

**PART I**

**HOME RULE CHARTER**

Article 1. Form of Government and Boundaries

- 1.01 Form of government
- 1.02 Boundaries
- 1.03 Annexation for all purposes
- 1.04 Contraction of boundaries

Article 2. Power of the City

- 2.01 General
- 2.02 General powers adopted
- 2.03 Eminent domain

Article 3. The Governing Body

- 3.01 Number, selection, and term
- 3.02 Qualifications
- 3.03 Council to be judge of election and qualification
- 3.04 Compensation
- 3.05 Mayor Pro Tem
- 3.06 Vacancies
- 3.07 Powers of the City Council
- 3.08 City Council not to interfere in appointments
- 3.09 Meetings of the City Council
- 3.10 Rules of procedure
- 3.11 Procedure for passing of ordinances
- 3.12 Official bonds for city employees
- 3.13 Investigation by the City Council
- 3.14 Audit and examination of city books and accounts
- 3.15 Publication of financial statement

Article 4. Administrative Services

- 4.01 City Manager
- 4.02 Department of Police
- 4.03 City Secretary
- 4.04 Director of Finance
- 4.04A Multiple Duties
- 4.05 Municipal Court
- 4.06 City Attorney
- 4.07 Department of Health and Sanitation
- 4.08 Fire and E.M.S. Department
- 4.09 Other Departments

Article 5. Nominations and Elections

- 5.01 Elections
- 5.02 Regulations of elections
- 5.03 Filing for office
- 5.04 The official ballot
- 5.05 Election by majority

- 5.06 Laws governing city elections
- 5.07 Conducting and canvassing elections
- 5.08 Oath of office
- 5.09 Cancellation of elections
- 5.10 Limitation on consecutive terms of office

Article 6. Recall of Officers

- 6.01 Scope of recall
- 6.02 Petitions for recall
- 6.03 Form of recall petition
- 6.04 Various papers constituting petition
- 6.05 Presentation of petition to City Council
- 6.06 Public hearing to be held
- 6.07 Election to be called
- 6.08 Ballots in recall election
- 6.09 Result of recall election
- 6.10 Recall, restrictions thereon
- 6.11 Failure of City Council to call an election

Article 7. Legislation by the People, Initiative and Referendum

- 7.01 General power
- 7.02 Initiative
- 7.03 Referendum
- 7.04 Voluntary submission of legislation by the City Council
- 7.05 Form of ballots
- 7.06 Publication of proposed and referred ordinances
- 7.07 Adoption of ordinances
- 7.08 Inconsistent ordinances
- 7.09 Ordinances passed by popular vote, repeal, or amendment
- 7.10 Further regulations by City Council
- 7.11 Franchise ordinances

Article 8. Municipal Planning and Zoning

- 8.01 Platting of property
- 8.02 Development of property
- 8.03 Planning Commission
- 8.04 Zoning Board of Adjustment

Article 9. Municipal Finance

- 9.01 Fiscal year
- 9.02 Preparation and submission of budget
- 9.03 Anticipated revenues compared with other years in budget
- 9.04 Proposed expenditures compared with other years
- 9.05 Budget a public record
- 9.06 Notice of public hearing on budget
- 9.07 Public hearing on budget
- 9.08 Proceedings on budget after public hearing
- 9.09 Vote required for adoption
- 9.10 Date for final adoption
- 9.11 Effective date of budget; certifications; copies made available

- 9.12 Budget establishes appropriations
- 9.13 Budget establishes amount to be raised by property tax
- 9.14 Contingent appropriation
- 9.15 Estimated expenditures shall not exceed estimated resources
- 9.16 Other necessary appropriations
- 9.17 Department of Taxation
- 9.18 Power to tax
- 9.19 Property subject to tax, method of assessment
- 9.20(Deleted)
- 9.21(Deleted)
- 9.22(Deleted)
- 9.23(Deleted)
- 9.24 Taxes; when due and payable
- 9.25 Tax liens

#### Article 10. Franchise and Public Utilities

- 10.01 Powers of the city
- 10.02 Franchise power of City Council
- 10.03 Franchise value not to be allowed
- 10.04 Right of regulation
- 10.05 Regulations of rates and services
- 10.06 Grant not to be exclusive
- 10.07 Consent of property owners
- 10.08 Extensions
- 10.09 Other conditions
- 10.10 Accounts of municipally owned utilities
- 10.11 Sales of water, sewer and any other services

#### Article 11. General Provisions

- 11.01 Publicity of records
- 11.011 Selection of newspapers for publications
- 11.02 Personal interest
- 11.03 Drilling operations
- 11.04 Nepotism
- 11.05 Provisions relating to assignment, execution and garnishment
- 11.06 City not required to give security or executive bond
- 11.07 Special provisions covering damage suits
- 11.08 Separability clause
- 11.09 Effect of this charter on existing law
- 11.10 Interim municipal government
- 11.11 Applicability of general laws
- 11.12 Amending the charter
- 11.13 Charter review commission
- 11.14 Submission of charter to voters
- 11.15 Gender neutral provision

#### Editor's note:

The city's Home Rule Charter was adopted by the voters of the city at a special election held on June 18, 1960, and adopted June 20, 1960.

## **PREAMBLE**

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

## **ARTICLE 1. FORM OF GOVERNMENT AND BOUNDARIES**

### **SECTION 1.01. 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 by this Charter, all powers of the City shall be vested in an elective Council, hereinafter referred to as the "City Council," which 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 be not prescribed, then in such manner as may be prescribed by ordinance, the State Constitution or the statutes of this State.

### **SECTION 1.02. BOUNDARIES.**

The boundaries of the City of Freeport shall be the same as have heretofore been established and as they existed on the 25th day of April, 1960, which boundaries are more fully set out on an official map, and described by metes and bounds in a document titled "Boundaries of the Corporate Limits of the City of Freeport, Brazoria County, Texas," being Ordinance No. 1022, filed in the City Hall of the City of Freeport, Texas, and as may be amended in the future as a result of legal annexation.  
(Ord. No. 2020-2617, § 3(1.02), 11-17-2020)

### **SECTION 1.03. ANNEXATION FOR ALL PURPOSES.**

The Council shall have the power by ordinance to fix the boundary limits of the City of Freeport; and to provide for the alteration and extension of said boundary limits, and the annexation of additional territory lying adjacent to the City, with or without the consent of the territory and the inhabitants annexed, any such annexation being in accordance with the provisions of the Municipal Annexation Act codified as Chapter 43 of the Local Government Code. Upon the passage of any ordinance annexing property to the City, the boundary limits of the City shall thereafter be fixed in such ordinance; and when any additional territory has been so annexed, same shall be a part of the City of Freeport, and the property situated therein shall be entitled to all the rights and privileges of all the citizens, and shall be bound by the acts, ordinances, resolutions and regulations of the City.  
(Res. No. 1065, Prop. I, 4-4-77; Election of 4-3-82; Amendment adopted by electorate 5-2-98)

## **SECTION 1.04. CONTRACTION OF BOUNDARIES.**

Whenever there exists within the corporate limits of the City of Freeport any territory not suitable or necessary for City purposes, the City Council may, upon a petition signed by a majority of the qualified voters residing in such territory if the same be inhabited, or without any such petition if the same be uninhabited, by ordinance duly passed, discontinue said territory as part of said City; said petition and ordinance shall specify accurately the metes and bounds of the territory sought to be eliminated from the City and shall contain a plat designating such territory so that the same can be definitely ascertained; and when said ordinance has been duly passed the same shall be entered upon the minutes and records of said City, and from and after the entry of such ordinance said territory shall cease to be a part of said City, but said territory shall still be liable for its pro rata share of any debts incurred while said area was a part of said City, and the City shall continue to levy, assess and collect taxes on the property within said territory to pay the indebtedness incurred while said area was a part of the City as though the same had not been excluded from the boundaries of the City.

## **ARTICLE 2. POWER OF THE CITY**

### **SECTION 2.01. GENERAL.**

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

### **SECTION 2.02. GENERAL POWERS ADOPTED.**

The enumeration of the particular powers in this Charter shall not be held or deemed to

be exclusive but in addition to the powers enumerated herein or implied hereby or appropriate to the exercise of such powers, the City shall have and may exercise all power of local self-government and all other powers which, under the Constitution and laws of the State of Texas, it would be competent for this Charter specifically to enumerate. The City of Freeport shall have and may exercise all the powers of a home rule municipality enumerated in the Local Government Code.  
(Amendment adopted by electorate 5-7-94)

### **SECTION 2.03. EMINENT DOMAIN.**

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

## **ARTICLE 3. THE GOVERNING BODY**

### **SECTION 3.01. NUMBER, SELECTION, AND TERM.**

(a) The legislative and governing body of the City of Freeport, Texas, shall be known as "The City Council of the City of Freeport, Texas" and shall be composed of a Mayor and four(4) council members. The Mayor shall be the presiding officer of the City Council and shall be recognized as the head of the City Government for all ceremonial purposes and by the Governor for purposes of Military Law but shall have no regular administrative duties. The Mayor must vote on all matters under consideration by the City Council, except as provided in Section 3.10 of this Charter. The Mayor shall not have the power of veto.

(b) The Mayor shall be elected from the City of Freeport at large for a three (3) year term at an election to be held on the May uniform election date beginning in 2021, unless such date is changed by state law.

