

Friendswood, Texas, Code of Ordinances
PART I CHARTER

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CHARTER¹

PREAMBLE

Good government can only be defined as that which is wholly and justly participated in by the people who are under its jurisdiction. For that purpose the citizens of Friendswood, in exercising their rights of self-government, do ordain the provisions set forth in the ensuing Charter of this City. This is just one more step of progress by the people of Friendswood.

ARTICLE I. INCORPORATION, FORM OF GOVERNMENT AND BOUNDARIES

Sec. 1.00. Glossary of Terms.

For the purposes of this Charter, the following words or terms shall have the meanings ascribed thereto, except when the context clearly indicates otherwise:

City shall mean the City of Friendswood, Texas, a home rule municipal corporation located in Galveston and Harris Counties, Texas.

City Council shall mean the governing body of the City, which includes the Mayor and each individual Councilmember. When used in this Charter, the term "Council" shall also mean the City Council.

City Manager shall mean the person appointed by the City Council pursuant to this Charter as the City Manager. When used in this Charter, the term "Manager" shall also mean the City Manager.

Department Head shall mean the individual appointed by the City Manager or City Council, as appropriate, as the Director for a particular Department of the City. The term "Director," as used in this Charter, is synonymous with the term "Department Head."

Officer shall mean an individual holding an appointive or elective City office who, individually or in concert with others, acts on behalf of and as an agent of the City, and whose duties are discretionary rather than advisory. Boards and commissions exercising discretionary authority shall be designated as such by City Council.

¹Editor's note(s)—Printed herein is the Charter of the City of Friendswood, Texas, as adopted by referendum on October 16, 1971, and effective on the same date. Amendments to the Charter are indicated by parenthetical history notes following amended provisions. The absence of a history note indicates that the provision remains unchanged from the original referendum. Obvious misspellings have been corrected without notation. For stylistic purposes, a uniform system of headings, catchlines, numerical representation and citation to state statutes has been used. Additions made for clarity are indicated by brackets.

State constitution reference(s)—Charter to be consistent with constitution and general laws, Tex. Const. art. XI, § 5.

State law reference(s)—Home rule municipality, V.T.C.A., Local Government Code § 9.001 et seq.

(Res. No. R2007-09, § 1, 3-5-2007, election 5-12-2007; Res. No. 2012-12, § 4, 5-21-2012, election 5-12-2012; Ord. No. 2017-20, § 1(exh. A), 8-7-2017)

Sec. 1.01. Incorporation.

The inhabitants of the City of Friendswood, Galveston County, Texas, residing within its corporate limits as heretofore or hereafter established, are hereby constituted and shall continue to be a municipal body politic and corporate in perpetuity under the name of the "City of Friendswood," with such powers, privileges, rights, duties and immunities as are herein provided.

(Ord. No. 2017-20, § 1(exh. A), 8-7-2017)

Sec. 1.02. Form of government.

The municipal government provided by this Charter shall be known as the "Council-Manager Government." Pursuant to its provisions and subject only to the limitations imposed by the State Constitution, the statutes of this State, and this Charter, all powers of the City shall be vested in an elective Council. The City Council shall enact local legislation, adopt budgets, determine policies and appoint the City Manager, who in turn shall be held responsible to the City Council for the execution of the laws and the administration of the government of the City. All powers of the City shall be exercised in the manner prescribed by this Charter, or if the manner shall be not prescribed, then in such manner as may be prescribed by ordinance, the State Constitution or the statutes of the State.

(Res. No. R88-15, § 3, 5-9-1988; Res. No. R2007-09, § 1, 3-5-2007, election 5-12-2007; Ord. No. 2017-20, § 1(exh. A), 8-7-2017)

State constitution reference(s)—State Constitution reference—Home rule, Tex. Const. art. 11, § 5.

State law reference(s)—Home rule powers, V.T.C.A., Local Government Code §§ 26.001 et seq., 51.071 et seq.

Sec. 1.03. Boundaries.

The bounds and limits of the City of Friendswood, Texas, are hereby established and described as being those boundaries heretofore established in the original incorporation proceedings of the said City of Friendswood, Texas, filed of record on November 14, 1960, in the Office of the Clerk of the County Court of Galveston County, Texas, and those boundaries established and changed thereafter in all annexation ordinances and proceedings of the City of Friendswood, Texas.

State law reference(s)—Map of the City must be filed in the City Secretary's Office, V.T.C.A., Local Government Code § 41.001.

Sec. 1.04. Reserved.

Editor's note(s)—Res. No. 2012-12, § 4, adopted May 21, 2012, deleted the former § 1.04, entitled "Glossary of Terms," and enacted and renumbered new provisions set out as § 1.01 herein.

ARTICLE II. POWERS OF THE CITY²

Sec. 2.01. General powers.

Except as otherwise specifically provided in this Charter, the City shall have all powers possible for a Home Rule city to have under the Constitution and laws of the State of Texas as fully and completely as though they were expressly enumerated in this Charter.

(Res. No. R2007-09, § 1, 3-5-2007, election 5-12-2007; Ord. No. 2017-20, § 1(exh. A), 8-7-2017)

Sec. 2.02. Change of boundaries and annexation of territory.

The Council shall have the power by ordinance to fix the boundary limits of the City, and to provide by ordinance for the annexation of additional territory lying adjacent to the City with or without the consent of the inhabitants or owners of the territory to be annexed. The Council shall have the power to detach by ordinance any territory with or without the consent of the inhabitants or owners of such area to be detached. Such annexation or detachment of any such territory shall be in accordance with the provisions of Chapter 160, Page 447, Acts of 1963, 58th Legislature, as the same is now or may hereafter be amended, same being article 970a, Revised Civil Statutes of Texas (V.T.C.A., Local Government Code §§ 42.001 et seq., 43.001 et seq., 212.003), entitled the Municipal Annexation Act; and upon the final passage of any such ordinance, the corporate limits of the City shall thereafter include the territory so annexed; and when any additional territory has been so annexed, same shall be a part of the City and the property situated therein shall bear its pro rata part of the taxes levied by the City, and the inhabitants thereof shall be entitled to all the rights and privileges of all citizens, and shall be bound by the acts and ordinances, resolutions and regulations of the City.

In addition to the power to annex all additional property for all purposes, the City shall have the power by ordinance to fix, alter and extend the corporate boundary limits of the City for the limited purposes of planning and zoning and sanitation and health protection.

(Res. No. R3-82, § 1, 3-1-1982)

State law reference(s)—Annexation, V.T.C.A., Local Government Code § 43.001 et seq.

Sec. 2.03. Eminent domain.

- (a) General power. Except as limited by subsections (b) and (c) below, the City shall have the full right, power, and authority 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 or laws of the State of Texas. The City may also exercise the power of eminent domain in any other manner authorized or permitted by the Constitution and laws of this State, or in the manner and form that shall be provided by ordinance of the City Council of the City. The power of eminent domain hereby conferred shall include the right of the City to take the fee in the lands so condemned and such power and authority shall include the right to condemn public property for such purposes. The City shall have and possess this power for condemnation for any municipal or public purpose, even though not specifically enumerated herein or in this article.

²State law reference(s)—Home rule powers, V.T.C.A., Local Government Code § 51.071 et seq.

(b) Notwithstanding subsection (a) above or any other provision of this Charter to the contrary, neither the City, nor any subdivision of or entity created by the City, shall be authorized to use the power of eminent domain for the purpose of taking private property to be used for economic development purposes without the consent of the owner of such private property. Provided further, private property acquired through eminent domain without the consent of the owner shall not be:

- (1) Dedicated, sold, leased in substantial part, or otherwise transferred to a private person, partnership, corporation, or any other entity for a period of ten years following the acquisition of the property by the City, except that property may be transferred or leased:
 - (a) To private entities that are public utilities or common carriers; and
 - (b) To private entities that occupy an incidental area in a public project; or
- (2) Used for any purpose other than as a public use facility.

For the purposes of this subsection, a "public use facility" shall mean a facility designed, constructed and maintained to serve members of the general public, including, but not limited to, public streets, drainage ways, utilities, parks, libraries, public safety buildings for police and fire protection, City Halls, and other similar public uses.

(c) For the purposes of this subsection, the term "economic development" shall mean any activity designed to increase tax revenue, tax base, employment, or general economic health, but does not include activities that result in:

- (1) The transfer of land to public ownership for public purposes, such as for roads, hospitals, or water or sanitary sewer facilities; or
- (2) The transfer of land to a private entity that is a common carrier or public utility.

(Ord. No. 214, § 1, 3-4-1974, election 4-6-1974; Res. No. R97-6, § 1, 2-17-1997, election 5-3-1997; Res. No. R2007-09, § 1, 3-5-2007, election 5-12-2007)

State law reference(s)—Eminent domain, V.T.C.A., Local Government Code § 251.001 et seq.; V.T.C.A., Property Code § 21.001 et seq.

Sec. 2.04. Streets and public property.

The City shall have exclusive dominion, control and jurisdiction in, upon, over and under the public streets, sidewalks, alleys, highways, public squares and public ways within the corporate limits of the City, and in, upon, over, and under all public property of the City. With respect to each and every public street, sidewalk, alley, highway, public square, public park or other public way within the corporate limits of the City, the City shall have the power to establish, maintain, improve, alter, abandon, or vacate the same; to regulate the use thereof, including, but not limited to, the right to erect traffic signals, lights and signs thereon; and to abate and remove in a summary manner any encroachment thereon. The conveyance or lease or authorization of the conveyance or lease of any lands of the City shall be by ordinance.

Sec. 2.05. Street development and improvements.

The City shall have the power to develop and improve, or cause to be developed and improved, any and all public streets or ways within the corporate limits of the City by laying out, opening, narrowing, widening, straightening, extending, lighting, and establishing building lines along the same; by purchasing, condemning, and taking property therefor; by filling, grading, raising, lowering, paving, repaving, and repairing, in a permanent manner, the same; and by constructing, reconstructing, altering, repairing, and realigning curbs, gutters, drains, sidewalks, culverts, and other appurtenances and incidentals in connection with such development and

improvement authorized hereinabove, or any combination or parts thereof. The cost of such development and improvement may be paid partly by assessments levied as a lien against the property abutting thereon and against the owners thereof.

