



# HOME RULE CHARTER

City of Rockport

May 2023

# Home Rule Charter

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Office of Secretary of State

Aransas County Clerk

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The Honorable Andrea Hattman, Mayor Pro Tempore

The Honorable Katy Jackson

The Honorable Danielle Hale

The Honorable Brad Brundrett

## *Charter Review Commission*

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**Article I. FORM OF GOVERNMENT AND BOUNDARIES****Section 1.01 Form of Government.**

- (1) The municipal government provided in this Charter shall be known as the Council-Manager form of government. Under its provisions the City Council, consisting of the Mayor and Councilpersons elected by and responsible to the people, shall appoint a City Manager (who shall be responsible to the City Council for the administration of the government of the City). All powers of the City shall be vested in the City Council and shall be exercised in the manner prescribed by this Charter, or if the manner not be prescribed, then in such manner as may be prescribed by ordinance, the State Constitution or the statutes of this State.

**Section 1.02 Boundaries of the City.**

- (1) The boundaries of the City of Rockport, Texas, are those heretofore established and now existing or those boundaries as may be changed by ordinance and proceedings of the City enacted in accordance with this Charter.

**Section 1.03 Extension of Boundaries.**

- (1) The boundaries of the City of Rockport, Texas, may be enlarged and extended by the annexation of additional territory. The City Council, by proper ordinance in accordance with State law, has power to annex additional territory.
- (2) Upon completion of the annexation procedure, the annexed territory shall become a part of the City, and said land and its residents shall be entitled to all the rights and privileges provided by the City for its citizens, and shall be bound by the acts, ordinances, resolutions and regulations of the City.

**Section 1.04 Contraction of Boundaries.**

- (1) If, after two and one-half (2-1/2) years from the date of annexation, the newly annexed territory is not receiving the standard governmental and proprietary services of the City, as specified by State law, then a majority of the qualified voters residing within said annexed territory may petition the governing body of the City to disannex said territory.
- (2) The petition shall be started, circulated, certified and presented consistent with the procedural rules of Sub Chapter G of Chapter 43, V.T.C.A. Local Government Code, and Article VI of this Charter. If there are fewer than twenty (20) qualified voters residing within the annexed area, the Petitioners Committee may be fewer than ten (10) members so long as it consists of a majority of the qualified voters within the territory proposed for disannexation.
- (3) A petition to the City Council for disannexation shall be filed with the city secretary no later than thirty (30) days following the date of filing of the required affidavit by the Petitioners' Committee.

- (4) However, prior to the submission of the issue of disannexation to an election as described in subsection (4) above, the City Council may also disannex the petitioned area by an affirmative vote of at least four members of the City Council.
- (5) In addition to the subsections above, the petition for disannexation shall follow the requirements of petitions for an initiative as outlined in Sections 6.07, 6.09, 6.11, 6.12, 6.13, 6.14, and 6.15 of this Charter.

**Article II. POWERS OF THE CITY****Section 2.01 General Powers of the City.**

- (1) The City shall be an incorporated Home Rule City, with full power and rights of self-government, as provided by the Constitution and laws of this State. These powers and rights shall include, but not be restricted to the following:
  - (a) To enact, establish and enforce codes, licenses and ordinances for the maintenance of good government and the interest and well being of its inhabitants.
  - (b) To cooperate with the government of the State of Texas, or any agency or any political subdivision thereof, the government of the United States or its agencies, for any lawful purpose for the advancement of the interests, safety, convenience and welfare of its inhabitants.
  - (c) To exercise the right of eminent domain, the right of extraterritorial jurisdiction and to have exclusive dominion over all public property in any manner permitted by the Constitution and laws of the State of Texas.
  - (d) To contract and be contracted with; to sue and be sued; to buy, sell, lease, mortgage, hold, manage and control such property as its interests require.
  - (e) To establish, maintain, improve, alter, abandon, or vacate public streets, rights-of-way, sidewalks, alleys, squares, parks and other public ways, and to police the use thereof.

**Section 2.02 Public Improvements.**

- (1) The City shall have the power to construct and maintain, within or outside its corporate limits (which include but are not limited to) streets, utilities, canals, waterways and other flood control facilities and sanitary, water and storm drainage facilities in, over, under or upon all public property or easements granted for that purpose and to levy assessments for the costs of such improvements, and shall have the power to cause liens to be established for the purpose of securing the payment of such levies and shall have the power to compel the use of such improvements by the inhabitants of the City.

**Section 2.03 Miscellaneous Powers.**

- (1) The City shall have the power to establish and maintain ordinances and regulations governing the use of lands within the City and to enforce by all lawful means said ordinances and regulations, within and outside its corporate limits. The City shall have the power to authorize, regulate and inspect all construction and existing structures within or outside its limits, consistent with State statutes, and to establish and enforce ordinances and regulations concerning their use, construction and reconstruction. The City shall have the power to license and regulate persons, corporations and associations engaged in any business, occupation, profession or trade.



**Article III. THE CITY COUNCIL****Section 3.01 Number, Selection and Term.**

- (1) The legislative and governing body of the City will consist of a Mayor and four Councilpersons and will be known as the City Council of Rockport.
  - (a) The Mayor will be elected at large; one Councilperson shall be elected from each of four (4) Wards; all elected officials shall serve four (4) year terms unless removed from office through the provisions of this Charter.
  - (b) All members of the City Council, other than the Mayor, shall be elected under the Ward System the boundaries which are defined by ordinance and which may be amended as population changes warrant.
  - (c) Councilpersons from Wards One (1) and Three (3) shall be elected to two-year terms in 2023 and shall each begin serving a four-year term in 2025 and every fourth year thereafter. The Mayor and Councilpersons from Wards Two (2) and Four (4) shall be elected to a three-year term in 2024 and shall begin serving a four-year term in 2027 and every fourth year thereafter. No boundary change of any Ward shall operate to disqualify a duly elected Councilperson who shall be allowed to complete his current term of office.
  - (d) No person shall serve more than ten (10) consecutive years on the City Council.

**Section 3.02 Qualification of Members.**

- (1) In addition to any other qualifications prescribed by law, the Mayor and each Councilperson shall meet the qualifications set forth in Article V of this Charter while in office. Council Member shall reside in the Ward they represent while in office.

**Section 3.03 Compensation.**

- (1) Compensation of members of the City Council shall be determined by the Council by ordinance, but no increase in such compensation shall take effect until commencement of the terms of Mayor and/or Councilpersons elected at the next regular election. Members of the City Council shall also be entitled to reimbursement for actual expenses incurred in the performance of official duties with the approval of the City Council.

**Section 3.04 Mayor and Mayor Pro-Tem.**

- (1) The Mayor shall be the official head of the City Government. He shall be the chairman and shall preside at all meetings of the City Council. The Mayor shall have the same right to vote, as do other Council Members. He shall, when authorized by the City Council, sign all official documents; such as, ordinances, resolutions, conveyances, official plats and bonds. He shall perform such other duties consistent with this Charter as may be imposed upon him by the City Council.

- (2) The Mayor Pro-Tem shall be a Councilperson elected by the City Council at the first regular meeting after each election of Council Member and/or Mayor. The Mayor Pro-Tem shall act as Mayor during the disability or absence of the Mayor and in this capacity shall have the rights conferred upon the Mayor.

### **Section 3.05 Vacancies, Forfeiture and Filling of Vacancies.**

- (1) The office of a Council Member or the Mayor shall become vacant upon death, resignation, forfeiture of, or removal from office by any manner authorized by law.
- (2) If any member of the City Council is absent from three (3) consecutive meetings, without explanation acceptable to the remaining Council Members, his office shall be declared vacant at the next regular meeting of the Council.
- (3) If any member of the Council ceases to possess the required qualifications for office or is convicted of any felony, or a misdemeanor involving moral turpitude, this position shall be declared vacant at the next regular meeting of the Council.
- (4) In the event of a permanent vacancy in the office of the Mayor if the remaining term is twelve (12) months or less, the Mayor Pro-Tem shall become the Mayor, thereby vacating the Council person's Council position. Vacancies in the Council, other than the Mayor, shall be filled by a majority vote of the remaining members, if the remaining term is twelve (12) months or less. In the event the remaining term of a vacant position for Mayor or Council person is equal to or more than twelve (12) months, the Council shall call for a special election to fill the vacancy, for the unexpired term only, in compliance with state law. In all cases, the successor shall possess all qualifications for the position.

