

PART I - CHARTER

Footnotes:

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Editor's note— Printed herein is the home rule Charter of the city, as adopted by the voters at the election of January 17, 1987. Amendments to the Charter will be indicated by parenthetical history notes following amended provisions. The absence of a history note will indicate that the provision remains unchanged from the original Charter. Obvious misspellings have been corrected without notation. For stylistic purposes, a uniform system of headings, catchlines and citations to state statutes has been used, and the current references to statutes have been inserted in brackets following obsolete references as needed. Likewise, other additions made for clarity are indicated by brackets.

State Constitution reference— Charter to be consistent with constitution and general laws, art. XI, § 5.

State Law reference— Home rule municipality, V.T.C.A., Local Government Code § 9.001 et seq.

PREAMBLE

We, the citizens of Tomball, Texas, in order to establish a Home Rule Municipal Government provide for the future progress of our City and obtain more fully the benefits of local self-government, do hereby adopt this Home Rule Charter in accordance with the Constitution and Statutes of the State of Texas; and do hereby declare the residents of the City of Tomball, in Harris County, Texas, living within the legally established boundaries of the said City, to be a political subdivision of the State of Texas incorporated forever under the name and style of the "City of Tomball" with such powers, rights and duties as herein provided.

(Rev. of 5-6-1995)

ARTICLE I. - INTRODUCTORY PROVISIONS

Sec. 1.01. - Corporate name.

The inhabitants of the City of Tomball, in Harris County, Texas, within the Corporate limits as now established and as hereafter established, shall continue to be and are hereby constituted a municipal body politic and corporate, in perpetuity, under the name of "The City of Tomball," and having such powers, privileges, rights, duties and immunities as are herein provided.

(Rev. of 5-6-1995)

Sec. 1.02. - Meaning of the word "City."

When used in the Charter, unless otherwise apparent from the context, the word "City" shall be construed to mean the City of Tomball.

(Rev. of 5-6-1995)

Sec. 1.03. - Meaning of the word "Council."

When used in the Charter, unless otherwise apparent from the context, the word "Council" shall be construed to mean the City Council of the City of Tomball.

(Rev. of 5-6-1995)

Sec. 1.04. - Effect of Charter on existing law.

All codes, ordinances, resolutions, rules and regulations in force in the City on the effective date of this Charter, and not in conflict with this Charter, shall remain in force until altered, amended or repealed by Council. All taxes, assessments, liens, encumbrances and demands, of or against the City, fixed or established before such date, or for the fixing or establishing of which proceedings have begun at such date, shall be valid when properly fixed or established either under law in force at the time of the beginning of such proceedings or under the law after the adoption of this Charter.

(Rev. of 5-6-1995)

Sec. 1.05. - Gender of wording.

The masculine gender of the wording used throughout this Charter shall always be interpreted to mean either sex.

(Rev. of 5-6-1995; Ord. No. 2014-14, § 2, 6-16-2014)

Sec. 1.06. - Renumbering of Charter.

Subsequent to the Charter amendment election of May 10, 2014, the Council shall by ordinance authorize the general editing of this Charter to renumber and rearrange as necessary all articles, sections, and subsections therein, or amendments thereto.

(Rev. of 5-10-2014, amd. no. 5(1.10); Ord. No. 2014-14, § 2, 6-16-2014)

ARTICLE II. - FORM OF GOVERNMENT AND BOUNDARIES

Sec. 2.01. - Form of government.

The municipal government provided by the Charter shall be known as the "Council-Manager" Government. Pursuant to its provisions and subject only to the limitations imposed by the State Constitution, the Statutes of this State and by this Charter, all powers of the City shall be vested in an

elective Council which shall enact local legislation, adopt budgets, determine policies and appoint the City Manager, who in turn, shall be held responsible to the Council for the execution of the laws and the administration of the government of the City. All powers of the City shall be exercised in the manner prescribed by this Charter, or if the manner be not prescribed, then in such manner as may be prescribed by ordinance, the State Constitution or the Statutes of this State.

(Rev. of 5-6-1995)

State Law reference— Form of government, V.T.C.A., Local Government Code § 26.021.

Sec. 2.02. - Boundaries.

The boundaries and limits of the City are hereby established and described as those which exist under authority of the current City ordinances as displayed on a map maintained by the City Secretary and those boundaries established and changed hereafter as amended.

(Rev. of 5-6-1995)

State Law reference— Municipal boundaries, V.T.C.A., Local Government Code § 41.001 et seq.

Sec. 2.03. - Annexation.

The Council may by ordinance annex territory lying adjacent to the City in accordance with State law.

As provided by State statutes, any annexation of territory initiated at the request of the landowner shall not be charged against the City's annual annexation quota.

(Rev. of 5-6-1995; Ord. No. 2024-02, § 2, election date 5-4-2024 (results verified by Res. No. 2024-23, § 6, 5-13-2024))

State Law reference— Municipal annexation, V.T.C.A., Local Government Code § 43.001 et seq.; annexation of property during tax year, V.T.C.A., Tax Code § 26.14.

Sec. 2.04. - Detachment of territory.

Territory lying within the boundary limits of the City and adjoining the outer boundary of the City may be detached from the City by ordinance following a petition or by ordinance following public notice. However, any territory so detached shall be liable for its pro rata share of any debts incurred while it was a part of the City, and the City shall continue to levy and collect taxes on the property within said territory until indebtedness has been discharged.

(Rev. of 5-6-1995)

State Law reference— Disannexation, V.T.C.A., Local Government Code § 43.141 et seq.

Sec. 2.05. - Boards, agencies and commissions.

The Council shall have the authority to establish by ordinance such boards, agencies and commissions as it may deem necessary or desirable for the conducting of the City's business and the management of its affairs. The membership, authority, duties, functions and responsibilities of such boards, agencies and commissions shall be such as are specified by ordinance. The authority, duties, functions and responsibilities thus granted to and conferred on such boards, agencies and commissions shall not be incompatible with the provisions of this Charter and shall in no manner conflict with, usurp or transfer any privilege, authority, duty, function or responsibility specifically granted herein or by the laws of the State of Texas to another office, board, agency or commission of the City.

(Rev. of 5-6-1995)

ARTICLE III. - GENERAL PROVISIONS

Sec. 3.01. - Official oath.

Before entering upon the duties of their respective offices, all officers of the City shall take and subscribe to the official oath prescribed in the Constitution of the State of Texas.

(Rev. of 5-6-1995)

State Constitution reference— Oath of elected officers, art. XVI, § 1.

Sec. 3.02. - Amending the Charter.

Amendments to this Charter may be framed and submitted to the voters of the City in the manner provided by State law.

(Rev. of 5-6-1995)

State Law reference— Charter commission, V.T.C.A., Local Government Code §§ 9.002, 9.003; Charter amendments, V.T.C.A., Local Government Code § 9.004 et seq.

Sec. 3.03. - Severability clause.

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

(Rev. of 5-6-1995)

Sec. 3.04. - Judicial notice.

This Charter shall be deemed an official document; shall have the force and effect of a general law; may be read in evidence without pleading or proof; and judicial notice shall be taken hereof in all courts and places without further proof.

(Rev. of 5-6-1995)

Sec. 3.05. - Public records.

All public records of every office, department, agency or other entity of the City shall be open to inspection by any citizen at all reasonable times, except for those records exempted by the Texas Open Records Act or other law.

(Rev. of 5-6-1995)

State Law reference— Local Government Records Act, V.T.C.A., Local Government Code § 201.001 et seq.

Sec. 3.06. - Official newspaper.

The Council shall have power to contract with, and by ordinance or resolution, annually designate a public newspaper of general circulation in the City as the official newspaper thereof and to continue as such until another is designated, and shall cause to be published therein all ordinances, notices and other matters required to be published by this Charter, by the ordinances of the City or by the Constitution or laws of the State of Texas.

(Rev. of 5-6-1995)

Sec. 3.07. - Provisions relating to assignment, execution and garnishment.

The property, real and personal, belonging to the City shall not be sold or appropriated under any writ of execution or cost bill; and no lien of any kind shall ever exist against any such property owned by the City except that the lien be created or authorized by this Charter or state law. The funds belonging to the City in the hands of any person, firm or corporation shall not be subject to garnishment, attachment, or sequestration nor shall the City be subject to garnishment due to 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 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, except as required by state or federal law.

(Rev. of 5-6-1995; Rev. of 5-10-2014, amd. no. 6(3.07); Ord. No. 2024-02, § 2, election date 5-4-2024 (results verified by Res. No. 2024-23, § 6, 5-13-2024))

State Law reference— Garnishment, V.T.C.A., Civil Practice and Remedies Code § 63.001 et seq.; garnishment of municipal funds, V.T.C.A., Local Government Code § 101.023.

Sec. 3.08. - Security and bond non-requirement.

It shall not be necessary in any action, suit or proceedings in which the City is a party, for any bond or other security to be demanded or 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 manner as if such bond or other security had been given as required by law.

(Rev. of 5-6-1995)

State Law reference— Cities exempt from security for court costs, V.T.C.A., Civil Practice and Remedies Code § 6.002.

ARTICLE IV. - POWERS OF THE CITY

Footnotes:

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State Law reference— General powers of municipalities, V.T.C.A., Local Government Code § 51.001 et seq.; authority of local self-government, V.T.C.A., Local Government Code § 51.072; eminent domain, V.T.C.A., Property Code § 21.001 et seq., V.T.C.A., Local Government Code § 251.001 et seq.

Sec. 4.01. - General.

The City may use a corporate seal; may sue and be sued; may contract and be contracted with; may implead and be impleaded in all courts in all matters whatsoever; may cooperate with the government of the State of Texas or any agency thereof, the Federal Government or any agency thereof or any political subdivision of the State of Texas; and shall have all the powers granted to Home Rule cities by the Constitution and laws of the State of Texas, together with all the implied powers necessary to carry into execution of all the powers granted. The City may own or acquire property within or without its boundaries for any municipal purpose in fee simple or in any lesser interest or estate, by purchase, gift, devise, lease or condemnation and may sell, hold, lease, manage, control and police any property now owned by it or which it may hereafter acquire, and shall have the right to lease or let its property whether inside or outside the City limits, subject to the limitation hereinafter set out, and may construct, own, lease, operate and regulate the public utilities; may assess, levy and collect taxes for general and special purposes on all lawful subjects of taxation; may borrow money on the faith and credit of the City by issuance and sale of bonds, warrants or notes of the City; may appropriate the money of the City for all lawful purposes; may regulate and control the use, for whatever purpose, of the streets and other public places; may make and enforce all police, health, sanitary and other regulations; and may pass such ordinances as may be expedient for the

protection and maintenance of good government, peace and welfare of the City, for the performance of the functions thereof, for the order and security of its residents; and may provide suitable penalties for the violation of any ordinance enacted by the City; and, except as prohibited by the Constitution and laws of this State or restricted by this Charter, the City may exercise all municipal powers, functions, rights, privileges and immunities of every name and nature whatsoever.