When the City undertakes developing, improving and paving any and all public streets, sidewalks, alleys, highways and other public ways within its corporate limits, the City shall have the power and authority to proceed in accordance with V.T.C.A., Transportation Code § 313.001 et seq.

(Ord. No. 214, § 1, 3-4-1974, election 4-6-1974; Res. No. R97-6, § 1, 2-17-1997, election 5-3-1997; Ord. No. 2012-29, § 1(exh. A), 11-5-2012)

State law reference(s)—Use of streets and rights-of-way, V.T.C.A., Transportation Code § 311.001 et seq.; street improvements and assessments, V.T.C.A., Transportation Code § 313.001 et seq.

Sec. 2.06. Limitation of Liability for damages.

In order to provide the City with the opportunity to investigate an alleged claim while facts are fresh and conditions remain substantially the same, enabling the City to guard against unfounded claims, to settle claims, and to prepare for trial; before the City shall be liable for damages for personal injuries of any kind, or for injuries to or destruction of property of any kind, the person injured, or the owner of the property injured or destroyed, if living, or his/her representatives, if deceased, or his/her agent or attorney, shall give the City Manager notice in writing of such injury or destruction, duly verified under oath, within 100 days after the same has been sustained (absent claimant providing a proper showing of why such notice could not be provided within such time), stating in such written notice in detail when and how the injury or destruction occurred, the City's alleged or possible fault producing or contributing to the injury, the apparent extent of damage thereof, the amount of all damage sustained, the amount for which claimant will settle, the actual residence of the claimant, the actual residence of such claimant for six months immediately preceding the occurrence of such injuries or destruction, and the names and addresses of all the witnesses upon whom he/she relies to establish the claim. No action shall be brought against the City for such claims prior to the expiration of 80 days after the notice hereinbefore described has been filed with the City Manager, absent a showing of good cause for the failure to provide timely notice as provided herein. The failure to notify the City Manager within the time and manner specified herein (which time for notice shall in no event ever exceed six months from the date of the alleged incident), shall exonerate, excuse and exempt the City from any liability whatsoever unless otherwise provided by law.

(Res. No. R97-6, § 1, 2-17-1997, election 5-3-1997; Res. No. 2012-12, § 4, 5-21-2012, election 5-12-2012)

State law reference(s)—Tort liability, V.T.C.A., Civil Practice and Remedies Code § 101.101 et seq.

Sec. 2.07. Zoning.

The Council shall have full power and authority to zone the City and to pass all necessary ordinances, rules and regulations governing the same under and by virtue of the authority given to cities and legislative bodies thereof by V.T.C.A., Local Government Code § 211.001 et seq., and all amendments thereto and amendments which may hereafter be made thereto.

(Ord. No. 2012-29, § 1(exh. A), 11-5-2012)

State law reference(s)—Zoning, V.T.C.A., Local Government Code § 211.001 et seq.

ARTICLE III. CITY COUNCIL³

Sec. 3.01. Number, selection, term, and term limitations.

The City Council shall be comprised of a Mayor and six Councilmembers. The Mayor and each Councilmember shall be elected from the City at large, and each shall occupy a position on the City Council. Councilmember positions shall be numbered 1 through 6 consecutively.

The Mayor and each Councilmember shall be elected to serve for three-year terms as provided below, but no person shall be elected to serve on the City Council in any capacity for more than four three-year terms.

The three-year terms of Office of Councilmembers and the Mayor shall be staggered, with the election for such three-year terms scheduled as follows:

- (a) For the Office of Mayor, and the Office of Councilmember, Positions number 1 and 3, the election for a three-year term shall be the General Election held in 2018;
- (b) For the Office of Councilmember, Positions number 4 and 6, the election for a three-year term shall be the General Election held in 2019; and
- (c) For the Office of Councilmember, Positions number 2 and 5, the election for a three-year term shall be the General Election held in 2020.

(Res. No. R88-15, § 3, 5-9-1988; Res. No. R92-19, § 3, 3-24-1992, election 5-2-1992; Res. No. R97-6, § 1, 2-17-1997, election 5-3-1997; Res. No. R2007-09, § 1, 3-5-2007, election 5-12-2007; Res. No. R2017-16, § 4, 5-15-2017)

Sec. 3.02. Qualifications.

In addition to any other qualifications prescribed by law, the Mayor and each Councilmember shall meet the conditions of subsections 6.02(a), items (1), (2), and (3) while in office, and shall reside within the City while in office.

(Res. No. R88-15, § 3, 5-9-1988)

Editor's note(s)—Subsection 6.02(a)(3) prohibiting candidates for City Council to be in arrears in payment of taxes, etc., was repealed by Res. No. R92-19, § 3, adopted 3-24-1992, election 5-2-1992.

State law reference(s)—Qualifications, V.T.C.A., Election Code § 141.001 et seq.

Sec. 3.03. Judge of election qualifications.

The Council shall be the final judge of all elections and of qualifications of its members and any other elected officials of the City.

³State law reference(s)—Form of government, V.T.C.A., Local Government Code § 26.001 et seq.

Sec. 3.04. Compensation.

Members of the Council shall serve without compensation; provided, however, that they shall be entitled to all necessary expenses incurred in the performance of their official Council duties upon approval by the Council.

Sec. 3.05. Mayor and Mayor Pro Tem.

The Mayor shall be the official head of the City government. He/she shall be the chair and shall preside at all meetings of City Council, shall have an equal vote with each Councilmember on every proposition before the City Council, but shall have no power of veto. The Mayor shall see that all resolutions of the City Council are faithfully obeyed and enforced. He/she shall, when authorized by the City Council, sign all official documents such as ordinances, resolutions, conveyances, grant agreements, official plats, contracts and bonds. He/she shall appoint special committees as he/she deems advisable and/or as instructed by City Council. He/she shall perform such other duties consistent with this Charter or as may be authorized or directed by City Council.

The Mayor Pro Tem shall be a Councilmember elected by the City Council at the next regular City Council meeting following the canvassing of returns and declaring of results of each regular City election or as soon thereafter as practical. The Mayor Pro Tem shall act as Mayor during the disability or absence of the Mayor and in this capacity shall have the rights and duties conferred upon the Mayor.

(Ord. No. 214, § 1, 3-4-1974, election 4-6-1974; Res. No. R3-82, § 1, 3-1-1982; Res. No. R88-15, § 3, 5-9-1988; Res. No. R2007-09, § 1, 3-5-2007, election 5-12-2007; Res. No. 2012-12, § 4, 5-21-2012, election 5-12-2012)

Sec. 3.06. Vacancies, forfeiture, filling of vacancies.

- (a) *Vacancies.* The Office of a Councilmember or Office of the Mayor shall become vacant upon his/her death, resignation, removal from office in any manner authorized by law, or forfeiture of his/her office.
- (b) *Forfeiture of office.* A Councilmember or the Mayor shall forfeit his[/her] office if he/she:
 - (1) Lacks at any time during his/her term of office any qualification for the office prescribed by this Charter or by law;
 - (2) Violates any express prohibition of this Charter;
 - (3) Is convicted of a crime involving moral turpitude; or
 - (4) Fails to attend three consecutive regular Council meetings without being excused by the Council.
- (c) *Filling vacancies.* When a vacancy shall develop, the Council shall provide for the filling of such vacancy in the manner provided by law; provided, however, that if the remainder of the unexpired term of the vacated office is twelve (12) months or less at the time the vacancy occurs, the City Council is authorized to fill the unexpired term by appointment, upon an affirmative vote of five (5) or more members of City Council.

(Ord. No. 214, § 1, 3-4-1974, election 4-6-1974; Res. No. R88-15, § 3, 5-9-1988; Res. No. R2002-10, § 7, 2-18-2002, election 5-4-2002; Res. No. R2017-16, § 4, 5-15-2017)

State law reference(s)—Election dates, V.T.C.A., Election Code § 41.001 et seq.; vacancy, V.T.C.A., Election Code § 201.001 et seq.

Sec. 3.07. General powers and duties.

All powers of the City shall be vested in the Council, except as otherwise provided by law or this Charter, and the Council shall provide for the exercise thereof and for the performance of all duties and obligations imposed on the City by law.

Sec. 3.08. Prohibitions.

- (a) *Holding other office.* Except where authorized by law, no Mayor or Councilmember shall hold any other City Office or City employment during his/her term as Mayor or Councilmember, and no former Mayor or Councilmember shall hold any compensated appointive City Office or City employment until one year after the expiration of his/her term as Mayor or Councilmember.
- (b) *Appointments and removals.* Neither the Council [n]or any of its members shall in any manner dictate the appointment or removal of any City Administrative officers or employees whom the City Manager or any of his/her subordinates are empowered to appoint, but the Council may express its views and fully and freely discuss with the City Manager anything pertaining to appointment and removal of such officers and employees.
- (c) *Interference with administration.* Except for the purpose of inquiries or investigations conducted under Section 3.16 of this Charter, neither the City Council nor any of its individual members shall direct any City Officer or employee who is subject to the direction and supervision of the City Manager except through the City Manager. Neither the City Council nor its members shall give orders to any such officer or employee, either publicly or privately.

(Res. No. R88-15, § 3, 5-9-1988; Res. No. R2007-09, § 1, 3-5-2007, election 5-12-2007)

State law reference(s)—Dual officeholding, V.T.C.A., Government Code ch. 574.

Sec. 3.09. Meetings of the City Council.

The City Council shall hold at least one regular meeting each month. Except during declared emergencies, all regular meetings of the City Council shall be held within the corporate limits of the City. The City Council shall establish the days and times of its regular meetings. The City Council may hold special meetings as it deems necessary and appropriate, which may be called by the Mayor or by four members of the City Council. In no event shall any meeting of the City Council, regular or special, be held in any facility or at any location which is not readily accessible to the general public.

