter, without further publication, or act of the Council or Mayor. Resolutions and ordinances also may have retroactive effect provided the Council makes the necessary findings required by the laws of the State of Utah with respect to retroactivity. All resolutions and ordinances of the City shall set forth in the language of the resolution or ordinance their effective date, shall be maintained by the City Recorder in a book for that purpose, and shall be available for examination by the public free of charge. Unless otherwise indicated on the face of the resolution or ordinance, resolutions and ordinances of the City shall be deemed to be necessary for the immediate preservation of the peace, health or safety of the City and its residents.

The City Recorder, or his or her designee as approved by the Council, shall attend all regular and special meetings of the Council and shall act as clerk thereof. The City Recorder shall record all resolutions and ordinances in the book kept for that purpose and said book, or a certified copy of the ordinances and resolutions on file in the book, shall be received as evidence in all courts and places without further proof, or if printed in a book or pamphlet by authority of the Council, they shall be so received.

Section 2-06. Departments of City Government. The executive and administrative powers, authority and duties of the City shall be conferred upon the Mayor and upon such persons as the Mayor shall appoint or designate, subject to the further requirements of this Charter or applicable law. Departments shall be established by ordinance of the Council. The Mayor shall, with the consent of a majority of the Council, designate a head of each department of City government. The Mayor, pursuant to applicable laws and procedures, shall determine the powers and duties to be performed by the heads of departments established, and of all employees therein. The Mayor may assign any particular office or employee to one or more departments; may require an employee to perform duties of two or more departments and may make such other rules and regulations as may be necessary or proper for the efficient and economical conduct of the business of the City. The Mayor shall supervise all departmental activities through his or her departmental heads. Notwithstanding the foregoing, nothing herein shall preclude the Council from hiring one or more persons to assist the Council in the performance of its duties, and any person so hired shall have the powers and duties assigned by the Council, shall report to the Council, shall be compensated in the amount and manner directed by the Council, and shall serve at the pleasure of the Council.

Section 2-07. Mayor - Further Powers and Duties. The Mayor may remit fines and forfeitures and release any person imprisoned for violation of a City ordinance. The Mayor also shall see that all operative laws and ordinances are faithfully executed. The Mayor may, to the extent allowed by law, examine and inspect the books, records and papers of any employee, officer, or agent employed by the City.

Section 2-08. Vacancies in office of Mayor or Councilperson - How Filled. Any official elected to office pursuant to this Charter shall forfeit his or her office if he or she (1) lacks at any time during his or her designated term any qualification established by law, (2) is convicted of any felony or any Class A misdemeanor involving acts of moral turpitude; or (3)

fails without good cause to attend all regular meetings of the City Council for three consecutive months.

If a vacancy shall occur in the office of Mayor due to the death, permanent disability, resignation or removal from office of the Mayor in any manner authorized by law, the Chairperson of the Council shall act as Mayor pending the appointment, by majority vote of the Council, within 30 days of the vacancy, of a member of the Council to act as temporary Mayor until the next regularly scheduled municipal election, at which time the voters shall elect a qualified elector to serve as interim Mayor for the remainder of the unexpired term, unless said term expires at the time of that election. The Chairperson of the Council, while acting as temporary Mayor under this section, shall retain his or her position on the Council, but shall temporarily forfeit his or her position on the Council while acting as temporary Mayor. The Chairperson shall be reinstated to his or her former position on the Council, if his or her term has not previously expired, upon election of the interim Mayor at the next regular municipal election. The Council shall determine in its absolute discretion whether a temporary Councilperson should be chosen to fill the position temporarily vacated by the Chairperson while serving as the temporary Mayor.

If any vacancy shall occur in the office of Councilperson due to the death, permanent disability, resignation or removal from office of the Councilperson in any manner authorized by law, such vacancy shall be filled by the Council appointing, by a majority vote, a replacement who shall serve until the next regularly scheduled municipal election, at which time the voters shall elect a qualified elector to fill the unexpired term, unless said term expires at the time of that election. If at any time, through vacancies, the number of Councilpersons is reduced below three, a special election shall be called to fill said vacancies for the remainder of their respective terms. Such special election shall be held on the first Tuesday after the sixtieth day following the occurrence of the most recent vacancy, unless such day be a legal holiday in which event it shall be held on the Wednesday following.

Any person appointed or elected to the office of temporary Mayor or temporary Councilperson shall have at the appointment or election, and shall maintain at all times during his or her designated term, all qualifications for the office established by law.

At any time as he or she may deem expedient, the Mayor may authorize, in writing, the Chairperson of the Council to act as Temporary Mayor of the City. If the Chairperson is appointed as Temporary Mayor, he or she shall have, during the term of the appointment, all of the rights, powers and privileges of the Mayor. The authority of the Chairperson to act as Temporary Mayor shall expire upon the earlier of (a) the date and time set forth in the appointment, or (b) the date and time set forth in any subsequent written notice of the Mayor.