(c) The City of Freeport shall be divided into four(4) single member council districts or wards designated as Wards A, B, C, and D. The resident voters of each single member district or ward shall be entitled to elect one council member from the district or ward wherein they reside. Any qualified candidate desiring to run for election to a position on the City Council from the district or ward wherein such candidate resides shall announce his or her candidacy for such position and file for election to such position in the manner required by this Charter and the Texas Election Code.

(d) The members of the City Council shall serve a three (3) year term each, with an election being held for council members from Wards A and C on the general election date beginning in 2020 and from Wards B and D on the general election date beginning in 2021, unless such date is changed by state law.

(e) All members of the City Council shall be subject to removal from office under the terms and conditions of the recall provisions of this Charter.

(Amendment adopted by electorate 5-2-92; Amendment adopted by electorate 5-4-02; Amendment adopted by electorate 5-24-04)

(f) All references within this Charter to specific Election Dates are henceforth held to be synonymous with the May Uniform Election Dates as proscribed by current State Law and as may be revised by acts of the State Legislature in the future.

(Ord. No. 2020-2617, § 3(3.01), 11-17-2020)

### **SECTION 3.02. QUALIFICATIONS.**

The Mayor and each member of the City Council shall be a registered voter and a resident citizen of the City of Freeport for at least twelve(12) consecutive months and, in the case of members of City Council other than the Mayor, a resident of the Ward sought to be represented for at least six(6) consecutive months, immediately preceding his or her application to have his or her name placed on the official ballot and the filing of proof of his or her qualifications as required by law. Provided, however, such residence within any territory annexed to the City of Freeport immediately preceding such annexation shall be counted as residence within the City. If any such officer shall fail to maintain the foregoing residence qualifications during his or her term of office or shall be absent from three(3) consecutive regularly scheduled meetings of the City Council without a valid written excuse filed with the Mayor or Mayor Pro Temp or sent to either of them by e-mail or text message before the missed meeting and approved by the City Council at its next regularly scheduled meeting, or fail to attend at least eighty percent(80%) of the regularly scheduled meetings of the City Council during any fiscal year, without a valid excuse approved by the City Council, the City Council must at its next regularly scheduled meeting declare a vacancy to exist in the office held by such officer and shall fill such vacancy as set forth in Section3.06 of this Charter.

(Amendment adopted by electorate 5-2-92; Amendment adopted by electorate 5-7-94; Amendment adopted by electorate 5-4-02; Amendment adopted by electorate 5-8-10; Amendment adopted by electorate 5-12-12; Amendment adopted by electorate 5-16-16; Amendment adopted by electorate 5-15-18)

### **SECTION 3.03. COUNCIL TO BE JUDGE OF ELECTION AND QUALIFICATION.**

The City Council shall be the judge of the election and qualification of its own members and other elected officials of the City.

### **SECTION 3.04. COMPENSATION.**

The Mayor shall receive a monthly compensation of \$200.00, and the other members of the City Council shall receive a monthly compensation of \$100.00 each. The Mayor and each of the other members of the City Council shall also receive an additional \$25.00, payable monthly, for each posted meeting of the City Council attended by them. Any expenses incident to holding office incurred by any member of the City Council shall also be reimbursed upon presentment of receipt or other proof of payment.

(Res. No. 916, Prop. 2, 4-9-73; Res. No. 1129, Prop. 1, 4-7-79; Amendment adopted by electorate 5-10-08)

### **SECTION 3.05. MAYOR PRO TEM.**

At the meeting of the City Council at which the returns of the annual election are canvassed each year, the members of the City Council shall select, on a rotating basis among the Wards, a member of the City Council who has been on City Council for at least two(2) years to serve as Mayor Pro Tem until the meeting of the City Council at which the returns of the annual election for the next succeeding year have been canvassed. The Mayor Pro Tem shall perform all of the duties of the Mayor in the absence or disability of the Mayor and shall assume the office of Mayor for the remainder of the unexpired term in the event the office of the Mayor becomes vacant. If both the Mayor and the Mayor Pro Tem are absent from any meeting of the City Council, the members present shall elect from among themselves a Temporary Mayor Pro Tem to preside at such meeting. (Amendment adopted by electorate 5-7-94; Amendment adopted by electorate 5-2-98; Amendment adopted by electorate 5-10-14)

When a vacancy occurs in the City Council, the remaining members thereof, must, within ten(10) days, appoint a qualified person to fill the unexpired term of such vacancy; provided, however, the City Council shall not appoint more than one council member in any twelve-month period, and in the event of the occurrence of a vacancy in the City Council within a twelve-month period in which a vacancy in the City Council has been filled by the said City Council, or in the event that more than one vacancy shall occur at the same time; then in such event a special election shall be held within forty(40) days from the date the last vacancy occurred, for the purpose of electing the successor or successors. In the event that the Mayor and Mayor Pro Tem should resign at the same time, the remaining members of the City Council, or any of them, shall have the right and power to issue legal notice of such election to be so held, and to elect and appoint election officials. Should all positions on the City Council become vacant at one time, then in such event, the County Judge of Brazoria County, Texas, is hereby empowered and directed to issue notice of such special election for and on behalf of said City, and to appoint qualified persons as election officials.

### **SECTION 3.07. POWERS OF THE CITY COUNCIL.**

The determination of all matters of policy and the exercise of all powers of local self-government shall be vested in the City Council. By way of illustration, but not limitation, the following enumerated powers are among these powers that may be exercised by the City Council:

- (a) Power to remove from office in City Government, any officer or member of any board or commission but shall not have the authority to remove any employee from the employment of the City Government, except the City Manager;
- (b) Power to establish, consolidate, or abolish administrative department, but shall not distribute the work of divisions;
- (c) Adopt the budget of the City;
- (d) Authorize the issuance of bonds by a bond ordinance in accordance with the general laws of the State of Texas;

(e) Inquire into the conduct of any office, department or agency of the City and make investigations as to municipal affairs;

(f) Provide for such additional boards and commissions, not otherwise provided for in this Charter, as may be deemed necessary, and appoint the members of all such boards and commissions. Such boards and commissions shall have all powers and duties now or hereafter conferred and created by this Charter, by City ordinance or by law;

(g) Adopt and modify the zoning plan and the building code of the City;

(h) Adopt and modify the official maps of the City;

(i) Adopt, modify and carry out plans proposed by the Planning Commission;

(j) Adopt, modify and carry out plans proposed by the Planning Commission for the replanning, improvement and redevelopment of any area or district which may have been destroyed in whole or in part by disaster;

(k) Grant franchises, regulate, license and fix the charges or fares made by any person, firm or corporation owning, operating or controlling any vehicle of any character used for the carrying of passengers for hire, or the transportation of freight for hire, on the public streets and alleys of the City;

(l) Provide for the establishment and designation of fire limits and prescribe the kind and character of buildings or structures or improvements to be erected therein, and provide for the erection of fireproof buildings within said limits, and provide for the condemnation of dangerous structures or buildings or dilapidated buildings, or buildings calculated to increase the fire hazard and prescribe the manner of their removal or destruction within said limits;

(m) Fix the salaries and compensation of the employees of the City and of all officers of the City other than that of the Mayor and other members of the City Council;

(n) Provide for a sanitary sewer and water system and require property owners to connect their premises with sewer system, and provide for penalties for failure to make sanitary sewer connections;

(o) Provide for sanitary garbage disposal, and set fees and charges therefor, and provide penalties for failure to pay such fees and charges;

(p) Exercise exclusive dominion, control and jurisdiction, including the right to close and abandon streets and alleys in, upon, over and under the public streets, avenues, sidewalks, alleys, highways, boulevards and public grounds of the City and provide for the improvement of same as provided in Article 1105b, Chapter 9, Title 28, of the Revised Civil Statutes of the State of Texas of 1925, as now or hereafter amended;

(q) Exercise those powers enumerated in Acts of the 43rd Legislature of the State of Texas, 1933, p. 774, Chapter 231, commonly known as Article 1187a, Revised Civil Statutes of Texas, 1925, as the same exist or may be hereafter amended;

(r) Provide for and establish hospitalization insurance for employees;

(s) Participate in National or State Social Security programs;

(t) Compromise and settle any and all claims and lawsuits of every kind and character in favor of or against the City of Freeport;

(u) And such other and further powers as have been or may from time-to-time hereafter be delegated to Home Rule cities by the Legislature of the State of Texas, including the powers incident to the exercise thereof.

(Res. No. 1129, Props 2, 3, 4-7-79; Amendment adopted by electorate 5-12-12)

(Ord. No. 2020-2617, § 3(3.07), 11-17-2020)

### **SECTION 3.08. CITY COUNCIL NOT TO INTERFERE IN APPOINTMENT.**

Neither the City Council nor any of its members shall direct the appointment of any person to office by the City Manager or by any of his subordinates. Except for the purpose of inquiry, the City Council and its members shall deal with the administrative services solely through the City Manager and neither the City Council nor any member thereof shall give orders to any subordinate of the City Manager, either publicly or privately.