(Rev. of 5-6-1995; Ord. No. 2024-02, § 2, election date 5-4-2024 (results verified by Res. No. 2024-23, § 6, 5-13-2024))

Sec. 4.02. - General powers adopted.

The enumeration of the particular powers in this Charter shall not be held or deemed to be exclusive but in addition to the powers enumerated herein or implied hereby or appropriate to the exercise of such powers, the City shall have and may exercise all power of local self-government and all other powers which, under the Constitution and laws of the State of Texas, it would be competent for this Charter specifically to enumerate.

(Rev. of 5-6-1995)

Sec. 4.03. - Eminent domain.

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

(Rev. of 5-6-1995)

State Law reference— Eminent domain, V.T.C.A., Property Code § 21.001 et seq., V.T.C.A., Local Government Code § 251.001 et seq.

Sec. 4.04. - Required notice for claims against the City.

Before the City shall be liable for damages for the death or personal injuries of any person or for damages to or destruction of property of any kind, the person injured, if living, or his representatives, if deceased, or the owner of the property damaged or destroyed, his agent or attorney shall give the City Manager or City Secretary notice in writing of such death, injury, damage or destruction, duly verified by affidavit, within six months after the damages were sustained, stating specifically in such written notice

when, where, and how the death, injury, damage or destruction occurred, and the apparent extent of any such injury, the amount of damages sustained, the actual residence of the claimant by street and number at the date the claim is presented, the actual residence of such claimant for six months immediately preceding the occurrence of such death, injury, damage or destruction and the names and addresses of all witnesses upon whom it is relied to establish the claim for damages. No action at law for damages shall be brought against the City for such death, injury, damage or destruction prior to the expiration of 90 days after the notice herein described has been filed with the City Manager or City Secretary.

(Rev. of 5-6-1995)

Editor's note— See also V.T.C.A., Civil Practice and Remedies Code § 101.101 for notice requirements.

State Law reference— Governmental liability, V.T.C.A., Civil Practice and Remedies Code ch. 101 et seq.

ARTICLE V. - ELECTIONS

Footnotes:

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State Law reference— *Elections generally, V.T.C.A., Election Code ch. 1 et seq.*

Sec. 5.01. - Elections: regular and special.

- A. All City elections shall be conducted and publicized in accordance with the Texas Election Code.
- B. The regular City election shall be held annually on the uniform election dates as designated by the Texas Election Code. The Council shall be responsible for specifying the places for holding such elections.
- C. The Council may, by resolution or ordinance, order a special election for purposes consistent with this Charter and laws of the State of Texas. The Council will fix the time and places for such a special election and provide all means for holding same.
- D. Municipal elections shall be conducted by election officials appointed by the Council, or as otherwise prescribed by law. Sample ballots identical in format to those used in the specific election shall be posted in the voting place(s) for the purpose of voter orientation.

(Rev. of 5-6-1995; Rev. of 5-10-2014, amd. no. 7(5.01); Ord. No. 2024-02, § 2, election date 5-4-2024 (results verified by Res. No. 2024-23, § 6, 5-13-2024))

Editor's note— See also V.T.C.A., Election Code § 41.001 for election date to be second Saturday in May.

Sec. 5.02. - Regulations and laws governing City elections.

The provisions of the General Election Laws of the State of Texas shall apply to all elections held under this Charter. All elections provided for by this Charter shall be conducted by the election authorities established by law.

The Council shall adopt any ordinances or regulations which it considers desirable, consistent with the election laws of the State of Texas and this Charter.

(Rev. of 5-6-1995)

State Law reference— Elections generally, V.T.C.A., Election Code ch. 1 et seq.

Sec. 5.03. - Filing for office.

Any qualified citizen as defined by Article 6.03 of this Charter may file for election to the Office of Mayor or Council Member. A signed application and prescribed oath shall be filed with the City Secretary in accordance with the Texas Election Code and any other forms as required by City or State law.

(Rev. of 5-6-1995; Rev. of 5-10-2014, amd. no. 8(5.03); Ord. No. 2024-02, § 2, election date 5-4-2024 (results verified by Res. No. 2024-23, § 6, 5-13-2024))

Sec. 5.04. - Official ballot.

Candidates for all offices may reside in any portion of the City. The names of all candidates for office, except such as may have withdrawn, become ineligible or died, shall be printed on the official ballot in an order determined by the drawing of lots conducted by the City Secretary. Council members shall be designated on the official ballot with the place system, as defined by Article [Section] 6.02 of this Charter. The position number sought by the candidate shall be indicated on the ballot. Incumbent Council members seeking re-election must file for the position for which they were originally elected.

(Rev. of 5-6-1995)

State Law reference— Ballot form, content, and preparation, V.T.C.A., Election Code ch. 52.

Sec. 5.05. - Election by majority.

At the regular election, or any special election held to fill vacancies in the Mayor or Council member positions, the candidate receiving the majority of votes cast for the position shall be declared elected. If none of the candidates for a given position receives a majority of the votes cast, a run-off election shall be conducted in accordance with the Texas Election Code between the two candidates receiving the greatest number of votes.

(Rev. of 5-6-1995)

State Law reference— Vote required for election to office, V.T.C.A., Election Code ch. 2.

Sec. 5.06. - Conducting elections.

All residents who have complied with voter registration requirements as provided by the State Election Code shall be eligible to vote in the City elections. Election officials will be appointed by the Council, consistent with State laws, and compensation shall be set by the Council. Early voting shall be governed by the State Election Code of the State of Texas.

(Rev. of 5-6-1995; Rev. of 5-10-2014, amd. no. 9(5.06))

State Law reference— Voter qualifications and registration, V.T.C.A., Election Code ch. 11 et seq.

Sec. 5.07. - Canvassing elections.

The returns of all elections shall be delivered forthwith to the Mayor and City Secretary by the Election Judge. The Council shall canvass the returns and declare the results of such election in accordance with the provisions prescribed by State and Federal election laws.

(Rev. of 5-6-1995; Ord. No. 2024-02, § 2, election date 5-4-2024 (results verified by Res. No. 2024-23, § 6, 5-13-2024))

Sec. 5.08. - Council to be judge of election qualifications.

The Council shall make all regulations which it considers needful or desirable, not inconsistent with this Charter or the laws of the State of Texas as now or hereafter amended, for the conduct of municipal elections, for the prevention of fraud in such elections and for the recount of ballots in case of doubt of fraud. Municipal elections shall be conducted by appointed election authorities in accordance with Federal and State law. Should a run-off election result from any regular or special election, the appointed election authorities shall continue to act under their original commissions and shall conduct said resulting run-off election.

(Rev. of 5-6-1995)

Sec. 5.09. - Oath of office.

All elected officials shall, before entering upon the duties of their respective offices, take and subscribe to the official oath prescribed in the Constitution of the State of Texas.

(Rev. of 5-6-1995)

State Constitution reference— Oath of elected officers, art. XVI, § 1.

ARTICLE VI. - THE TOMBALL CITY COUNCIL

Footnotes:

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State Law reference— *Form of government, V.T.C.A., Local Government Code § 26.001 et seq.*

Sec. 6.01. - Powers of the City Council.

All powers and authority which are expressly or impliedly conferred on or possessed by the City shall be vested in and exercised by the Council. The Council shall levy all taxes, apportion all funds of the City among the various departments, adopt the budget, establish special funds for special purposes, authorize the issuance of bonds, order elections, canvass the returns and declare the results, enact all ordinances of any nature, provide penalties for their violation, grant all franchises which they deem proper, set compensation for City officers and employees and have general power over the City finances, subject to the conditions and limitations imposed by this Charter.

(Rev. of 5-6-1995)

Sec. 6.02. - Number, selection, and term.

The Legislative and governing body of the City shall consist of a Mayor and five (5) Councilmembers and shall be known as the "City Council of the City of Tomball, Harris County, Texas."

- A. The Mayor shall be elected from the City at large. The Councilmembers shall be elected from the City at large by positions known as Positions 1, 2, 3, 4, and 5.
- B. The Mayor shall be the presiding officer of the Council and shall be recognized as the head of the City Government for all ceremonial purposes and by the Governor for purposes of military law. The Mayor shall be allowed to vote only in case of a tie vote and shall not have the authority to veto any action of the Council.
- C. The Mayor and each Councilmember shall hold office for a period of three (3) years or until a successor is elected and qualified. All elections shall be held in the manner provided for by this Charter and the election laws of the State of Texas.
- D. There shall be no limitation of elected terms for the Office of Mayor and Councilmembers.

(Rev. of 5-6-1995; Rev. of 5-10-2014, amd. no. 10(6.02); Ord. No. 2014-14, § 3, 6-16-2014; Ord. No. 2024-02, § 2, election date 5-4-2024 (results verified by Res. No. 2024-23, § 6, 5-13-2024))

Sec. 6.03. - Qualifications.

Each member of the Council shall be a resident citizen of the City, shall be a minimum of eighteen (18) years of age and a qualified voter of the State of Texas, and shall have been a resident citizen of Tomball for a period of not less than one (1) year immediately preceding that person's election. An incumbent seeking re-election must file for the same position number. Any person presently holding an elective office shall resign that office upon election to another elective office of profit or trust. No employee of the City shall continue in such position after election to an elective office. A citizen cannot file for an elective office if the candidate has a felony conviction except as provided by the State Election Code. The Mayor or Councilmember shall, if convicted of a felony while in office, immediately upon conviction thereof, forfeit said office. If the Mayor or any Councilmember fails to maintain the foregoing qualifications or shall be absent from two (2) regularly scheduled meetings within any six (6) month period without valid excuse, the Council must, at its next regular meeting, declare a vacancy as set forth in Section 6.09 of this Charter.

