



Home Rule

CHARTER

for the

City of Tomball, Texas

ADOPTED

January 17, 1987

REVISED

May 6, 1995

TOMBALL, TEXAS
HOME RULE CHARTER

CHARTER COMMISSION
Elected April 5, 1986

COMMISSION MEMBERS

Earle D. Oldham, Sr., Chairman
Lessie L. Upchurch, Vice Chairman
Diane N. Holland, Secretary-Treasurer
Laurie C. Godbold, Assistant Secretary-Treasurer

Gregory D. Bogard, DVM	Billie Joe Lovett
Allan K. Cox	Charlie Middlebrook
Joe B. Fuerst	B. Randall Mongold
H. G. "Hap" Harrington	John H. Odom
Stephen L. Hohl	Robert C. Whitaker
Leslie L. Lagerquist, D.D.S.	

CITY COUNCIL

Lee Tipton, Mayor
Ty Self, Mayor Pro Tem

Theda Henry
Jerry Matheson

W. F. "Slim" Plagens
Don Tinsley

CITY ADMINISTRATION

Don Taylor
City Administrator

Eula Bingle
Administrative Assistant

CHARTER ELECTION
January 17, 1987

PREFACE

During the past eight months, we, the fifteen members of the Home Rule Commission of Tomball, Texas, have corporately given innumerable hours in meetings, research and writing in drafting this, the first Home Rule Charter for our City.

It is with a sense of fulfillment, accomplishment and pride, both in the culmination of our efforts and in the initiating of a new era in the life of our City, that we present this Charter to the citizens of Tomball.

We wish to take this opportunity to express our appreciation to Mayor Tipton and the City Councilmen of Tomball for their foresight and vision in giving impetus to this effort. At the same time, we wish to express our sincere appreciation to City Administrator Don Taylor, and his staff, for their moral support and untiring efforts in assisting the Commission with its work. To Mrs. Eula Bingle, Administrative Assistant for the City of Tomball, we express our heart-felt gratitude for the many hours of dedicated service, above and beyond the call of duty, which she gave in support of the Commission's efforts.

And, finally, we wish to thank you, the citizens of Tomball, for the confidence which you expressed in us by entrusting us with the responsibility for writing this document, thus allowing us to significantly share in this most important moment in the history of our City.

Respectfully submitted,

Earle D. Oldham, Sr.
Chairman, Home Rule Charter Commission
City of Tomball, Texas

Members of the Charter Commission:

Lessie L. Upchurch, Vice-Chairman
Diane N. Holland, Secretary
Laurie C. Godbold, Assistant Secretary
Gregory D. Bogard, DVM
Allan K. Cox
Joe B. Fuerst
H. G. "Hap" Harrington
Steven L. Hohl
Leslie L. Lagerquist, DDS
Billie Joe Lovett
Charlie Middlebrook
B. Randall Mongold
John H. Odom
Robert C. Whitaker

TOMBALL, TEXAS
HOME RULE CHARTER

CHARTER REVIEW BOARD

Appointed
Appointed May 2, 1994

CHARTER REVIEW BOARD MEMBERS

Diane Holland - Chair
Allan Cox
Betty Doughtie
April Gray
Leslie Lagerquist
C. E. McMullen
Ty Self

CITY COUNCIL

H. G. Harrington, Mayor
Homer Ford, Mayor Pro Tem
Mary Lu Wiley
Jerry Matheson
David Wood
Earle Oldham

CITY ADMINISTRATION

Warren Driver
City Manager

Mary Reagan
City Secretary

CHARTER AMENDMENT ELECTION

May 6, 1995

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PREAMBLE

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

ARTICLE I INTRODUCTORY PROVISIONS

SECTION 1.01 - CORPORATE NAME

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

SECTION 1.02 - MEANING OF THE WORD "CITY"

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

SECTION 1.03 - MEANING OF THE WORD "COUNCIL"

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

SECTION 1.04 - EFFECT OF CHARTER ON EXISTING LAW

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

SECTION 1.05 - CONTINUATION OF BUDGET

The budget adopted for the City for fiscal year October 1, 1986 to September 30, 1987 shall be and become the budget for the current year.

SECTION 1.06 - INTERIM MUNICIPAL GOVERNMENT

Upon adoption of this Charter, the persons then filling elective offices will continue to fill these offices to which they were elected. Thereafter, the City Council and Mayor shall be elected as provided in Article VI, Section 6.02. Persons, who on the date this Charter is adopted, who are filling appointive positions with the City which are retained under this Charter, may continue to fill these positions for the term for which they were appointed, unless removed by the Council or by other means provided for in this Charter. Persons who, on the effective date of this Charter, are filling elective offices, that by this Charter are made appointive offices, shall continue to serve in those offices for the terms to which they were elected.

SECTION 1.07 - INTERIM ELECTION PROCEDURE

For an orderly transition to three-year (3-year) terms from two-year (2-year) terms, the following schedule will be implemented:

Persons presently in an elective term will continue in office. Immediately following the Charter Election, at the next regularly scheduled Council Meeting, the three (3) City Councilmen whose terms are expiring April 1987 will draw for Positions 1 and 5 for three-year (3-year) terms and Position 3 for a two-year (2-year) term, in a manner not inconsistent with State law. A separate drawing will be held the same date for Positions 2 and 4 by the incumbents with one (1) year remaining on their existing term. These positions will be for three-year (3-year) terms starting May 1988. If the Councilman chooses to run for re-election, he must run for the Position number that he drew.

In the first (1st) election, on the first (1st) Saturday of April 1987, after the adoption of this Charter, Councilmen shall be elected for Positions 1, 3 and 5 as outlined above.

In the second (2nd) election year, on the third (3rd) Saturday of May 1988, after adoption of this Charter, Councilmen shall be elected for Positions 2 and 4 for three-year (3-year) terms. The Mayor will be elected for a two-year (2-year) term.

In the third (3rd) election year, on the third (3rd) Saturday of May 1989, after adoption of this Charter, Position 3 will be elected for a three-year (3-year) term.

In the fourth (4th) election year, on the third (3rd) Saturday of May 1990, after adoption of this Charter, the Mayor will be elected for a two-year (2-year) term. Positions 1 and 5 will be elected for three-year (3-year) terms.

In the fifth (5th) election year, on the third (3rd) Saturday of May 1991, after adoption of this Charter, the Positions 2 and 4 will be elected for three-year (3-year) terms.

In the sixth (6th) election year, on the third (3rd) Saturday of May 1992, after adoption of this Charter, Position 3 and the Mayor will be elected for three-year (3-year) terms.

This will complete the schedule whereby two (2) of the six (6) members comprising the Office of Mayor and City Council will be up for election each year.

SECTION 1.08 - GENDER OF WORDING

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

SECTION 1.09 - SUBMISSION OF THE CHARTER TO THE VOTERS

The Charter Commission in preparing this Charter concludes that it is impracticable to segregate each subject so as to permit a vote of "yes" or "no" on the same, for the reason that the Charter is so constructed that in order to enable it to work and function it is necessary that it should be adopted in its entirety. For these reasons, the Charter Commission directs that the Charter be voted upon as a whole and that it shall be submitted to the qualified voters of the City at an election to be held on January 17, 1987. Not less than thirty (30) days prior to that election, the Council shall cause the City Secretary to mail a copy of this Charter to each qualified voter of the City as appears from the latest certified list of registered voters. If a majority of the qualified voters voting in the election shall vote in favor of the adoption of this Charter, it shall become the Charter of the City and after the returns have been canvassed, the same shall be declared adopted and the City Secretary shall file an official copy of the Charter with the records of the City. The City Secretary shall furnish the Mayor

a copy of said Charter, which copy of the Charter so adopted, authenticated and certified by his signature and the seal of the City, shall be forwarded by the Mayor to the Secretary of the State of Texas and shall show the approval of such Charter by majority vote of the qualified voters at that election.

