

## CHARTER\*

### Article 1. Form of Government and Boundaries

- Sec. 1.01. Form of government.
- Sec. 1.02. Incorporation.
- Sec. 1.03. Annexation for all purposes.
- Sec. 1.04. Detachment of territory.

### Article 2. Powers of the City

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

### Article 3. The City Council

- Sec. 3.01. Number, selection and term.
- Sec. 3.02. Qualifications.
- Sec. 3.03. Council to be judge of election qualifications.
- Sec. 3.04. Compensation.
- Sec. 3.05. Mayor pro tem.
- Sec. 3.06. Vacancies.
- Sec. 3.07. Powers of the city council.
- Sec. 3.08. Meeting of the city council.
- Sec. 3.09. Rules of procedure.
- Sec. 3.10. Procedures for passing of ordinances or resolutions.
- Sec. 3.11. Official bonds for city employees.
- Sec. 3.12. Investigation by the city council.
- Sec. 3.13. Audit and examination of city books and accounts.

### Article 4. Administrative Services

- Sec. 4.01. City manager.

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**\*Editor's note**—The city's home rule charter was adopted at an election held on February 6, 1971, and is set out herein for the convenience of the user of this Code of Ordinances. The original arrangement and article and section numbers have been retained. Where the same were omitted, the editor has provided article headings and section catchlines in brackets for ease of reference. Also, the editor has used a uniform system of capitalization. Future amendments to this charter will be set out herein as enacted and indicated by notes following the amended sections.

**State law reference**—Adoption, amendment, etc., of Home Rule Charters, V.T.C.A., Local Government Code § 9.001.

## PEARLAND CODE

- Sec. 4.02. Department of police.
- Sec. 4.03. City secretary.
- Sec. 4.04. Reserved.
- Sec. 4.05. Department of finance.
- Sec. 4.06. Municipal court.
- Sec. 4.07. City attorney.
- Sec. 4.08. Reserved.
- Sec. 4.09. Fire department.
- Sec. 4.10. Department of public works.
- Sec. 4.11. Reserved.
- Sec. 4.12. Department of parks, recreation and beautification.
- Sec. 4.13. Other departments.

### **Article 5. Elections**

- Sec. 5.01. Regular elections.
- Sec. 5.02. Qualified voters.
- Sec. 5.03. Conduct of elections.
- Sec. 5.04. Filing for office.
- Sec. 5.05. Ballots.
- Sec. 5.06. Election by majority.

### **Article 6. Legislation by the People, Recall, Initiative and Referendum**

- Sec. 6.01. General power.
- Sec. 6.02. Scope of recall.
- Sec. 6.03. Petition for recall.
- Sec. 6.04. Form of recall petition.
- Sec. 6.05. Various papers constituting petition.
- Sec. 6.06. Presentation of petition to city council.
- Sec. 6.07. Public hearing to be held.
- Sec. 6.08. Election to be called.
- Sec. 6.09. Ballots in recall election.
- Sec. 6.10. Result of recall election.
- Sec. 6.11. Recall, restrictions thereon.
- Sec. 6.12. Reserved.
- Sec. 6.13. Initiative.
- Sec. 6.14. Referendum.
- Sec. 6.15. Voluntary submission of legislation by the council.
- Sec. 6.16. Form of ballots.
- Sec. 6.17. Publication of proposed and referred ordinances.
- Sec. 6.18. Adoption of ordinances.
- Sec. 6.19. Inconsistent ordinances.

## CHARTER

- Sec. 6.20. Ordinances passed by popular vote, repeal or amendment.
- Sec. 6.21. Further regulation by city council.
- Sec. 6.22. Franchise ordinances.

### **Article 7. Municipal Planning and Zoning**

- Sec. 7.01. Planning and zoning commission.
- Sec. 7.02. Reserved.
- Sec. 7.03. Platting of property.
- Sec. 7.04. Development of property.

### **Article 8. Municipal Finance**

- Sec. 8.01. Fiscal year.
- Sec. 8.02. Preparation and submission of budget.
- Sec. 8.03. Anticipated revenues compared with other years in budget.
- Sec. 8.04. Proposed expenditures compared with other years.
- Sec. 8.05. Budget a public record.
- Sec. 8.06. Notice of public hearing on budget.
- Sec. 8.07. Public hearing of budget.
- Sec. 8.08. Amendment before adoption.
- Sec. 8.09. Vote required for adoption.
- Sec. 8.10. Date of final adoption.
- Sec. 8.11. Effective date of budget; certification; public availability.
- Sec. 8.12. Budget established appropriations.
- Sec. 8.13. Budget established amount to be raised by property tax.
- Sec. 8.14. Contingent appropriation.
- Sec. 8.15. Estimated expenditures shall not exceed estimated resources.
- Sec. 8.16. Emergency appropriations.
- Sec. 8.17. Purchase procedure.
- Sec. 8.18. Disbursement of funds.
- Sec. 8.19. Power to tax.
- Sec. 8.20. Property subject to tax; rendition, appraisal and assessment.
- Sec. 8.21. Taxes, when due and payable.
- Sec. 8.22. Tax liens.
- Sec. 8.23. Tax remission and discounts.
- Sec. 8.24. Issuance of bonds.