(Rev. of 5-6-1995; Rev. of 5-10-2014, amd. no. 11(6.03); Ord. No. 2014-14, § 3, 6-16-2014; Ord. No. 2024-02, § 2, election date 5-4-2024 (results verified by Res. No. 2024-23, § 6, 5-13-2024))

State Law reference— Age and residence requirements for city office, V.T.C.A., Election Code § 141.003.

Sec. 6.04. - Compensation.

By ordinance, the Council shall set the compensation for its members in attendance at its meetings. The Council shall also set a monthly stipend for the Mayor. The Mayor and City Councilmembers shall also be reimbursed for actual expenses incurred while on official business.

(Rev. of 5-6-1995; Ord. No. 2014-14, § 3, 6-16-2014; Ord. No. 2024-02, § 2, election date 5-4-2024 (results verified by Res. No. 2024-23, § 6, 5-13-2024))

Sec. 6.05. - Nepotism.

No officer of the City or officer of any City Board shall appoint, or vote for or confirm the appointment to any office, position, clerkship, employment or duty, of any person related with the second-degree of affinity (by marriage) or within the third-degree by consanguinity (by blood) to the person so appointing or so voting, or related to any other member of the governing body or board of the City; provided that any person who has been continuously employed in any employment for a period of six months prior to the election or 30 days prior to the appointment of the officer or member of a board may be retained in such employment, as provided by state statutes.

(Rev. of 5-6-1995)

State Law reference— Degrees of relationship, nepotism prohibitions, V.T.C.A., Government Code ch. 573.

Sec. 6.06. - Holding dual offices.

The Mayor and City Councilmembers are prohibited by the provision of Article XVI, Section 40, of the Texas Constitution and statutes of the State of Texas, from holding more than one civil office of emolument concurrently. Violation of this Section shall constitute malfeasance in office and any officer found guilty thereof shall be subject to removal from office.

(Rev. of 5-6-1995; Ord. No. 2024-02, § 2, election date 5-4-2024 (results verified by Res. No. 2024-23, § 6, 5-13-2024))

State Law reference— Dual officeholding, V.T.C.A., Government Code ch. 574.

Sec. 6.07. - Conflict of interest in City contracts.

No officer or employee of the City shall have a financial interest, direct or indirect, in any contract with the City, or shall be financially interested, directly or indirectly, in the sale to the City of any land, materials, supplies or services except as provided by State law. Any violation of this Section shall constitute malfeasance in office, and any officer or employee guilty thereof shall be subject to removal from that office or position. Any violation of this Section, with the knowledge, expressed or implied, of the person or corporation contracting with the Council may invalidate the contract involved.

(Rev. of 5-6-1995; Ord. No. 2024-02, § 2, election date 5-4-2024 (results verified by Res. No. 2024-23, § 6, 5-13-2024))

State Law reference— Regulation of conflicts of interest of officers of municipalities, V.T.C.A., Local Government Code ch. 171.

Sec. 6.08. - Mayor and Mayor Pro-Tem.

The Mayor shall be the official head of the City government. The Mayor shall be the Chairperson and shall preside at all meetings of the Council. The Mayor shall, when authorized by the Council, sign all official documents. The Mayor shall appoint special committees as deemed advisable, subject to approval by Council, or as instructed by the Council. The Mayor shall perform such other duties consistent with this Charter or as may be imposed upon the Mayor by Council.

The Council, at its first meeting after the election of Councilmembers, shall elect one of its members Mayor Pro-Tem, and the Mayor Pro-Tem shall perform all the duties of the Mayor in the absence or disability of the Mayor. The Mayor Pro-Tem shall retain voting privileges when acting in the absence of the Mayor.

(Rev. of 5-6-1995; Ord. No. 2024-02, § 2, election date 5-4-2024 (results verified by Res. No. 2024-23, § 6, 5-13-2024))

Sec. 6.09. - Vacancies.

When a vacancy occurs in the Council, the following provisions shall apply, to wit:

Any vacancy or vacancies occurring for which the unexpired term is twelve (12) months or less shall be filled by appointment of the Council. Any vacancy or vacancies for which the unexpired term is for more than twelve (12) months must be filled by a majority of voters voting in a special election called for such purpose in accordance with the Texas State Constitution.

It is further provided that in a special or regular election: The person(s) elected to fill a vacancy or vacancies shall serve only the unexpired term for that particular position.

(Rev. of 5-6-1995; Rev. of 5-10-2014, amd. no. 12(6.09))

State Law reference— Uniform election dates, V.T.C.A., Election Code § 41.001.

Sec. 6.10. - Appointments and removals.

Neither the Council nor any of its members shall instruct or request the City Manager or any of the City Manager's subordinate department heads to appoint or remove from office or employment any person except with respect to the offices which are to be filled with Council approval or appointment under the provisions of this Charter.

(Rev. of 5-6-1995; Ord. No. 2024-02, § 2, election date 5-4-2024 (results verified by Res. No. 2024-23, § 6, 5-13-2024))

Sec. 6.11. - Interference with administration.

Except for the purpose of inquiries and investigations under Section 6.16, the Council or its members shall deal with City officers and employees who are subject to the direction and supervision of the City Manager solely through the City Manager, and neither the Council nor its members shall give orders to any such officer or employee, either publicly or privately.

(Rev. of 5-6-1995)

Sec. 6.12. - Meetings of Council.

The Council shall schedule at least two (2) regular meetings each month and as many additional meetings as it deems necessary to transact the business of the City and its citizens. The Council shall fix the days and time of the regular meetings. All regular meetings of the Council shall be held at the City of Tomball City Hall, unless the Council votes to approve a location other than the City Hall in the event it is determined to be in the public interest. All meetings shall be open and accessible to the public; however, the Council may recess

to an Executive Session only for the purposes provided by the Texas Open Meetings Act. Final action thereon shall not be taken by the Council until the matter is placed on the agenda and a vote taken in an open meeting.

The City Secretary, upon written request of the Mayor or any three (3) members of the Council, shall call special meetings of the Council, notice of such special meetings shall be given to each member of the Council, which said notice shall state the date for such meeting and the subject to be considered at such meeting, and no other subject shall be thereby considered.

(Rev. of 5-6-1995; Rev. of 5-10-2014, amd. no. 13(6.12); Ord. No. 2024-02, § 2, election date 5-4-2024 (results verified by Res. No. 2024-23, § 6, 5-13-2024))

State Law reference— Open meetings of governmental bodies, V.T.C.A., Government Code § 551.001 et seq.

Sec. 6.13. - 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 any meeting in regard to any matter under consideration. The Council shall provide for the taking and recording of minutes of all meetings, and such minutes shall be a public record. Voting, except on procedural motions, shall be by roll call and the ayes, nays and abstentions shall be recorded in the minutes. A Councilmember shall state the reason for an abstaining vote. Four (4) members of the Council, one of whom may be the Mayor, 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 three or more members of the Council.

The Mayor shall have a binding vote only in case of tie votes from Councilmembers.

The minutes shall reflect the names of all members of Council in attendance at both regular and special Council meetings, with status of absence being addressed as "Excused" or "Unexcused" by the presiding officer. Council, by resolution, shall define the guidelines for determination of absences "Excused" and "Unexcused."

(Rev. of 5-6-1995; Ord. No. 2024-02, § 2, election date 5-4-2024 (results verified by Res. No. 2024-23, § 6, 5-13-2024))

Sec. 6.14. - Ordinances.

In addition to such acts of the Council as are required by statute or by this Charter to be by ordinance, every act of the Council establishing a fine or other penalty or providing for the expenditure of funds or for the contracting of indebtedness shall be by ordinance. The enacting clause of all ordinances shall be, "BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF TOMBALL:"

A.

Procedure for Passage of Ordinances. Every ordinance shall be introduced in written or printed form and, upon passage, shall take effect at the time indicated therein; provided that any ordinance imposing a penalty, fine or forfeiture for a violation of its provisions shall become effective not less than fourteen (14) days from the date of its passage. The City Secretary shall give notice of every ordinance under consideration, by causing the caption or summary, including the penalty, fine, or forfeiture for a violation of any such ordinance to be published in the official newspaper for the City after the first reading and at least once within fourteen (14) days after the passage of said ordinance. The City Secretary shall note on every ordinance, the caption of which is hereby required to be published, and on the record thereof, the fact that same has been published as required by the Charter, and the date of such publication, and promulgation of such ordinance; provided, that the provisions of this section shall not apply to the correction, revision and modification of the ordinances of the City for publication. It shall be necessary to the validity of any ordinance that it shall be read two (2) times and considered at two (2) sessions of the Council unless addressed otherwise by this Charter. Copies of said ordinances shall be made available at the City Hall upon request. Every ordinance shall be authenticated by the signature of the Mayor and City Secretary and shall be systematically recorded in an ordinance book in a manner approved by the Council. It shall only be necessary to record the caption or title of ordinances in the minutes or journal of Council meetings. The Council shall have power to cause the ordinances of the City to be corrected, revised, codified and printed in code form as often as the Council deems advisable, and such printed code, when adopted by the Council, shall be in full force and effect without the necessity of publishing the same or any part thereof in a newspaper. However, if the ordinance is amended, it then must be published one time, by caption only, in the official City newspaper. Such printed code shall be admitted in evidence in all courts and places without further proof.

- B. *Emergency Ordinances.* To meet a public emergency affecting life, health, property, or the public peace, the Council may adopt emergency ordinances. Such ordinances shall not levy taxes, grant or renew or extend a franchise, regulate the rate charged by any public utility for its services, or authorize the borrowing of money except to fund emergency appropriations in accordance with Article 8.15 of this Charter. An emergency ordinance shall be introduced in the form and manner generally prescribed for ordinances, except that it shall be plainly designated in the title as an emergency, with a description in clear and specific terms and with one reading sufficing for its passage. Such emergency clause shall require the affirmative vote of three members elected to Council. An emergency ordinance may be adopted with or without amendment or rejected at the meeting at which it is introduced. After adoption, the ordinance shall become effective immediately and shall be published in the official newspaper for the City of Tomball once within 14 days after the passage of such ordinance. After adoption, the ordinance shall be numbered as required for other adopted ordinances, with the designation of "E" following the number. Every emergency ordinance so adopted, except

one authorizing the borrowing of money as described herein, shall automatically stand repealed as of the sixty-first (61st) day following the day on which it became effective, but this shall not prevent reenactment of the ordinance.