(Res. No. R6-80, § 3, 4-7-1980; Res. No. R88-15, § 3, 5-9-1988; Res. No. R97-6, § 1, 2-17-1997, election 5-3-1997; Res. No. R2002-10, § 7, 2-18-2002, election 5-4-2002; Res. No. R2007-09, § 1, 3-5-2007, election 5-12-2007; Res. No. 2012-12, § 4, 5-21-2012, election 5-12-2012)

State law reference(s)—Open meetings, V.T.C.A., Government Code § 551.001 et seq.

Sec. 3.10. Rules of procedure.

The Council shall, by resolution, 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, including, but not limited to, those matters under consideration. The Council shall provide for minutes being taken and recorded of all meetings, and such minutes shall be a public record. Voting, except on procedural motions, shall be by roll call if requested by the Mayor or any Councilmember, and the ayes and nays shall be recorded in the minutes. Four members of the Council shall constitute a quorum for the transaction of business and no action of the Council,

except as provided in Section 3.06 above, shall be valid or binding unless adopted by the affirmative vote of four or more members of the Council. The Mayor and each Councilmember shall be entitled to an equal vote on all matters before the City Council. (See Section 3.01.)

(Res. No. R6-80, § 3, 4-7-1980; Res. No. R88-15, § 3, 5-9-1988; Res. No. R2002-14, § 1, 3-4-2002, election 5-4-2002; Res. No. R2007-09, § 1, 3-5-2007, election 5-12-2007; Res. No. 2012-12, § 4, 5-21-2012, election 5-12-2012)

Sec. 3.11. Ordinances in general.

- (a) *Form.* The 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 Friendswood, State of 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, but 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 when an ordinance is repealed in its entirety, the 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 enclosing it in brackets and shall indicate new matter by underscoring.
- (b) *Procedure.* Any member of Council may offer any ordinance on the agenda for consideration. Approval of a majority of all members of Council must be obtained before forwarding to the City Attorney for approval as to form. Copies of the proposed ordinance, in the form required for adoption, shall be furnished to members of Council at least 72 hours before first reading. Copies of the proposed ordinance, in the form required for adoption, shall be posted at the City Hall and at least one other public place as shall be designated by ordinance and shall be furnished to citizens, upon request to the City Secretary, beginning 72 hours before first reading and, if amended, shall be posted and furnished in the amended form beginning 72 hours prior to the next reading and for as long as the proposed ordinance is before Council. If an amendment is made to the proposed ordinance at the time designated for final reading, the final reading shall be postponed until the next regular or special Council meeting.

The City Attorney shall review all proposed ordinances prior to adoption and shall make any suggestions and/or objections to the said ordinance in writing to the City Council.

A proposed ordinance shall be read at two meetings, either regular or special Council meetings, with at least one week elapsing between readings. However, the requirement of reading an ordinance at two regular or special Council meetings with at least one week elapsing between readings shall not apply to ordinances relating to the adoption or amendment of a budget, the assessment, levy, or collection of taxes, the calling of an election, or the canvassing of the returns and declaration of results of an election, the incurring of indebtedness, including, specifically, the issuance or sale of bonds or certificates of obligation, the development or improvement of a street, or an emergency if so declared by Council. An ordinance requiring two readings shall be deemed rejected if approval on final reading is not obtained within 90 days of the date approval on first reading is obtained.

- (c) *Effective date.* Every ordinance shall become effective upon adoption, or at any later time specified in the ordinance, except that if an ordinance provides a penalty, fine or forfeiture for violation, no person shall be liable for any such penalty, fine or forfeiture until the caption and the offense and penalty clauses of the ordinance have been published in the official City Newspaper as required by law.
- (d) *Reading.* The reading aloud of the title of the ordinance shall suffice as a reading, provided copies of the ordinance, in the form required for adoption, are in front of all members of Council and a reasonable number of additional copies are available to citizens present at the meeting. If four Councilmembers request that the ordinance be read in its entirety, it must be so read.

(Ord. No. 214, § 1, 3-4-1974, election 4-6-1974; Res. No. R6-80, § 3, 4-7-1980; Res. No. R3-82, § 1, 3-1-1982; Res. No. R88-15, § 3, 5-9-1988; Res. No. R92-19, § 3, 3-24-1992, election 5-2-1992; Res. No. R2002-10, § 7, 2-18-2002, election 5-4-2002; Res. No. 2012-12, § 4, 5-21-2012, election 5-12-2012; Res. No. R2017-16, § 4, 5-15-2017)

Charter reference(s)—Ordinance granting franchise, § 9.03.

State law reference(s)—Publication of ordinances, V.T.C.A., Local Government Code § 52.013.

Sec. 3.12. Emergency ordinances.

To meet emergencies the Council may adopt emergency ordinances. Such ordinances shall not grant, renew, or extend franchises, or regulate rates charged by a public utility. Each emergency ordinance shall contain a provision declaring the existence of an emergency. The affirmative vote of five members elected to Council shall be required for adoption.

(Res. No. R92-19, § 3, 3-24-1992, election 5-2-1992)

Sec. 3.13. Codes of technical regulations.

The Council may adopt any standard code of technical regulations by reference thereto in an adopting ordinance. The procedure and requirements governing such an adopting ordinance shall be as prescribed for ordinances generally except that:

- (a) The requirements of Section 3.11 for distribution and filing of copies of the ordinance shall be construed to include copies of the code of technical regulations as well as of the adopting ordinances; and
- (b) A copy of each adopted code of technical regulations as well as of the adopting ordinance shall be authenticated and recorded by the City Secretary pursuant to subsection 3.14(a).

Copies of any adopted code of technical regulations shall be made available by the City Secretary for distribution or for purchase at a reasonable price.

Sec. 3.14. Authentication and recording, codification, printing.

- (a) Authentication and recording. The City Secretary shall authenticate by his/her signature and record in full in a properly indexed book kept for the purpose, all ordinances and resolutions adopted by the Council. All ordinances shall be numbered numerically and consecutively in the order in which adopted. This record shall be open for public inspection.
- (b) Codification. Within one year after adoption of this Charter and at least every ten years thereafter, the Council shall provide for the preparation of a general codification of all general ordinances of the City. Every general ordinance enacted subsequent to such codification shall be enacted as an amendment to the Code. For the purposes of this section, general ordinances shall be deemed to be those ordinances of a permanent or continuing nature which affect the residents of the City at large. The codification shall be adopted by the Council by ordinance and shall be published promptly in bound or loose-leaf form, together with this Charter and any amendments thereto, pertinent provisions of the Constitution and other laws of the State of Texas, and such codes of technical regulations and other rules and regulations as the Council may specify. This compilation shall be known and cited officially as the Friendswood City Code and shall be in full force and effect without the necessity of such Code or any part thereof being published in any newspaper. The caption, descriptive clause, and other formal parts of the ordinances of the City may be omitted without affecting the validity of such ordinances when they are published as a Code. Copies of the Code shall be furnished to City

Officers, placed in libraries and public offices for free reference and made available for purchase by the public at a reasonable price fixed by the Council.

- (c) Printing of ordinances and resolutions. The Council shall cause each ordinance and each amendment to this Charter to be printed promptly following its adoption, and the printed ordinances and Charter amendments shall be distributed or sold to the public at reasonable prices to be fixed by the Council. Following publication of the first Friendswood City Code and at all times thereafter, the ordinances and Charter amendments shall be printed in substantially the same style as the Code currently in effect and shall be suitable in form for integration therein. The Council shall make such further arrangements as it deems desirable with respect to reproduction and distribution of any current changes in or additions to the provisions of the Constitution and other laws of the State of Texas, or the codes of technical regulations and other rules and regulations included in the Code.
- (d) The City Council may, without approval of the voters, adopt an ordinance that corrects errors in spelling, cross-references, punctuation, non-substantive revisions/reorganizations or numbering of articles or sections in the Charter. A revision ordinance adopted under this section is not intended to and shall not be interpreted as authorizing any substantive change in any Charter provision.

(Res. No. R88-15, § 3, 5-9-1988; Res. No. 2012-12, § 4, 5-21-2012, election 5-12-2012; Ord. No. 2017-20, § 1(ex. A), 8-7-2017)

Sec. 3.15. Bonds for City Employees.

The Council shall require bonds of all municipal officers and employees who receive or pay out any monies of the City. The amount of such bonds shall be determined by the Council and the cost thereof shall be borne by the City.

Sec. 3.16. Investigation by the City Council.

The Council may make investigations into the affairs of the City and the conduct of any City Department, Division, or Office and for this purpose may subpoena witnesses, administer oaths, take testimony and require the production of evidence. Any person who fails or refuses to obey a lawful order issued in the exercise of these powers by the Council shall be guilty of a misdemeanor and subject to a fine which shall have been set, by ordinance, by the Council.

Sec. 3.17. Officers and Employees protected from financial loss.

Duly elected and appointed officers, employees and volunteers of the City shall be protected by the City from actual damages awarded against any such officer, employee or volunteer if the damages result from an act or omission committed while in the course and scope of their office, employment or service, and they arise from a cause of action for negligence. The City shall not pay for damages that result from willful or wrongful acts or omissions or from acts or omissions constituting gross negligence.

(Ord. No. 214, § 1, 3-4-1974, election 4-6-1974; Res. No. R2002-10, § 7, 2-18-2002, election 5-4-2002; Res. No. R2007-09, § 1, 3-5-2007, election 5-12-2007)

ARTICLE IV. ADMINISTRATIVE SERVICES

Sec. 4.01. City Manager.

