

ARTICLE II. CITY COUNCIL IN GENERAL

Sec. 1. Membership and Term.

(a) The city council shall consist of eight council members and a mayor. Five council members shall be elected by majority vote from single member districts, each member being a resident of his or her respective district and each district having as near as practical the same population; three council members shall be elected at large by plurality vote with winners required to gain at least twelve percent of the total votes cast for all candidates for all at large council member positions; and the mayor shall be elected at large by majority vote. The city council shall by ordinance equalize the single member districts as required by law; provided, however, no such ordinance shall be enacted less than ninety days before a regular election.

(b) The mayor and members of the city council shall be elected for terms of two years and shall hold office until their respective successors have been elected and qualified. The regular election shall be held on the November uniform election date of even-numbered years as authorized by State law; provided that, a transition election shall be held on the second Saturday in May, 2011 for terms expiring upon the final canvass of the elections in November 2012.

(c) All council members shall take office at the first council meeting after the votes are canvassed from the regular election; provided, however, that in the event a run-off election is required, all council members shall take office at the first council meeting after the votes are canvassed from the run-off election.

(d) No person shall serve more than four two-year terms consecutively as a council member, or four two-year terms consecutively as mayor, or six two-year terms consecutively in any combination of such offices. A person who has reached the limitation on terms provided in this section shall not be eligible for election or appointment to the city council until three consecutive terms of office for the council have expired.

Sec. 2. Election Procedures.

(a) Candidates for mayor or city council shall file with the city secretary within the time provided by law an application to appear on the ballot. The candidate shall not owe delinquent taxes to the city, and the application shall meet the requirements of the Texas Election Code, as the same may be amended from time to time. No candidate shall be placed on the ballot unless his or her application is accompanied by either (1) a filing fee of \$100.00, or (2) a petition signed by registered voters residing in the territory from which the office is elected equal in number to the greater of: (a) 25, or (b) one-half of one percent of the total vote received in the territory from which the office is elected by all candidates for mayor in the most recent mayoral regular election.

(b) Political organizations may make nominations of candidates according to such regulations adopted by ordinance.

(c) In regular or special elections of at large council members, each voter shall be entitled (but not required) to cast as many votes as there are at large council positions to be filled; provided, however, no voter may cast more than one vote for any one candidate.

(d) The city council by ordinance may enact rules and regulations governing elections not inconsistent with this Charter or state or federal law.

Sec. 3. Runoff Elections.

(a) If no candidate for mayor receives a majority of all votes cast for such office at any regular or special election, there shall be held on the second Saturday following any such election a run-off election at which the two candidates receiving the highest number of votes in the regular or special election shall stand for election.

(b) If no candidate for city council from a given single member district receives a majority of all votes cast for such office at any regular or special election, there shall be held on the second Saturday following any such election a run-off election at which the two candidates

receiving the highest number of votes in the regular or special election shall stand for election.

(c) If fewer than three candidates for at large city council positions receive a plurality of at least twelve percent each of the total votes cast for all at large city council candidates, there shall be held on the second Saturday following any such election a run-off election at which

(1) if no candidate received at least twelve percent of the total votes cast for all candidates for the at large positions in the regular or special election, the four candidates receiving the highest number of votes shall stand for election;

(2) if only one candidate received at least twelve percent of the total votes cast for all candidates for at large positions in the regular or special election, the next three candidates receiving the highest number of votes shall stand for election; or

(3) if two candidates received at least twelve percent of the total votes cast for all candidates for at large positions in the regular or special election, the next two candidates receiving the highest number of votes shall stand for election. The winners in any such run-off election for at-large positions shall be determined by a plurality vote.

(d) The run-off election shall be held in accordance with State laws.

Sec. 4. The Mayor Pro Tem.

(a) The city council shall nominate and confirm one of the council members who shall be known and designated as mayor pro tem, and he or she shall receive no extra pay by reason of being or acting as mayor pro tem.

(b) Whenever a regular or special meeting is scheduled to be held and both the mayor and mayor pro tem are absent, a majority of the council members present may proceed to elect one of those present as acting mayor for such meeting who shall preside and discharge the duties of the mayor. The absence of the mayor and mayor pro tem shall be noted in the minutes with a short statement of the reason for absence, if known.