(Rev. of 5-6-1995; Rev. of 5-10-2014, amd. no. 14(6.14); Ord. No. 2024-02, § 2, election date 5-4-2024 (results verified by Res. No. 2024-23, § 6, 5-13-2024))

State Law reference— Publication of ordinances, V.T.C.A., Local Government Code § 52.013.

Sec. 6.15. - Official bonds for City employees.

All City Officers and such employees as the Council may require, shall, before entering upon the duties of their offices or employment by the City, enter into a good and sufficient fidelity bond in a sum to be determined by the Council payable to the City and conditioned upon the faithful discharge of the duties of such persons and upon the faithful accounting of all monies, credits and things of value coming into the hands of such persons, and such bonds shall be signed as surety by some company authorized to do business under the laws of the State of Texas, and the premium on such bonds shall be paid by the City, and such bonds must be acceptable to the Council.

(Rev. of 5-6-1995)

Sec. 6.16. - Investigative body.

The Council shall have the power to inquire into the official conduct of any department, agency, office, officer or employee of the City, and for that purpose shall have the power to administer oaths, subpoena witnesses, compel the production of books, papers and other evidence material to the inquiry. The Council shall provide by ordinance, penalties for contempt in failing or refusing to obey any such subpoena or to produce any such books, papers or other evidence, and shall have the power to punish any such contempt in the manner provided by such ordinance.

(Rev. of 5-6-1995)

Sec. 6.17. - Liaison with boards and commissions.

Each year, following the election of members of the Council, the Council may appoint a Councilmember as a representative to each board and commission. That Councilmember shall attend, as needed, each board or commission. That Councilmember will serve as a liaison between the board or commission and the Council.

(Ord. No. 2024-02, § 2, election date 5-4-2024 (results verified by Res. No. 2024-23, § 6, 5-13-2024))

ARTICLE VII. - ADMINISTRATIVE SERVICES

Sec. 7.01. - City Manager.

- A. *Appointment and Qualifications.* The Council shall appoint an administrative and executive officer of the City who shall be responsible to the Council for the administration of all the affairs of the City. The City Manager shall be chosen by the Council solely on the basis of executive and administrative training, experience and ability. No member of the Council shall, during the time for which the member of Council is elected and for one year thereafter, be appointed City Manager.
- B. *Term and Salary.*
 - (1) The City Manager shall be appointed for a term not to exceed two years by a majority vote of the entire Council. The appointment shall be secured through an explicit contractual agreement which shall protect the rights of both the Council and the City Manager.
 - (2) The City Manager shall receive compensation as may be fixed by the Council.
- C. *Duties of the City Manager.* The City Manager shall:
 - (1) Be responsible to the Council for the efficient and economical administration of the City government. The City Manager shall see that all ordinances, bylaws, and resolutions of the Council are faithfully obeyed and enforced. The City Manager shall have the authority, with the approval of the Council, to appoint and remove all department heads. The City Manager shall have the authority to appoint and remove all other employees in the administrative service of the City. The City Manager may authorize the head of a department to appoint and remove subordinates in that respective department. Except for the purpose of inquiry, the Council and its members shall deal with the administrative service solely through the City Manager.
 - (2) Prepare the budget annually and submit it to the Council and be responsible for its administration after adoption.
 - (3) Prepare and submit to the Council, as of the end of the fiscal year, a complete report on the finances and administrative activities of the City for the preceding year.
 - (4) Keep the Council advised of the financial condition and future needs of the City and make such recommendations as may seem desirable.
 - (5) Perform such duties as may be prescribed by this Charter or may be required of the City Manager by the Council, not inconsistent with this Charter.
 - (6)

Prepare a written report to the Council, first in 2029, and thereafter at intervals not exceeding five years, as to the need for revision of the city Charter, with special attention given to conflicts, if any, between the Charter and state law and recommending such amendments to the Charter as may seem necessary for legal, administrative, or other reasons.

(Rev. of 5-6-1995; Rev. of 5-10-2014, amd. no. 15(7.01); Ord. No. 2014-14, § 4, 6-16-2014; Ord. No. 2024-02, § 2, election date 5-4-2024 (results verified by Res. No. 2024-23, § 6, 5-13-2024))

Sec. 7.02. - Assistant City Manager.

The City Manager, with the approval of the Council, may appoint an Assistant City Manager. Such Assistant City Manager shall have all of the powers and duties as delineated by the Assistant City Manager's job description, and in the event of the absence or disability of the City Manager, the Assistant City Manager shall fill all the duties of the City Manager.

(Rev. of 5-6-1995; Ord. No. 2024-02, § 2, election date 5-4-2024 (results verified by Res. No. 2024-23, § 6, 5-13-2024))

Sec. 7.03. - Police Department.

A Police Department is established to preserve order, to strive to secure the safety of residents, to prevent violence and to protect life and property from injury and loss within the limits and allowable jurisdiction of the City.

- A. *Chief of Police.* The Chief of Police is the senior officer of the Police Department. The Chief of Police is appointed by the City Manager, with the approval of the Council, for an indefinite term. With the approval of the City Manager, the Chief of Police appoints and removes the employees of the Police Department. The Chief of Police is responsible to the City Manager for the administration of the Police Department and the performance of Council-established duties and directives.
- B. *Reserve Police.* The Chief of Police may appoint or remove "Reserve Police Officers" in accordance with guidelines established by the Council. No other persons, except as otherwise provided by the laws of the State of Texas, shall act as "special police" within the City.

(Rev. of 5-6-1995; Rev. of 5-10-2014, amd. no. 16(7.03); Ord. No. 2024-02, § 2, election date 5-4-2024 (results verified by Res. No. 2024-23, § 6, 5-13-2024))

State Law reference— V.T.C.A., Penal Code ch. 1 et seq.; V.T.C.A., Transportation Code ch. 1 et seq.; municipal law enforcement, V.T.C.A., Local Government Code ch. 341.

Sec. 7.04. - City Secretary.

There shall be a City Secretary for the City. The City Manager, with the approval of the Council, shall appoint a City Secretary and such assistants as the Council shall deem advisable. The City Secretary, or an Assistant City Secretary, shall give notice of Council meetings, shall keep the minutes of proceedings of such meetings, and shall authenticate by the City Secretary's signature and record in full in a book kept and indexed for the purpose, all ordinances and resolutions, and shall perform such other duties assigned by the City Manager and those elsewhere provided in this Charter and the laws of the State of Texas.

(Rev. of 5-6-1995; Rev. of 5-10-2014, amd. no. 17(7.04); Ord. No. 2024-02, § 2, election date 5-4-2024 (results verified by Res. No. 2024-23, § 6, 5-13-2024))

Sec. 7.05. - Finance Director.

There shall be a Finance Director for the City. The City Manager, with the approval of the Council, shall appoint a Finance Director and such assistants as the Council shall deem advisable. The Finance Director shall perform the duties delegated to the Finance Director by the City Manager and those which may be imposed upon the Finance Director by the laws of the State of Texas.

(Rev. of 5-6-1995; Rev. of 5-10-2014, amd. no. 18(7.05); Ord. No. 2024-02, § 2, election date 5-4-2024 (results verified by Res. No. 2024-23, § 6, 5-13-2024))

Sec. 7.06. - City Fire Department.

The Fire Department is established for general protection from fire for the residents of the City, for fire prevention education and enforcement, for salvage and rescue operations, and for other related activities as may be assigned by the Council. The department shall consist of full-time, part-time, volunteer members or any combination thereof. All such members shall function under the Standard Operating Guidelines of the Fire Department.

- A. *Fire Chief.* The Fire Chief is the senior officer of the Fire Department. The Fire Chief is appointed by the City Manager, with the approval of the Council, for an indefinite term. With the approval of the City Manager, the Fire Chief appoints and removes employees of the Fire Department. The Fire Chief is responsible to the City Manager for the administration of the Fire Department and the performance of Council-established duties and directives.
- B. *Fire Marshal.* A Fire Marshal shall be selected by the Fire Chief, with the approval of the City Manager and shall be responsible for enforcement of the City Fire Codes and other functions as may be assigned by the Fire Chief. The Fire Marshal shall be a member of the command staff of the Fire Department, and Fire Marshal may be removed from office by the Fire Chief with the approval of the City Manager.
- C.

Mutual Aid Agreements with Other Fire Departments. Subject to approval by the Council, the Fire Department may enter into inter-local and mutual aid agreements with other fire departments in the area by which to provide and receive assistance in emergency situation.

(Rev. of 5-6-1995; Rev. of 5-10-2014, amd. no. 20(7.07); Ord. No. 2014-14, § 5, 6-16-2014; Ord. No. 2024-02, § 2, election date 5-4-2024 (results verified by Res. No. 2024-23, § 6, 5-13-2024))

State Law reference— Municipal fire protection, V.T.C.A., Local Government Code ch. 342.

Sec. 7.07. - City Attorney.

The Council shall appoint legal counsel duly licensed in the State of Texas, who shall be the City Attorney. The City Attorney shall receive such compensation as may be fixed by the Council and shall hold the office at the pleasure of Council. The City Attorney, or such other attorneys selected by the City Attorney with the approval of the Council shall represent the City in all litigation. The City Attorney shall be the legal advisor of, attorney and counsel for, the City and all officers and departments thereof. A City Attorney shall hold no other City office or City employment during the term for which the City Attorney is appointed by the Council. Should a person serving as City Attorney become a candidate in a City election, that person shall resign the position as City Attorney upon election to a City Office.

(Rev. of 5-6-1995; Ord. No. 2014-14, § 5, 6-16-2014; Ord. No. 2024-02, § 2, election date 5-4-2024 (results verified by Res. No. 2024-23, § 6, 5-13-2024))

Sec. 7.08. - Municipal Court.

There shall be established and maintained a Court designated as a "Municipal Court" for the trial of misdemeanor offenses, with all such powers and duties as are now or hereafter may be prescribed by the laws of the State of Texas relative to Municipal or Recorder's Court.