### **Section 3.06 Powers of the City Council.**

- (1) All powers of the City shall be vested in the City Council except as otherwise provided in this Charter. The City Council shall provide for the exercise of these powers and the performance of all duties and obligations imposed by law.

### **Section 3.07 Prohibitions.**

- (1) Except where authorized by law, no Mayor or Councilperson shall hold any other City employment during his term as Mayor or Councilperson. No former Mayor or Councilperson shall hold any compensated appointed office or City employment within one (1) year after the expiration of his term as Mayor or Council Member, unless approved by a majority vote of the City Council.
- (2) Members of the City Council shall not in any way dictate the appointment or removal of any City Employee whom the City Manager or any of his subordinates are empowered to appoint. The City Council at a meeting called for that purpose may express its views and fully and freely discuss with the City Manager anything pertaining to appointment and removal of such employees.

- (3) The City Manager shall consult with the City Council before the hiring of any Department Head or promotion of an employee to Department Head. Members of the City Council shall not give orders to any such officer or employee either publicly or privately except as otherwise provided in this Charter.
- (4) The City Manager shall consult with the City Council before the removal of Department Heads.

### **Section 3.08 Meetings of the City Council.**

- (1) The City Council shall hold at least one (1) regular meeting each month and as many additional meetings as it deems necessary to transact the business of the City. The City Council shall fix by ordinance the date and time of the regular meeting(s). Special meetings of the City Council shall be held at the call of the Mayor or a majority of the Council and, wherever practicable, upon no less than seventy-two (72) hours notice to each member, unless such meeting is an emergency meeting. Notice shall be considered effective when posted in compliance with the Texas Open Meetings Act and electronic communication to each Councilperson within three (3) hours of such posting.
- (2) All meetings shall be open to the public and shall be held and notice given in accordance with Texas Government Code Chapter 551 as amended or superseded.
- (3) Nothing herein shall prevent a meeting being called in emergency circumstances with notice provided in compliance with state law.

### **Section 3.09 Quorum.**

- (1) Three (3) members of the City Council shall constitute a quorum for the purpose of transaction of business and no action of the City Council, except as specifically provided in this Charter, shall be valid or binding unless adopted by the affirmative vote of Council Members present. When the City Council is reduced to less than three (3) voting members on account of vacancies, a quorum shall consist of all the remaining members of the City Council.

### **Section 3.10 Rules of Procedure.**

- (1) The City Council shall determine its own rules of order and business, and the rules shall provide that the citizens of the City shall have a reasonable opportunity to be heard at any meeting with regard to any matter under consideration. The City Council shall provide for minutes to be taken and recorded for all meetings as required by law. Such minutes shall be a public record and shall be kept and maintained by the City Secretary.

### **Section 3.11 Passage of Ordinances In General.**

- (1) The City Council shall legislate by ordinance only, and the enacting clause of every ordinance shall be "BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ROCKPORT, TEXAS ..."

Each proposed ordinance shall be introduced in the written or printed form required for adoption. No ordinance shall contain more than one subject, which shall be clearly expressed in its title. General appropriation ordinances may contain various subjects and accounts for which monies are to be appropriated. After adoption an ordinance shall not be amended or repealed except by the adoption of another ordinance amending or repealing the original ordinance. Except where an ordinance is repealed in its entirety, an amendatory or repealing ordinance shall set out in full the ordinance sections or subsections to be amended or repealed and shall indicate matter to be omitted by strikeout and shall indicate new matter by underlining and bold print.

- (2) Any member of the City Council may offer any ordinance in writing to be placed on the agenda at a regular City Council meeting.

Copies of proposed ordinances, in the form required for adoption, shall be furnished to members of the City Council before the first reading. Copies of the proposed ordinance, in the form required for adoption, shall be available at the City offices and shall be furnished citizens upon request to the City Secretary before the first reading and, if amended, shall be available and furnished in amended form for as long as the proposed ordinance is before the City Council.

- (3) A proposed ordinance, except an emergency, budget or tax ordinance, shall be read at two (2) City Council meetings. For a zoning ordinance, the proposed zoning ordinance shall be read at two (2) regular City Council meetings, unless the City Council dispenses with the need for a two (2) reading requirement and the ordinance is approved by at least four (4) members of the City Council.
- (4) A proposed ordinance may be amended at either reading, but any ordinance amended in substance shall automatically be placed again on the first reading at a subsequent meeting. At any reading of a proposed ordinance, interested persons shall have a reasonable opportunity to be heard.
- (5) Every ordinance shall become effective upon adoption or at any later time(s) specified in the ordinance, except that every ordinance imposing any penalty, fine or forfeiture shall become effective only after having been published once in its entirety or summary form, after adoption, in a newspaper designated as the official newspaper of the City.
- (6) The reading aloud of a title and caption of the ordinance shall suffice as a reading provided printed copies of the ordinance in the form required for adoption are in front of all members of the City Council and a reasonable number of additional copies are available to citizens present at the meeting. If a majority of the members present request that the ordinance be read in its entirety, it must be read.

**Section 3.12 Emergency Ordinances.**

- (1) The City Council may adopt emergency ordinances only to meet public emergencies affecting life, health, property or the public peace. In particular, such ordinances shall not levy taxes, grant or renew or extend a franchise, or regulate the rate charged by any public utility for its services. Neither shall they authorize the borrowing of money except as provided in Article VII of this Charter.
- (2) An emergency ordinance shall be introduced in the form and manner generally prescribed for ordinances, except that they shall be plainly designated in the title as an emergency ordinance and shall contain after the enacting clause a declaration stating that an emergency exists and describing it in clear and specific terms.
- (3) An emergency ordinance can be adopted with or without amendment or rejected at the meeting at which it is introduced. The affirmative votes of at least three (3) members of the City Council shall be required for adoption.
- (4) Emergency ordinances shall become effective upon adoption and shall be published as soon thereafter as practicable. 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 re-enactment of the ordinance.

**Section 3.13 Authentication, Recording, Codification, Printing and Distribution.**

- (1) The City Secretary shall authenticate by signature and seal all ordinances and resolutions adopted by the City Council, and it shall be kept open for public inspection. Ordinances shall be numbered consecutively in the order in which adopted. The City Secretary may use electronic means, allowed by law, to maintain all ordinances and resolutions.
- (2) The City Council shall cause all ordinances and amendments to this Charter to be posted on the City's internet website for at least one year, unless earlier codified into its Code of Ordinances.

**Section 3.14 Investigations by the City Council.**

- (1) The City Council shall have the power to inquire into the official conduct of any department, agency, contractor, office, officer or employee of the City and for that purpose shall have the power to administer oaths, subpoena witnesses and compel the production of books, papers or other evidence material to the inquiry. The City Council shall provide by ordinance penalties for contempt for 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 ordinances.

**Section 3.15 Bond.**

- (1) The City Manager shall make an annual recommendation as to the positions or persons who should be bonded and the amount for which they shall be bonded. The City Council may amend the recommendations of the City Manager. Upon approval by the City Council, the necessary bonds shall be obtained at no cost to the employee(s).