ARTICLE II FORM OF GOVERNMENT AND BOUNDARIES

SECTION 2.01 - FORM OF GOVERNMENT

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

SECTION 2.02 - BOUNDARIES

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

SECTION 2.03 - ANNEXATION

The Council may by ordinance annex territory lying adjacent to the City with or without the consent of the inhabitants in such territory or the owners thereof, not inconsistent with the procedural rules prescribed by law applicable to the cities operating under charters as adopted or amended under State law.

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

SECTION 2.04 - DETACHMENT OF TERRITORY

Territory lying within the boundary limits of the City and adjoining the outer boundary of the City may be detached from the City by ordinance following a petition or by ordinance

following public notice. However, any territory so detached shall be liable for its pro-rata share of any debts incurred while it was a part of the City, and the City shall continue to levy and collect taxes on the property within said territory until indebtedness has been discharged.

SECTION 2.05 - BOARDS, AGENCIES AND COMMISSIONS

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

ARTICLE III GENERAL PROVISIONS

SECTION 3.01 - OFFICIAL OATH

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

SECTION 3.02 - AMENDING THE CHARTER

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

SECTION 3.03 - SEVERABILITY CLAUSE

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

SECTION 3.04 - JUDICIAL NOTICE

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

SECTION 3.05 - PUBLIC RECORDS

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

SECTION 3.06 - OFFICIAL NEWSPAPER

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

SECTION 3.07 - 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 of execution or cost bill. The funds belonging to the City in the hands of any person, firm or corporation shall not be liable for 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 writ or garnishment on any account whatever. The City shall not be obligated to recognize any assignment of wages or funds by its employees, agents or contractors.

SECTION 3.08 - SECURITY AND BOND NON-REQUIREMENT

It shall not be necessary in any action, suit or proceedings in which the City is a party, for any bond or other security to be demanded or executed by or on behalf of said City in any of the State Courts, but in all such actions, suits, appeals or proceedings same shall be conducted in the manner as if such bond or other security had been given as required by law.

ARTICLE IV POWERS OF THE CITY

SECTION 4.01 - GENERAL

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

SECTION 4.02 - GENERAL POWERS ADOPTED

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

SECTION 4.03 - EMINENT DOMAIN

The City shall have the full power and right to exercise the power of eminent domain when necessary or desirable to carry out any of the powers conferred upon it by this Charter or by the Constitution and laws of the State of Texas. The City may exercise the power of eminent domain in any manner authorized or permitted by the Constitution and laws of this State.

The power of eminent domain hereby conferred shall include the right of the City to take the fee in land so condemned and such power and authority shall include the right to condemn public property for such purposes. The City shall have and possess the power of condemnation for any municipal or public purpose even though not specifically enumerated in this Charter.

SECTION 4.04 - REQUIRED NOTICE FOR CLAIMS AGAINST THE CITY

Before the City shall be liable for damages for the death or personal injuries of any person or for damages to or destruction of property of any kind, the person injured, if living, or his representatives, if deceased, or the owner of the property damaged or destroyed, his agent or attorney shall give the City Manager or City Secretary notice in writing of such death, injury, damage or destruction, duly verified by affidavit, within six (6) months after the damages were sustained, stating specifically in such written notice when, where, and how the death, injury, damage or destruction occurred, and the apparent extent of any such injury, the amount of damages sustained, the actual residence of the claimant by street and number at the date the claim is presented, the actual residence of such claimant for six (6) months immediately preceding the occurrence of such death, injury, damage or destruction and the names and addresses of all witnesses upon whom it is relied to establish the claim for damages. No action at law for damages shall be brought against the City for such death, injury, damage or destruction prior to the expiration of ninety (90) days after the notice herein described has been filed with the City Manager or City Secretary.

ARTICLE V ELECTIONS

SECTION 5.01 - ELECTIONS: REGULAR AND SPECIAL

The annual regular election shall be held on the first (1st) Saturday in May for the purpose of electing a Mayor and Council members. The City Municipal Building will be the polling place for elections. The Council may, by ordinance or resolution, call special elections as authorized by State or Federal law and this Charter.

SECTION 5.02 - REGULATIONS AND LAWS GOVERNING CITY ELECTIONS

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

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

SECTION 5.03 - FILING FOR OFFICE

Any qualified citizen as defined by Article 6.03 of this Charter, who resides within the City's jurisdiction may file for election to the Office of Mayor or Council Member. A signed application and loyalty oath shall be filed with the City Secretary not later than 5 P.M. of the forty-fifth (45) day prior to the regular election and thirty-one (31) days prior to a special election.

SECTION 5.04 - OFFICIAL BALLOT

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

SECTION 5.05 - ELECTION BY MAJORITY

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

SECTION 5.06 - CONDUCTING ELECTIONS

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

SECTION 5.07 - CANVASSING ELECTIONS

The returns of all elections shall be delivered forthwith to the Mayor and City Secretary by the Election Judge. The Council shall canvass the returns and declare the results of such election in accordance with the provisions prescribed by State (Texas Election Code 67.003) and Federal election laws.

SECTION 5.08 - COUNCIL TO BE JUDGE OF ELECTION QUALIFICATIONS

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

SECTION 5.09 - OATH OF OFFICE

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

ARTICLE VI THE TOMBALL CITY COUNCIL

SECTION 6.01 - POWERS OF THE CITY COUNCIL

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

SECTION 6.02 - NUMBER, SELECTION, AND TERM

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

- A. The Mayor shall be elected from the City at large. The Councilmen shall be elected from the City at large by positions which shall be known as Positions 1, 2, 3, 4, and 5.
- B. The Mayor shall be the presiding officer of the Council and shall be recognized as the head of the City Government for all ceremonial purposes and by the Governor for purposes of military law. The Mayor shall be allowed to vote only in case of a tie vote and shall not have the authority to veto any action of the Council.

- C. The Mayor and each Councilman shall hold office for a period of three (3) years or until his successor is elected and qualified. All elections shall be held in the manner provided for by this Charter and the election laws of the State of Texas. (See Article 1.07 for transition details.)
- D. Beginning with the 1993 election year, the pairing and order of Positions for elective offices of the City shall be: Positions 1 and 5, Positions 2 and 4, and Position 3 and Mayor. Prior to 1993, the Interim Election Procedure outlined in Section 1.07 shall be followed in the election of all City officers.
- E. There shall be no limitation of elected terms for the Office of Mayor and Councilman.

SECTION 6.03 - QUALIFICATIONS

Each member of the Council shall be a resident citizen of the City, shall be a minimum of twenty-one (21) years of age and a qualified voter of the State of Texas, shall have been a resident citizen of Tomball for a period of not less than one (1) year immediately preceding his election. An incumbent seeking re-election must file for the same position number. Any person presently holding an elective office shall resign that office upon election to another elective office of profit or trust. No employee of the City shall continue in such position after election to an elective office. A citizen cannot file for an elective office if the candidate has a felony conviction except as provided by the State Election Code. The Mayor or Councilman shall, if convicted of a felony while in office, immediately upon conviction thereof, forfeit said office. If the Mayor or any Councilman fails to maintain the foregoing qualifications or shall be absent from two (2) regularly scheduled meetings within any six (6) month period without valid excuse, the Council must, at its next regular meeting, declare a vacancy as set forth in Section 6.09 of this Charter.