- A. The Judge of said Court shall be appointed by the Council, and shall be a licensed attorney, and shall receive such salary as may be fixed by the Council. The Judge of the Municipal Court shall serve for two (2) years. The Judge of the Municipal Court may be removed by a vote of the majority of Council for incompetency or official misconduct, after due notice and an opportunity to be heard in the Judge's defense. The Judge of the Municipal Court may also be removed from office by a Council resolution declaring a lack of confidence in the Judge, provided that two-thirds of the Council vote in favor of such resolution.
- B. The Clerk of said Court and the Clerk's deputies shall have the power to administer oaths and affidavits, make certificates, affix the seal of said Court thereto and generally do and perform any and all acts usual and necessary by the Clerk of Courts in issuing process of said courts and conducting the business thereof.
- C.

The Council shall appoint other licensed attorneys to act as Temporary Judges of said Court in case of disability or absence of the Judge of the Municipal Court. The salary of Temporary Judges shall be fixed by the Council.

- D. A Judge of the Municipal Court shall hold no other City office or City employment during the term for which the Judge is appointed by the Council. Should a person serving as Judge of the Municipal Court become a candidate in a City election, the Judge shall resign the position as Judge of the Municipal Court upon election to a City Office.
- E. The Mayor shall serve as Judge of the Municipal Court in the absence of the Judge of the Municipal Court or alternates.

(Rev. of 5-6-1995; Rev. of 5-10-2014, amd. no. 21(7.09); Ord. No. 2014-14, § 5, 6-16-2014; Ord. No. 2024-02, § 2, election date 5-4-2024 (results verified by Res. No. 2024-23, § 6, 5-13-2024))

State Law reference— Municipal courts, V.T.C.A., Government Code ch. 29.

Sec. 7.09. - Health Department.

To assure a high quality of health and sanitation standards for the City, the City shall utilize and adhere to all rules and regulations regarding health and sanitation standards outlined, required, and governed by the Harris County Department of Health and the State Health Department.

(Rev. of 5-6-1995; Rev. of 5-10-2014, amd. no. 22(7.10); Ord. No. 2014-14, § 5, 6-16-2014)

State Law reference— Health generally, V.T.C.A., Health and Safety Code ch. 1 et seq.

Sec. 7.10. - Department of Public Works.

The City shall establish a Department of Public Works. The City Manager, with the approval of the Council, shall appoint a Director of Public Works who shall be the administrator of this department. The Department of Public Works shall perform such duties as maintenance of gas, water, and sewage facilities; maintenance of streets, collection of garbage; and such other duties as may be assigned by the City Manager.

(Rev. of 5-6-1995; Ord. No. 2014-14, § 5, 6-16-2014)

State Law reference— Water and utilities, V.T.C.A., Local Government Code ch. 401 et seq.

Sec. 7.11. - Department of Community Development.

There shall be a Director of Community Development for the City. The City Manager, with the approval of the Council, shall appoint a Director of Community Development and such assistants as the Council shall deem advisable. The Director of Community Development shall oversee the city's development processes,

including planning and zoning, engineering, code enforcement, and inspections, and shall perform such other duties assigned by the City Manager and those elsewhere provided in this Charter and the laws of the State of Texas.

(Rev. of 5-6-1995; Rev. of 5-10-2014, amd. no. 23(7.12); Ord. No. 2014-14, § 5, 6-16-2014)

State Law reference— Municipal regulation of housing and other structures, V.T.C.A., Local Government Code ch. 214.

ARTICLE VIII. - MUNICIPAL FINANCE

Footnotes:

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State Law reference— *Finances, V.T.C.A., Local Government Code ch. 101 et seq.*

Sec. 8.01. - Fiscal year.

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

(Rev. of 5-6-1995)

State Law reference— City fiscal year, V.T.C.A., Local Government Code § 101.022, V.T.C.A., Tax Code § 1.05.

Sec. 8.02. - Budget as public record.

The budget and all supporting schedules shall be filed with the person performing the duties of City Secretary and shall be submitted to the Council. Copies of the budget and the capital program, as adopted, shall be public records and shall be made available to the public at suitable places in the City to include the City Hall, and at two other public locations within the corporate limits of the City.

(Rev. of 5-6-1995; Rev. of 5-10-2014, amd. no. 25(8.02))

State Law reference— Local Government Records Act, V.T.C.A., Local Government Code § 201.001 et seq.

Sec. 8.03. - Preparation and submission of budget.

The City Manager, between 60 and 120 days prior to the beginning of each fiscal year, shall submit to the Council a proposed budget, which shall provide a complete financial plan for the fiscal year and shall contain the following:

A.

A budget message which shall contain an explanation of the budget and 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 anticipated receipts and proposed expenditures for all funds.
- C. A review and analysis of property valuations.
- D. An analysis of tax rates.
- E. The tax levies and tax collections by years for at least the immediate past five years.
- F. The general funds resources in detail.
- G. The special funds resources in detail.
- H. A summary of proposed expenditures by function, department, and activity with detailed estimates of expenditures shown separately for each activity to support the summary.
- I. A revenue and expense statement for all types of bonds, time warrants and other indebtedness.
- J. A description of all bond issues, time warrants, and other indebtedness outstanding, showing rate of interest, date of issue, maturity date, amount authorized, amount issued, and amount outstanding.
- K. A schedule of requirements for the principal and interest of each issue of bonds, time warrants, and other indebtedness.
- L. The appropriation ordinance.
- M. The tax levying ordinance.
- N. The total monies in all reserves (designated, undesignated, and debt) shall not exceed the budgeted City expenditures for the fiscal year. Likewise, the total monies included in all reserves shall not be less than one quarter of the budgeted City expenditures for a fiscal year.

The total proposed expenditures shall not exceed the total of estimated resources.

(Rev. of 5-6-1995)

State Law reference— Municipal budget, V.T.C.A., Local Government Code ch. 102.

Sec. 8.04. - Anticipated revenues compared with other years.

In preparing the budget, the City Manager shall place in parallel columns opposite the items of revenue the actual amount of each revenue item for the last completed fiscal year, the estimated amount for the current fiscal year and the proposed amount for the ensuing fiscal year.

(Rev. of 5-6-1995)

Sec. 8.05. - Proposed expenditures compared with other years.

In preparing the budget, the City Manager shall place in parallel columns opposite the 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. The total of proposed expenditures shall not exceed the total of estimated income.

(Rev. of 5-6-1995)

Sec. 8.06. - Notice of public hearing on budget.

At the Council meeting at which the budget is submitted, the Council shall authorize the publishing of the Budget Hearing notice in the City's official newspaper. The notice shall set forth the time, place and date of the budget hearing and the location and times at which the citizens may inspect the proposed budget. The notice shall be published in accordance with state law.

(Rev. of 5-6-1995; Ord. No. 2024-02, § 2, election date 5-4-2024 (results verified by Res. No. 2024-23, § 6, 5-13-2024))

Editor's note— See also V.T.C.A., Local Government Code § 102.0065 for special notice by publication for budget.

Sec. 8.07. - Public hearing of budget.

The Public Hearing, as required in Section 8.06, shall give the citizens ample opportunity and time to speak for or against any and all items in the proposed budget.

(Rev. of 5-6-1995)

State Law reference— Public hearing on proposed budget, V.T.C.A., Local Government Code § 102.006.

Sec. 8.08. - Proceedings on budget after public hearings.

After the Public Hearing, the Council may insert new items or make changes in the proposed budget. Should changes be made, the same "Notice of Public Hearing on Budget" (Section 8.06) must be followed. After public hearings are completed and no changes made as a result, the Council may adopt the budget. In no case may the Council bring to a vote a budget in which expenditures are greater than the total estimated income.

(Rev. of 5-6-1995)

Sec. 8.09. - Vote required for adoption.

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

(Rev. of 5-6-1995)

State Law reference— Adoption of budget, V.T.C.A., Local Government Code § 102.007.

Sec. 8.10. - Date of final adoption.

The budget shall be adopted no later than 15 days prior to the beginning of the fiscal year. Should the Council fail to adopt a new budget, the then-existing budget, together with its tax levying ordinance and its appropriation ordinance, shall be deemed adopted, on a month-to-month basis, for the ensuing fiscal year. Additional budget hearings may be held with proper notice (Section 8.06), until a budget is ultimately adopted.

(Rev. of 5-6-1995)

State Law reference— Adoption of budget, V.T.C.A., Local Government Code § 102.007.

Sec. 8.11. - Effective date of budget; certification; copies made available.

Upon final adoption, the budget shall be in effect for the fiscal year. A copy of the budget as finally adopted, shall be filed with the person performing the duties of City Secretary and the County Clerk of Harris County. Copies of the final budget shall be posted for the public at the office of the City Secretary and at two other public locations within the corporate limits of the City. Copies of the budget may be obtained by the public at the City Hall.

(Rev. of 5-6-1995; Rev. of 5-10-2014, amd. no. 26(8.11))

State Law reference— Approved budget filed with municipal clerk, posting on internet, V.T.C.A., Local Government Code § 102.008.

Sec. 8.12. - Budgetary amendments.

From the effective date of the budget, any budgetary amendments shall be made in accordance with State and Federal laws and the Constitution of the State of Texas.

(Rev. of 5-6-1995)

State Law reference— Changes in budget for municipal purposes, V.T.C.A., Local Government Code § 102.010.

Sec. 8.13. - Budget established amount to be raised by property tax.

From the effective date of the budget, the established amount to be raised by property tax shall in no event exceed the legal limit provided by State and Federal laws and the Constitution of the State of Texas.

(Rev. of 5-6-1995)

State Law reference— Levy of taxes, V.T.C.A., Local Government Code § 102.009.

Sec. 8.14. - Estimated expenditures shall not exceed estimated resources.

The total estimated expenditures of the general fund and debt service fund shall not exceed the total estimated resources of each fund. The classification of revenue and expenditure accounts shall conform as nearly as local conditions will permit to the uniform classification as promulgated by the Governmental Accounting Standards Board or other nationally accepted classifications.

(Rev. of 5-6-1995; Ord. No. 2024-02, § 2, election date 5-4-2024 (results verified by Res. No. 2024-23, § 6, 5-13-2024))

State Law reference— Expenditure of funds, V.T.C.A., Local Government Code § 102.009.

Sec. 8.15. - Emergency appropriation.