(c) When it is anticipated that both the mayor and mayor pro tem will be absent from the city, or unable to perform the duties of the office of mayor on the day of the meeting of the city council, the council by a majority vote shall name a member to be mayor pro tem for the particular meeting, and he or she shall be entitled to perform the duties and have the powers of the mayor on such occasion.

Sec. 5. Disability of Mayor.

If for any reason the mayor is absent from the city or unable to perform the duties of his or her office, the mayor pro tem shall act as mayor and during such absence or disability shall perform the duties and have the powers of the mayor.

Sec. 6. Mayor's Veto Power and General Powers.

(a) Every ordinance, resolution or motion passed by the council shall, before it takes effect, be presented to the mayor for his or her approval and signature. If he or she approves it, he or she shall sign, but if he or she disapproves it he or she shall state his or her objections thereto in writing and return it to the next regular meeting of the council after presentation with his or her veto. If he or she does not return it with such disapproval nor sign it, such motion, ordinance or resolution shall, upon the expiration of the time for its return to the council, be in effect and force as if he or she had approved it.

(b) In case of veto of any ordinance, resolution or motion by the mayor, the council may pass same over his or her veto by the affirmative vote of a majority of the council. If the mayor's veto is sustained, the matter shall not come before the council again within six months without the previous written consent of the mayor. The mayor may veto all or any item of any ordinance making appropriations but the veto shall extend only to the item disapproved. Those items which he or she approves shall become effective, but those disapproved shall not become effective unless passed over his or her veto as herein specified.

(c) The mayor shall have the power to administer oaths and exercise such other powers, prerogatives and authority as are conferred on him or her by this charter and state and federal law.

Sec. 7. Compensation.

(a) Each member of the city council, with the exception of the mayor, shall receive as compensation the sum of six thousand dollars (\$6,000.00) during each year of service on the council, such sum to be paid in equal installments throughout the year.

(b) The mayor shall receive as compensation the sum of nine thousand dollars (\$9,000.00) during each year of service on the council, such sum to be paid in equal installments throughout the year.

(c) The provisions of this section shall become effective immediately after the election and qualification for office of the first city council following its adoption.

Sec. 8. Judge of Elections.

The city council shall be the judge of the election and qualification of its own members, subject to review by the courts in case of contest.

Sec. 9. Restrictions Upon Council Members.

No member of the council shall be elected or appointed to any office created, or the compensation of which was fixed or increased, by action of the council passed while serving as a member thereof, until the expiration of one year following cessation of such member's service on the council.

Sec. 10. Rules of the Council.

The city council shall determine its own rules of procedure; may punish its members for disorderly conduct; may compel the attendance of its members; and may impeach a member in the manner herein provided.

Sec. 11. Removal.

(a) A council member shall be subject to removal by the council or by any other means authorized by law for:

(1) Willful violation of any code of ethics or conflicts of interest provision under state or federal law or city ordinance.

(2) Willful violation of any express prohibition of this charter.

(3) Misconduct, malfeasance, incompetence, inability or willful neglect in performance of official duties.

(4) Conviction of any felony, or any misdemeanor involving moral turpitude.

(5) Failing to maintain any residency requirement provided by law.

(6) Absence from three consecutive regular council meetings without leave of absence first had, except due to circumstances over which the council member had no control.

(b) A removal action by the council may be instituted on its own initiative, or shall be instituted upon petition by five or more registered voters, and any final decision to remove a member shall be by the majority vote of all council members holding office, with the exception of the challenged member. The council may provide by ordinance for the referral of any disciplinary matter involving a council member to the ethics commission for recommendation. The challenged member shall have the right to written articles of impeachment, an opportunity to be heard, to be represented by counsel, to summon witnesses who shall be required to give testimony, and to reasonable advance notice of the hearing. The burden of proof shall be on those bringing the charges. The hearing shall be open to the public, and the conclusions and findings of the council shall be final. If the member is removed, a complete statement of the reasons therefor shall be filed with the city secretary. The council shall additionally have the authority to reprimand or suspend a member for a period of not more than thirty days if removal is not warranted.