### **SECTION 3.09. MEETINGS OF THE CITY COUNCIL.**

The council shall have two (2) regular meetings per month, the date, place and beginning time of which shall be established by ordinance. The city secretary, under the direction of the mayor or city manager, shall be responsible for complying with the notice provisions of the Open Meetings Act for all regular meetings. A regular meeting may be cancelled or the location thereof changed by the mayor. Provided, however, no regular meeting may be held outside the corporate limits of the city. An emergency meeting or special meeting may be called by the mayor or any two (2) of the other members of the city council. An emergency meeting is one held in case of an emergency or urgent public necessity where only two (2) hours' notice thereof is required by the Open Meetings Act. A special meeting is any meeting other than a regular meeting or an emergency meeting. The city secretary, under the direction of the person or persons calling a special or emergency meeting, shall be responsible for complying with the notice provisions of the Open Meetings Act. The date, place and beginning time of a special or emergency meeting shall be determined by the person or persons calling such meeting and shall be the time specified in such notice. A special or emergency meeting may be held outside the corporate limits of the city. (Amendment adopted by electorate 5-7-94)

### **SECTION 3.10. RULES OF PROCEDURE.**

The City Council shall determine its own rules of procedure and may compel the attendance of its members. A majority of the qualified members of the City Council shall constitute a quorum for the transaction of business, and the affirmative vote of a majority of those present shall be necessary to adopt any ordinance or resolution. Minutes of the proceedings of all meetings, regular or special, shall be kept, to which any citizen may have access at all reasonable times and which shall constitute one of the archives of the City; provided, however, in lieu of reading the minutes of each Council meeting for approval, the City Secretary may, with the consent of the City Council, furnish each

member of the City Council with exact copies of the minutes of previous meetings at least three days prior to the meeting at which such minutes are to be subject to approval. Such minutes shall then be subject to approval, rejection, deletion or addition by the members of the City Council without the necessity of reading the full text of the minutes of the meetings at such meeting at which such minutes are subject to approval. No member of the City Council present at a meeting shall be excused from voting, and each member of the City Council present at the meeting must announce his vote on question, ordinance, or resolution placed before the City Council; provided, however, a council member shall be excused from voting whenever the subject matter under consideration involves his own official conduct, or where his personal financial interests are involved, and on these particular matters, he shall not vote. but shall give his reasons for not voting, which said reasons shall be spread upon the minutes of the City Council. The vote upon the passage of all ordinances, resolutions and motions shall be taken by the "ayes" and "nays" and entered upon the minutes, and every ordinance or resolution, upon its final passage, shall be recorded and permanently maintained, and shall be authenticated by the signature of the presiding officer and the person performing the duties of City Secretary. If at any meeting of the city council less than a quorum is present, a majority of the members of the city council who are present may postpone the convening of such meeting for a period of time not to exceed one (1) hour in order to obtain a quorum.

(Amendment adopted by electorate 5-2-98)

(Ord. No. 2020-2617, § 3(3.10), 11-17-2020)

### **SECTION 3.11. PROCEDURE FOR PASSING OF ORDINANCES.**

Every ordinance shall be introduced in written or printed form and upon passage, shall take effect at the time indicated therein; provided that any ordinance imposing a penalty, fine or forfeiture for a violation of its provisions shall become effective not less than ten days from the date of its passage; subject to the provisions of Article 7 of this Charter. The clerk shall give notice of the passage of every ordinance imposing a penalty, fine or forfeiture for a violation of the provisions thereof, by causing the caption or title, including the penalty of any such ordinance to be published in the official newspaper of the City of Freeport at least twice within ten days after the passage of said ordinance. He shall note on every ordinance, the caption of which is hereby required to be published, and on the record thereof, the fact that same has been published as required by the Charter, and the date of such publication, which shall be prima facie evidence of the legal publication and promulgation of such ordinance; provided, that the provisions of this section shall not apply to the correction, amendment, revision and codification of the ordinances of the City for publication in book or pamphlet form. Except as otherwise provided by Article 7 of this Charter, it shall not be necessary to the validity of any ordinance that it shall be read more than one time or considered at more than one session of the City Council. Every ordinance shall be authenticated by the signature of the mayor and city clerk and shall be systematically recorded and indexed in an ordinance book in a manner approved by the Council. It shall only be necessary to record the caption or title of ordinances in the minutes or journal of council meetings. The City Council shall have power to cause the ordinances of the City to be corrected, amended, revised, codified and printed in code form as often as the Council deems advisable, and such printed code, when adopted by the Council, shall be in full force and effect without the necessity of publishing the same or any part thereof in a newspaper. Such printed code shall be admitted in evidence in all courts and places without further proof.

### **SECTION 3.12. OFFICIAL BONDS FOR CITY EMPLOYEES.**

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

### **SECTION 3.13. INVESTIGATION BY THE CITY COUNCIL.**

The City Council shall have power to inquire into the conduct of any office, department, agency, officer or employee of the City and to make investigations as to municipal affairs, and for that purpose may subpoena witnesses, administer oaths, and compel the production of books, papers, and other evidence. Failure to obey such subpoena or to produce books, papers or other evidence as ordered under the provisions of this section shall constitute a misdemeanor and shall be punishable by fine not to exceed five hundred(\$500.00) dollars.

(Amendment adopted by electorate 5-24-04)

### **SECTION 3.14. AUDIT AND EXAMINATION OF CITY BOOKS AND ACCOUNTS.**

City Council shall, as soon as feasible, after the close of the fiscal year, select a Certified Public Accountant for the purpose of performing a complete audit of all books, records and accounting systems being used by the City. It shall be the duty of such Certified Public Accountant to perform two(2) spot, partial audits during the fiscal year, all work to commence on an unannounced basis by such accountant. His report shall include a recapitulation of all audits made during the year and all audit reports shall be filed with the City Council, shall be available for public inspection, and shall be a part of the archives of this City. Such accountant, so selected, shall not maintain or keep any of the City's accounts or records.

(Res. No. 803, § 3, 4-7-69)

### **SECTION 3.15. PUBLICATION OF FINANCIAL STATEMENT.**

As soon as possible after the close of each quarter of the fiscal year, the City Manager shall cause a financial statement for such quarter to be prepared and made available for inspection by the public in the office of the City Secretary and maintain such report on the City's website for the next succeeding quarter of the fiscal year.

(Amendment adopted by electorate 5-7-94; Amendment adopted by electorate 5-10-14)

## **ARTICLE 4. ADMINISTRATIVE SERVICES**

### **SECTION 4.01. CITY MANAGER.**

(a) Appointment and Qualifications: The City Council shall appoint a City Manager who shall be the chief administrative and executive officer of the City and shall be responsible

to the City Council for the administration of all the affairs of the City. He shall be chosen by the City Council solely on the basis of his executive and administrative training, experience and ability, and need not, when appointed, be a resident of the City of Freeport. No member of the City Council shall, during the time for which he is elected and for one year thereafter, be appointed City Manager.

(b) Term and Salary: The City Manager shall not be appointed for a definite term but may be removed at the will and pleasure of the City Council by a vote of the majority of the entire Council. The action of the City Council in suspending or removing the City Manager shall be final, it being the intention of this Charter to vest all authority and fix all responsibility of such suspension or removal in the City Council. If the City Manager should be suspended, or if the office of City Manager is vacant by reason of the death, resignation or removal of the City Manager, the City Council shall appoint some qualified person to perform the duties of such office as Acting City Manager until such suspension is lifted or a permanent City Manager is appointed and qualifies. The City Manager and any Acting City Manager shall receive such compensation as may be fixed by the City Council.

(c) Duties of the City Manager:

(1) Appoint, and when necessary for the welfare of the City, remove any employee of the City, except as otherwise provided by this Charter;

(2) Prepare the budget annually and submit it to the City Council, and be responsible for its administration after adoption;

(3) Prepare and submit to the City Council as of the end of the fiscal year a complete report on the finances and administrative activities of the City for the preceding year;

(4) Keep the City Council advised of the financial condition and future needs of the City and make such recommendations as may seem desirable;

(5) Perform such duties as may be prescribed by this Charter or may be required of him by the City Council, not inconsistent with this Charter.

(d) Absence or disability of the City Manager. If the City Manager is unable to perform the duties of such office as a result of absence or disability, or if such office becomes vacant and the City Council has not yet appointed an Acting City Manager, the Mayor may designate in writing, to be filed with the City Secretary, a qualified employee of the City to perform the duties of the City Manager during such absence or disability or, in the case of such office becoming vacant, until an Acting City Manager has been appointed by the City Council. Provided, however, any such designation shall expire on the day following the next regular meeting of the City Council unless confirmed by the City Council at such meeting.

(e) Within six(6) months of his or her appointment, the City Manager shall establish and thereafter maintain a place of residence within the city for the duration of his or her employment by the city in such capacity. Provided, however, this requirement shall not apply to the person serving as the City Manager on the date it becomes a part of the Home Rule Charter.

(Amendment adopted by electorate 5-4-02; Amendment adopted by electorate 5-10-14)

## **SECTION 4.02. DEPARTMENT OF POLICE.**

There shall be established and maintained a Department of Police to preserve order within the City and to secure the residents of said City from violence and the property therein from injury or loss.

(a) Chief of Police. The chief of police shall be the chief administrative officer of the department of police. He shall, with the approval of the City Manager, appoint and remove the employees of such department and shall perform such other duties as may be required of him by the city council. The chief of police shall be appointed by the city manager, with the approval of the city council, for an indefinite term. The chief of police shall be responsible to the city manager for the administration of the police department and the carrying out of the directives of the city council. The chief of police may be removed from office by the city manager with the approval of the city council.