- (a) *Appointment and qualifications.* The Council by an affirmative vote of five or more members of the Council shall appoint a City Manager. The method of selection shall be left to the discretion of the City Council so long as the method ensures orderly, nonpartisan action toward securing a competent and qualified person to fill the position. The City Manager shall be chosen solely upon the basis of his/her executive and administrative training, experience and ability and need not when appointed be a resident of the City of Friendswood; however, the City Council may determine and impose a residency requirement as a condition of employment. The City Manager shall be bonded at City expense in an amount of not less than \$10,000.00.
- (b) *Compensation.* The City Manager shall receive compensation as may be fixed by the Council according to his/her experience, education and training. The compensation should be agreed upon before appointment with the understanding that the Council may change it at its discretion.
- (c) *Term and removal.* The City Manager shall not be appointed for a definite term but may be removed, at the discretion of the Council, by an affirmative vote of five or more members of the Council. The action of the Council in suspending or removing the City Manager shall be final. It is the intention of this Charter to vest all authority and fix all responsibilities of such suspension or removal in the Council.
- (d) *Powers and duties.* The City Manager shall be responsible to the Council for the proper administration of all the affairs of the City and to that end shall have the power and be required to:
- (1) See that all State Laws and City Ordinances are effectively enforced.
 - (2) Appoint, suspend or remove all or any one of the Directors of Departments with the concurrence of the Council.
 - (3) Attend all meetings of the Council except when excused by Council.
 - (4) Prepare the budget annually and submit it to the Council and be responsible for its administration after its adoption.
 - (5) Prepare and submit to the Council at the end of the fiscal year a complete report on the finances and administrative activities of the City for the preceding year.
 - (6) Keep the Council advised of the financial condition and future needs of the City and make such recommendations as may seem to him/her advisable.
 - (7) Perform such duties as may be prescribed by this Charter or required of him/her by the Council, as consistent with this Charter.
- (e) *Acting City Manager.* The City Manager shall designate, by letter filed with the City Secretary, a qualified Administrative Officer of the City to perform the duties of City Manager in his/her absence. In the event of long-term disability, resignation, or termination of the City Manager, the Council shall appoint an acting City Manager for the duration of any such disability, or until appointment of a permanent City Manager. No member of the City Council shall serve as acting City Manager.

(Res. No. R6-80, § 3, 4-7-1980; Res. No. R88-15, § 3, 5-9-1988; R2009-06, § 1, 1-12-2009, election 5-9-2009; R2009-28, § 4, 5-18-2009, election 5-9-2009; Res. No. 2012-12, § 4, 5-21-2012, election 5-12-2012; Res. No. R2017-16, § 4, 5-15-2017)

Sec. 4.02. Municipal Court.

- (a) 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 may hereafter be prescribed by laws of the State of Texas relative to Municipal Courts.
- (b) The Judge of said court shall be appointed by Council to serve for a term of two years. The Judge shall receive such salary as may be fixed by Council.
- (c) The Council may appoint such Associate or Alternate Judges of said court as shall be deemed necessary and appropriate by said Council. Associate or Alternate Judges shall be appointed for terms and shall possess the same qualifications as are required for the regular Judge of said court.
- (d) All costs and fines imposed by the Municipal Court shall be paid into the City Treasury for the use and benefit of the City.

(Res. No. R88-15, § 3, 5-9-1988; Res. No. R92-19, § 3, 3-24-1992, election 5-2-1992)

State law reference(s)—Municipal Courts, V.T.C.A., Government Code § 29.001 et seq.; rules of procedure, etc., V.T.C.A., Code of Criminal Procedure Art. 45.001 et seq.

Sec. 4.03. City Attorney.

The Council shall appoint a competent and duly qualified and licensed attorney practicing law in the State of Texas, who shall be the attorney for the City (and may also be referred to as City Attorney). He/she shall receive for his/her services such compensation as may be fixed by the Council and shall hold his/her office at the pleasure of the Council. The City Attorney shall be the legal adviser of, and attorney for, all of the Offices and Departments of the City, and he/she shall represent the City in all litigation and legal proceedings; provided that the Council may retain special counsel at any time they deem appropriate and necessary. He/she shall review and concur or dissent upon all documents, contracts, and legal instruments in which the City may have an interest. The City Attorney shall perform other duties prescribed by this Charter, ordinance, or as directed by Council.

(Res. No. R88-15, § 3, 5-9-1988; Ord. No. 2017-20, § 1(exh. A), 8-7-2017)

Sec. 4.04. City Secretary.

The Council shall appoint a City Secretary who shall act as the secretary to the Council and shall hold office at the pleasure of the Council. He/she shall be provided an office in the City Hall sufficient to maintain the records entrusted to his/her care and shall be entitled to a seat at the Council table at all official meetings.

- (a) *Duties of the City Secretary.* The duties of the City Secretary shall be as follows:
 - (1) Record the minutes of all official meetings of the Council; provided, however, only the captions of duly enacted ordinances and resolutions shall be recorded in the minutes.
 - (2) Be the custodian of all municipal records of the Council.
 - (3) Recommend to the Council rules and regulations to be adopted by ordinances to protect the safety and security of the municipal records.
 - (4) Hold and maintain the City seal and affix [it] to all instruments requiring such seal.
 - (5) Cause written notice of appointment to be delivered to each person appointed by the Mayor or Council to any board, commission, committee, or other appointive office or position, within five working days following such appointment by the Mayor or Council.

(b) *Compensation.* The Council shall set the compensation of the City Secretary.

(Res. No. R88-15, § 3, 5-9-1988; Res. No. R97-6, § 1, 2-17-1997, election 5-3-1997)

State law reference(s)—Records management act, V.T.C.A., Local Government Code § 201.001 et seq.

Sec. 4.05. Administrative Departments.

There shall be such Administrative Departments as are established by this Charter and may be established by ordinance and, excepting as otherwise provided in this Charter, these Administrative Departments shall be under the direction of the City Manager.

The Council shall have power by ordinance to establish Administrative Departments or offices not herein provided by this Charter. The Council may discontinue, redesignate, or combine any of the departments and/or Administrative Offices. No changes shall be made by the Council in the organization of the administrative service of the City until the recommendations of the City Manager thereon shall have been heard by the Council.

The head of each department shall be a Director who shall have supervision and control over his/her department. Two or more departments may be headed by the same individual and the City Manager may head one or more departments.

(Res. No. R88-15, § 3, 5-9-1988)

Sec. 4.06. Personnel system.

- (a) *Appointments and promotions.* Appointments and promotions in the administrative service of the City shall be made according to merit and fitness. To carry out this purpose the Council shall provide by ordinance a system for the classification of employees and rules for the appointment and promotion of employees within such classifications.
- (b) *Classified service.* No officer, employee, member of a board, or other person, who is to be appointed by the Council under this Charter, and no Department Head, shall be included within the classified service of the City, but all other persons in the administrative services of the City shall be included therein unless specifically excluded therefrom by the ordinance providing for a system of classified services.
- (c) *Prohibited acts.*
- (1) *Discrimination.* No person employed in the administrative service of the City, or who seeks appointment thereto, shall be appointed, promoted, reduced, removed, or in any way favored or discriminated against because of his/her race, color, national origin, age, disability, veteran or military status, gender, political or religious opinion, or affiliation, or membership or non-membership in employee organizations.
 - (2) *Campaign Contributions by Salaried Officers or Employees.* Except to the extent authorized by State or Federal law in conflict therewith, no salaried officer or employee of the City shall make a contribution to the campaign fund of any person holding or seeking election to a City Office, nor shall he/she be solicited for this purpose, but his/her right to express an opinion or to cast a vote as a citizen shall not be limited. Provided further, no person holding or seeking election to a City Office shall accept a contribution to such person's campaign fund from any salaried officer or employee of the City.
 - (3) *Paid Appointments.* No person seeking appointment to or promotion in the administrative service of the City shall either directly or indirectly give, render, or pay any money, service, or other valuable thing to any person for or on account of or in connection with his/her appointment or promotion, or any examination conducted therefor.

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- (4) *Sanctions.* Any person who shall individually or in concert with others knowingly or recklessly violate any provision of this subsection shall be deemed ineligible to hold any appointive or elective office or employment with the City for a period of four years following final determination of such violation. Upon the final determination of any such violation, the applicable officer or employee shall be immediately removed from the office or position then held. For the purposes of this subsection, a person acts "knowingly" when, with respect to the nature of his/her conduct, he/she is aware that his/her conduct is reasonably certain to cause the result. A person acts "recklessly" if he/she consciously disregards a substantial or unjustifiable risk that circumstances exist or will occur, and the risk is of such nature and degree that a person of ordinary prudence and sensibilities under the circumstances would have recognized it.
- (d) *Employee pensions and insurance.* All rights and obligations under any plan for the payment of retirement benefits, pensions, or disability benefits to any City employee which is in force upon the effective date of this Charter shall be unaffected by the adoption hereof. The Council shall have the power, in its discretion and subject to such regulations and limitations as it may deem proper, to create, operate and contract plans or insurance which will provide health, life, accident, medical and hospital benefits, or any of these, for all or any group of City employees, and to pay or contribute toward the cost of such plan or insurance out of funds available for that purpose.
- (e) *Personnel rules.* The City Manager shall prepare personnel policies. The Council shall adopt such policies with or without amendment. The personnel policies shall be reviewed on a regular basis.

(Res. No. R88-15, § 3, 5-9-1988; Res. No. R97-6, § 1, 2-17-1997, election 5-3-1997; Res. No. R2007-09, § 1, 3-5-2007, election 5-12-2007)

ARTICLE V. INITIATIVE, REFERENDUM AND RECALL

Sec. 5.01. General authority.

- (a) *Initiative.* The qualified voters of the City shall have the power to propose ordinances to the Council and, if the Council fails to adopt an ordinance so proposed without any change in substance, to adopt or reject it at a City Election, provided that such power shall not extend to the budget, or capital program or any ordinance relating to appropriation of money, levy of taxes or salaries of City Officers or employees. Such initiative power may be used to enact a new ordinance, or to repeal or amend sections of an existing ordinance.
- (b) *Referendum.* The qualified voters of the City shall have the power to require reconsideration by the Council of any adopted ordinance and, if the Council fails to repeal any ordinance so reconsidered, to approve or reject it at a City Election, provided that such power shall not extend to the budget or capital program or any properly enacted emergency ordinance, ordinance relating to appropriation of money or levying of taxes or ordinance relating to the control of armed or violent insurrection, revolt, rebellion or riot.