**Article IV. CITY ADMINISTRATION****Section 4.01 City Manager.**

- (1) The City Council shall appoint a City Manager who shall serve as the chief administrative officer of the City. He shall be responsible to the City Council for administration of all the affairs of the City, with only those exceptions named in this Charter. The City Manager shall be appointed solely upon his executive and administrative qualifications. He need not be a resident of the City when appointed, but shall reside within the City during the tenure of his appointment within a reasonable period of time as determined by the City Council.
- (2) The City Council will fix the compensation of the City Manager, and his compensation may be amended from time to time in accordance with the City Manager's experience and qualifications. No employment agreement shall provide more than six (6) months' severance or termination compensation.
- (3) The City Manager shall be appointed for an indefinite term, and may be removed by resolution at the discretion of the Council by a majority vote of its members. Upon passage of a resolution stating the intention to remove the City Manager and the reasons therefore, a copy of which shall be immediately furnished him, the Council may suspend him from duty, but his salary shall continue until his removal becomes effective. Within twenty (20) days after the passage of such a resolution, the City Manager may reply in writing to it, and may request a public hearing. If so requested the Council shall fix a time and place for a public hearing on the question of removal, which shall be held not sooner than ten (10) days nor more than twenty (20) days after the receipt of such request. The final resolution removing the City Manager shall not be adopted until such public hearing, if requested, has been held. The action of the City Council in removing the City Manager shall be final. In case of the absence, disability or suspension of the City Manager, the Council may designate a qualified administrative officer of the City to perform the duties of the office. No City Council Member may serve as Acting City Manager.
- (4) The City Manager shall have power to:
  - (a) Appoint, suspend and remove all City employees provided for in this Charter, except as otherwise provided by law, this Charter, or personnel rules adopted pursuant to this Charter.
  - (b) Direct and supervise the administration of all departments, offices and agencies of the City. He shall, when authorized by the City Council, sign contracts, except as otherwise provided by law or this Charter.
  - (c) See that all State laws and City ordinances are effectively enforced.
  - (d) Attend all City Council meetings, with the right to take part in discussion, but he shall not vote.
  - (e) Prepare and accept items for inclusion in the official agenda of all City Council meetings and meetings of boards and commissions.

- (f) Prepare and recommend to the City Council the annual budget and capital program, and administer the budget as adopted by the City Council.
- (g) Prepare and submit to the City Council, within one hundred twenty (120) days of the end of the City's fiscal year, an annual report on the finances and administrative activities of the City, as of the end of the fiscal year. The report of an individual audit, as required by this Charter, shall be incorporated into the annual report submitted by the City Manager.
- (h) Keep the City Council fully advised at least quarterly as to the financial condition and future needs of the City, and make such recommendations concerning the affairs of the City as he or the City Council deems desirable or necessary.
- (i) Make reports as he or the City Council may require concerning the operations of the City departments, offices, or agencies subject to his direction or supervision.
- (j) Perform such other duties as are specified in this Charter or may be required by the City Council, and are consistent with this Charter or State or Federal Law.

**Section 4.02 City Secretary.**

- (1) The City Council, after consultation with the City Manager, shall appoint or remove a City Secretary.
- (2) The City Secretary shall:
  - (a) Give notice of all legal publications and official public meetings of the City Council in a manner consistent with this Charter and State laws.
  - (b) Attend all official public meetings and hearings of the City Council.
  - (c) Keep the minutes of the proceedings of all official public meetings and hearings of the City Council in a manner prescribed by the Council consistent with applicable law.
  - (d) Act as custodian of all official records of the City Council.
  - (e) Hold and maintain the seal of the City of Rockport, and affix this seal to all appropriate documents.
  - (f) Authenticate by signature and seal, and record all ordinances, resolutions and proclamations of the City.
  - (g) Keep all contracts made by the governing body.
  - (h) Act as coordinator for all boards and commissions as directed by the City Council.
  - (i) Work closely with department heads and the City Manager in day-to-day operations of the City.



- (j) Perform such other duties as may be required and authorized by the City Council, consistent with this Charter and the laws of the State of Texas.

#### **Section 4.03 Municipal Court.**

- (1) The City Council shall establish and cause to be maintained a Municipal Court. The Court shall have all the powers and duties as are now, or may be prescribed by the laws of the State of Texas.
- (2) The City Council shall appoint a judge of the Municipal Court and Alternate Judge(s) who shall be competent and duly qualified. The Judges of the Municipal Court shall be appointed to a term of two (2) years and may be appointed to additional consecutive terms upon completion of their terms of office. The appointment of the Judges may be terminated, for just cause, by the City Council. The Judges shall receive compensation as may be determined by the City Council.
- (3) The City Council shall, in the absence or disability of the Appointed Judges of the Municipal Court, appoint an Acting Judge to serve during such absence or disability.
- (4) The Clerk and Deputy Clerks of the Municipal Court shall have the power to administer oaths and affidavits, make certificates, affix the seal of the Court, and perform all acts usual and necessary by the Clerks of said Courts, in conducting the business thereof, including, but not limited to, the keeping of records and accounts of the Municipal Court.
- (5) All costs, fines and penalties imposed by the Municipal Court shall be paid into the City Treasury for the use and benefit of the City, as may be consistent with present and future State laws.

#### **Section 4.04 City Attorney.**

- (1) The City Council, after consultation with the City Manager, shall appoint a competent, duly qualified, licensed and practicing attorney in the State of Texas who shall serve as the City Attorney.
- (2) The City Attorney shall:
  - (a) Serve as the legal advisor to the City Council and the City Manager regarding City affairs.
  - (b) Represent the City in litigation and legal proceedings as directed by the City Council and City Manager.
  - (c) Review and provide opinions as requested by the City Council or City Manager on contracts, legal instruments, and ordinances of the City and other items of City business.
- (3) The City Council shall have the right to retain Special Counsel at any time that it may deem necessary and appropriate.

- (4) The City Attorney and Special Counsel shall receive compensation as may be determined by the City Council.
- (5) The City Attorney, with approval of the City Council, may select additional attorneys to act for him and the City in its representation and/or litigation.
- (6) The City Attorney may be removed by a vote of the City Council.
- (7) The term "City Attorney" may refer to an individual or firm.

**Section 4.05 City Engineer.**

- (1) The City Council, after consultation with the City Manager, may appoint a competent, duly qualified, registered and practicing professional engineer in the State of Texas who shall serve as the City Engineer.
- (2) The term "City Engineer" may refer to an individual or firm.
- (3) The City Engineer shall serve as engineering advisor to the City Council and City Manager, and shall perform such other duties as may be required by the City Council or City Manager.
- (4) The City Council shall have the right to retain special engineering service anytime it may deem necessary and appropriate.
- (5) The City Engineer shall receive compensation as may be determined by the City Council.
- (6) The City Engineer, with the approval of the City Council, may select additional engineers to act for him and the City in serving its engineering needs.
- (7) The City Engineer may be removed by a vote of the City Council.

**Section 4.06 Administrative Departments, Offices and Agencies.**

- (1) The City Council may, after hearing recommendations of the City Manager, establish, abolish, re-designate or combine departments, offices or agencies in addition to those provided for by this Charter, and may prescribe the functions and duties of such departments, offices and agencies.
- (2) All departments, offices and agencies shall be under the direction and supervision of the City Manager. The City Manager may, with the consent of the City Council, serve as the head of one or more city departments, offices or agencies or appoint one person as the head of two or more of them.

**Section 4.07 Personnel System.**

- (1) Personnel rules shall be prepared by the City Manager and presented to the City Council, which may adopt them by ordinance, with or without amendment. The adopted rules shall establish the City as an Equal Opportunity Employer and shall govern the equitable administration of the personnel system of the City.

- (2) The adopted rules shall provide for the following requirements:
  - (a) A pay and benefit plan for all City employment positions.
  - (b) A plan for working hours, attendance policy and regulation, and provision for sick and vacation leave.
  - (c) Procedures for the hearing and adjudication of grievances.
  - (d) Additional practices and procedures necessary to the beneficial and equitable administration of the City's personnel system.
  - (e) A plan for oral and written evaluation annually for all City employees by their immediate supervisor, including evaluation of the City Manager and the City Secretary by the City Council.
- (3) The adopted personnel policies and rules shall be reviewed not less than biennially by the City Manager; a report of said review, to include proposed changes, shall be submitted to Council for consideration.

**Article V. CITY ELECTIONS****Section 5.01 City Elections.**

- (1) City elections shall be conducted in accordance with Texas Election Law following procedures prescribed therein.
- (2) The City's General Election shall be held annually on the May uniform election date. However, if state law allows the movement of a City general election to a date other than in May, the City Council may move to such date by ordinance without the need for a charter amendment. The City Council shall be responsible for specification of places for holding such election.
- (3) The City Council may, by resolution, order a special election for purposes consistent with this Charter and laws of the State of Texas. The City Council will fix the time and places for such a special election, and provide all means for holding same.
- (4) Municipal elections shall be conducted by election officials appointed or approved by the City Council, or as 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.
- (5) All municipal elections shall be publicized in accordance with the Texas Election Code.