(b) Special Police. No persons except as otherwise provided by general law or this Charter or the ordinances passed pursuant thereto shall act as special police or special detective. (Amendment adopted by electorate 5-7-94)

(c) The Chief of Police shall appoint one of the members of the Police Department to act as warrant officer. The warrant officer shall execute warrants and other process issued by the Judge or Clerk of the Municipal Court, attend and act as bailiff at all sessions of the Municipal Court, act as security officer for all Municipal Court personnel and perform such other and further duties as may be requested of him by the Municipal Court Judge or assigned by the Chief of Police, with priority being given by the warrant officer to discharging the duties of warrant officer as specified herein. (Amendment adopted by electorate 5-12-12)

## **SECTION 4.03. CITY SECRETARY.**

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

## **SECTION 4.04. DIRECTOR OF FINANCE.**

The City Manager shall appoint a competent person as Director of Finance and such assistants as the City Council shall deem advisable. The Director of Finance shall perform the duties delegated to him by the City Manager and those which may be imposed upon municipal treasurers or finance directors by the laws of the State of Texas. (Res. No. 1065, Prop. 2, 4-4-77; Amendment adopted by electorate 5-10-08)

## **SECTION 4.04A. MULTIPLE DUTIES.**

The duties of the City Manager, City Secretary, Tax Assessor and Collector and Director of Finance may be performed by the same individual for not more than six(6) consecutive

months.(Res. No. 1065, Prop. 2, 4-4-77; Amendment adopted by electorate 5-10-08; Amendment adopted by electorate 5-15-18)

#### **SECTION 4.05. 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 hereafter prescribed by the laws of the State of Texas relative to such court.

(b) The Judge of said Court shall be a qualified voter of Brazoria County, Texas appointed by the City Council, shall hold such office at the pleasure of the City Council, and shall receive such salary as may be fixed by the City Council.

(Amendment adopted by electorate 5-8-10)

(c) The City Manager shall appoint and when necessary for the welfare of the City, remove the Municipal Court Clerk and any Deputy Municipal Court Clerks but the number of deputies and the salary of the clerk and all deputies shall be fixed by the City Council.

(d) The Clerk of said Court and his deputies shall have the power to administer oaths and affidavits, make certificates, affix the seal of said Court thereto, and generally do and perform any and all acts usual and necessary by the Clerk of Courts in issuing process of said Courts and conducting the business thereof.

(e) At the request of the Judge of said Court, the City Council may appoint one or more Associate Judges for said Court to sit concurrently with the Judge of said Court. An Associate Judge of said Court shall have the same qualifications as the Judge of said Court, shall serve at the pleasure of the City Council, shall receive such salary as may be fixed by the City Council and, when acting in such capacity, shall have all the powers and duties of the Judge of said Court.(Res. No. 916, Props. 3, 4, 4-9-73)

(Amendment adopted by electorate 5-7-94; Amendment adopted by electorate 5-8-10; Amendment adopted by electorate 5-12-12)

#### **SECTION 4.06. CITY ATTORNEY.**

The City Council shall appoint a duly licensed attorney practicing law, who shall be the City Attorney. He shall receive for his services such compensation as may be fixed by the City Council and shall hold his office at the pleasure of the City Council. The City Attorney, or such other attorneys selected by him with the approval of the City Council, shall represent the City in all litigation. He shall be the legal advisor of, and attorney and counsel for, the City and all officers and departments thereof.

(Amendment adopted by electorate 5-8-10)

(Ord. No. 2020-2617, § 3(4.06), 11-17-2020)

#### **SECTION 4.07. DEPARTMENT OF HEALTH AND SANITATION.**

(a) Appointment and Qualification. The City Council may appoint a City Health Officer who shall be a licensed physician qualified to practice medicine in the State of Texas and a resident of the City of Freeport. In the event no available licensed physician qualified to practice medicine in the State of Texas is a resident of the City of Freeport, the Council

may appoint as City Health Officer a nonresident physician qualified to practice medicine in the State of Texas. When the office of City Health Officer is vacant, the County Health Officer of Brazoria County, Texas, may perform any of the duties of such office required by law to be performed by a licensed physician qualified to practice medicine in the State of Texas. The City Health Officer shall be the Director of the Department of Health and Sanitation, unless the office of City Health Officer is vacant, in which event the City Manager shall appoint an employee of the City to be the Supervisor of such Department.

(b) Administration. The City Manager shall be responsible to the City Health Officer for the general administration of the Department of Health and Sanitation and the supervision of the employees thereof.

(c) Duties of the Health Officer. The City Health Officer shall advise with the City Council on a program of Public Health; shall cooperate in the preparation of a Sanitary Code; shall cooperate with nearby cities on problems of health and sanitation; shall cooperate with the Commissioners Court of Brazoria County and its agencies, and with the State Health Department and other departments of State Government in matters pertaining to health and sanitation.

(Election of 4-3-82; Amendment adopted by electorate 5-6-00; Amendment adopted by electorate 5-12-12)

#### **SECTION 4.08. FIRE AND E.M.S. DEPARTMENT.**

For the protection of property and lives within the city, there is hereby established and there shall be maintained by the city a department to be known as the Freeport Fire and E.M.S. ("Emergency Medical Service").

(Amendment adopted by electorate 5-16-16)

#### **SECTION 4.09. OTHER DEPARTMENTS.**

The City Council may abolish or consolidate such offices and departments as it may deem to be to the best interest of the City and may divide the administration of any such departments as it may deem advisable; may create new departments and may discontinue any offices or departments at its discretion, except those specifically established by this Charter.

### **ARTICLE 5. NOMINATIONS AND ELECTIONS**

#### **SECTION 5.01. ELECTIONS.**

The regular City Election shall be held annually on the first Saturday in May at which time officers will be elected to fill those offices which become vacant that year. The City Council shall fix the hours and voting places for holding such election. The City Council may, by resolution duly enacted, order a special election, fix the time and place of holding the same and provide all means of holding such election. Notice of such election shall be given in the manner and time prescribed by law.

(Res. No. 916, Prop. 5, 4-9-73; Amended 5-88)

#### **SECTION 5.02. REGULATION OF ELECTIONS.**

The City Council shall make all regulations which it considers needful or desirable, not inconsistent with this Charter or the laws of the State of Texas, for the conduct of municipal elections, for the prevention of fraud in such elections and for the recount of ballots in case of doubt or fraud. Municipal elections shall be conducted by the appointed election authorities who shall also have power to make regulations not inconsistent with this Charter or with any regulations made by the Council or the laws of the State of Texas.

### **SECTION 5.03. FILING FOR OFFICE.**

Any person having the qualifications prescribed in Section 3.02 of this Charter who desires to become a candidate for any elective office shall file with the City Secretary within the time limits therein specified a written application containing the matters required by the Texas Election Code.

(Amendment adopted by electorate 5-7-94)

### **SECTION 5.04. THE OFFICIAL BALLOT.**

The names of all candidates for office, except such as may have withdrawn, died or become ineligible, shall be printed on the official ballots without party designations in the order determined in a drawing of lots conducted by the City Council. All official ballots shall be printed at least twenty(20) days prior to the date of any general or special election, and absentee voting shall be governed by the general election laws of the State of Texas.

### **SECTION 5.05. ELECTION BY MAJORITY.**

Election to office shall be by majority with the candidate receiving a majority of the number of votes(if otherwise qualified) being deemed elected to office. If no candidate gains a majority of the votes, the City Council shall cause to be held a runoff election between the two(2) candidates with the most votes to be held during the same calendar year and on a day permitted by the Texas Election Code. In the event of a tie at any election, lots shall be cast to determine a winner in accordance with the Texas Election Code.

(Amendment adopted by electorate 5-4-92; Amendment adopted by electorate 5-16-16)

### **SECTION 5.06. LAWS GOVERNING CITY ELECTIONS.**

In the event of a conflict, the laws of the State of Texas and of the United States governing general and municipal elections shall prevail over the provisions of this charter. (Amendment adopted by electorate 5-10-08)

### **SECTION 5.07. CONDUCTING AND CANVASSING ELECTIONS.**

The election judges and other necessary election officials for conducting all such elections shall be appointed by the City Council. The election judges shall conduct the elections, determine, record and report the results as provided by the general election laws of Texas. Within five(5) days after an election, the City Council shall meet, open the return, canvass and officially declare the result of the election as to candidates and questions, and issue certificates of election to candidates elected as hereinbefore provided.

## **SECTION 5.08. OATH OF OFFICE.**

(a) The mayor and other members of the city council and all appointed officers of the city, before they enter upon the duties of their offices, shall take and subscribe to the following oath or affirmation to be filed and kept in the office of the city secretary:

"I,(name), do solemnly swear(or affirm) that I will faithfully execute the duties of the office of(title) of the City of Freeport, State of Texas, and will to the best of my ability preserve, protect and defend the Constitution and Laws of the United States and the State of Texas and the Charter and Ordinances of the City of Freeport, so help me God."

(b) The mayor and other members of the city council and all appointed officers of the city, before taking the oath or affirmation contained in subsection(a) above, shall subscribe and file with the Secretary of State of Texas the following statement:

"I,(name), do solemnly swear(or affirm) that I have not directly or indirectly paid, offered or promised to pay, contributed or promised to contribute any money or thing of value, or promised any public office or employment(for the giving or withholding of a vote at the election at which I was elected; as a reward to secure my appointment or confirmation thereof), so help me God."

(Amendment adopted by electorate 5-7-94)

## **SECTION 5.09. CANCELLATION OF ELECTIONS.**

The City Council may cancel an election of officers and declare each unopposed candidate elected to office when the City Secretary certifies that(1) the deadlines for placement of candidates' names on the ballot and for declaration of write-in candidacy has passed,(2) all candidacies for such election are unopposed and(3) there are no propositions to be placed on the ballot of such election.