### **Article 9. Franchises and Public Utilities**

- Sec. 9.01. Powers of the city.

## PEARLAND CODE

- Sec. 9.02. Power to grant franchise.
- Sec. 9.03. Grant not to be exclusive.
- Sec. 9.04. Ordinances granting franchise.
- Sec. 9.05. Transfer of franchise.
- Sec. 9.06. Franchise value not to be allowed.
- Sec. 9.07. Right of regulation.
- Sec. 9.08. Regulation of rates.
- Sec. 9.09. Municipally owned utilities.
- Sec. 9.10. Sales of municipal services.

### **Article 10. General Provisions**

- Sec. 10.01. Official oath.
- Sec. 10.02. Public records.
- Sec. 10.03. Official newspaper.
- Sec. 10.04. Notice of claim.
- Sec. 10.05. Provision relating to assignment, execution and garnishment.
- Sec. 10.06. City not required to give security or execute bond.
- Sec. 10.07. Personal interest in city contract.
- Sec. 10.08. Nepotism.
- Sec. 10.09. Reserved.
- Sec. 10.10. Effect of charter on existing law.
- Sec. 10.11. Reserved.
- Sec. 10.12. Applicability of general laws.
- Sec. 10.13. Amending the charter.
- Sec. 10.14. Separability clause.
- Sec. 10.15. Charter review commission.
- Secs. 10.16, 10.17. Reserved.

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

### **Section 1.01. Form of government.**

The municipal government provided by this charter shall be known as the "council-manager" government. Pursuant to its provisions and subject only to the limitations imposed by the state constitution, the statutes of this state and by this charter, all powers of the city shall be vested in an elective council, hereinafter referred to as the "city council," which shall enact local legislation, adopt budgets, determine policies and appoint the city manager, who in turn shall be held responsible to the city council for the execution of the laws and the administration of the government of the city. All powers of the city shall be exercised in the manner prescribed by this charter, or if the manner be not prescribed, then in such manner as may be prescribed by ordinance, the state constitution or the statutes of this state.

### **Section 1.02. Incorporation.**

The inhabitants of the City of Pearland in Brazoria, Harris and Fort Bend Counties, Texas, within the corporate limits as now established and as hereafter altered, shall continue to be and are hereby constituted a municipal body politic and corporate, in perpetuity, under the name "CITY OF PEARLAND," hereinafter referred to as the "city," and having such powers, privileges, rights, duties and immunities as are herein provided.

(Res. No. R94-22, §§ I(1), III, ratified 5-7-94, approved 5-9-94; Amd. of 5-13-06)

### **Section 1.03. Annexation for all purposes.**

The city council shall have the power by ordinance to fix the boundary limits of the City of Pearland; and to provide for the alteration and the extension of said boundary

limits; and the annexation of additional territory lying adjacent to the city, with or without the consent of the territory and inhabitants annexed, subject to such procedural rules as may be prescribed by law.

### **Section 1.04. 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 and action as specified in section 1.03 above; or by ordinance following public notice and hearing as in section 1.03 above; 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.

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

### **Section 2.01. General.**

The City of Pearland 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 of Pearland; and, except as prohibited by the constitution and laws of this state or restricted by this charter, the city may exercise all municipal powers, functions, rights, privileges and immunities of every name and nature whatsoever.

**Section 2.02. General powers adopted.**

The enumeration of the particular powers in this charter shall not be held or deemed to be exclusive but in addition to the powers enumerated herein or implied hereby or appropriate to the exercise of such powers, the city shall have and may exercise all power of local self-government and all other powers which, under the constitution and laws of the State of Texas, it would be competent for this charter specifically to enumerate. The City of Pearland shall have and may exercise all the powers enumerated in Article 1175, Chapter 13, Title 28, of the Revised Civil Statutes of the State of Texas of 1925 as now or hereafter amended.

**Editor's note**—Most of the provisions of the statutes cited in the above section have been transferred to various Texas Codes.

**Section 2.03. Eminent domain.**

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

**ARTICLE 3. THE CITY COUNCIL\***

**Section 3.01. Number, selection and term.**

The legislative and governing body of the city shall consist of mayor and seven (7) councilmembers and shall be known as the "city council of the City of Pearland, Brazoria, Harris and Fort Bend Counties, Texas."

- (a) The mayor shall be elected from the city at large. The councilmembers shall be elected from the city at large by positions and shall be known as positions 1, 2, 3, 4, 5, 6 and 7.
- (b) The mayor shall be the presiding officer of the city council and shall be recognized as the head of the city government for all ceremonial purposes and by the governor for purposes of military law. The mayor shall be allowed to vote only in case of a tie vote. The mayor shall not be included

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\*Code reference—Administration, Ch. 2.

in any calculation of the number of votes needed for the city council to take any action authorized by this charter, except when the mayor is allowed to vote in the case of a tie vote.