Sec. 5.02. Initiation of proceedings; petitioners' committee; affidavit.

Any five qualified voters may begin initiative or referendum proceedings by filing with the City Secretary an affidavit stating they constitute the petitioners' committee and will be responsible for circulating the petition and filing it in proper form; stating their names and addresses and specifying the address to which all notices to the committee are to be sent, and setting out in full the proposed initiative ordinance or the ordinance sought to be reconsidered.

Immediately after the affidavit of the petitioners' committee is filed, the City Secretary shall issue the appropriate petition blanks to the petitioners' committee.

After the affidavit of the petitioners' committee has been filed, the ordinance sought to be amended or repealed shall not be repealed, or amended or reenacted by the Council unless:

- (a) The action taken by Council is that which the petition requests; or
- (b) The petition has not been filed within the prescribed time limit; or
- (c) There is a final determination of the insufficiency of the petition; or
- (d) The petition is withdrawn by the petitioners' committee; or
- (e) One year has elapsed since Council or voter action has been taken on the petition; or
- (f) The ordinance sought to be amended or repealed relates to the control of insurrection or riot.

Sec. 5.03. Petitions.

- (a) *Number of signatures.* Initiative and referendum petitions must be signed by currently qualified voters of the City equal in number to at least ten percent of the total number of qualified voters registered to vote at the last regular City Election.
- (b) *Form and content.* All papers of a petition shall be uniform in size and style and shall be assembled as one instrument for filing. For a petition signature to be valid, the petition must contain, in addition to the signature, the signer's printed name, date of birth, voter registration number, county of registration, residence address, and date of signing. Petitions shall contain or have attached thereto throughout their circulation the full text of the ordinance proposed or sought to be reconsidered.
- (c) *Affidavit of circulator.* When filed, each paper of a petition shall have attached to it an affidavit executed by the circulator thereof stating that he[*/she*] personally circulated the paper, the number of signatures thereon, that all the signatures were affixed in his/*her* presence, that he[*/she*] believes them to be the 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.
- (d) *Time for filing petitions.* Referendum petitions must be filed within 30 days after adoption by the Council of the ordinance sought to be reconsidered. Initiative petitions must be filed within 30 days after issuance of the appropriate petition blanks to the petitioners' committee. Additional time as specified in subsection 5.04(e) shall be allowed for amending petitions.

(Res. No. R2002-10, § 7, 2-18-2002, election 5-4-2002)

Sec. 5.04. Determination of sufficiency.

- (a) *Certificate of City Secretary.* Within ten days after the petition is filed, the City Secretary shall complete a certificate as to its sufficiency, specifying, if it is insufficient, the particulars wherein it is defective and shall immediately upon completion of certification send a copy of the certificate to the petitioners' committee by registered mail.
- (b) *Sufficient petition, final determination.* If the petition is certified sufficient, the City Secretary shall present the certificate to the Council by the next Council meeting and the certificate shall then be a final determination as to the sufficiency of the petition.
- (c) *Insufficient petition, final determination.* If a petition is certified insufficient, and the petitioners' committee does not elect to amend or request Council review under subsections (d) and (e) of this section within the time required, the City Secretary shall present a certificate to the Council by the next Council meeting which shall be a final determination of the sufficiency of the petition.

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- (d) *Insufficient petition, appeal.* If a petition has been certified insufficient and the petitioners' committee does not file notice of intention to amend it as in subsection 5.04(e), the committee may, within two working days after receiving the copy of such certificate, file a request that it be reviewed by the Council. The Council shall review the certificate at its next meeting following the filing of such request and approve or disapprove it, and the Council's determination shall then be a final determination as to the sufficiency of the petition.
 - (e) *Insufficient petition, amending.* A petition certified insufficient for lack of required number of valid signatures may be amended once if the petitioners' committee files a notice of intention to amend it with the City Secretary within two working days after receiving the copy of his/her certificate, and files a supplementary petition with additional names within two weeks after receiving the copy of such certificate. Such supplementary petition shall comply with the requirements of subsections 5.03(b) and (c).

Within five working days after an amended petition is filed, the City Secretary shall complete a certificate as to the sufficiency of the petition as amended and shall within 24 hours send a copy of such certificate to the petitioners' committee by certified 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 petitions in subsections 5.04(b), (c), and (d), except that no petition, once amended, may be amended again.

- (f) *Court review; new petition.* A final determination as to the sufficiency of a petition shall be subject to review in a county court of record and higher. A final determination of insufficiency, even if sustained upon court review, shall not prejudice the filing of a new petition for the same purpose.

(Res. No. R97-6, § 1, 2-17-1997, election 5-3-1997)

Sec. 5.05. Reserved.

Editor's note(s)—Section 5.05, providing that ordinances be suspended from taking effect when a referendum petition has been filed with the City Secretary, was deleted pursuant to Res. No. R6-80, adopted April 7, 1980, declaring the results of an election held April 5, 1980.

Sec. 5.06. Action on petitions.

- (a) *Action by Council.* Council shall promptly consider the proposed initiative ordinance in the manner prescribed for enacting ordinances or reconsider the referred ordinance by voting its repeal. Within 60 days after the date the initiative or referendum petition has been finally determined sufficient Council shall either:
 - (1) Adopt a proposed initiative ordinance without any change in substance; or
 - (2) Repeal a referred ordinance; or
 - (3) Call an election on the proposed or referred ordinance, said election to be held on the first uniform election date falling 45 days or more after such determination by Council.
- (b) *Submission to voters.* The vote of the City on a proposed or referred ordinance shall be held at a Special Election called for such purpose in accordance with subsection (a)(3) above. Copies of the proposed or referred ordinance shall be made available at the polls and shall also be made available at the City Office for 15 days immediately preceding the election and shall be posted at the regular posting places for 15 days immediately preceding the election.
- (c) *Withdrawal of petitions.* An initiative or referendum petition may be withdrawn at any time prior to the 20th day preceding the day scheduled for a vote of the City by filing with the City Secretary a request for withdrawal signed by at least four members of the petitioners' committee. Upon filing of such request, the petition shall have no further force or effect and all proceedings thereon shall be terminated.

(Res. No. R3-82, § 1, 3-1-1982; Res. No. R97-6, § 1, 2-17-1997, election 5-3-1997)

Sec. 5.07. Results of election.

- (a) *Initiative.* If a majority of the 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 Council. If conflicting ordinances are approved at the same election, the one receiving the greatest number of affirmative votes shall prevail to the extent of such conflict.
- (b) *Limitation of Council repeal.* The Council may not repeal or amend the initiated ordinance for one year after the effective date and then only by the affirmative vote of five members of the Council.
- (c) *Referendum.* If a majority of the qualified electors voting on a referred ordinance vote against it, it shall be considered repealed upon certification of the election results.

Sec. 5.08. Power of recall.

The qualified voters shall have the power to recall any elected official of the City on grounds of incompetency, noncompliance with this Charter, misconduct or malfeasance in office. Such power shall be exercised by filing with the City Secretary a petition, signed by currently qualified voters of the City equal in number to at least ten percent of the total number of qualified voters registered to vote at the last regular City Election, demanding the removal of such elected official. The petition shall be signed and verified in the manner required for an initiative petition.

Sec. 5.09. Recall election.

The provisions regulating initiation, certification, amendment and withdrawal of initiative petitions shall apply to recall petitions. If the petition is certified by the City Secretary to be sufficient, the Council shall order an election forthwith to determine whether such officer shall be recalled.

Sec. 5.10. Results of recall election.

If a majority of the votes cast at a recall election shall be against removal of the elected official named on the ballot, he/she shall continue in office. If the majority of the votes cast at the election [shall] be for the removal of the elected official named on the ballot, the Council shall immediately declare his/her office vacant and such vacancy shall be filled in accordance with the provisions of this Charter for the filling of vacancies. An elected official thus removed shall not be a candidate to succeed himself/herself.

(Res. No. R88-15, § 3, 5-9-1988)

Sec. 5.11. Limitation on recall.

No recall petition shall be filed against an elected official within six months of the beginning or the end of the term for which such official was elected, and no elected official shall be subjected to more than one recall election during a term of office.

(Res. No. R88-15, § 3, 5-9-1988; Res. No. R2007-09, § 1, 3-5-2007, election 5-12-2007)

Sec. 5.12. Failure of Council to call an election.

In case all of the requirements of this Charter shall have been met and the Council shall fail or refuse to receive the recall petition, or order such recall election, or discharge other duties imposed upon said Council by the provisions of this Charter with reference to such recall, then in such event any qualified voter in the City may seek judicial relief in the District Court of Galveston County, Texas, to have any of the provisions of this Charter pertaining to recall carried out by the proper official.

(Res. No. R3-82, § 1, 3-1-1982)

Sec. 5.13. Failure of Council to call an election on recall.

In case all of the requirements of this Charter shall have been met and the Council shall fail or refuse to receive the recall petition, or order such recall election, or discharge other duties imposed upon said Council by the provisions of this Charter with reference to such recall, then the County Judge of Galveston County, Texas, shall discharge any such duties herein provided to be discharged by the City Secretary or by the Council. In addition, any qualified voter in the City may seek judicial relief in the District Court of Galveston County, Texas, to have any of the provisions of this Charter pertaining to recall carried out by the proper official.

ARTICLE VI. NOMINATIONS AND ELECTIONS; OATH OF OFFICE⁴

Sec. 6.01. City elections.

General City Elections shall be held annually on the May uniform election date as set forth in the Texas Election Code. The City Council shall specify the places for holding such elections. All City Elections shall be held and conducted in accordance with all State and Federal Laws applicable thereto.