(Amendment adopted by electorate 5-2-98)

## **SECTION 5.10. LIMITATION ON CONSECUTIVE TERMS OF OFFICE.**

No person shall be eligible to become a candidate for election to the same office for more than two (2) consecutive terms. Provided, however, the previous terms to which any person holding an elective office on the date this provision becomes effective shall not be counted.

(Amendment adopted by electorate 5-16-16)

(Ord. No. 2020-2617, § 3(5.10), 11-17-2020)

# **ARTICLE 6. RECALL OF OFFICERS**

## **SECTION 6.01. SCOPE OF RECALL.**

Any elected City Official, whether elected to office by the qualified voters of the City or appointed by the City Council to fill a vacancy, shall be subject to recall and removal from office by the qualified voters of the City on grounds of incompetency, misconduct or malfeasance in office.

## **SECTION 6.02. PETITIONS FOR RECALL.**

The question of the recall of the Mayor shall be submitted to the qualified voters of the entire City but the question of the recall of the members of the City Council shall only be submitted to the qualified voters of the single member district or ward from which such member was elected. Recall shall be initiated by the filing of a petition with the person performing the duties of the City Secretary. In the case of the Mayor, such petition shall be signed by a number of the qualified voters of the City equal to at least fifty-one(51%) of the number of votes cast at the last regular municipal election of the City but in no event less than two hundred(200) petitioners. In the case of the other members of the City Council, such petition shall be signed by a number of the qualified voters residing in the single member district or ward from which such member was elected to equal to at least fifty-one(51%) of the number of votes cast at the last regular municipal election held in such single member district or ward but in no event less than one hundred(100) petitioners.

(Amendment adopted by electorate 5-4-92; Amendment adopted by electorate 5-7-94; Amendment adopted by electorate 5-10-08)

## **SECTION 6.03. FORM OF RECALL PETITION.**

(a) The recall petition mentioned above must be addressed to the City Council of the City of Freeport, must distinctly and specifically point out the ground, or grounds, upon which such petition for removal is predicated, and, if there be more than one ground, such as for incompetency, misconduct or malfeasance in office, shall specifically state each ground with such certainty as to give the officer sought to be removed, notice of the matters and things with which he is charged. The signature shall be verified by oath in the following form:

STATE OF TEXAS COUNTY OF BRAZORIA

I, , being first duly sworn, on oath depose and say that I am one of the signers of the above petition; and that the statements made therein are true, and that each signature appearing thereto was made in my presence on the day and date it purports to have been made, and I solemnly swear that the same is the genuine signature of the person whose name it purports to be.

Sworn and subscribed to before me this day of 19 ,Notary Public in and for Brazoria County, Texas

(b) Should it be proved to the satisfaction of the City Council that the affidavit above stated is false, then in such event, it shall be the duty of the City Secretary to cause criminal charges to be filed against the affiant therein.

## **SECTION 6.04. VARIOUS PAPERS CONSTITUTING PETITION.**

The petition may consist of one or more copies, or subscription list, circulated separately, and the signatures thereto may be upon the paper or papers containing the form of petition, or upon other papers attached thereto. Verifications provided for in the next preceding section of this Article may be made by one or more petitioners, and the several parts of copies of the petition may be filed separately and by different persons; but no

signatures to such petition shall remain effective or be counted which were placed thereon more than forty-five(45) days prior to the filing of such petition or petitions with the person performing the duties of City Secretary. All papers comprising a recall petition shall be filed with the person performing the duties of City Secretary on the same day, and the said Secretary shall immediately notify, in writing, the officer so sought to be removed, by mailing such notice to his Freeport address.

#### **SECTION 6.05. PRESENTATION OF PETITION TO CITY COUNCIL.**

Within five(5) days after the date of the filing of the papers constituting the recall petition, the person performing the duties of City Secretary shall present such petition to the City Council of the City of Freeport.

#### **SECTION 6.06. PUBLIC HEARING TO BE HELD.**

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

#### **SECTION 6.07. ELECTION TO BE CALLED.**

If the officer whose removal is sought does not resign, than it shall become the duty of the City Council to order an election and fix a date for holding such recall election, the date of which election shall be not less than twenty-five(25) nor more than thirty-five(35) days from the date such petition was presented to the City Council, or from the date of the public hearing if one was held.

#### **SECTION 6.08. BALLOTS IN RECALL ELECTION.**

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

(a) With respect to each person whose removal is sought, the question shall be submitted:

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

(b) Immediately below each such question there shall be printed the following words, one above the other, in the order indicated:

“YES”

“NO”

#### **SECTION 6.09. RESULT OF RECALL ELECTION.**

If a majority of the votes cast at a recall election shall be “NO”, that is, against the recall of the person named on the ballot, he shall continue in office for the remainder of his unexpired term, subject to recall as before. If a majority of the votes cast at such an

election be "YES", that is, for the recall of the person named on the ballot, he shall, regardless of any technical defects in the recall petition, be deemed removed from office and the vacancy be filled as vacancies in the City Council are filled, as provided in Section 3.06 of this Charter.

#### **SECTION 6.10. RECALL, RESTRICTIONS THEREON.**

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

#### **SECTION 6.11. FAILURE OF CITY COUNCIL TO CALL AN ELECTION.**

In case all of the requirements of this Charter shall have been met and the City Council shall fail or refuse to receive the recall petition, or order such recall election, or discharge any other duties imposed upon said City Council by the provisions of this Charter with reference to such recall, then the County Judge of Brazoria County, Texas, shall hereby be empowered and directed to discharge any of such duties herein provided to be discharged by the person performing the duties of the City Secretary or by the City Council.

### **ARTICLE 7. LEGISLATION BY THE PEOPLE, INITIATIVE AND REFERENDUM**

#### **SECTION 7.01. GENERAL POWER.**

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

#### **SECTION 7.02. INITIATIVE.**

The qualified voters of the City of Freeport may initiate legislation by submission of a proposed ordinance or resolution to a vote of the qualified voters of the City. The petition must be signed by two hundred(200) qualified voters of the City or by a number of qualified voters equal in number to thirty(30%) of the number of votes cast at the last regular municipal election of the City, whichever is greater. The petition shall be signed in the same manner as recall petitions are signed, as provided in Section 6.02 of this Charter, and shall be verified by oath in the manner and form provided for recall petitions in Section 6.03 of this Charter. The petition may consist of one or more copies as permitted for recall petitions in Section 6.04 of this Charter but each copy of the petition shall have attached to it a copy of the proposed ordinance or resolution. The petition shall be filed with the person performing the duties of City Secretary. Within five(5) days after the filing of the petition, the person performing the duties of City Secretary shall present the petition and the proposed ordinance or resolution to the City Council. Upon presentation to it of the petition and the proposed ordinance or resolution, it shall become the duty of the City Council, within ten(10) days after the receipt thereof, to pass and adopt such ordinance or resolution without alteration as to meaning or effect in the opinion of the persons filing the petition, or to call a special election, to be held on the next uniform election date specified in the Texas Election Code at which the qualified voters of the City of Freeport shall vote on the question of adopting or rejecting the proposed legislation. Provided, however, if there are less than forty-five(45) days remaining before such date,

then such special election shall be called for the next succeeding uniform election date occurring after the expiration of forty-five(45) days.  
(Amendment adopted by electorate 5-7-94; Amendment adopted by electorate 5-6-96)

### **SECTION 7.03. REFERENDUM.**

Qualified voters of the City of Freeport may require that any ordinance or resolution, with the exception of ordinances or resolutions levying taxes, passed by the City Council be submitted to the voters of the City for approval or disapproval, by submitting a petition for this purpose within thirty(30) days after final passage of said ordinance or resolution, or within thirty(30) days after its publication. Said petition shall be addressed, prepared, signed and verified as required for petitions initiating legislation as provided in Section7.02 of this Charter and shall be submitted to the person performing the duties of City Secretary. Upon the filing of such petition, the person performing the duties of City Secretary shall present said petition to the City Council at its next meeting. Thereupon the City Council shall reconsider such ordinance or resolution, and if it does not entirely repeal the same, shall submit it to popular vote as provided in Section7.02 of this Charter. Pending the holding of such election, such ordinance or resolution shall be suspended from taking effect and shall not later take effect unless a majority of the qualified voters thereon at such election shall vote in favor thereof.

### **SECTION 7.04. VOLUNTARY SUBMISSION OF LEGISLATION BY THE CITY COUNCIL.**

The City Council, upon its own motion and by a majority vote of its members, may submit to popular vote at any election for adoption or rejection any proposed ordinance, or resolution or measure, or may submit for repeal any existing ordinance, resolution or measure, in the same manner and with the same force and effect as provided in this Article for submission on petition, and may in its discretion call a special election for this purpose.

### **SECTION 7.05. FORM OF BALLOTS.**

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

"FOR the ORDINANCE," and

"AGAINST the ORDINANCE," or

"FOR the RESOLUTION," and

"AGAINST the RESOLUTION."

### **SECTION 7.06. PUBLICATION OF PROPOSED AND REFERRED ORDINANCES.**

The person performing the duties of City Secretary shall publish at least once in the official newspaper of the City the proposed or referred ordinance or resolution at least fifteen(15) days before the date of the election, and shall give such other notices and do

such other things relative to such election as are required in general municipal elections or by the ordinance or resolution calling said election.