**Section 5.02 Filing for Office.**

- (1) Candidates for City offices shall file for office with the City Secretary at City Hall.
- (2) Candidates for elective City office shall meet the following qualifications:
  - (a) Shall be at least eighteen (18) years of age at the time of the election for which they are filing.
  - (b) Shall be a qualified voter of the City.
  - (c) Shall have resided within the corporate limits of the City, or recently annexed territory, for at least twelve (12) months prior to the Election Day.
  - (d) Shall have resided in the Ward, or newly created Ward, they are seeking to represent for a least twelve (12) months prior to the Election Day.
  - (e) No candidate may file in a single election for more than one office or position as provided by this Charter.
  - (f) No employee of the City shall continue in such position after filing for an elective office provided for in this Charter.

- (g) A candidate filing for a Council Member position must include a petition along with their application for a place on the ballot for an office which contains signatures of qualified voters equal in number to thirty (30%) percent or fifty (50), whichever is lesser, of those who voted in the last election for that office. If the immediately preceding election for the Council Member position applied for was canceled as provided by law, a petition containing fifty (50) signatures of qualified voters shall be necessary along with the application for a place on the ballot for an office. This requirement shall not be construed to mean the signatures of actual people who voted in the last election.
- (h) A candidate filing for a Mayor position must include a petition along with their application for a place on the ballot for an office which contains signatures of qualified voters equal in number to thirty (30%) percent or one hundred and fifty (150), whichever is lesser, of those who voted in the last election for that office. If the immediately preceding election for the position of Mayor was canceled as provided by law, a petition containing one hundred fifty (150) signatures of qualified voters shall be necessary along with the application for a place on the ballot for an office. This requirement shall not be construed to mean the signatures of actual people who voted in the last election.
- (i) Shall not, at the time of filing or while in office, be in arrears in payment of taxes or other liabilities due the City after the expiration of thirty (30) days following the providing of notice of any delinquency.

### **Section 5.03 Official Ballots.**

- (1) The name of each candidate seeking an elective office, except those who have withdrawn, died, or become ineligible, shall be printed on the official ballot in the form designated by the candidate in accordance with the current edition of the Texas Election Code. If two or more candidates have the same surname, or surnames so similar as to be likely to cause confusion, their residence addresses shall be printed with their names on the ballot.
- (2) The order on the ballot of the names of the candidates shall be determined by lot in a public drawing to be held under the supervision of the City Secretary in accordance with the current edition of the Texas Election Code.
- (3) Procedures for voting by absentee ballot shall be consistent with the current edition of the Texas Election Code.
- (4) An ordinance, bond issue, or Charter amendment to be voted on by the voters of the City shall be presented for voting by ballot title. The ballot title of a measure may be different from its legal title and shall be a clear, concise statement, approved by the City Council, describing the substance of the measure without argument or prejudice. Below the ballot title shall appear the following two statements, one above the other, in the order indicated:

"For adoption of the (ordinance) (bond issue) (amendment)"

"Against adoption of the (ordinance) (bond issue) (amendment)"

Immediately below or to the left of such statements shall appear a square in which the voter may cast his vote by making a mark.

- (5) Procedures for write-in votes shall be consistent with the current edition of the Texas Election Code.

**Section 5.04 Official Results.**

- (1) The candidate for elective office receiving a plurality of the votes cast shall be declared the winner.
- (2) The returns of every municipal election shall be handled in accordance with the Texas Election Code.

**Article VI. INITIATIVE, REFERENDUM AND RECALL****Section 6.01 General Authority.**

- (1) Initiative: The qualified voters of the City shall have power to propose ordinances to the City Council and if the Council fails to adopt an ordinance so proposed without any change in substance, the voters shall adopt or reject it at a City election. Such power shall not extend to the budget or capital program or any ordinance relating to appropriation of money, the levy of taxes or salaries of City officers or employees nor any other matter which a court of law has held to have been withdrawn as a power of initiative.
- (2) Referendum: The qualified voters of the City shall have power to require reconsideration by the Council of any adopted ordinance and, if the Council fails to repeal an ordinance so reconsidered, the voters shall approve or reject it at a City election. Such power shall not extend to the budget or capital program or any emergency ordinance or ordinance relating to appropriation of money or levy of taxes nor any other matter which a court of law has held to have been withdrawn as a power of referendum.
- (3) Recall: The qualified voters of the City shall have power to remove, for cause, any official serving in an elective office.
- (4) Qualified Voter: In the context of eligibility to sign a petition under this Chapter means a registered voter in the City of Rockport.

**Section 6.02 Petitioners Committee.**

- (1) Any ten (10) qualified voters may commence proceedings contemplated by this Article by filing with the City Secretary an affidavit stating that they will constitute the Petitioners' Committee; they will be responsible for preparing, printing and circulating the petition; they will file it in proper form; they will specify the address to which all notices to the Committee are to be sent. The affidavit shall set out in full the proposed initiative ordinance or cite the ordinance sought to be reconsidered, or in the case of recall, will provide a statement of the grounds for removal.
- (2) In the case of recall, the City Secretary shall immediately notify in writing the officer(s) to be removed that the affidavit has been filed and shall inform the officer(s) of its statement of grounds.

**Section 6.03 Petition Circulation.**

- (1) All petition blanks used for circulation by the members of the Petitioner's Committee or their designees shall be obtained from the City Secretary and be numbered, dated and bear the signature of the City Secretary.

**Section 6.04 Form of Petition.**

- (1) All pages of a petition shall be uniform in size and style and shall be assembled as one instrument for filing. Each signer of a petition shall personally sign his own name thereto in ink or indelible pencil. After his signature shall be printed name, place of residence within the boundaries of the City, giving name of street and number, or place of residence, and shall also write thereon the day, the month and the year his signature was affixed. All petitions must also contain all information required by Section 277.02 of the Texas Election Code. Petitions shall contain or have attached thereto throughout their circulation the full text of the ordinance proposed or sought to be reconsidered, or in the case of a recall petition, a statement that distinctly and specifically states the ground(s) upon which such petition for removal is predicated. If there is more than one ground, the statement shall specifically state each ground with such certainty as to give the officer(s) sought to be removed notice of such matters with which he is charged.
- (2) Each paper of a petition shall have attached to it when filed the affidavit executed by the circulator thereof stating that he personally circulated the paper, the number of signatures thereon, that all the signatures were affixed in his presence, that he believes them to be genuine signatures of the persons whose names they purport to be, and that each signer had an opportunity before signing to read the full text of the ordinance proposed, or sought to be reconsidered, or the identity of the official whose recall is being sought.
- (3) Locations for twenty (20) signatures shall be provided on each blank petition.

**Section 6.05 Presentation of Petitions.**

- (1) A petition to the City Council for initiative or referendum, containing the signatures of qualified voters equal in number to fifteen (15%) percent of those who voted in the last general municipal election, or one hundred fifty (150), whichever is greater, shall be presented to the City Secretary not later than thirty (30) days following the filing of the affidavit by the Petitioner's Committee.
- (2) A petition to the City Council for recall of the Mayor containing the signatures of qualified voters equal in number to thirty (30%) percent of those who voted in the last election for that office, or three (300) hundred people, whichever is greater, shall be presented to the City Secretary not later than thirty (30) days following the filing of the affidavit by the petitioner's committee.
- (3) A petition to the City Council for recall of a City Council Person containing the signatures of qualified voters equal in number to thirty (30%) percent of those who voted in that Ward in the last election for that office, or fifty (50) people, whichever is greater, shall be presented to the City Secretary no later than thirty (30) days following the filing of the affidavit by the Petitioner's Committee.



**Section 6.06 Suspension of Effect of Ordinance for Referendum Petitions.**

- (1) When a referendum petition is filed with the City Secretary the ordinance sought to be reconsidered shall be suspended from taking effect unless such suspension will create an immediate breach of public health and safety. Such suspension shall terminate when:
  - (a) There is a final determination of insufficiency of the petition; or
  - (b) The City Council repeals the ordinance; or
  - (c) Upon the certification of election results by the election officials.