(Res. No. R88-15, § 3, 5-9-1988; Res. No. R2002-10, § 7, 2-18-2002, election 5-4-2002; Res. No. R2007-09, § 1, 3-5-2007, election 5-12-2007)

State law reference(s)—Uniform election dates, V.T.C.A., Election Code § 41.001.

Sec. 6.02. Filing for Office.

- (a) *Eligibility to file.* Each candidate for an elective City Office shall meet the following qualifications:
- (1) Shall be a qualified voter of the City.
 - (2) Shall have resided for at least 12 months preceding the election within the corporate limits of the City, including territory annexed prior to the filing deadline.
 - (3) Shall be at least 21 years of age.
 - (4) Shall meet the requirements for sponsors stipulated in subsection 6.02(b) below.
 - (5) If an incumbent seeks a different elected office or elected position of the City other than that which he/she then holds, he/she shall submit a letter of resignation to the City Council at least 60 days prior to the date of election for such desired office or position. Unless otherwise prohibited by operation of

⁴State law reference(s)—Elections, V.T.C.A., Election Code § 1.001 et seq.

law or this Charter, such incumbent shall hold over in the office or position subject to resignation until his/her successor qualifies therefor, or until such incumbent qualifies for the different office or position sought, whichever first occurs.

- (6) No candidate may file for more than one office or position number per election.
- (7) No employee or person holding a City appointive office of emolument shall continue in such position after becoming a candidate for an elective office.
- (b) *Procedure and schedule for filing.* Any qualified voter of the City may be nominated for an elective office by petition of not less than the greater of 25 registered voters or one-half of one percent of the total vote received in the City for the office of Mayor in the most recent Mayoral General Election. No voter shall sign more than one petition for a particular office or position number; if a voter signs more than one, his/her signature shall be void except as to the first filed of the petitions signed by him/her. The signatures shall be executed in ink or indelible pencil. Each signer shall indicate next to his/her signature the date of his/her signing and the place of his/her residence. The signed petition shall be filed with the City Secretary not earlier than 90 days prior to the election date for which such petition would apply, or later than the normal posted close of business for the office of the City Secretary on the last day for which applications for candidacy may be filed for such election under applicable provisions of the Texas Election Code.
- (c) *Certification of petition.* Within five days after the filing of a nominating petition the City Secretary shall notify the candidate whether or not the petition satisfied the requirements prescribed by this Charter. If a petition is found insufficient, the City Secretary shall return it immediately to the candidate with a statement certifying wherein it is insufficient. Within the regular time for filing petitions, a new petition may be filed by the same candidate. The City Secretary shall keep on file all petitions found sufficient at least until the expiration of the term of which the candidates are nominated in those petitions.
- (d) *Public disclosure.* Candidates shall file with the City Secretary 21 days prior to day of election a financial disclosure statement containing the following information. This should include information pertaining to the candidate, his/her spouse and dependent minor children.
 - (1) List of all property owned or held in trust within the City limits and extraterritorial jurisdiction of the City. This list should include location (address), size (general dimensions) and current use.
 - (2) List of all fees, salaries or gifts of value exceeding \$50.00 received from companies or individuals under contract with the City during the 12 months prior to filing for public office.
 - (3) Ownership of any stock in companies under contract to the City when such stock comprises greater than two percent of the company's total outstanding stock.

(Ord. No. 214, § 1, 3-4-1974, election 4-6-1974; Res. No. R3-82, § 1, 3-1-1982; Res. No. R88-15, § 3, 5-9-1988; Res. No. R92-19, § 3, 3-24-1992, election 5-2-1992; Res. No. R97-6, § 1, 2-17-1997, election 5-3-1997; Res. No. R2002-10, § 7, 2-18-2002, election 5-4-2002; Res. No. R2007-09, § 1, 3-5-2007, election 5-12-2007; Res. No. 2012-12, § 4, 5-21-2012, election 5-12-2012)

Editor's note(s)—Subsection 6.02(a)(3) prohibiting candidates for City Council to be in arrears in payment of taxes, etc., was repealed by Res. No. R92-19, § 3, adopted 3-24-1992, election 5-2-1992.

State law reference(s)—Application requirements, V.T.C.A., Election Code § 141.031 et seq.

Sec. 6.03. Ballots.

The ballots for all elections held by the City shall conform with the provisions of the Texas Election Code.

(Res. No. R88-15, § 3, 5-9-1988)

State law reference(s)—Ballots, V.T.C.A., Election Code § 52.001 et seq.

Sec. 6.04. Canvassing and election results.

- (a) *Canvassing.* The returns of every municipal election shall be delivered from the election judges to the City Secretary at City Hall not later than three hours after the closing of the polls, or as soon thereafter as is reasonably practicable. One extra copy shall be delivered for the Mayor at this time. The Council shall canvass the returns in sufficient time to declare the official results of the election at the next regular Council meeting after the closing of the polls. The returns of every municipal election shall be recorded in the minutes of the Council, by totals for each candidate, or, for or against each issue submitted.
- (b) *Majority.* A majority vote for an elective office is that number of votes which is a majority of the total number of valid ballots cast for the office concerned. Any candidate for elective office who received a majority vote shall be declared elected. If none of the candidates for an elective position receives a majority vote, none of such candidates shall be elected.
- (c) *Runoff election.* In the event no candidate for an elective office receives a majority of the votes cast for that position in the regular or Special Election or there is a tie for first place, a runoff election shall be held among the candidates who received the greatest number of votes for the first two places. Such runoff election shall be held in accordance with the Texas Election Code.
- (d) *Notification and taking office.* It shall be the duty of the City Secretary to notify all persons elected. A candidate who is elected in the regular City Election or Special Election shall take office and enter upon his/her duties after qualifying by taking and subscribing to his/her oath of office at the next regular Council meeting after closing of the polls.

(Res. No. R88-15, § 3, 5-9-1988; Res. No. R97-6, § 1, 2-17-1997, election 5-3-1997)

State law reference(s)—Canvass of votes, V.T.C.A., Election Code § 65.001 et seq.

Sec. 6.05. Oath of office.

Every officer of the City, whether elected or appointed, before entering upon the duties of office, shall take and subscribe to the appropriate oath or affirmation to be filed and kept in the office of the City Secretary.

(Res. No. R92-19, § 3, 3-24-1992, election 5-2-1992)

State law reference(s)—Oath of office, Tex. Const. art. 16, § 1.

ARTICLE VII. TAX ADMINISTRATION⁵

Sec. 7.01. Reserved.

Editor's note(s)—Section 7.01 regarding the Department of Taxation was repealed by Res. No. R92-19, § 3, adopted 3-24-1992, election 5-2-1992.

⁵State law reference(s)—Taxation, V.T.C.A., Tax Code § 1.01 et seq.

Sec. 7.02. Power to tax.

The Council of the City shall have the power, and is hereby authorized to levy, assess and collect annual taxes not to exceed the maximum limits set by the Constitution and laws of the State of Texas as they now exist or as they may be amended, on each \$100.00 assessed valuation of all property having a situs within the corporate limits of the City and not exempt from taxation by the Constitution and laws of the State of Texas.

(Ord. No. 2017-20, § 1(exh. A), 8-7-2017)

Sec. 7.03. Reserved.

Editor's note(s)—Former §§ 7.03, 7.05—7.07, 7.09, and 7.10, which concerned procedures for tax assessment and collection and derived from the 1971 Charter, were repealed by Res. No. R88-15, § 3, adopted May 9, 1988.

Sec. 7.04. Reserved.

Editor's note(s)—Section 7.04 regarding the Board of Equalization has been repealed by Res. No. R92-19, § 3, adopted 3-24-1992, election 5-2-1992.

Secs. 7.05—7.07. Reserved.

Note(s)—See the editor's note to Section 7.03 of this Charter.

Sec. 7.08. Arrears of taxes offset to debt against City.

The City shall be entitled to counterclaim and offset against any debt, claim, demand or account owed by the City to any person, firm or corporation who is in arrears to the City for taxes, in the amount of taxes so in arrears, and no assignment or transfer of such debt, claim, demand or account after the said taxes are due, shall affect the right of the City to so offset the said taxes against the same.

Sec. 7.09. Reserved.

Note(s)—See the editor's note to Section 7.03 of this Charter.

Sec. 7.10. Reserved.

Note(s)—See the editor's note to Section 7.03 of this Charter.

ARTICLE VIII. FINANCIAL ADMINISTRATION⁶

Sec. 8.01. Fiscal year.

The fiscal year of the City shall begin on the first day of October and end on the last day of September.

⁶State law reference(s)—Budgets, V.T.C.A., Local Government Code § 102.001 et seq.; fiscal powers, V.T.C.A., Local Government Code § 101.021.

State law reference(s)—Fiscal year, V.T.C.A., Local Government Code § 101.022; V.T.C.A., Tax Code § 1.05.

Sec. 8.02. Public record.

Copies of the budget as adopted shall be public records and shall be made available to the public upon request.

State law reference(s)—Local Government Records Act, V.T.C.A., Local Government Code § 201.001 et seq.; public information, V.T.C.A., Government Code § 552.001 et seq.; budgets, V.T.C.A., Local Government Code § 102.001 et seq.

Sec. 8.03. Annual budget.