**SECTION 7.07. ADOPTION OF ORDINANCES.**

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

**SECTION 7.08. INCONSISTENT ORDINANCES.**

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

**SECTION 7.09. ORDINANCES PASSED BY POPULAR VOTE, REPEAL OR AMENDMENT.**

No ordinance or resolution which may have been passed by the City Council upon a petition or adopted by popular vote under the provisions of this Article shall be repealed or amended except by the City Council in response to a referendum petition or by submission provided in Section 7.04 of this Charter.

**SECTION 7.10. FURTHER REGULATIONS BY CITY COUNCIL.**

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

**SECTION 7.11. FRANCHISE ORDINANCES.**

Nothing contained in this Article shall be construed to be in conflict with any of the provisions of Article 10 of this Charter, pertaining to ordinances granting franchises when valuable rights shall have accrued thereunder.

**ARTICLE 8. MUNICIPAL PLANNING AND ZONING**

**SECTION 8.01. PLATTING OF PROPERTY.**

(a) Hereafter, every owner of any tract of land situated within the corporate limits of the City of Freeport, who may divide the same in two(2) or more parts for the purpose of laying out any subdivision or any addition to the City, shall comply with the provisions of Article 212 of the Local Government Code, as now hereafter amended, and incorporated herein for all purposes.

(b) The provisions of Section 8.01(a) above shall apply similarly to the owner of any tract of land situated within the actual city limits of the City of Freeport, Texas, or within any extraterritorial jurisdiction of said City, as such extraterritorial jurisdiction exists or may be extended under the laws of the State of Texas.

(Ord. No. 916, Prop. 6, 4-9-73; Amendment adopted by electorate 5-7-94))

## **SECTION 8.02. DEVELOPMENT OF PROPERTY.**

The expenditure of public funds shall be authorized for the development of privately-owned land or subdivisions for economic development, only with a legally valid 380 agreement approved by City Council and signed by the mayor, following a public hearing on the matter. Such expenditures may be for projects situated within or beyond the corporate limits of the City.

(Amendment adopted by electorate 5-10-08)  
(Ord. No. 2020-2617, § 3(8.02), 11-17-2020)

## **SECTION 8.03. PLANNING COMMISSION.**

The City Council shall appoint a City Planning Commission consisting of five(5) members who shall be residents in the City of Freeport while serving and for not less than six(6) months prior to being appointed, and who shall serve without compensation.

(a) Term of Office: The terms of office of all persons serving on the Planning Commission shall be established by ordinance adopted by the City Council.

(b) Rules of Procedure: The Commission shall elect, annually, one of its members chairman, and shall establish its own rules of procedure which shall include the following: A quorum shall consist of a majority of the members of the Commission and an affirmative vote of a majority of those present shall be necessary to pass upon pending questions, the chairman being entitled to vote upon any question. No member of the Planning Commission present at a meeting shall be excused from voting, and each member of the Planning Commission present at the meeting must announce his vote on questions, ordinances, or resolutions; provided however, a Commission Member shall be excused from voting whenever the subject matter under consideration involves his personal financial interests, and on this particular matter he shall not vote but shall give his reasons for not voting. All meetings shall be open to the public and a record of all proceedings shall be kept, which record shall be filed with the person performing the duties of City Secretary and shall be a public record. The annual election of the chairperson shall take place in June of each year or whenever all vacant positions have been filled, whichever is later.

(c) Vacancies: Membership on the Planning Commission shall be accompanied by active participation in the activities of the Commission, and any member who is absent from three(3) consecutive regular meetings of the Commission, shall automatically be dismissed from membership. The Commission shall at once notify the City Council that a vacancy in the Planning Commission exists. Vacancies occurring in the Commission, for whatever reason, shall be filled within thirty(30) days by appointment by the City Council for the remainder of the unexpired term.

(d) Powers and Duties: The Commission shall have the power and shall be required to:

(1) Make recommendations for the amendment, extension and additions to the master plan for the physical development of the City;

(2) Approve or disapprove plats of proposed subdivisions submitted in accordance with Section 8.01 of this Charter. In considering such plats, the Planning Commission shall

require that the proposed subdivision shall meet, so far as is practicable, all the standards of layout and street and sidewalk construction on comparable property within the corporate limits of the City of Freeport, and shall further require that restrictions be placed on the use of the property which are consistent with the restrictions on comparable property within the City of Freeport. Upon approving such plats, and before they are released for recording, the Planning Commission shall submit all copies of the approved plats to the City Council for its approval or disapproval;

(3) Draft, and recommend to the City Council for adoption, an official map of the City and recommend or disapprove proposed changes in such map;

(4) Make, and recommend to the City Council for adoption, a zoning plan and recommend or disapprove proposed changes in such plan;

(5) Make, and recommend to the City Council for adoption, plans for the clearance and rebuilding of slum districts and blighted areas which may develop within the City;

(6) Compile and recommend to the City Council for adoption, a building code, which code shall include the minimum standards of construction for building, the minimum standards for plumbing and the minimum standards for wiring;

(7) Advise and recommend to the City Council traffic regulations for the City;

(8) Meet not less than once each month; meetings to be held at the Municipal Courtroom of the Municipal Court and Police Department Building, unless otherwise indicated in the posted notice for such meeting;

(9) Perform such other duties and be vested with such other powers as the City Council shall from time to time prescribe.

(e) Liaison with City Council: The City Manager or his representative shall attend the meetings of the Planning Commission and shall serve as liaison between the Planning Commission and the City Council. (Res. No. 1129, Props. 7, 8, 4-7-79; Amendment adopted by electorate 5-7-94; Amendment adopted by electorate 5-13-06; Amendment adopted by electorate 5-8-10; Amendment adopted by electorate 5-12-12)

#### **SECTION 8.04. ZONING BOARD OF ADJUSTMENT.**

The City Council may serve as a Zoning Board of Adjustment or may appoint a Zoning Board of Adjustment by ordinance. The Board shall have all powers granted in Chapter 211 of the Local Government Code, as now or hereafter amended.  
(Amendment adopted by electorate 5-7-94)

### **ARTICLE 9. MUNICIPAL FINANCE**

#### **SECTION 9.01. FISCAL YEAR.**

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

**SECTION 9.02. PREPARATION AND SUBMISSION OF BUDGET.**

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

- (a) A budget message, explanatory of the budget, which message shall contain an outline of the proposed financial policies of the City for the fiscal year, shall set forth the reasons for salient changes from the previous fiscal year in expenditure and revenue items, and shall explain any major changes in financial policy;
- (b) A consolidated statement of anticipated receipts and proposed expenditures for all funds;
- (c) An analysis of property valuations;
- (d) An analysis of tax rate;
- (e) Tax levies and tax collections by years for at least five(5) years;
- (f) General fund resources in detail;
- (g) Special fund resources in detail;
- (h) Summary of proposed expenditures by function, department, and activity;
- (i) Detailed estimates of expenditures shown separately for each activity to support summary No.(h) above;
- (j) A revenue and expense statement for all types of bonds;
- (k) A description of all bond issues outstanding, showing rate of interest, date of issue, maturity date, amount authorized, amount issued, and amount outstanding;
- (l) A schedule of requirements for the principal and interest of each issue of bonds;
- (m) The appropriation ordinance;
- (n) The tax-levying ordinance.

**SECTION 9.03. ANTICIPATED REVENUES COMPARED WITH OTHER YEARS IN BUDGET.**

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

**SECTION 9.04. PROPOSED EXPENDITURES COMPARED WITH OTHER YEARS.**

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

#### **SECTION 9.05. BUDGET A PUBLIC RECORD.**

The budget and all supporting schedules shall be filed with the person performing the duties of City Secretary, submitted to the City Council, and shall be a public record. The City Manager shall provide copies for distribution to all interested persons.

#### **SECTION 9.06. NOTICE OF PUBLIC HEARING ON BUDGET.**

At the meeting of the City Council at which the budget is submitted, the City Council shall fix the time and place of a public hearing on the budget and shall cause to be published in the official newspaper of the City of Freeport, a notice of the hearing setting forth the time and place thereof at least fifteen(15) days before the date of such hearing.

#### **SECTION 9.07. PUBLIC HEARING ON BUDGET.**

At the time and place set forth in the notice required by Section9.06, or at any time and place to which such public hearing shall from time to time be adjourned, the City Council shall hold a public hearing on the budget submitted and all interested persons shall be given an opportunity to be heard for or against any item or the amount of any item therein contained.

#### **SECTION 9.08. PROCEEDINGS ON BUDGET AFTER PUBLIC HEARING.**

After the conclusion of such public hearing, the City Council may insert new items or may increase or decrease the items of the budget, except items in proposed expenditures fixed by law, but where it shall increase the total proposed expenditures, it shall also provide for an increase in the total anticipated revenue at least to equal such proposed expenditures.

#### **SECTION 9.09. VOTE REQUIRED FOR ADOPTION.**

The budget shall be adopted by the favorable vote of a majority of the members of the whole City Council.

#### **SECTION 9.10. DATE FOR FINAL ADOPTION.**

The budget shall be finally adopted not later than fifteen(15) days prior to the beginning of the fiscal year and should the City Council fail to so adopt a budget, the then existing budget together with its tax levying ordinance and its appropriation ordinance shall be deemed adopted for the ensuing fiscal year. If delayed by a situation beyond control of the City it shall be acted on as soon as practicable.