**Section 6.07 Certification of Petitions and Presentation to the City Council.**

- (1) Within ten (10) days after the petition is presented, the City Secretary shall complete a certificate of sufficiency or insufficiency.
- (2) If the petition is certified sufficient, the City Secretary shall present the certificate to the City Council at the next regular City Council meeting. The City Council shall make a final determination of the sufficiency of the petition.
- (3) If a petition has been certified insufficient, the City Secretary shall notify the Committee in his certificate, by registered mail, of the particulars in which it is defective. The Committee may, within two (2) working days after receiving the copy of such certificate, file a request that it be reviewed by the City Council. The City Council shall review the certificate at its next regular meeting following such a request and approve or disapprove it. Such determination shall then be final.
- (4) If a petition is certified insufficient, it may be amended once if the petitioners committee files a notice of intention to amend it with the City Secretary within two (2) working days after having received the copy of the certificate. A supplementary petition must be filed within two (2) weeks after receiving the copy of the certificate. Such a supplementary petition shall comply with all the requirements of Sec. 6.04 of this Article.
- (5) Within five (5) days after the amended petition is filed, the City Secretary shall complete a certificate of sufficiency or insufficiency of the petition, as amended, and shall send a copy of such certificate to the Petitioners' Committee by registered mail as in the case of an original petition. The final determination as to the sufficiency of an amended petition shall be determined in the same manner as prescribed for original petition in this Section, except no petition, once amended, may be amended again.
- (6) A final determination as to the sufficiency of a petition shall be subject to review in a court of competent jurisdiction. A final determination of insufficiency, even if sustained upon court review, shall not prejudice the filing of a new petition for the same purpose.

**Section 6.08 Public Hearing on Recall of Officers.**

- (1) An elected official whose removal is sought by recall may, within five (5) days after such recall petition has been presented to the City Council, request that a public hearing be held to permit him to present facts pertinent to the charges specified in the petition. Should a request be made, the City Council shall order a public hearing be held not less than five (5) days and no more than fifteen (15) days after receiving such request for a public hearing.

**Section 6.09 Action on Initiative and Referendum Petitions.**

- (1) When an initiative or referendum petition has been finally determined sufficient, the City Council shall promptly consider the proposed initiative ordinance in the manner prescribed for enacting ordinances or reconsider the referred ordinance by voting its repeal. If the City Council fails to adopt a proposed initiative ordinance without any change in substance within sixty (60) days, or fails to repeal a referred ordinance within thirty (30) days after the date the petition was finally determined sufficient, it shall submit the proposed or referred ordinance to the voters of the City not less than thirty (30) days and not more than sixty (60) days following the failure of the City Council to act as specified herein. Any election order so issued shall comply fully with the Texas Election Code.
- (2) The called election may coincide with a regular City election should such City election fall within the specified period. Special elections on initiated or referred ordinances shall not be held more frequently than once each six (6) months, and no ordinance substantially the same as an initiated ordinance which has been defeated or one substantially the same as a referred ordinance which has been approved at any election may be initiated by the voters within two (2) years from the date of such election. Copies of the proposed or referred ordinance shall be made available at the polls and shall be published at least once in the official newspaper of the City not more than fifteen (15) days immediately preceding the date of the election.

**Section 6.10 Calling of Recall Election.**

- (1) If the officer whose removal is sought does not resign, then the City Council shall order an election and set the date for holding such recall election. The date selected for the recall election shall be in accordance with the Texas Election Code. Any election order so issued shall comply fully with the Texas Election Code. If after the recall election date is established, the officer vacates the officer's position, the election shall be cancelled. Further, if the date for the recall election extends beyond the officer's term or the limits provided in Section 3.01(1)(d), the election shall be cancelled.

**Section 6.11 Withdrawal of Petitions.**

- (1) An initiative, referendum or recall petition may be withdrawn at anytime prior to determination of sufficiency by filing with the City Secretary a request for withdrawal signed by at least six (6) members of the Petitioner's Committee. Upon the filing of such request the petition shall have no further force or effect and all proceedings thereon shall be terminated.

**Section 6.12 Form of Ballots.**

- (1) Ordinances shall be submitted by ballot title, which shall be prepared in all cases by the City Attorney. The ballot title may be different from the legal title of any such initiated or referred ordinance and it shall be a clear, concise statement, without argument or prejudice, descriptive of the substance of such ordinance. Unless otherwise required by law, immediately below the ballot title shall be printed the following two statements, one above the other, in the order indicated:

"For adoption of the ordinance" and

"Against adoption of the ordinance"

- (2) Ballots used at recall elections shall, with respect to each person whose removal is sought, submit the question:

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

Immediately below each such question there shall be printed the two following statements, one above the other, in the order indicated.

"For the removal of ... by recall."

"Against the removal of... by recall."

**Section 6.13 Results of Election.**

- (1) If a majority of qualified electors voting on a proposed initiative ordinance vote in its favor, it shall be considered adopted upon certification of the election results and shall be treated in all respects in the same manner as ordinances of the same kind adopted by the City Council. If conflicting ordinances are approved at the same election, the one receiving the greater number of affirmative votes shall prevail.
- (2) An ordinance adopted by initiative may be repealed or amended at anytime after the expiration of two (2) years by a majority vote of the City Council.
- (3) If a majority of the electors voting on a referred ordinance vote against the ordinance, it shall be considered repealed upon certification of the election results. If a majority of the qualified electors voting on a referred ordinance vote for the ordinance, the ordinance shall be considered in effect.
- (4) An ordinance repealed by referendum may be reenacted at anytime after the expiration of two (2) years by a majority vote of the City Council.

- (5) If a majority of the votes cast on the question of recall at a recall election shall be against the removal of the elected official named on the ballot, he shall continue in office for the remainder of his unexpired term, subject to recall as before within the limitations of Sec. 6.14 below. If a majority of the votes cast on the questions of recall at a recall election shall be for the removal of the elected official named on the ballot, he shall, regardless of any technical defects in the recall petition, be deemed removed from office upon official canvas of said election and the vacancy shall be filled in accordance with the provisions of this Charter for the filling of vacancies.

#### **Section 6.14 Limitations and Restrictions.**

- (1) No recall petition shall be filed against any officer of the City within six (6) months after his election or appointment, or within six (6) months of such a petition being filed and found insufficient, nor within one (1) year after an election for such officer's recall.
- (2) In no instance shall an officer removed from office by recall election serve in an elective office of the City within a period of three (3) years following the date of the election at which he was removed from office.
- (3) Unless successfully withdrawn, no petition shall again be filed on a proposed or referred ordinance of substantially the same content within a period of two (2) years of the failure of the petition at a City election.

#### **Section 6.15 Failure of City Council to Call an Election.**

- (1) In case all of the requirements of this Charter have been met and the City Council shall fail or refuse to receive an initiative, referendum or recall petition, or order such initiative, referendum of [or] recall election, or discharge other duties imposed upon said City Council by the provisions of this Charter with the reference to initiative, referendum or recall, then any qualified voter in the City may seek judicial relief to have any of the provisions of this Charter pertaining to initiative, referendum or recall carried out by the proper official.

**Article VII. MUNICIPAL FINANCE****Section 7.01 Fiscal Year.**

- (1) The fiscal year of the City shall begin on the first day of each October and end on the last day of September of each calendar year. The fiscal year shall constitute the budget and accounting year of the City government.

**Section 7.02 Submission of Budget.**

- (1) On or before the first regular scheduled meeting in August of each year, the City Manager shall submit to the City Council a proposed budget for the ensuing fiscal year and budget message. The City Council shall review the proposed budget and make any appropriate changes prior to publishing the final budget.