Section 2-09. Assistant to Mayor. Upon filing his or her candidacy for Mayor, a candidate shall declare, -in writing with the Tooele City Recorder, a notice of intention to serve as either a full-time or part-time Mayor and his or her intention as to the appointment of an Assistant to the Mayor. Upon election, and in accordance with the notice of intention, the Mayor will, with the affirmative approval of a majority of the Council, appoint a qualified assistant to exercise such powers of administration and perform such duties as the Mayor shall prescribe.

The assistant shall serve at the pleasure of the Mayor, and may be removed by the Mayor with the affirmative consent of a majority of the Council.

Section 2-10. Termination of Department Heads. The heads of all departments shall be discharged by the Mayor only after the Mayor receives the affirmative consent of a majority of the Council.

Section 2-11. Dismissal, Discharge or Removal of Regular Employees. Except for heads of departments and appointed, temporary, seasonal or on-call employees working in an “at will” status, no employee of the City who shall have completed any probationary period established by the City shall be discharged, dismissed, transferred or demoted to a position of less remuneration unless such action complies with the applicable provisions of the City’s policies and procedures and other applicable law. In all cases where such employee is discharged, dismissed, transferred or demoted to a position of less remuneration, he or she shall receive a letter in writing setting forth the reasons for the action, and shall have the right to appeal such action pursuant to the City’s policies and procedures and other applicable law. Moreover, the City shall establish a five-person Employee Appeals Board, three members of which shall be elected by the regular employees of the City pursuant to procedures established by the City, and two members of which shall be appointed by the Council.

ARTICLE 3.

SPECIAL PROVISIONS

Section 3-01. City Recorder. The Council, with the advice of the Mayor, shall select a qualified elector of the City to act as City Recorder who shall be the clerk of the Council and shall be the depository for all City records not needed for current operations of any department. The term of office of the City Recorder shall be for a term of two years unless sooner removed for cause, and said removal shall be in accordance with the City’s policies and procedures and other applicable law.

Section 3-02. Independent Auditor. The Council shall select an independent auditor to make an annual audit and such other audits of the financial accounts of the City as the Council may direct, and to perform all other duties as are required by law.

ARTICLE 4.

CITY ADMINISTRATION

Section 4-01. Creation of Offices and Departments. The Council may, by resolution, create such offices and departments for the City as the Council from time to time determines to be necessary or beneficial for the effective performance of municipal functions and the exercise of good government.

Section 4-02. Residence of City Personnel; Use of City Property. The Council shall, by ordinance, establish such rules and regulations governing the residency of City, and the use of

City property by employees, officers and agents of the City, as the Council deems appropriate.

ARTICLE 5.

PLANNING AND ZONING

Section 5-01. Planning Commission. There shall be a Planning Commission of seven members, three of whom shall be appointed by the Council, four of whom shall be appointed by the Mayor, and none of whom may hold any other office in the City. The Council also may appoint one or more of its members to sit in an advisory, non-voting role on the Planning Commission.

Section 5-02. Term of Office and Vacancy. The terms of office of the members of the Planning Commission and the manner of filling vacancies occurring during a term shall be prescribed by ordinance of the Council.

Section 5-03. Powers and Duties. The Planning Commission shall have such powers and duties with respect to City planning and zoning as is prescribed by the laws of the State of Utah. It shall have such other powers and duties as may be assigned to it by ordinance of the Council.

ARTICLE 6.

NOMINATIONS AND ELECTIONS

Section 6-01. Municipal Elections. Regular elections shall be held as provided by the laws of the State of Utah. The Council may by resolution order a special election at any time as may be necessary to submit referenda or for the election of officials or for any other purpose as required or allowed by law or this Charter.

Section 6-02. Election Procedure. The procedure for conducting elections in the City shall be in accordance with the laws of the State of Utah.

ARTICLE 7.

GENERAL PROVISIONS

Section 7-01. Amending the Charter. Amendments to this Charter may be framed and submitted in the same manner as provided for in the Constitution of the State of Utah for the making of Charters, or may be proposed by the Council upon the affirmative vote of at least four members of the Council, or by a written petition of qualified electors to a number equal to fifteen percent of the total votes cast for Mayor in the next preceding election, and any such amendment may be submitted at the next regular municipal election, at the next regular general election in the State of Utah, or at any special election called by the Council for that purpose, and having been approved by the majority of the electors voting thereon; shall become part of the Charter at the time fixed in such amendment and shall be certified and filed as provided in case of Charters.

Section 7-02. Separability Clause. If any part or section of this Charter shall be held invalid by a court of competent jurisdiction, such holding shall not affect the remainder of this Charter nor the context in which such section or part of section so held invalid may appear, except to the extent that an entire section or part of section may be inseparably connected in meaning and affect with the section or part of section to which such holding shall directly apply.

Section 7-03. Except as expressly set forth in this Charter, the rights, powers, privileges, immunities and duties of the City, its elected and appointed officers and employees, and the citizens and residents of the City shall be construed, interpreted, and enforced in accordance with the Constitutions and general laws of the United States and the State of Utah.