(Amended 4-86)

#### **SECTION 9.11. EFFECTIVE DATE OF BUDGET; CERTIFICATIONS; COPIES MADE**

**AVAILABLE.**

Upon final adoption, the budget shall be in effect for the fiscal year. A copy of the budget, as finally adopted, shall be filed with the person performing the duties of City Secretary, the County Clerk of Brazoria County and the State Controller of Public Accounts at Austin. The final budget shall be printed, mimeo- graphed or otherwise reproduced and copies shall be made available for the use of all offices, departments and agencies and for the use of interested persons and civic organizations.

**SECTION 9.12. BUDGET ESTABLISHES APPROPRIATIONS.**

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

**SECTION 9.13. BUDGET ESTABLISHES AMOUNT TO BE RAISED BY PROPERTY TAX.**

From the effective date of the budget, the amount therein stated as the amount to be raised by property tax shall constitute a determination of the amount of the levy for the purposes of the City in the corresponding tax year; provided however, that in no event shall such levy exceed the legal limit provided by the laws and Constitution of the State of Texas.

**SECTION 9.14. CONTINGENT APPROPRIATION.**

Provisions shall be made in the annual budget and in the appropriation ordinance for an appropriation of a reserve and or contingency allocation in an amount not more than 5% of the total annual budget; however, the 5% may only be allocated annually under the condition the "undesignated" reserve/contingency funds in general revenue does not exceed eight million dollars. All reserve/contingency funds may only be used with the specific consent of the City Council for unforeseen contingencies by the City Manager. (Amendment adopted by electorate 5-12-12)

**SECTION 9.15. ESTIMATED EXPENDITURES SHALL NOT EXCEED ESTIMATED RESOURCES.**

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

**SECTION 9.16. OTHER NECESSARY APPROPRIATIONS.**

The City budget may be amended and appropriations altered in accordance therewith in cases of public necessity, the actual fact of which shall have been declared by the City Council.

**SECTION 9.17. DEPARTMENT OF TAXATION.**

Unless the city council has required the county to assess and collect city taxes pursuant to Section 6.22 of the Tax Code, as now or hereafter amended, the city manager shall appoint a qualified person to be city tax assessor-collector. Such person shall give a surety bond for the faithful performance of the duties of such office, including by way of illustration and not limitation, compliance with the controlling provisions of the state law bearing upon the functions of such office, in a sum which shall be fixed by the city council at not less than ten thousand dollars. If the city council has required the county to assess and collect city taxes, the applicable duties of the city tax assessor-collector contained in this article shall be performed by the county tax assessor-collector or, if not, then by the city manager.

(Amendment adopted by electorate 5-7-94)

#### **SECTION 9.18. POWER TO TAX.**

The City Council shall have the power under the provisions of the state law to levy, assess and collect an annual tax upon real and personal property within the City to the maximum provided by the Constitution and general laws of the State of Texas.

#### **SECTION 9.19. PROPERTY SUBJECT TO TAX, METHOD OF ASSESSMENT.**

All real and personal property within the City of Freeport not expressly exempted by law, shall be subject to annual taxation in the manner provided in the Tax Code of the State of Texas, as now or hereafter amended.

(Amendment adopted by electorate 5-7-94)

#### **SECTION 9.20. (DELETED).**

#### **SECTION 9.21. (DELETED).**

#### **SECTION 9.22. (DELETED).**

#### **SECTION 9.23. (DELETED).**

#### **SECTION 9.24. TAXES; WHEN DUE AND PAYABLE.**

All taxes due the City of Freeport may be paid at any time after the tax roll for the year has been approved, which shall be not later than October first(1st); and such taxes shall be payable at the office of the County Assessor-Collector of Taxes at Angleton, Texas, if the city council has required the county to assess and collect city taxes pursuant to Section 6.22 of the Tax Code, as now or hereafter amended; otherwise, such taxes shall be due and payable at the office of the City Assessor-Collector.

(Amendment adopted by electorate 5-7-94)

#### **SECTION 9.25. TAX LIENS.**

The tax levied by the City is hereby declared to be a lien, charge or encumbrance upon the property as of January first(1st) upon which the tax is due, which lien, charge or encumbrance the City is entitled to enforce and foreclose in any court having jurisdiction over the same, and the lien, charge or encumbrance on the property is such as to give the

state courts jurisdiction to enforce and foreclose said lien on the property on which the tax is due, not only as against any resident of this state or person whose residence is unknown, but also against nonresidents. All taxes upon real estate shall especially be a lien and a charge upon the property upon which the taxes are due, which lien may be foreclosed in any court having jurisdiction. Such lien shall be prior to all other claims, and no gift, sale, assignment or transfer of any kind, or judicial writ of any kind, can ever defeat such lien.

## **ARTICLE 10. FRANCHISE AND PUBLIC UTILITIES**

### **SECTION 10.01. 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 further powers as may now or hereafter be granted under the Constitution and laws of the State of Texas.

### **SECTION 10.02. FRANCHISE POWER OF CITY COUNCIL.**

The City Council shall have the power, by ordinance, to grant, amend by mutual agreement, renew and extend, all franchises of all public utilities of every character operating within the City of Freeport, Texas. All ordinances granting, amending, renewing or extending franchises for public utilities shall not be finally passed or read for passage until the full text of the proposed ordinance has been published in the official newspaper of said City, at least one time, at least thirty(30) days prior to such ordinance being read for passage by the City Council. The expense of publishing such proposed franchise ordinance, amendment or renewal shall be borne by the proponent of such franchise. No public utility franchise shall be granted for more than fifty(50) years, nor shall such franchise be transferable except with the approval of City Council expressed by ordinance. The term "transferable," as used herein, is not to be construed in such a manner as to prevent such utility from pledging security for valid debt or mortgage.  
(Res. No. 916, Prop. 9, 4-9-73)

### **SECTION 10.03. FRANCHISE VALUE NOT TO BE ALLOWED.**

No value shall be assigned to any franchise granted by the City of Freeport under this Charter 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.

### **SECTION 10.04. RIGHT OF REGULATION.**

All grants, removals, extensions, or amendments of public utility franchise, whether it be so provided in the ordinance or not, shall be subject to the right of the City Council of the City of Freeport:

(a) To repeal the same by ordinance, after thirty(30) days' advance notice(during which time the grantee shall have the opportunity to correct any default), and hearing, upon the failure of grantee to comply with the ordinances, franchise and Charter of the City of Freeport; and from which decision of the City Council, the grantee shall have the right of

appeal to the Courts of this State;

(b) To require proper and adequate extension of plant and service, and the 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 examine and audit at any time during regular business hours the accounts and other records of any such utility which are relevant to the City's right of regulation, and to require annual and other reports, including reports on operation within the City of Freeport;

(e) To impose such reasonable regulations and restrictions as may be deemed desirable or conducive to the safety, welfare, and accommodation of the public;

(f) To require such compensation and rental as may be permitted by the laws of the State of Texas.

#### **SECTION 10.05. REGULATIONS OF RATES AND SERVICE.**

The City Council shall have the power, after due notice and hearing, to regulate by ordinance the rates and service of every public utility operating in the City of Freeport; shall have the power to employ expert advice and assistance in determining a reasonable rate and equitable profit to the public utility; and shall have the power to require within the franchise grant, or any extension, or renewal thereof, or as a condition precedent to any hearing concerning rates and service of any public utility operating within the said City, that the movant seeking the rate or service change pay the reasonable cost of the service of a rate consultant of the choice of the City Council.

#### **SECTION 10.06. 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.

#### **SECTION 10.07. CONSENT OF PROPERTY OWNERS.**

The consent of abutting and adjacent property owners shall not be required for the construction, extension, maintenance or operation of any public utility; but such abutting and adjacent property shall thereafter be restored to its previous condition and nothing in this Charter or in any franchise granted hereunder shall ever be construed to deprive any such property owner of any right of action for damage or injury to his or her property as now or hereafter provided by law.

(Amendment adopted by electorate 5-16-16)

#### **SECTION 10.08. 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 the 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 10.04 of this Charter. 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.

#### **SECTION 10.09. OTHER CONDITIONS.**

All franchises heretofore granted are recognized as contracts between the City of Freeport and the grantee, and the contractual rights as contained in any such franchise shall not be impaired by the provisions of this Charter. Every public utility franchise hereafter granted shall be held subject to all the terms and conditions contained in the various sections of this Article whether or not such terms are specifically mentioned in the franchise. Nothing in this Charter shall operate to limit in any way, as specifically stated, the discretion of the City Council or voters of the City in imposing terms and conditions as may be reasonable in connection with any franchise grant.

#### **SECTION 10.10. ACCOUNTS OF MUNICIPALLY OWNED UTILITIES.**

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

#### **SECTION 10.11. SALES OF WATER, SEWER AND ANY OTHER SERVICES.**

(a) The City Council shall have the power and authority to sell and distribute water, and to sell and provide sewer and any other service to any person, firm or corporation outside the limits of the City of Freeport, and to permit them to connect with said system under contract with the City, under such terms and conditions as may appear to be for the best interests of the City; provided the charges fixed for such services outside the City limits shall be reasonable when considered in the light of all circumstances to be determined by the City Council.

(b) The City Council shall have the power and authority to prescribe the kind of water or sewer pipes used within or beyond the limits of the City of Freeport where it furnishes the service, and to inspect the same and require them to be kept in good order and condition at all times and to make such rules and regulations as shall be necessary and proper, and prescribe penalties for noncompliance with same.