SECTION 6.04 - COMPENSATION

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

SECTION 6.05 - NEPOTISM

No officer of the City or officer of any City Board shall appoint, or vote for or confirm the appointment to any office, position, clerkship, employment or duty, of any person related with the second-degree of affinity (by marriage) or within the third-degree by consanguinity

(by blood) to the person so appointing or so voting, or related to any other member of the governing body or board of the City; provided that any person who has been continuously employed in any employment for a period of six (6) months prior to the election or thirty (30) days prior to the appointment of the officer or member of a board may be retained in such employment, as provided by state statutes.

SECTION 6.06 - HOLDING DUAL OFFICES

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

SECTION 6.07 - CONFLICT OF INTEREST IN CITY CONTRACTS

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

SECTION 6.08 - MAYOR AND MAYOR PRO-TEM

The Mayor shall be the official head of the City government. The Mayor shall be the Chairman and shall preside at all meetings of the Council. The Mayor shall see that all ordinances, bylaws and resolutions of the Council are faithfully obeyed and enforced. The Mayor shall, when authorized by the Council, sign all official documents such as ordinances, resolutions, conveyances, grant agreements, official plats, contracts and bonds. The Mayor shall appoint special committees as he deems advisable, subject to approval by Council, or as instructed by the Council. The Mayor shall perform such other duties consistent with this Charter or as may be imposed upon him by Council.

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

SECTION 6.09 - VACANCIES

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

Any vacancy or vacancies occurring shall not be filled by appointment but must be filled by majority vote of the qualified voters voting in a special election called for such purpose on the next Uniform Election Date.

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

SECTION 6.10 - APPOINTMENTS AND REMOVALS

Neither the Council nor any of its members shall in any manner dictate the appointment or removal of any City administrative officers or employees whom the City Manager or any of his subordinates are empowered to appoint. (See Section 7.01,C-1)

SECTION 6.11 - INTERFERENCE WITH ADMINISTRATION

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

SECTION 6.12 - MEETINGS OF COUNCIL

The Council shall schedule at least two (2) regular meetings each month and as many additional meetings as it deems necessary to transact the business of the City and its citizens. The Council shall fix, by ordinance, the days and time of the regular meetings. All regular meetings of the Council shall be held at the City of Tomball City Hall, unless the City Council votes to approve a location other than the City Hall in the event it is determined to be in the public interest. All meetings shall be open and accessible to the public; however, the Council may recess to an Executive Session only for the purposes provided by the Texas Open Meetings Act. Final action thereon shall not be taken by the Council until the matter is placed on the agenda and a vote taken in an open meeting.

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

or in the event of the inability to locate said Council member within the City of Tomball, Texas, delivery of such notice to his or her home shall be sufficient.

SECTION 6.13 - RULES OF PROCEDURE

The Council shall, by ordinance, determine its own rules and order of business and the rules shall provide that citizens of the City shall have a reasonable opportunity to be heard at any meeting in regard to any matter under consideration. The Council shall provide for the taking and recording of minutes of all meetings, and such minutes shall be a public record. Voting, except on procedural motions, shall be by roll call and the ayes, nays and abstentions shall be recorded in the minutes. A Councilman shall state the reason for an abstaining vote. Four (4) Council members, one of whom may be the Mayor, shall constitute a quorum for the purpose of transaction of business and no action of the Council shall be valid or binding unless adopted by the affirmative vote of three (3) or more members of the Council.

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

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

SECTION 6.14 - ORDINANCES

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

A. Procedure for Passage of Ordinances

Every ordinance shall be introduced in written or printed form and, upon passage, shall take effect at the time indicated therein; provided that any ordinance imposing a penalty, fine or forfeiture for a violation of its provisions shall become effective not less than fourteen (14) days from the date of its passage. The City Secretary shall give notice of every ordinance under consideration, by causing the caption or summary, including the penalty, fine, or forfeiture for a violation of any such ordinance to be published in the official newspaper for the City after the first reading and at least once within fourteen (14) days after the passage of said ordinance. 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, and promulgation of such ordinance; provided, that the provisions of this section shall not apply to the correction, revision and modification of the ordinances of the City for publication in book or pamphlet form. It shall be necessary to the validity of any ordinance that it shall be read two (2) times and considered at two (2) sessions of the Council unless addressed otherwise by this Charter.

At the first (1st) reading, said ordinance shall be read in its entirety unless a motion is made and passed suspending the requirement of the reading of the ordinance, in which case such ordinance shall be read by caption only, followed by an explanation of the ordinance. The one (1) remaining presentation of said ordinance may be by caption only. Copies of any ordinance being considered by Council shall be available, in draft form, at that Council meeting for public review during that meeting. Copies of said ordinances, after final passage, are available at the City Hall for a fee. Every ordinance shall be authenticated by the signature of the Mayor and City Secretary and shall be systematically recorded in an ordinance book in a manner approved by the Council. It shall only be necessary to record the caption or title of ordinances in the minutes or journal of Council meetings. The Council shall have power to cause the ordinances of the City to be corrected, revised, codified and printed in code form as often as the Council deems advisable, and such printed code, when adopted by the Council, shall be in full force and effect without the necessity of publishing the same or any part thereof in a newspaper. However, if the ordinance is amended, it then must be published one time, by caption only, in the official City newspaper. Such printed code shall be admitted in evidence in all courts and places without further proof.

B. Emergency Ordinances

To meet a public emergency affecting life, health, property, or the public peace, the Council may adopt emergency ordinances. Such ordinances shall not levy taxes, grant or renew or extend a franchise, regulate the rate charged by any public utility for its services, or authorize the borrowing of money except to fund emergency appropriations in accordance with Article 8.15 of this Charter. An emergency ordinance shall be introduced in the form and manner generally prescribed for ordinances, except that it shall be plainly designated in the title as an emergency, with a description in clear and specific terms and with one (1) reading sufficing for its passage. Such emergency clause shall require the affirmative vote of three (3) members elected to Council. An emergency ordinance may be adopted with or without amendment or rejected at the meeting at which it is introduced. After adoption, the ordinance shall become effective immediately and shall be published in the official newspaper for the City of Tomball once within fourteen (14) days after the passage of such ordinance. After adoption, the ordinance shall be numbered as required for other adopted ordinances, with the designation of "E" following the number. Every emergency ordinance so adopted, except one authorizing the borrowing of money as described herein, shall automatically stand repealed as of the sixty-first (61st) day

following the day on which it became effective, but this shall not prevent re-enactment of the ordinance.

SECTION 6.15 - OFFICIAL BONDS FOR CITY EMPLOYEES

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

SECTION 6.16 - INVESTIGATIVE BODY

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

ARTICLE VII ADMINISTRATIVE SERVICES

SECTION 7.01 - CITY MANAGER

A. Appointment and Qualifications:

The Council shall appoint an administrative and executive officer of the City who shall be responsible to the Council for the administration of all the affairs of the City. He shall be chosen by the Council solely on the basis of his executive and administrative training, experience and ability. No member of the Council shall, during the time for which he is elected and for one year thereafter, be appointed City Manager.