**Section 7.03 Budget.**

- (1) The City Manager shall submit an annual budget not later than thirty (30) days prior to the date the City Council sets its tax levy for the fiscal year. The budget shall consist of the following:
  - (a) A budget message prepared by the City Manager, outlining fiscal policy for the City government with explanations of significant changes in expenditures, revenues, and fiscal conditions from previous years.
  - (b) A budget summary with supporting schedules to show a balanced relationship between the total proposed expenditures and the total anticipated income for the fiscal year.
  - (c) Detailed estimates of all proposed expenditures and estimates of anticipated revenues and other income, showing the corresponding expenditures for each item for the current fiscal year and the last preceding fiscal year with explanations of increases or decreases recommended as compared with appropriations for the current fiscal year.;
  - (d) Statements of the bonded debt redemption and interest requirements.
- (2) The City Council shall make available in the City Secretary's offices the budget, as presented to the City Council, open to public inspection by anyone interested and posted on the City's internet website until a budget has been finally adopted.
- (3) City Council action:
  - (a) The City Council shall hold a public hearing on the proposed budget as submitted at the time and place so advertised. The City Council shall set the hearing time, date, and location in accordance with state law. Any person may attend and may participate in the hearing.
  - (b) At a regular or special meeting, at the conclusion of the public hearing, the City

Council may adopt the budget, in accordance with state law, with or without amendment. A vote to adopt the budget must be recorded, in accordance with state law.

- (c) The City Council shall adopt or amend the budget by ordinance on one (1) reading. Adoption of the budget shall constitute appropriation of the amounts specified therein as expenditures from the funds indicated and shall constitute a levy of the property tax therein proposed.
  - (d) The final approved budget must be filed with the City Secretary in accordance with state law and posted on the City's internet website for at least one year.
- (4) If the City Council fails to adopt the budget by the twenty-seventh (27th) day of September, the amounts appropriated for the operation during the current fiscal year shall be deemed adopted for the ensuing fiscal year on a month-to-month basis, with all items in it prorated accordingly, until such time as the City Council adopts a budget for the ensuing fiscal year. The levy of property tax normally approved, as part of the budget adoption will be set such that tax receipts for the budgeted year shall equal the tax receipts of the current fiscal year.

#### **Section 7.04 Amendments After Adoption.**

- (1) If, during the fiscal year, the City Manager certifies that there are revenues available for appropriation in excess of those estimated in the budget, the City Council may carry the excess into the next fiscal year, or, by ordinance, may make supplemental appropriations to retire indebtedness or to fund emergency appropriations.
- (2) At anytime in any fiscal year, the City Council may make emergency appropriations to meet a pressing need for public expenditure for other than regular or recurring requirements affecting life, health, property, or the public peace. Such appropriations shall be by ordinance adopted by the City Council.
- (3) No appropriation for debt service may be reduced or transferred, and no appropriation may be reduced by any amount required by law to be appropriated or by more than the amount of the unencumbered balance.

#### **Section 7.05 Capital Program.**

- (1) The City Manager shall submit a five (5) year capital program in conjunction with the annual budget. The capital program shall include:
  - (a) A summary of its contents;
  - (b) A list of all capital improvements which are proposed;
  - (c) Cost estimates, method of financing and recommended time schedules; and
  - (d) The estimated annual cost of operating and maintaining the facilities to be constructed or acquired.

**Section 7.06 Public Records.**

- (1) Copies of the budget and capital program, as adopted, shall be public records and shall be made available to the public upon request.

**Section 7.07 Lapse of Appropriations.**

- (1) Every appropriation, except an appropriation for a capital expenditure, shall lapse at the close of the fiscal year to the extent that it has not been expended or encumbered. An appropriation for a capital expenditure shall continue in force until the purpose for which it was made has been accomplished or abandoned; the purpose of any such appropriation shall be deemed abandoned if three (3) years pass without any disbursement from or encumbrance of the appropriations. Any funds not expended, disbursed or encumbered shall be deemed excess funds.

**Section 7.08 Borrowing.**

- (1) The City shall have the right to issue and refund general obligation bonds, revenue bonds, and other evidence of indebtedness as is now permitted or as may be hereafter authorized to be issued by a home-rule municipality in the State of Texas.
- (2) The City may borrow funds on the credit of the City for a term not to exceed one year provided that such obligations are scheduled to be retired by the end of the budget year in which they were issued.

**Section 7.09 Purchasing.**

- (1) The City Council may, by ordinance, confer upon the City Manager general authority to contract for expenditure without further approval of the City Council for all budgeted items not exceeding limits set by the City Council or state law. All contracts for expenditures involving more than the set limits must be approved in accordance with state law. The City Council or City Manager in such cases as he the City Manager is authorized to contract for the City, shall have the right to reject any and all bids.
- (2) Emergency contracts as authorized by law and this Charter may be negotiated by the City Council or City Manager if given authority by the City Council in accordance with state or federal law. Such emergency shall be declared by the City Manager and approved by the City Council or may be declared by the City Council.

**Section 7.10 Administration of Budget.**

- (1) No payment shall be made or obligation incurred against any allotment or appropriation except in accordance with appropriations duly made and unless the City Manager or the City Manager's designee first certifies that there is a sufficient unencumbered balance in such allotment or appropriation and that sufficient funds there from are or will be available to cover the claim or meet the obligation when it becomes due and payable. Any authorization of payment or incurring of obligation in violation of the provisions of this Charter shall be void and any payment so made illegally. Such action shall be cause for removal of any officer who knowingly authorized or made such payment or incurred such obligation, and the officer shall also be liable to the City for any amount so paid. However, this prohibition shall not be construed to prevent the making or authorizing of payments or making of contracts for capital improvements to be financed wholly or partly by the issuance of bonds, time warrants, certificates of indebtedness, or certificates of obligation, or to prevent the making of any contract or lease providing for payments beyond the end of the fiscal year, providing that such action is made or approved by ordinance.

**Section 7.11 Depository.**

- (1) All monies received by any person, department or agency of the City for or in connection with the affairs of the City shall be deposited promptly in the City depository or depositories, which shall be designated by the City Council in accordance with such regulations and subject to such requirements as to security for deposits and interest thereon as may be established by City's Investment Policy and State Law. The governing body shall designate by resolution the bank, credit union or savings association to serve as the City's depository for the municipality's funds. The governing body shall review, approve, execute and deliver any depository service contract for a term of two (2) years or as soon as practicable but not greater than a five (5) year period. Disbursement of funds shall be in accordance with the City's policy and state law. In selecting a depository, the services, cost of services, credit worthiness, earnings potential and collateralization by the institutions shall be considered. All time and demand deposits in any depository shall be insured or collateralized at all times in accordance with state law.

**Section 7.12 Financial Report.**

- (1) The City Manager shall submit to the City Council at its second formal meeting each month the financial condition of the City by budget item, budget estimates versus accruals for the preceding month and for the fiscal year-to-date. The financial records of the City will be maintained in accordance with Governmental Accounting Standards Board (GASB) and Generally Accepted Accounting Principals (GAAP).



**Section 7.13 Independent Audit.**

- (1) As soon as practicable after the close of each fiscal year but no later than 120 days, an independent audit shall be made of all accounts of the City government by a certified public accountant selected by the governing body, who has no personal interest, directly or indirectly, in the financial affairs of the City government, or any of its officers. The governing body shall appoint an independent auditor whose contract shall be reviewed and reconsidered at the end of five (5) years. The annual financial statement, including the auditor's opinion on the statement shall be posted on the City's internet website for at least two years following publication.

**Article VIII. TAX ADMINISTRATION****Section 8.01 Power to Tax.**

- (1) The City shall have the power to levy, assess and collect taxes of every character and type for any municipal purpose not prohibited by the Constitution and laws of the State of Texas as now written or hereafter amended.
- (2) The City shall have the power to grant tax exemptions in accordance with the laws of the State of Texas.

**Section 8.02 Tax Collections.**

- (1) The City Council shall determine annually the method of collection of taxes by either executing a contract for services as allowed by state law or any appointment of a City Tax Collector.

**Section 8.03 Assessment of Property for Tax Purposes.**

- (1) The City shall accept the appraisal rolls from the Aransas County Appraisal District. These rolls shall be the basis for the setting of a tax rate by the City Council.