(c) Pending charges for removal, the council may suspend the challenged member from office for a period not exceeding thirty days by the majority vote of all council members holding office, with the exception of the challenged member.

(d) Commission of any of the violations specified in subparagraphs (1) through (5) above shall additionally be grounds for forfeiture of office in proceedings pursuant to state law.

(e) A member who is removed from office, whether pursuant to this section, by recall or other legal proceeding, or who resigns after any such proceedings have been initiated, shall

not be eligible to be appointed to or run as a candidate for city office for two years from the date of removal, recall or resignation.

Sec. 12. Vacancy in Office of Mayor.

(a) In the event of death, resignation, permanent disability, forfeiture of office, recall or impeachment of the mayor, or if for any reason a vacancy shall exist in the office of mayor, the council member elected at large who received the highest number of votes in the last regular election shall immediately become the mayor, provided that such council member shall not be at that time the subject of any recall petition on file with the city secretary. Notwithstanding the foregoing, in the event more than one year remains until the next regular city council election or the council member designated to become mayor is the subject of a recall petition on file with the city secretary, a special election shall be called by the then remaining council members to fill the vacancy in the office of mayor, and if there then are no remaining council members such special election shall be forthwith called by the county judge of Nueces County, Texas.

(b) Any person who becomes mayor as provided above shall have all the duties and powers of the mayor for the remainder of the unexpired term of the mayor, unless sooner removed as provided in this charter. In the event a council member becomes mayor, the office of the council member shall become vacant, and such vacancy shall be filled as provided in this article.

Sec. 13. Vacancies in Office of Council Member.

In the event of death, resignation, permanent disability, forfeiture of office, recall, or impeachment, of any council member, or if for any reason a vacancy shall exist in the office of any council member, the then remaining members of the council by majority vote shall forthwith fill such vacancy by appointment of a new council member having the qualifications for such vacancy or vacancies as established by law, and the appointed council member shall hold office until the next regular city election and until his or her successor has been elected and qualified, unless sooner removed as provided in this charter; provided, however, that in the event a majority of the council members be recalled at the same recall election, then the vacancies in the offices theretofore held by them shall be filled by a special election to be held within sixty days after such vacancies occur. Such election shall be forthwith called by the then remaining council members, and if there be no remaining council members, such election shall be forthwith called by the county judge of Nueces County, Texas.

Sec. 14. Meetings of the Council.

(a) The city council shall meet in regular session at least once each week at city hall or at another governmentally owned place within the corporate limits of the city, unless the city council elects to adjust the regular meeting schedule for valid reasons recorded in the minutes; provided that in any event the city council is required to meet in regular session not less often than twice each month. Special sessions and workshop sessions may be held in any public place, and the council shall prescribe the manner in which such sessions shall be called.

(b) A workshop session is a council meeting for the sole purpose of gathering information or discussing public business without taking action. In the event a workshop session is scheduled on the same day as and prior to a regular or special session, no discussion shall be held at the workshop of items previously scheduled for such regular or special session.

(c) A majority of the council members holding office shall constitute a quorum. All meetings of the council shall be open to the public except as may be authorized by the laws of the state. The city secretary shall take minutes of all regular, special and workshop sessions of the council, except closed sessions, which minutes shall be open to the public in the archives of the city.

(d) The council shall act only by ordinance, resolution, or motion. Any such method shall be valid except where a particular method is required by law or this charter. Ordinances shall be confined to one subject which shall be clearly expressed in the title, but ordinances

making appropriations may embrace more than one subject, provided that each shall be confined to the subject of appropriations. The following actions, in addition to others specified by law or this charter, shall be by ordinance only:

- (1) amendment or repeal of any existing ordinance;
- (2) adoption, amendment or repeal of a code of ordinances or code of technical regulations;
- (3) conveyance or authorization of the conveyance of any real property;
- (4) to prescribe a fine or penalty or establish any rule or regulation for the violation of which a fine or other penalty is imposed;
- (5) to regulate the rates charged by a public utility; and
- (6) to adopt any legislation.