B. Term and Salary:

- (1) The City Manager shall be appointed for a term not to exceed two years by a majority vote of the entire Council. The appointment shall be secured through an explicit contractual agreement which shall protect the rights of both the Council and the City Manager.

(2) The City Manager shall receive compensation as may be fixed by the Council.

C. Duties of the City Manager. The City Manager shall:

- (1) Be responsible to the Council for the efficient and economical administration of the City government. He shall have the authority, with the approval of the Council, to appoint and remove all department heads. He shall have the authority to appoint and remove all other employees in the administrative service of the City. He may authorize the head of a department to appoint and remove subordinates in his respective department. Except for the purpose of inquiry, the Council and its members shall deal with the administrative service solely through the City Manager.
- (2) Prepare the budget annually and submit it to the Council and be responsible for its administration after adoption.
- (3) Prepare and submit to the Council, as of the end of the fiscal year, a complete report on the finances and administrative activities of the City for the preceding year.
- (4) Keep the Council advised of the financial condition and future needs of the City and make such recommendations as may seem desirable.
- (5) Perform such duties as may be prescribed by this Charter or may be required of him by the Council, not inconsistent with this Charter.
- (6) Every odd-numbered year, take an inventory of all City-owned real estate. After reviewing the inventory, he will recommend to the Council disposition of said real estate the City is not using or for which it has no plans for use. However, nothing herein shall preclude the City from selling any of its real estate at any time it is deemed appropriate.

SECTION 7.02 - ASSISTANT CITY MANAGER

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

SECTION 7.03 - POLICE DEPARTMENT

A Police Department is established to preserve order, to strive to secure the safety of residents, to prevent violence and to protect life and property from injury and loss within the limits and allowable jurisdiction of the City. The Department will be responsible for regulating the proper keeping of dogs, pets and farm animals within the City limits so as to maintain sanitary standards and safety for the citizens.

A. Chief of Police

The Chief of Police is the senior officer of the Police Department. He is appointed by the City Manager, with the approval of the Council, for an indefinite term. With the approval of the City Manager, he appoints and removes the employees of the Police Department. He is responsible to the City Manager for the administration of the Police Department and the performance of Council-established duties and directives. He may be removed from office by the City Manager, with the approval of the Council.

B. Reserve Police

The Chief of Police may appoint or remove "Reserve Police Officers" in accordance with guidelines established by the Council. No other persons, except as otherwise provided by the laws of the State of Texas, shall act as "special police" within the City.

SECTION 7.04 - CITY SECRETARY

There shall be a City Secretary for the City. The City Manager, with the approval of the Council, shall appoint a City Secretary and such assistants as the Council shall deem advisable. The City Secretary, or an Assistant City Secretary, shall give notice of Council meetings, shall keep the minutes of proceedings of such meetings, and shall authenticate by 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 assigned by the City Manager and those elsewhere provided in this Charter and the laws of the State of Texas. The duties of City Secretary, City Treasurer and City Tax Collector may be performed by the same individual.

SECTION 7.05 - CITY TREASURER

There shall be a City Treasurer for the City. The City Manager, with the approval of the Council, shall appoint a City Treasurer and such assistants as the Council shall deem advisable. The City Treasurer shall perform the duties delegated to him by the City Manager and those which may be imposed upon him by the laws of the State of Texas. The duties of City Secretary, City Treasurer, and City Tax Collector may be performed by the same individual.

SECTION 7.06 - DEPARTMENT OF TAXATION

There shall be established and maintained a Department of Taxation to collect taxes for the City. The City Manager shall appoint an Assessor/Collector to administer said department.

The Assessor/Collector shall perform all duties assigned by the City Manager. He shall, at the end of every business day, pay to the City Treasurer all monies collected. At the end of every month, he shall submit a written report to the City Manager of all monies so collected and paid. The duties of City Secretary, City Treasurer and City Tax Assessor/Collector may be performed by the same individual.

SECTION 7.07 - CITY FIRE DEPARTMENT

A. Fire Marshal

A Fire Marshal shall be appointed by the City Manager and shall be responsible for the enforcement of ordinances pertaining to the City Building Fire Codes and for the general protection from fire for the residents of the City. He shall receive for his services such compensation as may be fixed by the Council and shall hold his office at the pleasure of the City Manager.

B. Volunteer Fire Department

The Council may establish and maintain a Volunteer Fire Department and may procure fire engines and other apparatus for the extinguishment of fires, for salvage and rescue operations and provide engine houses and funds for maintenance and operation and shall authorize the forming of fire fighting companies as required. The companies so organized shall constitute the Fire Department. The Department may elect its own members and officers. The officers shall be chosen as said Department may determine. All officers so elected shall be commissioned by the Mayor, with the exception of the Fire Chief, who shall be the chief executive officer of the Fire Department, whose election must be approved by the Council. Said Department may adopt its own constitution and by-laws not inconsistent with this Charter or the City ordinances. The by-laws of the Volunteer Fire Department shall be approved by the Council, as well as amendments made thereto. The Council may pass such ordinances as they may deem proper for the welfare of said Department. The Department shall assume responsibility for the care and management of the engines, other implements and apparatuses provided and used for fighting fires and for salvage and rescue operations.

C. Contractual Agreement

Approval of the by-laws and operating budget of the Volunteer Fire Department shall constitute an agreement between the City and members of the Tomball Volunteer Fire Department to provide protection to the City from fire and other

disasters. The Council shall also cooperate with contiguous neighboring communities on problems of fire protection and other disasters.

SECTION 7.08 - CITY ATTORNEY

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

SECTION 7.09 - MUNICIPAL COURT

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

- A. The Judge of said Court shall be appointed by the Council, and shall be a licensed attorney, and shall receive such salary as may be fixed by the Council. The Judge of said Court shall hold office at the pleasure of the Council.
- B. The City Secretary, or an assistant City Secretary, shall be ex-officio Clerk of said Court.
- C. 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.
- D. The Council shall appoint other licensed attorneys to act as Temporary Judges of said Court in case of disability or absence of the Judge of the Municipal Court. The salary of Temporary Judges shall be fixed by the Council.
- E. A City Judge shall hold no other City office or City employment during the term for which he is appointed by the Council. Should a person serving as City Judge become a candidate in a City election, he shall resign his position as City Judge upon election to a City Office.

- F. The Mayor shall serve as Judge of the Municipal Court in the absence of the City Judge or his alternates.

SECTION 7.10 - HEALTH DEPARTMENT

To assure a high quality of health and sanitation standards for the City, including the regulation of businesses in conflict with the City Health Code, the City shall utilize and adhere to all rules and regulations regarding health and sanitation standards outlined, required, and governed by the Harris County Department of Health and the State Health Department. An official City Health Department will be established at such time that county and/or state supervision becomes inadequate.

- A. City Health Officer

The City Council shall appoint a City Health Officer who is a licensed physician, qualified to practice medicine in the State of Texas. He shall receive for his services such compensation as may be fixed by the Council and shall hold his office at the pleasure of City Council.

- B. Duties of City Health Officer

The City Health Officer advises the City Manager and City Council on a program of public health and in cases of life and health threatening situations. He shall be the official spokesperson for the City in the event of emergency health matters.

The City Health Officer cooperates with nearby cities and jurisdictions, the Commissioner's Court of Harris County, and the State Health Department on problems of health and sanitation that affect the City.