**Section 8.04 Taxes: When Due and Payable.**

- (1) All taxes due in the City of Rockport on real and personal property shall be payable at a location or locations as designated by the City Council, and may be paid at anytime after the tax rolls for the year have been completed and approved. Taxes shall be paid before February 1 and all taxes not paid prior to that date shall be deemed delinquent, and shall be subject to penalty and interest as provided by V.T.C.A., Tax Code Section 33.01 as enacted or as amended. The City Council may authorize discounts for the payment of taxes prior to January 1 as allowed by state law.
- (2) Failure to levy and assess taxes through omission in preparing the appraisal rolls shall not relieve the person, firm or corporation so omitted from obligation to pay such current or past due taxes as shown to be payable by recheck of the rolls and receipts for the years in question, omitting penalty and interest.

**Section 8.06 Tax Liens, Liabilities and Suits.**

- (1) All taxable property located in the City on the 1st day of January of each year shall stand charged from that date with a special lien in favor of the City for taxes due thereon. All persons purchasing any of said property after the 1st day of January in any year shall take same subject to the liens herein provided. In addition to the liens herein provided, on the 1st day of January of any year, the owner of property subject to taxation by the City shall be personally liable for the taxes due thereon for that year. The City shall have power to sue for and recover personal judgment for taxes without foreclosure, or to foreclose its lien or liens, or to recover both personal judgment and foreclosure. In any such suit where it appears that the description of any property in the City appraisal rolls is insufficient to identify such property, the City shall have the right to plead a good description of the property to be assessed, to prove the same, and to have its judgment foreclosing the tax lien or for personal judgment against the owners for such taxes.

**Section 8.07 Other Rules and Regulations.**

- (1) Except as otherwise provided by law or this Charter, the City Council shall have the power to provide, by ordinance, such rules, regulations and procedures not in conflict with the laws of the State of Texas, to enforce the collection by and payment to the City Tax Collector as the City Council may deem appropriate and may provide such penalties for the failure to pay such taxes as the City Council may deem necessary.

**Article IX. BOARDS AND COMMISSIONS****Section 9.01 Authority, Composition and Procedures.**

- (1) The City Council shall create, establish or appoint, as may be required by the laws of the State of Texas or this Charter, or deemed desirable by the City Council, such boards, commissions and committees as it deems necessary to carry out the functions and obligations of the City. The City Council shall, by ordinance or resolution, prescribe the purpose, composition, function, duties, accountability and tenure of each board, commission and committee where such are not prescribed by law or this Charter.
- (2) Individuals who are qualified voters in the City may be appointed to serve on one (1) or more board, commission or committee. The City Council may, by ordinance or resolution, consolidate the functions of the various boards, commissions or committees provided for in this Charter. Except as otherwise provided in this Charter, members of any such board, commission or committee shall serve without compensation but may be reimbursed for actual expenses as approved by the City Council.
- (3) All boards, commissions or committees of the City shall keep and maintain minutes of any proceedings held and shall submit a written report of such proceedings to the City Council.
- (4) No officer of the City nor any person who holds a compensated appointive position with the City shall be appointed to any board, commission or committee created or established by this Charter other than in an advisory capacity.
- (5) Any member of a board, commission or committee who is absent from three (3) consecutive regular meetings without explanation acceptable to a majority of the other members shall forfeit his position on the board, commission or committee.

**Article X. PLANNING AND ZONING COMMISSION****Section 10.01 Organization.**

- (1) There is hereby established a Planning and Zoning Commission which shall consist of seven (7) members who shall be appointed by the City Council for overlapping three (3) year terms. Each member shall be a qualified City voter. Any vacancy occurring during the unexpired term of a member shall be filled by the City Council for the remainder of the unexpired term. The Commission shall elect from its members a Chairman, Vice Chairman and Secretary to serve for one (1) year beginning in July of the year elected. The Commission shall meet at least once each month when practicable. The Council should strive to balance Commission membership to represent best each Ward and all major areas.

**Section 10.02 Duties and Powers.**

- (1) The Commission shall be responsible to act as an advisory board to the City Council. The Commission shall:
  - (a) Review all current and proposed ordinances and amendments pertaining to planning, zoning, platting and subdividing property and make recommendations to the City Council for action to be taken.
  - (b) Make, amend, extend and add to the Comprehensive Plan for the physical development of the City.
  - (c) Submit annually to the City Manager, not less than one hundred twenty (120) days prior to the beginning of the budget year, an annual update to any Capital Improvement Program as developed from the Comprehensive Plan regarding land use issues. The update may identify new or additional capital improvements as well as revisions of the project priorities by year.
  - (d) Keep public records of its findings and determinations.
- (2) The Commission shall have full power to:
  - (a) Exercise the authority of the Zoning Commission as provided by State law, this Charter and City ordinances.
  - (b) Administer rules and recommendations pertaining to subdivisions and to platting in territories within the City limits and its extraterritorial jurisdiction.

**Section 10.03 The Comprehensive Plan.**

- (1) The Comprehensive Plan for the physical development of the City including its ETJ shall contain the Commission's recommendations for the growth, development and beautification of the City. The Commission may recommend approval to the City Council the Comprehensive Plan as a whole or in parts and with any amendment thereto.

**Section 10.04 Procedure.**

- (1) All rules and regulations recommended for approval by the Planning & Zoning Commission for the Comprehensive Plan shall be forwarded to the City Manager who shall submit them to the Council with his recommendations if any. The Council may adopt or reject any such rules or regulations. If any rules or regulations should be rejected, the Planning & Zoning Commission may modify them and submit such modified rules and regulations to the City Manager. The City Manager shall again forward such changes to the Council. The adoption of the Plan or of any such part or amendment shall be by ordinance, but before adoption of the Plan or any such part or amendment, the City Council and the Commission shall hold at least one (1) joint public hearing on the proposed action.

**Section 10.05 Legal Effect of the Comprehensive Plan.**

- (1) Following adoption by the Council of the Comprehensive Plan, it shall serve as a guide to all future Council action concerning land use and development regulations and expenditures for capital improvements. Any proposal, which deviates from the Comprehensive Plan, shall not be authorized until and unless the location and extent thereof shall have been submitted to and accepted by the Commission. In case of disapproval, the Commission shall communicate its reasons to the Council, which shall have the power to overrule such disapproval and upon such overruling, the Council or the appropriate office, department or agency shall have authority to proceed. The failure of the Commission to act within thirty (30) days after the date of official submission to the Commission shall be deemed accepted, unless a longer period is granted by the Council or submitting official.

**Article XI. UTILITY AND PUBLIC SERVICE FRANCHISES AND LICENSES****Section 11.01 Authority.**

- (1) The City shall have the power to buy, own, sell, construct, lease, maintain, operate and regulate public services and utilities and to manufacture, distribute and sell the output of such services and utility operations.

**Section 11.02 Ordinance Granting Franchise.**

- (1) Any ordinance granting, renewing, extending or amending a public service or utility franchise must be read at two (2) separate meetings of the City Council and shall not take effect until thirty (30) days after the final reading. Within seven (7) days following the first reading of the ordinance, the text or the summary of the ordinance shall be published once in a newspaper designated as the official newspaper of the City, with the expense of such publication borne by the prospective franchisee. Copies of the proposed ordinance, in the form required for adoption, shall be available at the city offices and shall be furnished to the citizens upon request to the City Secretary before the first (1st) reading, if amended, shall be available and furnished in amended form for as long as the proposed ordinance is before the City Council.
- (2) No franchise shall be granted for a term of more than twenty (20) years from the date of the grant, renewal or extension of any franchise.
- (3) No franchise may be exclusive.

**Section 11.03 Transfer of Franchise.**

- (1) No public service or utility franchise is transferable, except with the approval of the City Council. However, the franchisee may pledge franchise assets as security for a valid debt or mortgage.

**Section 11.04 Franchise Value not to be Allowed.**

- (1) Franchises granted by the City are of no value in fixing rates and charges for public services or utilities within the City and in determining just compensation to be paid by the City for property which the City may acquire by condemnation or otherwise.

**Section 11.05 Right of Regulation.**

- (1) In granting, amending, renewing and extending public service and utility franchises, the City reserves unto itself all the usual and customary rights, including, but limited to, the following rights:
  - (a) To repeal the franchise by ordinance for failure to begin construction or operation with the time prescribed, or for failure to comply with terms of the franchise.
  - (b) To require all extensions of service within the City limits to become part of the aggregate property of the service and operate subject to all obligations and reserved

rights contained in this Charter. Any such extension is considered part of the original grant and terminable at the same time and under the same conditions as the original grant.