(a) *Content.* The budget shall provide a complete financial plan of all City funds and activities and, except as required by law or this Charter, shall be in such form as the City Manager deems desirable or the Council may require. A budget message explaining the budget both in fiscal terms and in terms of the work programs shall be submitted with the budget. It shall outline the proposed financial policies of the City for the ensuing fiscal year, describe the important features of the budget, indicate any major changes from the current year in financial policies, expenditures, and revenues, with reasons for such changes. It shall also summarize the City's debt position and include such other material as the manager deems desirable. The budget shall begin with a clear general summary of its contents; shall show in detail all estimated income, the proposed property tax levy, and all proposed expenditures for the ensuing fiscal year, including debt service and an itemized estimate of the expense of conducting each department of the City. The proposed budget expenditures shall not exceed the total of estimated income. The budget shall be so arranged as to show comparative figures for actual and estimated income and expenditures of the current fiscal year and actual income and expenditures of the preceding fiscal year, compared to the estimate for the budgeted year. It shall also include, in separate sections:

- (1) Tax levies, rates, and collections for the preceding five years.
- (2) The amount required for interest on the City's debts, for sinking fund and for maturing serial bonds.
- (3) The total amount of outstanding City debts, with a schedule of maturities on bond issues.
- (4) Anticipated net surplus or deficit for the ensuing fiscal year of each utility owned or operated by the City and the proposed method of its disposition; subsidiary budgets for each such utility giving detailed income and expenditure information shall be attached as appendices to the budget.
- (5) A capital program, which may be revised and extended each year to indicate capital improvements pending or in process of construction or acquisition, and shall include the following items which shall be attached as appendices to the budget:
 - (a) A summary of proposed programs;
 - (b) A list of all capital improvements which are proposed to be undertaken during the five fiscal years next ensuing, with appropriate supporting information as to the necessity for such improvements;
 - (c) Cost estimates, method of financing and recommended time schedules for each such improvement; and
 - (d) The estimated annual cost of operating and maintaining the facilities to bid constructed or acquired.
- (6) Such other information as may be required by the Council.

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- (b) *Submission.* On or before the first day of August of each year, the City Manager shall submit to the Council a proposed budget and an accompanying message. The Council shall review the proposed budget and revise as deemed appropriate prior to general circulation for public hearing.
 - (c) *Public notice and hearing.* The Council shall post in the City Hall and publish in the official newspaper a general summary of its proposed budget and a notice stating:
 - (1) The times and places where copies of the message and budget are available for inspection by the public; and
 - (2) The time and place, not less than ten nor more than 30 days after such publication, for a public hearing on the budget.
 - (d) *Amendment before adoption.* After the public hearing, the Council may adopt the budget with or without amendment. In amending the budget, it may add or increase programs or amounts and may delete or decrease any programs or amounts, except expenditures required by law or for debt service or for estimated cash deficit, provided that no amendment to the budget shall increase the authorized expenditures to an amount greater than the total of estimated income plus funds available from prior years.
 - (e) *Adoption.* The Council shall adopt its annual budget by ordinance, on one reading, by the 15th day of September or as soon thereafter as practical. If the Council fails to adopt an annual budget before the start of the fiscal year to which it applies, appropriations of the last budget adopted shall be considered as adopted for the current fiscal year on a month to month, pro rata basis, until the annual budget is adopted. Adoption of the budget shall require an affirmative vote of at least a majority of all members of the Council. Adoption of the budget shall constitute appropriations of the amounts specified therein as expenditures from the funds indicated.

(Res. No. R88-15, § 3, 5-9-1988; Res. No. R2002-10, § 7, 2-18-2002, election 5-4-2002; Ord. No. 2017-20, § 1(exh. A), 8-7-2017)

State law reference(s)—Budgets, V.T.C.A., Local Government Code § 102.001 et seq.

Sec. 8.04. Amendments after adoption.

- (a) *Supplemental appropriations.* If during the fiscal year the manager certifies that there are available for appropriation revenues in excess of those estimated in the budget, the Council by ordinance may make supplemental appropriation for the year up to the amount of such excess.
- (b) *Emergency appropriations.* To meet public emergencies created by natural disasters or manmade calamities that affect life, health, property, or the public peace, the City Council may authorize:
 - (i) The re-appropriation of revenues previously budgeted for maintenance and operation expenses;
 - (ii) The appropriation of unanticipated revenues; and/or
 - (iii) The appropriation of restricted reserves.

All such appropriations or re-appropriations shall be by emergency ordinance in accordance with the provisions of this Charter. If there are insufficient funds available for appropriation or re-appropriation for such purposes, the City Council may by emergency ordinance authorize the issuance of emergency notes, which may be renewed from time to time.

- (c) *Reduction of appropriations.* If at any time during the fiscal year it appears probable to the City Manager that the revenues available will be insufficient to meet the amount appropriated, he/she shall report to the Council without delay, indicating the estimated amount of the deficit, any remedial action taken by him/her and his/her recommendations as to any other steps to be taken. The Council shall then take such further

action as it deems necessary to prevent or minimize any deficit and for that purpose it may by ordinance reduce one or more appropriations.

- (d) *Transfer of appropriations.* At any time during the fiscal year the City Manager may transfer part or all of any unencumbered appropriation balance among programs within a department, division, or office and, upon written request by the City Manager, the Council may by ordinance transfer part or all of any unencumbered appropriation balance from one department, office or agency to another.
- (e) *Limitations.* No appropriation for debt service may be reduced or transferred, and no appropriation may be reduced below any amount required by law to be appropriated or by more than the amount of the unencumbered balance thereof.
- (f) *Effective date.* The supplemental and emergency appropriations and reduction or transfer of appropriations authorized by this section may be made effective immediately upon adoption of the ordinance.

(Res. No. R88-15, § 3, 5-9-1988; Res. No. R2007-09, § 1, 3-5-2007, election 5-12-2007)

State law reference(s)—Budgets, V.T.C.A., Local Government Code § 102.001 et seq.; changes in budget for municipal purposes, V.T.C.A., Local Government Code § 102.010.

Sec. 8.05. Borrowing for capital improvements.

- (a) *Borrowing.* The Council shall have the power, except as prohibited by law, to borrow money by whatever method it may deem to be in the public interest.
- (b) *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 this Charter, 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.
- (c) *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. Such bonds shall be a charge upon and payable from the properties, or interest therein pledged, or the income therefrom, or both. The holders of the revenue bonds shall never have the right to demand payment thereof out of monies raised or to be raised by taxation. All such bonds shall be issued in conformity with the laws of the State of Texas.
- (d) *Bonds incontestable.* All bonds of the City having been issued and sold and having been delivered to the purchaser thereof shall thereafter be incontestable and all bonds issued to refund in exchange for outstanding bonds previously issued shall and after said exchange be incontestable.
- (e) *Addition of ordinance.* The procedure for adoption of any ordinance relative to borrowing for capital improvements shall be:
 - (1) A copy of the proposed ordinance shall be furnished to each member of the City Council, the City Attorney and any citizen of the City upon request to the City Secretary, at least three days before the date of the meeting at which the ordinance is to be considered.
 - (2) Any ordinance relative to borrowing for capital improvements may be adopted and finally passed at the meeting at which it is introduced.
- (f) *Elections to authorize debt.* Notwithstanding any other provision contained in this Section 8.05 to the contrary, the Council shall be prohibited from incurring debt not payable from then current revenues unless a proposition therefor has been approved by the voters at a Special Election held for such purpose; provided,

however, the Council shall be authorized to incur debt without the necessity of a Special Election if necessary due to an emergency or urgent public necessity, which emergency or urgent public necessity shall be expressed in the ordinance or resolution authorizing such debt.

(Ord. No. 214, § 1, 3-4-1974, election 4-6-1974; Res. No. R97-6, § 1, 2-17-1997, election 5-3-1997)

State law reference(s)—Fiscal powers, V.T.C.A., Local Government Code § 101.002; specific authority for municipalities to issue securities, V.T.C.A., Government Code ch. 1501 et seq.

Sec. 8.06. Lapse of appropriations.

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 years pass without any disbursement from or encumbrance of the appropriation.

Sec. 8.07. Administration of budget.

- (a) *Payments and obligations prohibited.* 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 his/her designee first certifies that there is a sufficient unencumbered balance in such allotment or appropriations and that sufficient funds therefrom 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 illegal. Such action shall be cause for removal of any officer who knowingly authorized or made such payment or incurred such obligations, and he/she 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, provided that such action is made or approved by ordinance.
- (b) *Financial reports.* The City Manager shall submit to the Council each month a report detailing the financial condition of the City by budget amount versus fiscal year to date amount. The financial records of the City shall be maintained in conformity with generally accepted accounting principles, as prescribed by the Governmental Accounting Standards Board.
- (c) *Independent audit.* At the close of each fiscal year, and at such times as it may be deemed necessary, the Council shall cause an independent audit to be made of all accounts of the City by a certified public accountant. The certified public accountant so selected shall have no personal interest, directly or indirectly, in the financial affairs of the City or any of its officers. Upon completion of the audit, the results thereof in a summary form shall be placed on file in the City Secretary's office as a public record and in the Friendswood Public Library for the public's information.

(Res. No. R88-15, § 3, 5-9-1988; Res. No. R97-6, § 1, 2-17-1997, election 5-3-1997)

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

Sec. 8.08. Purchasing.

All purchases made and contracts executed by the City shall be made in accordance with the requirements of the Constitution and statutes of the State of Texas.

State law reference(s)—Purchases, V.T.C.A., Local Government Code § 252.001 et seq.

ARTICLE IX. FRANCHISES AND PUBLIC UTILITIES⁷

Sec. 9.01. Powers of the City.

In addition to the City's power to buy, construct, lease, maintain, operate, and regulate public utilities and to manufacture, distribute, and sell the output of such utility operations, the City shall have such further power as may now or hereafter be granted under the Constitution and laws of the State of Texas.

Sec. 9.02. Power to grant franchise.

The Council shall have the power by ordinance to grant, renew, and extend all franchises of all public utilities of every character operating within the City and, with consent of the franchise holder, to amend the same; provided, however, that no franchise shall be granted for an indeterminate term, and that no franchise shall be granted for a term of more than 30 years from the date of the grant, renewal, or extension.

Sec. 9.03. Ordinance granting franchise.

Every ordinance granting, renewing, extending or amending a public utility franchise shall be read at two regular meetings of the Council. Within seven days following the first reading of the ordinance, the full text of the ordinance shall be published one time in the official newspaper, and the expense of such publication shall be borne by the prospective franchise holder.

(Res. No. R6-80, § 3, 4-7-1980, election 4-5-1980)

Charter reference(s)—Ordinances in general, § 3.11.

Sec. 9.04. Grant not to be exclusive.

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

Sec. 9.05. Transfer of franchise.