SECTION 7.11 - DEPARTMENT OF PUBLIC WORKS

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

SECTION 7.12 - CITY BUILDING OFFICIAL AND INSPECTORS

The City shall establish a Building Department to enforce the City Building Code, to work with outside agencies in matters related to the City Building Code and to perform other such duties assigned by the City Manager.

The City Manager shall appoint the Building Department staff commensurate with positions approved by the Council.

The staff shall receive for their services such compensation as may be fixed by the Council and shall hold office at the pleasure of the City Manager.

SECTION 7.13 - DEPARTMENT OF PARKS, RECREATION, AND BEAUTIFICATION

The Council shall appoint an Advisory Board for Park, Recreation and Beautification. The Advisory Board shall study the recreation, park facilities, and beautification programs of the City and shall confer with the City Manager and advise him with respect to the development and use of the City's parks, the recreation programs and City's beautification program. The Advisory Board shall recommend to the Council rules for the use of parks, public grounds, and recreation facilities consistent with the ordinances of the City and the statutes of the State of Texas and appropriate programs for the beautification of the City. (See Sec. 2.05)

ARTICLE VIII MUNICIPAL FINANCE

SECTION 8.01 FISCAL YEAR

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

SECTION 8.02 - BUDGET AS A PUBLIC RECORD

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

SECTION 8.03 - PREPARATION AND SUBMISSION OF BUDGET

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

- A. A budget message which shall contain an explanation of the budget and an outline of the proposed financial policies of the City for the fiscal year; shall set forth the

reasons for salient changes from the previous fiscal year in expenditures and revenue items; and shall explain any major changes in financial policy.

- B. A consolidated statement of anticipated receipts and proposed expenditures for all funds.
- C. A review and analysis of property valuations.
- D. An analysis of tax rates.
- E. The tax levies and tax collections by years for at least the immediate past five (5) years.
- F. The general funds resources in detail.
- G. The special funds resources in detail.
- H. A summary of proposed expenditures by function, department, and activity with detailed estimates of expenditures shown separately for each activity to support the summary.
- I. A revenue and expense statement for all types of bonds, time warrants and other indebtedness.
- J. A description of all bond issues, time warrants, and other indebtedness outstanding, showing rate of interest, date of issue, maturity date, amount authorized, amount issued, and amount outstanding.
- K. A schedule of requirements for the principal and interest of each issue of bonds, time warrants, and other indebtedness.
- L. The appropriation ordinance.
- M. The tax levying ordinance.
- N. The total monies in all reserves (designated, undesignated, and debt) shall not exceed the budgeted City expenditures for the fiscal year. Likewise, the total monies included in all reserves shall not be less than one quarter of the budgeted City expenditures for a fiscal year.

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

SECTION 8.04 - ANTICIPATED REVENUES COMPARED WITH OTHER YEARS

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

SECTION 8.05 - PROPOSED EXPENDITURES COMPARED WITH OTHER YEARS

In preparing the budget, the City Manager shall place in parallel columns opposite the items of expenditures the actual amount of such items of expenditures for the last completed fiscal year, the estimated amount for the current fiscal year and the proposed amount for the ensuing fiscal year. The total of proposed expenditures shall not exceed the total of estimated income.

SECTION 8.06 - NOTICE OF PUBLIC HEARING ON BUDGET

At the Council meeting at which the budget is submitted, the Council shall authorize the publishing of the Budget Hearing notice in the City's official newspaper. The notice shall set forth the time, place and date of the budget hearing and the location and times at which the citizens may inspect the proposed budget. The notice shall be published at least fourteen (14) days prior to the scheduled date of the meeting.

SECTION 8.07 - PUBLIC HEARING OF BUDGET

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

SECTION 8.08 - PROCEEDINGS ON BUDGET AFTER PUBLIC HEARINGS

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

SECTION 8.09 - VOTE REQUIRED FOR ADOPTION

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

SECTION 8.10 - DATE OF FINAL ADOPTION

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

SECTION 8.11 - EFFECTIVE DATE OF BUDGET; CERTIFICATION; COPIES MADE AVAILABLE

Upon final adoption, the budget shall be in effect for the fiscal year. A copy of the budget as finally adopted, shall be filed with the person performing the duties of City Secretary, the County Clerk of Harris County, and the State Comptroller of Public Accounts in Austin. Copies of the final budget shall be posted for the public at the office of the City Secretary, the Tomball Branch of the Harris County Library, and at one other public location within the corporate limits of the City. Copies of the budget may be purchased by the public for a reasonable fee at the City Hall.

SECTION 8.12 - BUDGETARY AMENDMENTS

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

SECTION 8.13 - BUDGET ESTABLISHED AMOUNT TO BE RAISED BY PROPERTY TAX

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

SECTION 8.14 - ESTIMATED EXPENDITURES SHALL NOT EXCEED ESTIMATED RESOURCES

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

SECTION 8.15 - EMERGENCY APPROPRIATION

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

SECTION 8.16 - PURCHASE PROCEDURE

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

SECTION 8.17 - DISBURSEMENT OF FUNDS

All checks, vouchers or warrants for the withdrawal of money from the City Depository shall be signed by the City Manager and countersigned by the City Secretary or the City Treasurer. In the absence of the City Manager, the Mayor, or the Mayor Pro-Tem in the absence of the Mayor, may sign.

SECTION 8.18 - POWER TO TAX

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

SECTION 8.19 - PROPERTY SUBJECT TO TAX; RENDITION, APPRAISAL AND ASSESSMENT

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

SECTION 8.20 - TAXES, WHEN DUE AND PAYABLE

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

SECTION 8.21 - TAX LIENS

- A. Except for such restrictions imposed by law, the tax levied by the City is hereby declared to be a lien, charge or encumbrance upon the property upon which the tax is due, which lien, charge or encumbrance the City is entitled to enforce and foreclosed in any court having jurisdiction over the same, and the lien, charge or encumbrance on the property in favor of the city, for the amount of taxes due on such 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 as 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. The City's tax lien shall exist from January 1 in each year until the taxes are

paid, and limitations as to seizures and suits for collection of taxes shall be as prescribed by State law.

- B. Except for such exemptions and restrictions imposed by law, all persons, associations, corporations, firms and partnerships owning or holding personal property or real property in the City on January 1 of each year shall be liable for City taxes levied thereon for each year. The tangible or intangible personal property of all persons, associations, corporations, firms or partnerships owing any taxes to the City is hereby made liable for all said taxes, whether the same be due upon personal or real property or upon both.
- C. All seizure and foreclosure proceedings shall be administered in accordance with State Property Tax Codes.

SECTION 8.22 - TAX REMISSION AND DISCOUNTS

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

SECTION 8.23 - ISSUANCE OF BONDS

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

A. General Obligation Bonds

The City shall have the power to borrow money on the credit of the City and to issue general obligation bonds for permanent public improvements or for any other public purpose not prohibited by the Constitution and laws of the State of Texas and to issue refunding bonds to refund outstanding bonds of the City previously issued. All such bonds shall be issued in conformity with the laws of the State of Texas and shall be used only for the purpose for which they were issued.

B. Revenue Bonds

The City shall have the power to borrow money for the purpose of constructing, purchasing, improving, extending or repairing of public utilities, recreational facilities or any other self-liquidating municipal function not prohibited by the Constitution and Laws of the State of Texas and to issue revenue bonds to evidence the obligation created thereby, and to issue refunding bonds to refund outstanding revenue bonds of the City previously issued. All such bonds shall be issued in

conformity with the laws of the State of Texas and shall be used only for the purpose for which they were issued.