- (c) To require expansion and extension of facilities and services and to require maintenance of existing facilities to provide adequate service at the highest level of efficiency.
- (d) To require reasonable standards of service and quality of products and prevent rate discrimination.
- (e) To impose reasonable regulations and restrictions to insure the safety and welfare of the public.
- (f) To examine and audit accounts and records and to require annual reports on local operations of the public service or utility.
- (g) To require the franchisee to restore, at franchisees' expenses, all public or private property to a condition as good as or better than before disturbed by the franchisee for construction, repair or removal.
- (h) To require the franchisee to furnish to the City, within a reasonable time, at the franchisee's expense, a general map outlining current location, character, size, length, depth, height and terminal of all facilities over and under the property within the City and its extraterritorial jurisdiction.
- (i) To require compensation, rent or franchise fees to be paid to the City.

#### **Section 11.06 Regulation of Rates.**

- (1) The City Council has the power to fix and regulate the rates and charges of all utilities and public services, consistent with state statutes.
- (2) Upon receiving written request from a utility or public service requesting a change in rates, or upon a recommendation from the City that rates for services provided by or owned by the City be changed, the City Council shall call a public hearing for consideration of the change.
- (3) The City, public service or utility must show the necessity for the change by any evidence required by the City Council, including, but not limited to, the following:
  - (a) Cost of its investment for service to the City;
  - (b) Amount and character of expenses and revenues connected with rendering the service;
  - (c) Copies of any reports or returns filed with any state or federal regulatory agency within the last three (3) years; or



- (d) Demonstration that the return on investment is within state and federal limitation.
- (4) If not satisfied with the sufficiency of evidence, the City Council may hire rate consultants, auditors and attorneys to investigate and, if necessary, litigate requests for rate changes, the expense of which shall be reimbursed to the City by the franchisee.

**Section 11.07 Licenses.**

- (1) The City shall have the power to license, levy and collect fees in order to license any lawful business, occupation or calling subject to control pursuant to the police powers of the State of Texas and for any other purpose not contrary to the Constitution and Laws of the State of Texas.

**Article XII. GENERAL PROVISIONS****Section 12.01 Public Records.**

- (1) All records of the City shall be open to inspection except for those that are closed to the public by law. The records may be examined and copied in the City offices during normal office hours in accordance with state law.

**Section 12.02 Official Newspaper.**

- (1) The City Council shall declare biannually an official newspaper of general circulation in the City to service for a two (2) year period. All ordinances, notices and other matters required by this Charter, City ordinance, of the Constitution and Laws of the State of Texas shall be published in the official newspaper or in accordance with state law.

**Section 12.03 Nepotism.**

- (1) No person related within the second (2nd) degree by affinity or within the third (3rd) degree by consanguinity to the Mayor or any City Council member or the City Manager shall be employed or appointed to any positions in the City. This shall not apply to any person continuously employed prior to the election or appointment of the person related in the above degree.

**Section 12.04 Oath.**

- (1) All elected and appointed officers of the City shall take and sign the 'Oath of Office' based on those prescribed for State elective and appointive offices, respectively, in the Constitution of the State of Texas.

**Section 12.05 Prohibitions and Penalties.**

- (1) Equality of rights under the law shall not be denied or abridged with respect to appointment to or removal from any position because of race, sex, age, national origin, disability, political or religious opinions or affiliations.
- (2) No person who seeks appointment or promotion with respect to any City position shall, directly or indirectly, give, render or pay any money, service or other valuable thing to any person for, or in connection with, his test, appointment or promotion.
- (3) No person shall willfully make any false statement, certificate, mark, rating or report in regard to any test, certification or appointment or attempt to commit any fraud preventing the impartial execution of the personal provisions, rules and regulations of this Charter.
- (4) No person who holds any compensated non-elective City position shall make, solicit or receive any contribution for any candidate for public office in the City, or take part in the management, affairs or political campaign of such candidate. He may exercise his rights as a citizen to express his opinion and to cast his vote.

- (5) Any person who willfully engages in any of the above-prohibited activities shall be ineligible for appointment or election to a position in the City for a period of five (5) years. If he is an officer or employee of the City at the time of the violation, he shall immediately forfeit his office or position.

**Section 12.06 Assignment, Execution and Garnishment.**

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

**Section 12.07 Security and Bond.**

- (1) It shall not be necessary in any action, suit or proceeding in which the City is a party for any bond, undertaking or security to be demanded or executed by or on behalf of the City in any state court. All such actions shall be conducted in the same manner as if such bond, undertaking or security had been given as required by law.

**Section 12.08 Power to Settle Claims.**

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

**Section 12.09 Service of Process Against the City.**

- (1) All legal processes against the City shall be served upon the Mayor or City Secretary.

**Section 12.10 Judicial Notice.**

- (1) This Charter shall be deemed a public act, may be read in evidence without pleading of proof, the judicial notice shall be taken thereof in all courts and places.

**Section 12.11 Emergency Powers of the Mayor.**

- (1) Whenever it comes to the knowledge of the Mayor his designee that any malignant, infectious and contagious disease or epidemic is prevalent in the City or probably will become so, or in the case of public calamity arising by reason of flood, hurricane, tornado, fire or any other disaster, when it appears that action may become necessary before the Council can be convened to consider such action, he shall have the power to take all steps and use all measures necessary to avoid, suppress or mitigate such disease and prepare for and relieve distress caused by flood or resulting from hurricane, tornado, fire or any other disaster.

**Section 12.12 Severability.**

- (1) If any section or part of this Charter is held invalid by a court of competent jurisdiction, such holding shall not invalidate or impair the validity, force or effect of any other section or part of this Charter.

**Section 12.13 Gender of Wording.**

- (1) The masculine gender of the wording throughout this Charter shall always be interpreted to mean either sex.

**Section 12.14 Amendment of Charter.**

- (1) Amendments to this Charter may be framed and submitted to qualified voters of the City in the manner provided by Chapter 9, V.T.C.A., Local Government Code now in effect or as now written or hereafter amended.
- (2) Any petition submitted by at least five (5%) percent of the qualified voters of the City seeking submission to the voters of one or more proposed charter amendment shall be started, circulated, certified and presented consistent with the procedural rules of Article VI of this Charter.
- (3) A petition submitted as contemplated by this section shall be filed with the city secretary no later than thirty (30) days following the date of filing of the required affidavit by the Petitioners' Committee. To be considered for placement on a ballot at the next uniform election date, a petition must be certified and presented to the City Council at least forty-five (45) days before that uniform election date.

**Section 12.15 Charter Review Commission.**

- (1) The City Council, as hereafter provided, shall appoint, a Charter Review Commission of five (5) citizens of the City which shall:
  - (a) Inquire into the operation of the City government under the Charter and determine whether any provisions require revision. To this end, public hearings may be held. The Commission may compel the attendance of any officer or employee of the City and require submission of any City records it deems necessary to conduct the hearings;

- (b) Propose any recommendation(s) it deems desirable to insure compliance with the Charter by the government;
  - (c) Propose amendments to the Charter to improve the effective application to current conditions; and
  - (d) Report its findings and present its recommendations, if any, to the City Council.
- (2) The City Council shall receive and have posted at a place convenient to the public in the City Hall any report presented by the Commission; shall consider any recommendations made, may order any amendments suggested to be submitted to the voters of the City in the manner provided by Chapter 9, V.T.C.A., Local Government Code as now written or hereafter amended.
- (3) The term of office of the Commission shall be for not more than six (6) months, at the end of which time a report shall be presented to the City Council and all records of proceedings of the Commission shall be filed with the City Secretary and become a public record.
- (4) A Commission contemplated by this section shall be appointed by the City Council no less than every five (5) years subsequent to the date of the last charter amendment election held by the City.

#### **Section 12.16 Rearranging and Numbering.**

- (1) The City Council shall have the power, by ordinance; to renumber and rearrange all articles, sections and paragraphs of this Charter or any amendments thereto, as it is deemed appropriate. Upon the passage of any such ordinance a copy thereof, certified by the City Secretary, shall be forwarded to the Secretary of State for filing.