No public utility 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 holder from pledging said franchise as security for a valid debt or mortgage.

Sec. 9.06. 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.

⁷State law reference(s)—Water and utilities, V.T.C.A., Local Government Code ch. 401 et seq.

Sec. 9.07. Right of regulation.

All grants, renewals, extensions, or amendments of public utility franchises, whether it [they] be so provided in the ordinance or not, shall be subject to the right of the City:

- (a) To repeal the same by ordinance at any time for failure to begin construction or operation within the time prescribed or otherwise to comply with the terms of the franchise, such power to be exercised only after due notice and hearing.
- (b) To require an adequate extension of plant and service as is necessary to provide adequate service to the public, and maintenance of the plant and fixtures at the highest reasonable standard of efficiency.
- (c) To establish reasonable standards of service and quality of products and prevent unjust discrimination in service or rates.
- (d) To prescribe the form of accounts kept by each utility franchisee.
- (e) To impose regulations to ensure safe, efficient and continuous service to the public. The franchise holder in opening and refilling of all earth openings shall relay the pavement and do all other work necessary to complete restoration of streets, sidewalks or grounds to a condition equally as good or better as when disturbed.
- (f) To require at any time such compensation and rental as may be permitted by the laws of the State of Texas.

(Res. No. R97-6, § 1, 2-17-1997, election 5-3-1997; Ord. No. 2017-20, § 1(exh. A), 8-7-2017)

Sec. 9.08. Extensions.

All extensions of public utilities within the City limits shall become a part of the aggregate property of the public utility, shall be operated as such, and shall be subject to all the obligations and reserved rights contained in this Charter and in any original grant hereafter made. The right to use and maintain any extension shall terminate with the original grant and shall be terminable as provided in Section 9.07. In case of an extension of a public utility operated under a franchise hereafter granted, such right shall be terminable at the same time and under the same conditions as the original grant.

Sec. 9.09. Regulation of rates.

To the extent permitted by law, the Council shall have full power to regulate the rates, charges, and fares of each public utility franchise holder operating in the City.

(Res. No. R92-19, § 3, 3-24-1992, election 5-2-1992)

State law reference(s)—Authority to regulate certain rates, V.T.C.A., Utilities Code § 33.001 et seq.; V.T.C.A., Utilities Code § 103.001 et seq.

Sec. 9.10. Public service corporations to file annual reports.

- (a) The Council shall require all public service corporations operating within the corporate limits of the City to file a sworn annual report of the receipts from the operation of the said business for the current year, how expended, how much thereof for betterments or improvements, the rate of tolls or charges for services rendered to the public, and any other facts or information that the Council may deem pertinent for its use, including reports on operations within the City in intelligently passing upon any questions that may arise

between the City and the said public service corporations; said reports to be filed with the City Secretary, and preserved for the use of the City Council. Such reports shall be reviewed annually by the Council to determine the propriety of the rates being charged.

- (b) Any public service corporation, partnership, or proprietorship who shall for a 30-day period willfully refuse or fail to report in the manner provided by this Charter shall forfeit and pay to the City the sum of \$1,000.00 per day for each and every day during which it shall continue in default; or, if any such enterprise shall file any report, knowing that the same does not truly report the facts about the matters mentioned therein, it shall forfeit and pay to the City the sum of \$5,000.00 for each such willfully false report and shall be liable for submittal of a corrected report within two weeks from notification by the City of any errors under the same penalty provisions as the original report.

(Res. No. R97-6, § 1, 2-17-1997, election 5-3-1997)

Sec. 9.11. 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, appropriately subdivided into different classes, all liabilities subdivided by classes, depreciation reserve, other reserves, and surplus; also revenues, operating expenses including depreciation, interest payments, rental, and other disposition of annual income. The accounts shall show the actual capital cost to the City of each public utility owned, also the cost of all extensions, additions and improvements, and the source of the 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 other City or Governmental Department. The Council shall annually cause to be made by a certified public accountant and shall publish a report showing the financial results of such City ownership and operation, giving the information specified in this section or such data as the Council shall deem expedient.

Sec. 9.12. Sales of municipal services.

The Council shall have the power and authority by ordinance:

- (a) In or outside the limits of the City, to sell and distribute water; sell and provide sewer service; sell and provide garbage and trash collection and disposition; and to sell and provide other municipal services.
- (b) To establish specifications for materials and construction used within or beyond the limits of the City for such municipal services; inspect 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.

Sec. 9.13. Franchise records.

The City shall compile and maintain a public record of public utility franchises.

ARTICLE X. RESERVED⁸

⁸Editor's note(s)—Res. No. R97-6, § 1, adopted Feb. 17, 1997, passed at the election of May 3, 1997, repealed Art. X, §§ 10.01—10.05, which pertained to transitional provisions.

Secs. 10.01—10.05. Reserved.

ARTICLE XI. GENERAL PROVISIONS

Sec. 11.01. Public records.

All public records of the City shall be maintained and available for public inspection as provided by applicable State and Federal open records laws.

(Res. No. R97-6, § 1, 2-17-1997, election 5-3-1997)

State law reference(s)—Public information, V.T.C.A., Government Code § 552.001 et seq.; Local Government Records Act, V.T.C.A., Local Government Code § 201.001 et seq.

Sec. 11.02. City newspaper.

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

(Res. No. 2012-12, § 4, 5-21-2012, election 5-12-2012)

State law reference(s)—Official newspaper, V.T.C.A., Government Code § 2051.041 et seq.

Sec. 11.03. Personal financial interest.

No member of the Council or other officer or employee of the City shall have a pecuniary interest in any contract, the expense, price, or consideration of which is paid from the City Treasury, or have a pecuniary interest in any matter or item requiring the approval or consent of the City, unless in compliance with applicable laws of the State of Texas governing conflicts of interest.

(Res. No. R2002-10, § 7, 2-18-2002, election 5-4-2002)

State law reference(s)—Conflicts of interest, V.T.C.A., Local Government Code § 171.001 et seq.

Sec. 11.04. Nepotism.

No appointment to the service of the City shall violate the prohibitions against nepotism set forth in V.T.C.A., Government Code § 573.001 et seq., as amended.

(Res. No. R88-15, § 3, 5-9-1988; Ord. No. 2012-29, § 1(exh. A), 11-5-2012)

State law reference(s)—Nepotism, V.T.C.A., Government Code § 573.001 et seq.

Sec. 11.05. Assignment, execution, and garnishment.

The property, real and personal, belonging to the City shall not be liable to be sold or appropriated under any writ or execution or cost bill. The funds belonging to the City, in the hands of any person, firm or corporation, shall not be liable to garnishment, attachment, or sequestration; nor shall the City be liable to garnishment on account

of any debt it may owe or funds or property it may have on hand or owing to any person. Neither the City nor any of its officers or agents shall be required to answer any such writ of garnishment on any account whatever. The City shall not be obligated to recognize any assignment of wages or funds by its employees, agents or contractors.

Sec. 11.06. Security or bond not required.

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 said City in any of the State Courts, but in all such actions, suits, appeals, or proceedings same shall be conducted in the same manner as if such bond, undertaking, or security had been given as required by law.

Sec. 11.07. Separability clause.

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

Sec. 11.08. Amending the Charter.

Amendments to this Charter may be framed and submitted to the voters of the City in the manner provided by V.T.C.A., Local Government Code ch. 9, as now enacted or hereafter amended.

(Ord. No. 2012-29, § 1(exh. A), 11-5-2012)

Sec. 11.09. Charter Review Commission.

The Council shall appoint at its first regular meeting in July of every fifth year after approval of this Charter, a Charter Review Commission composed of seven citizens of the City of Friendswood.

(a) *Duties of the Commission.*

- (1) Inquire into the operation of the City government under the Charter provisions and determine whether any such provisions require revision. To this end public hearings may be held.
- (2) Propose, if it deems desirable, amendments to this Charter to improve the effective application of the Charter to current conditions.
- (3) Report its findings and present its proposed amendments, if any, to the Council.

(b) *Action by the Council.* The Council shall receive the final report of the Charter Review Commission, shall consider any recommendations made, and if deemed appropriate by the Council, may order such amendment or amendments to be submitted to the voters of the City at a Special Election to be held for such purpose in accordance with law. The Council shall cause such proposed amendments to be published not less than 45 nor more than 90 days prior to the date set for such election. Notice of such election shall be given in accordance with law.

(c) *Term of office.* The term of office of such Charter Review Commission shall be six months, and at the completion of such term a report shall be presented to the Council, and all records of the proceedings of such Commission shall be filed with the City Secretary and shall become a public record.

(Res. No. R88-15, § 3, 5-9-1988; Res. No. R92-19, § 3, 3-24-1992, election 5-2-1992; Res. No. R97-6, § 1, 2-17-1997, election 5-3-1997)

Sec. 11.10. Submission of Charter to voters.

The Charter Review Commission in preparing this Charter concludes that it is impracticable to segregate each subject so as to permit a vote of "yes" or "no" on the same, for the reason that the Charter is so constructed that in order to enable it to work and function it is necessary that it should be adopted in its entirety. For these reasons, the Charter Review Commission directs that the said Charter be voted upon as a whole and that it shall be submitted to the qualified voters of the City of Friendswood at an election to be held for that purpose on October 16, 1971. Not less than 30 days prior to such election, the City Council shall cause the City Secretary to mail a copy of this Charter to each qualified voter of the City of Friendswood as appears from the latest certified list of registered voters. If a majority of the qualified voters voting in such election shall vote in favor of the adoption of this Charter, it shall become the Charter of the City of Friendswood, and after the returns have been canvassed, the same shall be declared adopted and the City Secretary shall file an official copy of the Charter with the records of the City. The City Secretary shall furnish the Mayor a copy of said Charter, which copy of the Charter so adopted, authenticated and certified by his[/her] signature and the seal of the City, shall be forwarded by the Mayor to the Secretary of State of the State of Texas and shall show the approval of such Charter by majority vote of the qualified voters voting at such election.