C. Sale of Bonds

No bonds, other than refunding bonds issued to refund and in exchange of previously issued outstanding bonds, issued by the City shall be sold for less than par value and accrued interest. All bonds of the City having been issued or sold in accordance with the terms of this section and having been delivered to the purchasers thereof shall thereafter be incontestable and all bonds issued to refund and in exchange of outstanding bonds previously issued shall, after said exchange, be incontestable.

SECTION 8.24 - INDEPENDENT AUDIT

Prior to the end of each fiscal year, the Council shall designate a certified public accountant, who is licensed by the State of Texas, to make an independent audit of accounts and other evidences of financial transactions of the City government and submit a report to the Council within one hundred twenty (120) days from the closing date of the City's fiscal year. Notice shall be given by publication in the official newspaper of the City that the annual audit is on file at the City Hall for inspection.

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

**ARTICLE IX
FRANCHISE AND PUBLIC UTILITIES**

SECTION 9.01 - POWER TO GRANT FRANCHISE

The Council shall have power by ordinance to grant, amend, renew and extend all franchises of all public utilities, including cable television or community antenna television systems, of every type operating with the City. All such ordinances granting, amending, renewing, or extending franchises for public utilities shall be governed by the procedures established in Section 6.14. No public utility franchise shall be granted for a term of more than fifty (50) years, nor be transferable except with the approval of the Council expressed by ordinance.

SECTION 9.02 - FRANCHISE VALUE NOT TO BE ALLOWED

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

SECTION 9.03 - RIGHT OF REGULATION

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

- A. To forfeit any such franchise by ordinance at any time for failure of the holder thereof to comply with the terms of the franchise. Such power shall be exercised only after written notice to the franchise holder stating wherein the franchise holder has failed to comply with the terms of the franchise and setting a reasonable time for the correction of such failure, and shall be exercised after such reasonable time has expired.
- B. To impose reasonable regulations to insure safe, efficient and continuous service to the public.
- C. To require such expansion, extension, enlargement and improvement of plants and facilities as are necessary to provide adequate service to the public.
- D. To require every franchise holder to furnish to the City, without cost to the City, full information regarding the location, character, size, length and terminals of all facilities of such franchise holder in, over and under the streets, alleys and other public properties of the City, and to regulate and control the location, relocation and removal of such facilities.
- E. To collect from every public utility operating in the City such proportion of the expense of excavating, grading, paving, repaving, constructing, reconstructing, draining, repairing, maintaining, lighting, sweeping and sprinkling the streets, alleys, bridges, culverts, viaducts and other public places of the City which represent the increased cost of such operation resulting from the occupancy of such public places by such public utility, and such proportion of that cost of such operations as results from the damage to or the disturbance of such public places caused by such public utility; or to compel such public utility to perform, at its own expense, such operations as above listed which are made necessary by the occupancy of such public places by such utility or by damage to or disturbance of such public places caused by such public utility.

- F. To require every franchise holder to allow other public utilities to use its poles and other facilities, including bridges and viaducts, whenever in the judgment of the Council such use shall be in the public interest, provided that in such an event, a reasonable rental shall be paid such owner of the facilities for such use. Provided further, that inability of such public utilities to agree upon rental facilities shall not be an excuse for failure to comply with such requirement by the Council.
- G. To require the keeping of accounts in such form as will accurately reflect the value of the property of each franchise holder which is used and useful in rendering its service to the public and the expenses, receipts and profits of all kind of such franchise holder.
- H. To examine and audit at any time during business hours the accounts and other records of any franchise holder.
- I. To require reports on the operation of the utility, which shall be in such form and contain such information as the Council shall prescribe.
- J. To require that the public utility give notice to any subscriber to its service prior to the permanent or temporary discontinuance or disruption of such service by the public utility, except in cases of emergency, and to require that no officer, agent, servant or employee of the public utility nor any vehicles or equipment under their control shall make use of, go upon or across any private property in the City without first obtaining the permission of the owner or occupant of such property, except in cases of emergency, and to provide a penalty for the violation of such requirements.
- K. To impose such other reasonable regulations, restrictions, requirements and conditions as may be deemed necessary or desirable to promote the health, safety, welfare or accommodations of the public.
- L. No franchise shall be transferable except with the approval of the Council as expressed by ordinance. The term "transferable", as used herein, shall not be construed in such a manner as to prevent the franchise from pledging said franchise as security for a valid debt or mortgage.

SECTION 9.04 - GRANT NOT TO BE EXCLUSIVE

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

SECTION 9.05 - OTHER CONDITIONS

All franchises heretofore granted are recognized as contracts between the City and the grantee, and the contractual rights as contained in any such franchise shall not be impaired by the provisions of

this Charter except that the power of the City to exercise the rights of eminent domain in the acquisition of any utility property is in all things reserved, and except the general power of the City heretofore existing and herein provided for to regulate the rates and services of a utility, which shall include the right to require adequate and reasonable quality of utility service to the public. Every public utility franchise hereafter granted shall be held subject to all the terms and conditions contained in the various sections of this Article whether or not such terms are specifically mentioned in the franchises. Nothing in this Charter shall operate to limit in any way, as specifically stated, the discretion of the Council or the voters of the City in imposing terms and conditions as may be reasonable in connection with any franchise grant, including the right to require such compensation or rental as may be permitted by the laws of the State of Texas and the United States of America.

SECTION 9.06 - ACCOUNTS OF MUNICIPALLY-OWNED UTILITIES

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

SECTION 9.07 - SALES OF MUNICIPAL UTILITIES

The Council shall have the power and authority to:

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

SECTION 9.08 - REGULATION OF RATES AND UTILITIES

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

ARTICLE X MUNICIPAL PLANNING

SECTION 10.01 - PLANNING COMMISSION

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

A. Term of Office

Five (5) members will be appointed in 1987 within thirty (30) days after the regular City election. The first member will be appointed for a one (1) year term. The next two (2) members will be appointed for a two (2) year term. The last two (2) members will be appointed for a three (3) year term. All reappointments after the original appointments will be for three (3) year terms.

B. Rules of Procedure

The Commission shall annually elect one (1) of its number Chairman and shall establish its own rules of procedure which shall include the following: A quorum shall consist of a majority of the members of the Commission and an affirmative vote of a majority of those present shall be necessary to pass upon pending questions. All meetings shall be open to the public and a record of all proceedings shall be maintained by the person performing the duties of the City Secretary and shall be a public record.

C. Vacancies

Members of the Planning Commission shall actively participate in the activities of the Commission, and any member who is absent from three (3) consecutive meetings of the Commission without valid excuse as determined by the Commission, shall automatically be dismissed from membership. The Commission shall at once notify the Council that a vacancy in the Commission exists.

Vacancies occurring in the Commission, for whatever reason, shall be filled within thirty (30) days by appointment by the Council for the remainder of the unexpired term.