(e) The ayes and nays shall be taken upon the passage of all ordinances or resolutions and entered in the minutes. Every ordinance or resolution shall require on its final passage, the affirmative vote of a majority of all council members holding office.

(f) No ordinance shall be passed finally on the date it is introduced but the same shall be considered and voted upon at two regular meetings, except in the case of emergency and then only when requested in writing by the mayor or a majority of the members of the council, and the finding of an emergency by the council shall be conclusive. No ordinance granting any franchise shall ever be passed as an emergency measure. For the purposes of this subsection, an "emergency" shall be defined as a condition involving an immediate need to preserve and protect public property, the need for the immediate and efficient utilization of physical resources in the city, the need for the immediate and equitable institution of zoning changes in order to protect the health, safety and welfare, or an immediate action necessary for the efficient and effective administration of the city's affairs.

(g) Every ordinance imposing any fine, penalty or forfeiture shall be published in one issue of a newspaper of general circulation in the city, which publication may be of the full ordinance or a summary thereof which fully discloses the purposes, intent and effect of such ordinance, after which publication said ordinance shall be in force unless a later date shall be provided in the ordinance.

Sec. 15. Contract Before Election.

It shall be unlawful for the city council, within the period beginning thirty days before any regular election and extending to the taking of office for the newly elected council, to take any council action whereby any appropriation of money not included in the budget is made or contract or obligation of the city is to be created or franchise granted, or any zoning or rezoning ordinance passed or hearing held without a two-thirds vote of the council, and any such council action taken without a two-thirds vote shall be void.

Sec. 16. Interference.

Neither the council nor any of its members shall instruct or request the city manager or any of his or her subordinates to appoint to or remove from office or employment any person except a person appointed to office by the council under the provisions of this charter. Except for the purposes of inquiry and investigation, enforcing an ordinance of the city, or enforcing a penal law, the council shall deal with the administrative service of the city solely through the city manager, and shall not give orders to any of the manager's subordinates. Any such inquiry, investigation or enforcement action shall only be made upon the affirmative vote of a majority of the city council. Willful violation of the foregoing provisions of this charter by any member of the council shall constitute official misconduct.

Sec. 17. Investigation.

The council shall have the express power to inquire into the official conduct of any department, division, agency, office, officer or employee of the city, and for that purpose shall have the power to administer oaths, subpoena witnesses, compel the production of books, papers and other evidence material to the inquiry. Refusal to attend and testify or to produce books, papers and other evidence material to the inquiry, shall result in forfeiture of any office, employment, emoluments or contract then accruing to the person so refusing. The council may provide by ordinance additional penalties for contempt in failing or refusing

to obey any such subpoena, or to produce any such books, papers or other evidence and shall have the power to punish any such contempt in the manner provided by such ordinance.

Sec. 18. Council Responsibility.

All duties and responsibilities not expressly or implicitly delegated to the city manager by this charter shall be the duties and responsibilities of the council. The mayor and each of the other council members shall be responsible for and shall require the city manager as the chief executive officer of the city to enforce all laws, federal, state and municipal.

RECALL

Sec. 19. Power of Recall.

The people of the city reserve the power to recall the mayor or any other council member and may initiate the process by filing with the city secretary a petition signed by at least ten percent of the voters registered to vote for a successor to the challenged council member. A person wishing to initiate a recall petition shall procure a form from the city secretary. Each page of the petition shall contain:

- (a) the name and position of the challenged council member;
- (b) a general statement of the grounds for recall, which shall not be subject to challenge;
- (c) the printed name, residence address (by street and number, or if none, by other sufficient description), and date of birth or voter registration number of each signer;
- (d) the signature of each signer in ink; and
- (e) the date of issuance by the city secretary and the name and address of the person or group to whom the petition was issued.

The person procuring the form shall legibly fill in the name and position of the challenged council member and the general grounds for recall, and present the form to the city secretary. The city secretary shall then fill in the date of issuance, make such copies as are needed for the city secretary's records, and return the original to the person presenting it.