### **ARTICLE 11. GENERAL PROVISIONS**

All records and accounts of every office, department, or agency of the City shall be open to inspection by any citizen or by any representative of the press at all reasonable times and under such reasonable regulations as may be established by the City Council or the Mayor, except records and documents the disclosure of which would tend to defeat the lawful purpose which they are intended to accomplish.

### **SECTION 11.011. SELECTION OF NEWSPAPERS FOR PUBLICATIONS.**

(a) Every ordinance or resolution adopted by the City Council, which is required to be published in a newspaper, shall designate, in the body thereof, one or more newspapers of general circulation within the City of Freeport in which such ordinance or resolution, or the descriptive caption thereof, shall be published; and it shall also appear on the City's website for at least ten (10) days or for the length of time between each publication, if it is required to be published more than once, whichever is longer.

(b) Each officer of the City, who is required to publish any printed notice or other printed matter in any newspaper, shall select one or more newspapers in which such printed notice or other printed matter shall be published.

(c) No newspaper may be designated or selected that does not meet all of the applicable requirements of state law for newspaper publication. Provided, however, the designation or selection of a newspaper as provided above shall be prima facie evidence that such newspaper met all of such requirements at the time of such publication.

(d) When a newspaper is designated or selected as provided above, it shall be deemed to be an "official newspaper" of the City, as that term is used in any provision of this Charter, the ordinances of the City or any statute or regulation requiring publication.

(Adopted by electorate 5-24-04; Amendment adopted by electorate 5-16-16)

(Ord. No. 2020-2617, § 3(11.011), 11-17-2020)

### **SECTION 11.02. PERSONAL INTEREST.**

No officer or employee of the City shall have a financial interest, direct or indirect, in any contract with the City, nor shall be financially interested directly, or indirectly, in the sale to the City of any land, or rights or interest in any land, materials, supplies or service. The above provision shall not apply where the interest is represented by ownership of stock in a corporation involved, provided such stock ownership amounts to less than one per cent(1%) of the corporation stock. Any violation of this section shall constitute malfeasance in office, and any officer or employee of the City found guilty thereof shall thereby forfeit his office or position. Any violation of this section with the knowledge, express or implied, of the person or corporation contracting with the City shall render the contract voidable by the City Manager or the City Council.

### **SECTION 11.03. DRILLING OPERATIONS.**

The City Council may, by ordinance prohibit the drilling of oil, gas and sulphur wells, or may provide regulations for the drilling, spacing, completion and operation of oil, gas and sulphur wells. The City Council may, by ordinance, prohibit the drilling of water wells for commercial, industrial and agricultural purposes, and may provide regulations for the

drilling and use of water wells for commercial, industrial, agricultural and domestic purposes.

#### **SECTION 11.04. NEPOTISM.**

No person related within the second degree by affinity, or within the third degree by consanguinity to any elected officer of the City, or to the City Manager, shall be appointed to any office, position or clerkship or other service of the City.

#### **SECTION 11.05. PROVISIONS RELATING TO ASSIGNMENT, EXECUTION AND GARNISHMENT.**

The property, real and personal, belonging to the City shall not be liable to be sold or appropriated under any writ 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.

#### **SECTION 11.06. CITY NOT REQUIRED TO GIVE SECURITY OR EXECUTIVE BOND.**

It shall not be necessary in any action, suit or proceeding in which the City of Freeport 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.

#### **SECTION 11.07. SPECIAL PROVISIONS COVERING DAMAGE SUITS.**

Before the City shall be liable to damage claim or suit for personal injury, or damage to property, the person who is injured, or whose property is damaged, or someone in his behalf, shall give the City Manager or the person performing the duties of City Secretary, notice in writing within thirty(30) days after the occurrence of the alleged injury, or damage, stating specifically in such notice when, where and how the injury or damage was sustained, and setting forth the extent of the injury or damage as accurately as possible, and giving the names and addresses of all witnesses upon whose testimony such person is relying to establish the injury or damage. No action at law for damages shall be brought against the City for personal injury or damage to property prior to the expiration of 180 days after the notice hereinbefore described has been filed with the City Manager or the person performing the duties of City Secretary, not later than two(2) years after the occurrence of the injury or damage to the property. In case of injuries resulting in death, before the City shall be liable in damages therefor the person or persons claiming such damages shall within thirty(30) days after the death of the injured person give notice as above required in case of personal injury. Provided, however, that nothing therein contained shall be construed to mean that the City of Freeport waives any rights, privileges, defenses or immunities in tort actions which are provided under the common law, and Constitution and general laws of the State of Texas.  
(Amended 5-88)

**SECTION 11.08. SEPARABILITY CLAUSE.**

If any section or part of section of this Charter shall be held invalid by a court of competent jurisdictions 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.

**SECTION 11.09. EFFECT OF THIS CHARTER ON EXISTING LAW.**

All ordinances, resolutions, rules, regulations now in force under the City Government of Freeport and not in conflict with the provisions of this Charter, shall remain in force under this Charter until altered, amended or repealed by the Council after this Charter takes effect; and all rights of the City of Freeport under existing franchises and contracts are preserved in full force and effect to the City of Freeport.

**SECTION 11.10. INTERIM MUNICIPAL GOVERNMENT.**

The members of the governing body holding office when this Charter is adopted shall continue in office under the terms of Article 3 of this Charter.

**SECTION 11.11. APPLICABILITY OF GENERAL LAWS.**

The Constitution of the State of Texas, the statutes of said State applicable to Home-Ruled Municipal Corporation, as now or hereafter enacted, this Charter and ordinances enacted pursuant hereto shall, in the order mentioned, be applicable to the City of Freeport, but the City shall also have the power to exercise any and all powers conferred by the laws of the State of Texas upon any other kind of city, town or village, not contrary to the provisions of said home-rule statutes, Charter and ordinances, but the exercise of any such powers by the City of Freeport shall be optional with it, and it shall not be required to conform to the law governing any other cities, towns or villages unless and until by ordinance it adopts same.

**SECTION 11.12. AMENDING THE CHARTER.**

Amendments to this Charter may be framed and submitted to the voters of the City in the manner provided by Chapter 9 of the Local Government Code, as now or hereafter amended. In the event the United States Department of Justice should fail or refuse to pre-clear any proposed amendment to this charter which submitted to the voters at a charter amendment election and which is required by law to be pre-cleared by said department; and if at such election the majority of voters vote in favor of such proposed amendment, such proposed amendment shall nevertheless have no force and effect unless and until it has either been pre-cleared by said department or the validity of such proposed amendment has been established by the final judgement of a court of competent jurisdiction.

(Amendment adopted by electorate 5-7-94; Amendment adopted by electorate 5-4-02)

**SECTION 11.13. CHARTER REVIEW COMMISSION.**

The City Council shall appoint at its first regular meeting in June in each odd numbered year, a Charter Review Commission of five citizens of the City of Freeport.

(a) Duties of the Commission: It shall be the duty of such Charter review Commission to:

(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; and the Commission shall have the power to compel the attendance of any officer or employee of the City and to require the submission of any of the City records which it may deem necessary to the conduct of such hearing;

(2) Propose any recommendations it may deem desirable to insure compliance with the provisions of the Charter by the several departments of the City Government;

(3) Propose, if it deems desirable, amendments to this Charter to improve the effective application of said Charter to current conditions;

(4) Report its finding and present its proposed amendments, if any, to the City Council.

(b) Action by the City Council: The City Council shall receive and have published in the official newspaper of the City any report presented by the Charter Review Commission, shall consider any recommendations made, and if any amendment or amendments be presented as a part of such report, may order such amendment or amendments to be submitted to the voters of the City in the manner provided by Chapter 9 of the Local Government Code, as now or hereafter amended.

(Amendment adopted by electorate 5-2-98)

(c) Term of Office: The term of office of such Charter Review Commission shall be six months, and, if during such term no report is presented to the City Council, then all records of the proceedings of such Commission shall be filed with the person performing the duties of City Secretary and shall become a public record. (Election of 4-3-82)

#### **SECTION 11.14. SUBMISSION OF CHARTER TO VOTERS.**

The Charter Commission in preparing this Charter finds and decides 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 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 Freeport at an election to be held for that purpose on the 18th day of June, 1960. Not less than thirty(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 Freeport as appears from the latest tax collector's roll. 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 Freeport, 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 Secretary shall furnish the Mayor a copy of said Charter, which copy of the Charter so adopted, authenticated and certified by his 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.

**SECTION 11.15. GENDER NEUTRAL PROVISION.**

Whenever in this Charter the pronouns he, him or his standing alone are used, such pronouns shall be construed to mean he or she, him or her and his or hers.  
(Amendment adopted by electorate 5-15-18)

We, the undersigned members of the Freeport Charter Commission, heretofore duly elected to prepare a Charter for the City of Freeport, Texas, do hereby certify that this publication constitutes a true copy of the proposed Charter for the City of Freeport, Texas, as adopted unanimously by the members hereof.

Dwight N. Wetherell, Chairman

Earl B. Barnes, Vice-Chairman

Mrs. Duncan MacLaren, Secretary

G. C. Hardman, Jr.

Mrs. Delia Capps

E. L. Haynes

Mrs. A. A. Miller

J. W. Royalty, Jr.

Mrs. Bertha Salmans

Walter Snyder

Sam Sutherland, Jr.

Sanford R. Thompson

George T. Wommack

Harold E. Ammons

Dan M. Lawlis