D. Powers and Duties

The Commission shall have the power and shall be required to:

- (1) Recommend to the Council amendments, extensions and additions to the Master Plan for the physical development of the City.
- (2) Recommend to the Council the approval or the disapproval of plats of proposed subdivisions submitted in accordance with City ordinance as adopted or hereafter amended.
- (3) Recommend to the Council plans for the clearance and rebuilding of slum districts and blighted areas which may develop within the City.
- (4) Recommend to the Council the amendment, extension and revision of the Building Code, which code shall include the minimum standards of construction for building, the minimum standards for plumbing and the minimum standards for electrical and mechanical equipment.
- (5) Submit annually to the City Manager, not less than ninety (90) days prior to the beginning of the budget year, a list of recommendations for capital improvements which, in the opinion of the Commission, are necessary or desirable to be constructed during the forthcoming five (5) years. Such list shall be arranged in order of preference, with recommendations as to which projects shall be constructed in which year.
- (6) Meet no less than once each quarter, meetings to be held at the City Hall unless prior notice of change of meeting place be given by publication in a newspaper in general circulation in the City.
- (7) Operate under the guidelines of the powers granted by the Civil Statutes of the State of Texas.

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 Commission and the Council.

SECTION 10.02 - PLATTING OF PROPERTY

Every owner of any tract of land situated within the corporate limits of the City or its extraterritorial jurisdiction (ETJ), who may divide the same into two (2) or more parts for the purpose of laying out any subdivisions or any addition to the City shall comply with all applicable provisions contained in the Code of Ordinances of the City, as adopted or hereafter amended. [Article 970(a), Section 4, V.A.T.S., Municipal Annexation Act.]

SECTION 10.03 - DEVELOPMENT OF PROPERTY

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

ARTICLE XI RECALL OF OFFICERS

SECTION 11.01 - GENERAL POWER

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

SECTION 11.02 - SCOPE OF RECALL

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

SECTION 11.03 - PETITION FOR RECALL

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

SECTION 11.04 - FORM OF RECALL PETITION

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

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

SECTION 11.05 - VARIOUS PAPERS CONSTITUTING PETITION

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

SECTION 11.06 - PRESENTATION OF PETITION TO CITY COUNCIL

Within five (5) business days after the date of the filing of the papers constituting the recall petition, the person performing the duties of City Secretary shall certify such petition or return same to petitioners for correction. After certification, the person performing the duties of City Secretary shall present such petition to the Council of the City at the next regular meeting.

SECTION 11.07 - PUBLIC HEARING TO BE HELD

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

SECTION 11.08 - ELECTION TO BE CALLED

If the officer whose removal is sought does not resign, then it shall become the duty of the Council to order an election and fix a date for holding such recall election, the date of which election shall be not less than forty-five (45), nor more than sixty (60), days from the date such petition was presented to the Council, or from the date of the public hearing, if one was held.

SECTION 11.09 - FAILURE OF CITY COUNCIL TO CALL AN ELECTION

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

SECTION 11.10 - BALLOTS IN RECALL ELECTION

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

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

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

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

"Yes"

"No".

SECTION 11.11 - RESULT OF RECALL ELECTION

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

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

SECTION 11.12 - RECALL, RESTRICTIONS THEREOF

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

ARTICLE XII
LEGISLATION BY THE PEOPLE, INITIATIVE AND REFERENDUM

SECTION 12.01 - GENERAL POWER

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

SECTION 12.02 - INITIATIVE

Qualified voters of the City may initiate legislation by submitting a petition addressed to the Council which requests the submission of a proposed ordinance or resolution to a vote of the qualified voters of the City. Said petition must be signed by qualified voters of the City equal in number to thirty-percent (30%) of the average of the highest number of votes cast at the last three regular municipal elections for council place or Mayor of the City, or two hundred fifty (250) qualified voters whichever is greater, and each copy of the petition shall have attached to it a copy of the proposed legislation. Each signer of such petition shall personally sign and print his name thereto in ink, and write his place of residence, giving name of street and number. He shall also write thereon his voter registration number and the day, month, and year his signature was affixed. The petition may consist of one (1) or more notarized copies as permitted in Section 11.05 of this Charter. Such petition shall be filed with the person performing the duties of City Secretary. Within five (5) business days after the filing of such petition, the person performing the duties of City Secretary shall certify such petition or return same to petitioners for corrections. After certification, the person performing the duties of City Secretary shall present said petition and proposed ordinance or resolution to the Council at the next regular meeting. Upon presentation to the Council of the petition and draft of the proposed ordinance or resolution, it shall become the duty of the Council, on or before the next regularly scheduled meeting of the Council, to pass and adopt such ordinance or resolution without alteration as to meaning or effect in the opinion of the persons filing the petition to call a special election on the next uniform election date as provided by the State Election Code, at which the qualified voters of the City shall vote on the question of adopting or rejecting the proposed legislation. No ordinance shall be proposed by an initiative petition which is on the same question as an ordinance so submitted and defeated at an election held within the preceding twelve (12) months.

SECTION 12.03 - REFERENDUM

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

SECTION 12.04 - VOLUNTARY SUBMISSION OF LEGISLATION BY THE COUNCIL

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

SECTION 12.05 - FORM OF BALLOTS

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

"FOR THE ORDINANCE" and
"AGAINST THE ORDINANCE"; or
"FOR THE RESOLUTION" and
"AGAINST THE RESOLUTION".

SECTION 12.06 - PUBLICATION OF PROPOSED AND REFERRED ORDINANCES

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

SECTION 12.07 - ADOPTION OF ORDINANCES

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

SECTION 12.08 - INCONSISTENT ORDINANCES

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

SECTION 12.09 - ORDINANCES PASSED BY POPULAR VOTE, REPEAL OR AMENDMENT

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

SECTION 12.10 - FURTHER REGULATION BY THE COUNCIL

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

SECTION 12.11 - FRANCHISE ORDINANCES

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

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GLOSSARY

Abstentions (Section 6.13) - The act or fact of not voting.

Accrued (Section 8.23-C) - To have accumulated or added to in a periodic manner. Interest or charges may be added to (or accrued); a loan, bond or charge.

Affinity (Section 6.05) - Kinship established by law; relationships resulting from marriage; inlaws.

Amend (Section 6.14-A) - To alter formally by parliamentary or constitutional procedure.

Assessment (Section 8.19) - The appraisal of property, real or otherwise, as a basis for establishing a tax rate.

Blighted Area (Section 10.01-D-3) - An area which is "run down", in a state of ill repair, unsightly.

Building Code (Section 10.01-D-4) - A City ordinance enacted to specify the procedures and rules by which real property improvements are made within the City limits.

Capital Improvements (Section 10.01-D-5) - Any major construction, additions or extensions of buildings, utilities, streets or other City properties.

Caption (Section 6.14-A) - A title or heading, as at the beginning of an article, an Ordinance, a law, etc.

Charter (Section 1.04) - A formal written document issued by a government (City) or its citizens granting the rights and setting forth guidelines for conducting business as a governing body.

City Depository (Section 8.17) - The financial institution at which City funds are placed on deposit by resolution of the Council.

Claimant (Section 4.04) - A person who files a formal complaint or claim or action against another; e.g., a person who files a lawsuit against another individual, corporation, or entity.

Codified (Section 6.14-A) - To arrange in a systematic way; put into a code; e.g., the City Charter organized into Sections and Sub-sections.

Commissioned (Section 7.07-B) - The act of appointing or electing an individual or a group of persons to perform certain duties.

Complainant (Section 4.04) - A person who files a formal complaint in a lawsuit.

Concurrently (Section 6.06) - Corresponding with, or running simultaneously with another; happening at the same time.