At any time in any fiscal year, the Council may, pursuant to this section, make emergency appropriations to meet a pressing need for public expenditure, for other than recurring requirements, to protect the public health, safety or welfare. Such appropriations shall be by ordinance adopted at a special or regular meeting by the majority vote of the Council.

(Rev. of 5-6-1995)

State Law reference— Emergency expenditure, V.T.C.A., Local Government Code § 102.009.

Sec. 8.16. - Purchase procedure.

All purchases made and contracts executed by the City shall be pursuant to the laws established by the State of Texas.

(Rev. of 5-6-1995)

State Law reference— Competitive bidding, V.T.C.A., Local Government Code § 252.021 et seq.; exemptions, V.T.C.A., Local Government Code §§ 252.022, 252.023.

Sec. 8.17. - Disbursement of funds.

All checks, vouchers or warrants for the withdrawal of money from the City Depository shall be signed by the City Manager and countersigned by the Assistant City Manager, City Secretary or the Finance Director.

(Rev. of 5-6-1995; Rev. of 5-10-2014, amd. no. 27(8.17); Ord. No. 2024-02, § 2, election date 5-4-2024 (results verified by Res. No. 2024-23, § 6, 5-13-2024))

State Law reference— Drawing of checks and warrants, V.T.C.A., Local Government Code § 105.074; checks payable at depository, V.T.C.A., Local Government Code § 105.075; debts payable other than at municipal treasury, V.T.C.A., Local Government Code § 105.076.

Sec. 8.18. - Power to tax.

The Council shall have the power, and is hereby authorized to levy and collect an annual tax upon all real and personal property within the City not to exceed the maximum limits set by the Constitution and laws of the State of Texas.

(Rev. of 5-6-1995)

Sec. 8.19. - Property subject to tax; rendition, appraisal and assessment.

All real, tangible and intangible personal property within the jurisdiction of the City of Tomball not expressly exempted by law, shall be subject to annual taxation. The method and procedures for the rendition, appraisal and assessment of all real and personal property within the City shall be in accordance with applicable provisions of the Property Tax Code of the State of Texas.

(Rev. of 5-6-1995)

Sec. 8.20. - Taxes, when due and payable.

All taxes due the City shall be payable on receipt of the tax bill and shall be considered delinquent if not paid before February 1 of the year following the year in which imposed. The postponement of any delinquency date and the amount of penalty, interest and costs to be imposed on delinquent taxes shall be in accordance with applicable ordinances of the City and the Property Tax Code of the State of Texas."

(Rev. of 5-6-1995; Rev. of 5-10-2014, amd. no. 28(8.20))

Sec. 8.21. - Tax liens.

- A. A special lien in favor of the City is hereby created on all real, personal and mixed property in the City for all unpaid taxes. The priority of said lien shall be determined in accordance with state law.
- B. All seizure and foreclosure proceedings shall be administered in accordance with State property tax codes.

Sec. 8.22. - Tax remission and discounts.

Except as provided by State law, neither the Council or any other official of the City shall ever extend the time for payment of taxes nor remit, discount or compromise any tax legally due the City, nor waive the penalty, interest and costs that may be due thereon to or for any person, association, corporation, firm or partnership owing taxes to the City for such year or years.

(Rev. of 5-6-1995)

Sec. 8.23. - Issuance of bonds.

The City shall have the power to issue bonds and levy a tax to support the issue for permanent improvements and all other lawful purposes.

- A. *General Obligation Bonds.* The City shall have the power to borrow money on the credit of the City and to issue general obligation bonds for permanent public improvements or for any other public purpose not prohibited by the Constitution and laws of the State of Texas and to issue refunding bonds to refund outstanding bonds of the City previously issued. All such bonds shall be issued in conformity with the laws of the State of Texas and shall be used only for the purpose for which they were issued.
- B. *Revenue Bonds.* The City shall have the power to borrow money for the purpose of constructing, purchasing, improving, extending or repairing of public utilities, recreational facilities or any other self-liquidating municipal function not prohibited by the Constitution and Laws of the State of Texas and to issue revenue bonds to evidence the obligation created thereby, and to issue refunding bonds to refund outstanding revenue bonds of the City previously issued. All such bonds shall be issued in conformity with the laws of the State of Texas and shall be used only for the purpose for which they were issued.
- C. *Sale of Bonds.* No bonds, other than refunding bonds issued to refund and in exchange of previously issued outstanding bonds, issued by the City shall be sold for less than par value and accrued interest. All bonds of the City having been issued or sold in accordance with the terms of this section and having been delivered to the purchasers thereof shall thereafter be incontestable and all bonds issued to refund and in exchange of outstanding bonds previously issued shall, after said exchange, be incontestable.

(Rev. of 5-6-1995)

State Law reference— Specific authority for municipalities to issue securities, V.T.C.A., Government Code ch. 1501 et seq.

Sec. 8.24. - Independent audit.

Prior to the end of each fiscal year, the Council shall designate a certified public accountant, who is licensed by the State of Texas, to make an independent audit of accounts and other evidences of financial transactions of the City government and submit a report to the Council within one hundred eighty (180) days from the closing date of the City's fiscal year. Notice shall be given by publication in the official newspaper of the City that the annual audit is on file at the City Hall for inspection.

Such accountant shall have no personal interest, direct or indirect, in the fiscal affairs of the City government. The accountant shall not maintain any accounts or records of the City business, but, within specifications approved by the Council, shall post audit the books and documents kept by the Finance Director and any separate or subordinate accounts kept by any other office, department or agency of the City.

(Rev. of 5-6-1995; Rev. of 5-10-2014, amd. no. 30(8.24))

State Law reference— Audit of municipal finances, V.T.C.A., Local Government Code § 103.001 et seq.

ARTICLE IX. - FRANCHISE AND PUBLIC UTILITIES

Footnotes:

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State Law reference— Water and utilities, V.T.C.A., Local Government Code ch. 401 et seq.

Sec. 9.01. - Power to grant franchise.

Council shall have power by ordinance to grant, amend, renew and extend all franchises of all public utilities of every type operating with the City. All such ordinances granting, amending, renewing, or extending franchises for public utilities shall be governed by the procedures established in Section 6.14. No public utility franchise shall be granted for a term of more than twenty (20) years, nor be transferable except with the approval of the Council expressed by ordinance.

(Rev. of 5-6-1995; Rev. of 5-10-2014, amd. no. 31(9.01)

Sec. 9.02. - Franchise value not to be allowed.

In fixing reasonable rates and charges for utility service within the City and in determining the just compensation to be paid by the City for public utility property which the City may acquire by condemnation or otherwise, nothing shall be included as the value of any franchise granted by the City under this Charter.

Sec. 9.03. - Right of regulation.

Every grant, renewal, extension or amendment of a public utility franchise, whether so provided in the ordinance or not, shall be subject to the right of the City unless Federal or State law dictates otherwise:

- A. To forfeit any such franchise by ordinance at any time for failure of the holder thereof to comply with the terms of the franchise. Such power shall be exercised only after written notice to the franchise holder stating wherein the franchise holder has failed to comply with the terms of the franchise and setting a reasonable time for the correction of such failure, and shall be exercised after such reasonable time has expired.
- B. To impose reasonable regulations to ensure safe, efficient and continuous service to the public.
- C. To require such expansion, extension, enlargement and improvement of plants and facilities as are necessary to provide adequate service to the public.
- D. To require every franchise holder to furnish to the City, without cost to the City, full information regarding the location, character, size, length and terminals of all facilities of such franchise holder in, over and under the streets, alleys and other public properties of the City, and to regulate and control the location, relocation and removal of such facilities.
- E. To collect from every public utility operating in the City such proportion of the expense of excavating, grading, paving, repaving, constructing, reconstructing, draining, repairing, maintaining, lighting, sweeping and sprinkling the streets, alleys, bridges, culverts, viaducts and other public places of the City which represent the increased cost of such operation resulting from the occupancy of such public places by such public utility, and such proportion of that cost of such operations as results from the damage to or the disturbance of such public places caused by such public utility; or to compel such public utility to perform, at its own expense, such operations as above listed which are made necessary by the occupancy of such public places by such utility or by damage to or disturbance of such public places caused by such public utility.
- F. To require every franchise holder to allow other public utilities to use its poles and other facilities, including bridges and viaducts, whenever in the judgment of the Council such use shall be in the public interest, provided that in such an event, a reasonable rental shall be paid such owner of the facilities for such use. Provided further, that inability of such public utilities to agree upon rental facilities shall not be an excuse for failure to comply with such requirement by the Council.
- G.

To require the keeping of accounts in such form as will accurately reflect the value of the property of each franchise holder which is used and useful in rendering its service to the public and the expenses, receipts and profits of all kind of such franchise holder.

- H. To examine and audit at any time during business hours the accounts and other records of any franchise holder.
- I. To require reports on the operation of the utility, which shall be in such form and contain such information as the Council shall prescribe.
- J. To require that the public utility give notice to any subscriber to its service prior to the permanent or temporary discontinuance or disruption of such service by the public utility, except in cases of emergency, and to require that no officer, agent, servant or employee of the public utility nor any vehicles or equipment under their control shall make use of, go upon or across any private property in the City without first obtaining the permission of the owner or occupant of such property, except in cases of emergency, and to provide a penalty for the violation of such requirements.
- K. To impose such other reasonable regulations, restrictions, requirements and conditions as may be deemed necessary or desirable to promote the health, safety, welfare or accommodations of the public.
- L. No franchise shall be transferable except with the approval of the Council as expressed by ordinance. The term "transferable," as used herein, shall not be construed in such a manner as to prevent the franchise from pledging said franchise as security for a valid debt or mortgage.

(Rev. of 5-6-1995; Ord. No. 2024-02, § 2, election date 5-4-2024 (results verified by Res. No. 2024-23, § 6, 5-13-2024))

Sec. 9.04. - Grant not to be exclusive.

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

(Rev. of 5-6-1995)

Sec. 9.05. - Other conditions.