Sec. 20. Filing, Examination and Certification of Petition.

All petition pages comprising a recall petition shall be assembled and filed with the city secretary as one instrument. All petition signatures must be made within one hundred eighty (180) days from the date the petition is filed. Within twenty days after a recall petition is so filed, the city secretary shall determine whether the same is signed by the required ten percent of the registered voters. The city secretary shall declare void any petition page which does not have an affidavit as required in the preceding section. If the certificate of the city secretary shall show the recall petition to have total signatures of registered voters in number less than the required ten percent, the city secretary shall notify the person filing the petition, and it may be supplemented within ten days from the date of such notice by filing supplementary petition pages bearing signatures of other registered voters. Within ten days after such supplementary pages are filed, the city secretary shall again examine the original petition, as supplemented, and shall certify the results thereof to the council at its next regular meeting, stating the number of signatures certified. If the petition, as supplemented, is found to have total signatures of registered voters in number less than the required ten percent, the city secretary shall return the petition, as supplemented, to the person filing the same, without prejudice to the filing of a new petition for the same purpose.

Sec. 21. Recall Election.

Whenever a recall petition is certified by the city secretary to have the signatures of the required ten percent of registered voters and the council member whose removal is sought does not resign within five days after such certification to the council, the council shall forthwith order and hold a recall election within not less than thirty, nor more than sixty days from certification. In the event at any one time there is before the council more than one recall petition certified by the city secretary as to which the council is then obligated to

order a recall election, the council shall order and hold, on the same date, recall elections on all such petitions so certified.

Sec. 22. Recall Ballot.

The form of ballots used at recall elections shall conform to the requirements of state law.

Sec. 23. Results of Recall Election.

If a majority of the votes cast are for recall, the office shall immediately become vacant and shall be filled as provided in this charter.

Sec. 24. Limitation on Recall.

No recall petition shall be filed within the first four months after the office holder takes office or within the four months immediately preceding the date of the next regular election for the challenged office. No office holder shall be subjected to more than one recall election during a single term of office.

Sec. 25. City Secretary.

The council shall appoint the city secretary who shall serve at the pleasure of the council. The city secretary shall appoint any assistant secretaries and keep the records of the council, and shall have such other duties and responsibilities as may be assigned by this charter and the council.

Sec. 26. Municipal Court.

(a) There shall be a court for the trial of misdemeanors known as the municipal court, with such powers and duties as are defined and described by state law. The magistrates of the court shall be known as municipal judges, shall be appointed by council, shall have the necessary qualifications for appointment and receive such salary and term as may be fixed by ordinance.

(b) Any person appointed by a city council as a municipal court judge, presiding municipal court judge, assistant, substitute, full-time or part-time judge may be removed from office at any time by a two-thirds vote of all members of the city council. Any person holding such office may be disciplined, censured or reassigned in lieu of removal from office by the same vote.

(c) The city manager shall appoint a clerk of said court and deputy clerks, if any, who shall receive such salary as may be fixed by the manager.

Sec. 27. Independent Audit.

The council shall provide for an independent annual audit for all city accounts and may provide for such more frequent audits as it deems necessary. Such audits shall be made by a certified public accountant or firm of such accountants who have no personal interest, direct or indirect, in the fiscal affairs of the city government or any of its officers. The council may, without requiring competitive bids, designate such accountant or firm annually or for a period not exceeding three years, provided that the designation for any particular fiscal year shall be made no later than 30 days after the beginning of such fiscal year. If the state makes such an audit, the council may accept it as satisfying the requirements of this section.

Sec. 28. Internal Audit.

Either the council or the city manager may at any time provide for an internal audit of the accounts of any officer or department of the city government.

Sec. 29. City Auditor.

(a) The City Council shall appoint a City Auditor. The City Auditor may be removed only by a majority of the City Council.

(b) The City Auditor shall report to the City Council and have such duties, responsibilities, and staff as determined by ordinance, including the responsibility to conduct, or cause to be conducted, financial, performance, investigative, and other audits following government auditing standards as promulgated by the Comptroller General of the United States.