Consanguinity (Section 6.05) - Kinship by descent from the same ancestors; relationship by blood.

Contiguous (Section 7.07-C) - The state of one object being in actual contact with or touching another object; e.g., the State of Texas is contiguous to Mexico, New Mexico, Oklahoma, Arkansas, Louisiana, and the Gulf of Mexico.

Contractual Agreement (Section 7.07-C) - A "meeting of the minds" or harmony of opinion that specifies all the details of the concord in a legal and binding form.

Council (Section 1.03) - Any reference shall be considered to be the Council as a body or as a quorum.

Countersigned (Section 8.17) - The act of attesting to the authenticity of a document signed by another; e.g., countersigning a check as a testator to the correctness and authority of that check.

Cost Bill (Section 3.07) - Any charge, invoice or order presented for payment as a result of expenses incurred by litigation.

Delinquent Tax (Section 8.20) - An amount of money due for legally specified tax that has not been paid by the date specified by the taxing authority.

Emergency Appropriations (Section 8.15) - The establishing of special accounts to accommodate special needs that call for immediate action and for which no provisions were made.

Eminent Domain (Section 4.03) - The power to take private property for public use; e.g., the act of condemning property by the State of Texas to build highways is an "act of eminent domain".

Encumbrance (Section 8.21-A) - A claim, mortgage, lien or loan against property.

Ex-officio (Section 7.09-B) - The act of being a part of a body by virtue of, or because of, one's office or position; the Mayor is an ex-officio member of all special committees of the City Council.

Extraterritorial Jurisdiction (ETJ) (Section 10.02) - The unincorporated areas, not a part of any other City, that lies next to (contiguous to) the Corporate limits of the City. (Tomball's ETJ is two miles wide.)

Fee Simple (Section 4.01) - The largest, most complete ownership rights one can hold in land or other real estate.

Fidelity Bond (Section 6.15) - A binding agreement or bond, issued by a surety or one who has become legally liable, that would pay the holder should the person on whom the bond was placed fail to exhibit strict and continuing faithfulness to an obligation, trust or duty.

Fiscal Year (Section 1.05) - The twelve-month period of time assigned by the City in which the financial matters of the City are performed.

Franchise (Section 9.01) - The right or privilege to do something, transact business, in a given geographical area for a prescribed time.

Garnishment (Section 3.07) - A legal summons or warning concerning the attachment of property to satisfy a debt or other obligation.

Gender (Section 1.08) - The classification of words that distinguishes chiefly between male, female, and neuter; e.g., he, she, and it.

General Funds (Section 8.03-F) - All funds which accrue to the City other than those funds derived from utility revenues.

Immunities (Section 4.01) - Special exemptions, as from laws, taxes; those things that are marked by protection or exempt from risk.

Implead (Section 4.01) - The act of taking legal action against an individual or a group in a court of law.

Incumbent (Section 5.04) - The act of holding an office; a person who holds an office.

Initiative (Section 12.02) - The right of citizens to introduce or enact new law.

Intangible (Section 8.19) - That which is not able to be precisely identified or perceived; an asset (as goodwill) that is not real or corporeal.

Invalid (Section 3.03) - Without force, basis, or authority; being without foundation or force in fact, truth or law.

Judicial (Section 3.04) - Of, or related to, courts of law and the administration of justice.

Liaison (Section 10.01-E) - A line of communication between parts of an organization.

Litigation (Section 6.12) - The act or process of carrying on a lawsuit; the process of settling conflicts in a court of law.

Malfeasance (Section 6.06, 6.07) - Wrongdoing or misconduct of a public official.

Mayor Pro Tem (Section 6.08) - Someone elected or appointed to temporarily perform the duties of Mayor in his absence.

Misdemeanor (Section 7.09) - A crime less serious than a felony; e.g., violation of traffic laws, and other minor infractions of law.

Nepotism (Section 6.05) - The giving of special jobs to relatives by a person in a high or official office.

Par Value (Section 8.23-C) - The face amount or monetary value placed on a stock or bond at time of issuance.

Perpetuity (Section 1.01) - The state or quality of endless existence or duration.

Petition (Section 11.03) - A formal request made to a person or group in a position of authority.

Platting (Section 10.02) - All persons desiring to subdivide land within the area of jurisdiction of the City shall submit a plat as prescribed by the Tomball Code of Ordinances.

Politic (Section 1.01) - The granting of authority to govern and manage.

Promulgation (Section 6.14-A) - To make known by open declaration or put into action or force by law; e.g., an ordinance may be promulgated by putting into action or proposing for comment.

Pro Rata (Section 2.04) - Something that has been calculated or divided proportionately according to an exactly calculable factor.

Pursuant To (Section 2.01) - In accordance with.

Qualified Voter (Section 6.03) - A person who meets all the requirements for voting as outlined by law in order to participate in the election process of a given entity.

Quorum (Section 6.13) - The minimum number of members of a governing group whose presence at a meeting is necessary if the meeting is to make binding or legal decisions.

Real Property (Section 8.19) - Those holdings or possession in which a person has the right to own land and improvements associated with those holdings.

Recall (Section 11.03) - The process of removing an unwanted public official from office before his term is over by a vote of the people.

Referendum (Section 12.03) - A method of presenting public measures to the vote of the people for approval or rejection.

Rendition (Section 8.19) - The act of furnishing for consideration, approval or information all details regarding a property, including location and ownership.

Reserve Police (Section 7.03-B) - "Special", "extra" or "auxiliary" police officers that may be appointed or released, as needed, in accordance with guidelines established by the City Council.

Seizure (Section 8.21-A, C) - The act of taking possession of persons or property by legal process.

Sequestration (Section 3.07) - The act authorizing (by legal writ) a sheriff or commissioner to take into custody the property of a defendant who is in contempt until he complies with the orders of the Court.

Special Funds (Section 8.03-G) - Those funds set aside for the expressed purpose of executing special projects.

Statutes (Section 3.02) - Laws enacted by legislative body; e.g., ordinances established by the City Council.

Stipend (Section 6.04) - A fixed sum of money paid periodically for services or to defray expenses.

Subpoena (Section 6.16) - A writ or demand requiring a person designated in it to appear in Court under penalty for failure to do so.

Tangible (Section 8.19) - Capable of being perceived, touched, precisely identified or appraised for value; substantially real.

Tax Levies (Section 8.03-E) - The taxes imposed or collected by force or authority by a governing agency.

Tax Lien (Section 8.21) - A legal claim placed on the property of another for payment of back taxes (a debt).

Time Warrants (Section 8.03-K) - A commission or document giving authority to do something that may require the delivery of money or other consideration at, or during, a specific time; e.g., a short-term obligation of the City in anticipation of future revenues.

Uniform Election Date (Section 6.09, 12.02) - Means an election date as prescribed by the State Election Code.

V.A.T.S. (Section 2.03, et. a.) - The acronym for Vernon's Annotated Texas Statutes; the books (volumes) which contain (embody) the laws of the State of Texas.

Valid Debt (Section 9.03-L) - A real and legally binding debt.

Vested (Section 2.01) - Law; not depending on anything; fixed; settled; possessing an established right to; e.g., a vested interest in a retirement plan.

Waive (Section 8.22) - To give up voluntarily; to put aside for the present, to defer.

Writ of Execution (Section 3.07) - An order or mandatory process issued, in writing, by order of the Court or judicial officer that commands the person to who it is issued to perform, or refrain from performing, the acts specified therein.