All franchises heretofore granted are recognized as contracts between the City and the grantee, and the contractual rights as contained in any such franchise shall not be impaired by the provisions of this Charter except that the power of the City to exercise the rights of eminent domain in the acquisition of any utility property is in all things reserved, and except the general power of the City heretofore existing and herein provided for to regulate the rates and services of a utility, which shall include the right to require adequate and reasonable quality of utility service to the public. Every public utility franchise hereafter granted shall be

held subject to all the terms and conditions contained in the various sections of this Article whether or not such terms are specifically mentioned in the franchises. Nothing in this Charter shall operate to limit in any way, as specifically stated, the discretion of the Council or the voters of the City in imposing terms and conditions as may be reasonable in connection with any franchise grant, including the right to require such compensation or rental as may be permitted by the laws of the State of Texas and the United States of America.

(Rev. of 5-6-1995)

Sec. 9.06. - Accounts of municipally-owned utilities.

Accounts shall be kept for each public utility owned or operated by the City in such manner as to show the true and complete financial results of such City ownership and operation, including all assets and all liabilities, appropriately subdivided by classes, depreciation reserve, other reserves and surplus; also revenues, operating expenses including depreciation, interest payment, rental and other disposition of annual income, the accounts shall show actual capital cost to the City of each public utility owned; the cost of all extensions, additions and improvements and the source of funds expended for such capital purposes. They shall show as nearly as possible the cost of any service furnished to or rendered by any such utility to any City Government Department. The Council shall cause an annual report to be made by a Certified Public Accountant giving the information specified in this section and such other data as the Council shall deem expedient.

(Rev. of 5-6-1995)

Sec. 9.07. - Sales of municipal utilities.

The Council shall have the power and authority to:

- A. Sell and distribute water, sell and provide sewer services, sell and distribute natural gas, provide for garbage and trash collection and disposition, and provide similar services within the Corporate limits of the City or its extraterritorial jurisdiction (ETJ).
- B. Prescribe the types of materials used within or beyond the limits of the City for such municipal services, inspect the same and require such materials to be kept in good order and condition at all times, make such rules and regulations as shall be necessary and proper and prescribe penalties for noncompliance with same.

(Rev. of 5-6-1995)

Sec. 9.08. - Regulation of rates and utilities.

The Council shall have full power, after notice and hearing, to regulate by ordinance, subject to Federal and State laws, the rates of every public utility operating in the City provided that no such ordinance shall be passed as an emergency measure. The City shall have power to employ, at the expense of the Grantee, expert assistance and advice in determining a reasonable rate and equitable profit to the Grantee. This Charter does not revoke any existing City Ordinance that has waived the right of rate regulation by the City to the Public Utility Commission of the State of Texas.

(Rev. of 5-6-1995; Rev. of 5-10-2014, amd. no. 32(9.08))

ARTICLE X. - MUNICIPAL PLANNING

Footnotes:

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State Law reference— *Planning and development, V.T.C.A., Local Government Code ch. 371 et seq.*

Sec. 10.01. - Planning and Zoning Commission.

The Council shall appoint a City Planning and Zoning Commission, consisting of five (5) members, who shall be residents of the City but who shall not be employees of the City.

- A. *Term of Office.* The members of the Commission shall be appointed for three (3) year, staggered terms.
- B. *Rules of Procedure.* The Commission shall annually elect one (1) of its number Chairman and shall establish its own rules of procedure which shall include the following: A quorum shall consist of a majority of the members of the Commission and an affirmative vote of a majority of those present shall be necessary to pass upon pending questions. All meetings shall be open to the public and a record of all proceedings shall be maintained by the Commission Secretary and shall be a public record.
- C. *Vacancies.* Members of the Commission shall actively participate in the activities of the Commission, and any member who is absent from three (3) consecutive meetings of the Commission without valid excuse as determined by the Commission, shall automatically be dismissed from membership. The Commission shall at once notify the Council that a vacancy in the Commission exists. Vacancies occurring in the Commission, for whatever reason, shall be filled within thirty (30) days by appointment by the Council for the remainder of the unexpired term.
- D. *Powers and Duties.* The Commission shall have the power and shall be required to:
 - (1)

Recommend to the Council amendments, extensions and additions to the Master Plan for the physical development of the City.

- (2) Reserved.
- (3) Recommend to the Council plans for the clearance and rebuilding of slum districts and blighted areas which may develop within the City.
- (4) Reserved.
- (5) Reserved.
- (6) Meet no less than once each quarter, meetings to be held at the City Hall unless prior notice of change of meeting place be given by publication.
- (7) Operate under the guidelines of the powers granted by the Civil Statutes of the State of Texas.

(Rev. of 5-6-1995; Rev. of 5-10-2014, amd. no. 33(10.01); Ord. No. 2024-02, § 2, election date 5-4-2024 (results verified by Res. No. 2024-23, § 6, 5-13-2024))

Sec. 10.02. - Platting of property.

Every owner of any tract of land situated within the corporate limits of the City or its extraterritorial jurisdiction (ETJ), who may divide the same into two (2) or more parts for the purpose of laying out any subdivisions or any addition to the City shall comply with all applicable provisions contained in the Code of Ordinances of the City, as adopted or hereafter amended.

(Rev. of 5-6-1995; Ord. No. 2024-02, § 2, election date 5-4-2024 (results verified by Res. No. 2024-23, § 6, 5-13-2024))

State Law reference— Extraterritorial jurisdiction of municipalities, V.T.C.A., Local Government Code ch. 42; municipal regulation of subdivisions, V.T.C.A., Local Government Code ch. 212; extraterritorial jurisdiction of municipalities in counties that regulate subdivisions, V.T.C.A., Local Government Code ch. 242; recording of plats, V.T.C.A., Property Code § 12.002; extension of subdivision rules to extraterritorial jurisdiction, V.T.C.A., Local Government Code § 212.003; municipal annexation, V.T.C.A., Local Government Code ch. 43.

Sec. 10.03. - Development of property.

The Council shall cooperate in every manner possible with persons interested in the development of property within the corporate limits of the City or its extraterritorial jurisdiction (ETJ). No expenditure of public funds, however, shall be authorized for the development of privately-owned subdivisions situated within or beyond the corporate limits of the City, except for the extension of utilities or services to such areas.

(Rev. of 5-6-1995)

State Law reference— Municipal regulation of subdivisions and property development, V.T.C.A., Local Government Code ch. 212.

ARTICLE XI. - RECALL OF OFFICERS

Sec. 11.01. - General power.

The qualified voters of the City, in addition to the method of legislation herein provided, shall have the power of direct legislation by recall vote.

(Rev. of 5-6-1995)

Sec. 11.02. - Scope of recall.

Any elected City official, elected to office by the qualified voters of the City, shall be subject to recall and removal from office by the qualified voters of the City on grounds of incompetency, misconduct or malfeasance in office.

(Rev. of 5-6-1995)

Sec. 11.03. - Petition for recall.

Before the question of recall of such officers shall be submitted to the qualified voters of the City, a petition demanding such question to be so submitted shall first be filed with the person performing the duties of City Secretary; which said petition shall be signed by qualified voters of the City equal in number to at least thirty-percent (30%) of the number of votes cast at the last regular municipal election of the City, for the position in question, but in no such event less than one hundred seventy-five (175) petitioners. Each signer of such recall petition shall personally sign the signer's name thereto in ink, and shall write after the signer's, the signer's place of residence, giving name of street and number. The signer shall also write thereon the signer's voter registration number, and the day, month and year the signer's signature was affixed.

(Rev. of 5-6-1995; Ord. No. 2024-02, § 2, election date 5-4-2024 (results verified by Res. No. 2024-23, § 6, 5-13-2024))

Sec. 11.04. - Form of recall petition.

The recall petition must be addressed to the Council of the City, must distinctly and specifically point out the ground or grounds upon which such petition for removal is predicated, and if there be more than one ground, such as for incompetency, misconduct or malfeasance in office, shall specifically state each ground with such certainty as to give the officer sought to be removed notice of the matters and things with which

that officer is charged. One of the signers of each separate petition shall make a notarized affidavit that that signer, and that that signer only, personally circulated such petition, and that each signature appended thereto was made in that signer's presence and is the genuine signature of the person whose name it purports to be.

(Rev. of 5-6-1995; Ord. No. 2024-02, § 2, election date 5-4-2024 (results verified by Res. No. 2024-23, § 6, 5-13-2024))

Sec. 11.05. - Various papers constituting petition.

The petition may consist of one or more copies, and the several parts of copies of the petition may be filed separately and by different persons; but no signature to such petition shall remain effective or be counted which was placed thereon more than forty-five (45) days prior to the filing of such petition or petitions with the person performing the duties of City Secretary. All papers comprising a recall petition shall be filed with the person performing the duties of City Secretary on the same day, and the said City Secretary shall immediately notify, in writing, the officer so sought to be removed by mailing such notice by Certified Mail to that officer's Tomball mailing address.

(Rev. of 5-6-1995; Ord. No. 2024-02, § 2, election date 5-4-2024 (results verified by Res. No. 2024-23, § 6, 5-13-2024))

Sec. 11.06. - Presentation of petition to City Council.

Within five business days after the date of the filing of the papers constituting the recall petition, the person performing the duties of City Secretary shall certify such petition or return same to petitioners for correction. After certification, the person performing the duties of City Secretary shall present such petition to the Council of the City at the next regular meeting.

(Rev. of 5-6-1995)

Sec. 11.07. - Public hearing to be held.

The officer whose removal is sought may, within five (5) business days after such recall petition has been presented to the Council, request that a public hearing be held to permit the officer 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) business days, nor more than fifteen (15) days, after receiving such request for a public hearing.

(Rev. of 5-6-1995; Ord. No. 2024-02, § 2, election date 5-4-2024 (results verified by Res. No. 2024-23, § 6, 5-13-2024))

Sec. 11.08. - Election to be called.

If the officer whose removal is sought does not resign, then it shall become the duty of the Council to order an election and fix a date for holding such recall election, in accordance with State law.

(Rev. of 5-6-1995; Rev. of 5-10-2014, amd. no. 34(11.08))

Sec. 11.09. - Failure of City Council to call an election.

In case all the requirements of this Charter shall have been met and the Council shall fail or refuse to receive the recall petition, or to order such recall election or to discharge any other duties imposed upon the Council by the provisions of this Charter with reference to such recall, then the petitioner shall have the right to file an action in an appropriate court to obtain a writ of mandamus or other relief requiring the Council to call the election.

(Rev. of 5-6-1995)

Sec. 11.10. - Ballots in recall election.

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

A. With respect to each person whose removal is sought, the question shall be submitted:

"Shall (name of person) be removed from the office of (name of office) by recall?"

B. Immediately below each such question, therefore, shall be printed the following words, one above the other, in the order indicated:

"Yes"

"No."

(Rev. of 5-6-1995)

Sec. 11.11. - Result of recall election.

If a majority of the votes cast at a recall election shall be "NO," that is against the recall of the person named on the ballot, that officer shall continue in office for the remainder of that officer's unexpired term, subject to recall as before.

If a majority of the votes cast as such election be "YES," that is for recall of the person named on the ballot, that officer shall be deemed removed from office, and the vacancy shall be filled as vacancies in the Council are filled, as provided in Section 6.09.

(Rev. of 5-6-1995; Ord. No. 2024-02, § 2, election date 5-4-2024 (results verified by Res. No. 2024-23, § 6, 5-13-2024))

Sec. 11.12. - Recall, restrictions thereof.

No recall petition shall be filed against any officer of the City within three (3) months after that officer's election nor within (3) months after an election for such officer's recall.

(Rev. of 5-6-1995; Ord. No. 2024-02, § 2, election date 5-4-2024 (results verified by Res. No. 2024-23, § 6, 5-13-2024))

ARTICLE XII. - LEGISLATION BY THE PEOPLE, INITIATIVE AND REFERENDUM

Sec. 12.01. - General power.

The qualified voters of the City, in addition to the method of legislation hereinbefore provided, shall have the power of direct legislation by initiative and referendum.

(Rev. of 5-6-1995)

Sec. 12.02. - Initiative.

Qualified voters of the City may initiate legislation by submitting a petition addressed to the Council which requests the submission of a proposed ordinance or resolution to a vote of the qualified voters of the City. Said petition must be signed by qualified voters of the City equal in number to thirty-percent (30%) of the average of the highest number of votes cast at the last three regular municipal elections for council place or Mayor of the City, or two hundred fifty (250) qualified voters whichever is greater, and each copy of the petition shall have attached to it a copy of the proposed legislation. Each signer of such petition shall personally sign and print the signer's name thereto in ink, and write the signer's place of residence, giving name of street and number. That signer shall also write thereon the signer's voter registration number and the day, month, and year the signer's signature was affixed. The petition may consist of one (1) or more notarized copies as permitted in Section 11.05 of this Charter. Such petition shall be filed with the person performing the duties of City Secretary. Within five (5) business days after the filing of such petition, the person performing the duties of City Secretary shall certify such petition or return same to petitioners for corrections. After certification, the person performing the duties of City Secretary shall present said petition and proposed ordinance or resolution to the Council at the next regular meeting. Upon presentation to the Council of the petition and draft of the proposed ordinance or resolution, it shall become the duty of the Council, on or before the next regularly scheduled meeting of the Council, to pass and adopt such ordinance or resolution without alteration as to meaning or effect in the opinion of the persons filing the petition to call a special election on the next uniform election date as provided by the State Election Code, at which the

qualified voters of the City shall vote on the question of adopting or rejecting the proposed legislation. No ordinance shall be proposed by an initiative petition which is on the same question as an ordinance so submitted and defeated at an election held within the preceding twelve (12) months.

(Rev. of 5-6-1995; Ord. No. 2024-02, § 2, election date 5-4-2024 (results verified by Res. No. 2024-23, § 6, 5-13-2024))

Sec. 12.03. - Referendum.

Qualified voters of the City may require that any ordinance or resolution, with the exception of ordinances or resolutions levying taxes, issuing tax or revenue bonds or relating to annexation or franchises, passed by the Council, be submitted to the voters of the City for approval or disapproval, by submitting a petition for this purpose within 30 days after final passage of said ordinance or resolution or within 30 days after its publication. Said petition shall be addressed, prepared, signed and certified as required for petitions initiating legislation, as provided in Section 12.02 of this Charter and shall be submitted to the person performing the duties of City Secretary. Immediately upon the filing of such petition, the City Secretary shall present said petition to the Council. The Council shall immediately reconsider such ordinance or resolution and, if it does not entirely repeal the same, shall submit it to the voters as provided in Section 12.02 of this Charter. Pending the holding of such election, such ordinance or resolution shall be suspended from taking effect and shall not later take effect unless a majority of the qualified voters voting thereon at such election shall vote in favor thereof.

(Rev. of 5-6-1995)

Sec. 12.04. - Voluntary submission of legislation by the Council.

The Council, by majority vote, may submit to the voters any ordinance, resolution or measure for adoption, rejection or repeal in the same manner and with the same force and effect as provided in this Article. A special election may be called for this purpose, if necessary, as provided in Section 12.02.

(Rev. of 5-6-1995)

Sec. 12.05. - Form of ballots.

The ballots used, when voting upon such proposed and referred ordinances, resolutions or measures, shall set forth their nature sufficiently to identify them and shall set forth upon separate lines, the words:

"FOR THE ORDINANCE" and

"AGAINST THE ORDINANCE"; or

"FOR THE RESOLUTION" and

"AGAINST THE RESOLUTION."

(Rev. of 5-6-1995)

Sec. 12.06. - Publication of proposed and referred ordinances.

The person performing the duties of City Secretary shall publish at least once in a newspaper of general circulation in the City, a caption of the proposed or referred ordinance or resolution within 15 days before the date of the election, and shall give other notices and do such things relative to such elections as are required in general municipal elections or by the ordinance or resolution calling said election. Entire and complete copies of the proposed or referred ordinance shall be made available to any citizen upon request.

(Rev. of 5-6-1995)

Sec. 12.07. - Adoption of ordinances.

If a majority of the qualified voters voting on any proposed ordinance, resolution or measure shall vote in favor thereof, it shall thereupon, or at any time fixed therein, become effective as a law or as a mandatory order to the Council.

(Rev. of 5-6-1995)

Sec. 12.08. - Inconsistent ordinances.

If the provisions of two or more proposed ordinances or resolutions approved at the same election are inconsistent, the ordinance or resolution receiving the highest number of votes shall prevail.

(Rev. of 5-6-1995)

Sec. 12.09. - Ordinances passed by popular vote, repeal or amendment.

No ordinances or resolutions which may have been passed by the Council upon a petition or adopted by popular vote under the provisions of this Article shall be repealed or amended except by the Council in response to a referendum petition or by submission as provided in Section 12.03 of this Charter.

(Rev. of 5-6-1995)

Sec. 12.10. - Further regulation by the Council.

The Council may pass ordinances or resolutions providing other and further regulations for carrying out the provisions of this Article consistent herewith.

(Rev. of 5-6-1995)

Sec. 12.11. - Franchise ordinances.

Nothing contained in this Article shall be construed to be in conflict with any of the provisions of Article IX of this Charter, pertaining to ordinances granting franchise when valuable rights shall have accrued thereunder.

(Rev. of 5-6-1995)

CHARTER COMPARATIVE TABLE

This table shows the location of the sections of the basic Charter and any amendments thereto.

Ordinance Number	Date	Section	Section this Charter
	5- 6-1995 (Rev.)	Preamble	
		<u>1.01</u>	
		<u>1.02</u>	
		<u>1.03</u>	
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	<u>11.07</u>
	<u>11.08</u>
	<u>11.09</u>
	<u>11.10</u>
	<u>11.11</u>
	<u>11.12</u>
	<u>12.01</u>
	<u>12.02</u>
	<u>12.03</u>
	<u>12.04</u>
	<u>12.05</u>
	<u>12.06</u>
	<u>12.07</u>

		12.08
		12.09
		12.10
		12.11
	amd. no.	<u>1.06</u>
	5(1.10)	
	amd. no.	<u>3.07</u>
	6(3.07)	
	amd. no.	<u>5.01</u>
	7(5.01)	
	amd. no.	<u>5.03</u>
	8(5.03)	
	amd. no.	<u>5.06</u>
	9(5.06)	
	amd. no.	<u>6.02</u>
	10(6.02)	
	amd. no.	<u>6.03</u>
	11(6.03)	
	amd. no.	<u>6.09</u>
	12(6.09)	
	amd. no.	<u>6.12</u>
	13(6.12)	
	amd. no.	<u>6.14</u>
	14(6.14)	
	amd. no.	<u>7.01</u>
	15(7.01)	
	amd. no.	<u>7.03</u>
	16(7.03)	
	amd. no.	<u>7.04</u>
	17(7.04)	
	amd. no.	<u>7.05</u>
	18(7.05)	
	amd. no.	<u>7.06</u>
	20(7.07)	
	amd. no.	<u>7.08</u>
	21(7.09)	
	amd. no.	<u>7.09</u>
	22(7.10)	
	amd. no.	<u>7.11</u>
	23(7.12)	
	amd. no.	<u>8.02</u>
	25(8.02)	

		amd. no.	<u>8.11</u>
			26(8.11)
		amd. no.	<u>8.17</u>
			27(8.17)
		amd. no.	<u>8.20</u>
			28(8.20)
		amd. no.	<u>8.21</u>
			29(8.21)
		amd. no.	<u>8.24</u>
			30(8.24)
		amd. no.	<u>9.01</u>
			31(9.01)
		amd. no.	<u>9.08</u>
			32(9.08)
		amd. no.	<u>10.01</u>
			33(10.01)
		amd. no.	<u>11.08</u>
			34(11.08)
2014-14	6-16-2014	2	<u>1.05, 1.06</u>
		3	<u>6.02</u>
		4	<u>7.01</u>
		5	<u>7.06—</u> <u>7.11</u>
		6	<u>8.21</u>
2024-02	5- 4-2024	2	<u>2.03,</u> <u>3.07</u> <u>4.01</u> <u>5.01</u> <u>5.03</u> <u>5.07</u> <u>6.02—</u> <u>6.04</u> <u>6.06—</u> <u>6.08</u> <u>6.10</u> <u>6.12—</u> <u>6.14</u> <u>6.17</u>
			Added
			<u>7.01—</u> <u>7.08</u>
			<u>8.06</u>
			<u>8.14</u>

		<u>8.17</u>
		<u>9.03</u>
		<u>10.01,</u> <u>10.02</u>
		<u>11.03—</u>
		<u>11.05</u>
		<u>11.07</u>
		<u>11.11,</u> <u>11.12</u>
		<u>12.02</u>