- (c) In the first election year after adoption of the charter, two (2) councilmembers shall be elected for positions 1 and 5. In the second election year after adoption of this charter, the mayor and one (1) councilmember for position 3 shall be elected. In the third election year after adoption of this charter two (2) councilmembers shall be elected for positions 2 and 4. In the second election year after the 2014 amendments to this charter have been adopted, Position 6 shall be created and elected. In the third election year after the adoption of the 2014 amendments to this charter have been adopted, Position 7 shall be created and elected.
- (d) The mayor and each councilmember shall hold office for a period of three (3) years and until his/her 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.
- (e) Councilmembers shall be limited to two (2) full consecutive elected terms of office, and there shall be no limitation on the office of mayor.

(Res. No. R90-14, § III, ratified 5-5-90, approved 5-7-90; Res. No. R94-22, §§ I(2), III, ratified 5-7-94, approved 5-9-94; Amd. of 5-13-06; Amd. of 5-19-14)

**Section 3.02. Qualifications.**

Each member of the city council shall be a resident citizen of the City of Pearland, shall be a qualified voter of the State of Texas, shall have been such resident citizen of the

City of Pearland for a period of not less than six (6) months immediately preceding his/her election, and shall not be indebted to the City of Pearland. If the mayor or any councilmember fails to maintain the foregoing qualifications or shall be absent from two (2) regularly scheduled meetings within any six-month period without valid excuse, the city council must, at its next regular meeting, declare a vacancy as set forth in section 3.06 of this charter. No member of the city council of the City of Pearland shall hold any paid position under the city government during their term of office.

(Res. No. R90-14, § III, ratified 5-5-90, approved 5-7-90)

**Section 3.03. Council to be judge of election qualifications.**

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

**Section 3.04. Compensation.**

The city council shall recommend the compensation to be received by its members for attendance at its meetings with any changes in compensation subject to voters' approval by a simple majority at the next regular election.

**Code references**—Mayor's salary, § 2-1; councilmembers' salary, § 2-2.

**Section 3.05. Mayor pro tem.**

The city council at its first meeting after election of councilmembers shall elect one (1) of its members mayor pro tem, and he/she shall perform all the duties of the mayor in the absence or disability of the mayor.

(Res. No. R90-14, § III, ratified 5-5-90, approved 5-7-90)

**Section 3.06. Vacancies.**

Vacancies in the council of more than one year, including the office of mayor, shall be

filled at a special election which shall be called by the remaining members of the council.

A vacancy in the council of one year or less for the office of mayor shall be filled at a special election which shall be called by the remaining members of council.

Vacancies in the council of one year or less, except for the office of mayor, shall be filled within thirty (30) days of the vacancy by a supermajority vote of the remaining members of the council by a selection of a person qualified for the position as described in this Charter other than a councilmember who has been removed from office by a recall election creating the vacancy being filled. In the event the remaining members of the council do not make an appointment to fill the vacancy by a supermajority vote within thirty (30) days after the vacancy was created, the vacancy shall be filled by a majority vote of the qualified voters at a special election called for such purposes within one hundred and fifty (150) days after such vacancy occurs. (Amd. of 5-19-14)

**Section 3.07. 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; provided, that the council shall have no power to exercise those powers which are expressly conferred on other city officers by this charter. Without limitation of the foregoing, and among the other powers that may be exercised by the council, the following are hereby enumerated for greater certainty:

- (a) Establish, consolidate, or abolish administrative departments and distribute the work of divisions, as specified in section 4.13;
- (b) Adopt the budget of the city;

- (c) Authorize the issuance of bonds by a bond ordinance;
- (d) Inquire into the conduct of any office, department or agency of the city and make investigations as to municipal affairs;
- (e) Provide for such additional boards and commissions, not otherwise provided for in this charter, as may be necessary, and to appoint, or remove the members of all such boards and commissions. Such boards and commissions shall have all powers and duties now or hereafter conferred and created by this charter, by city ordinance or by law;
- (f) Adopt and modify the zoning plan and the building codes of the city;
- (g) Adopt and modify the official map of the city;
- (h) Regulate, license and fix the charges or fares by any person, firm or corporation owning, operating or controlling any vehicle of any character used for the carrying of passengers for hire or the transportation of freight for hire on the public streets and alleys of the city;
- (i) Provide for the establishment and designation of fire limits and prescribe the kind and character of buildings or structures or improvements to be erected therein and provide for the erection of fireproof buildings within said limits, and provide for the condemnation of dangerous structures or buildings or dilapidated buildings, or buildings calculated to increase the fire hazard and prescribe the manner of their removal or destruction within said limits;
- (j) Set the salaries and compensation of the city officers and employees;

- (k) Provide for a sanitary sewer and water system and require property owners to connect their premises with sewer system and provide for penalties for failure to make sanitary sewer connections;
- (l) Provide for sanitary garbage disposal, and set fees and charges therefor, and provide penalties for failure to pay such fees and charges;
- (m) Exercise exclusive dominion, control, and jurisdiction, including the right to close and abandon streets and alleys in, upon, over and under the public streets, avenues, sidewalks, alleys, highways, boulevards and public grounds of the city and provide for the improvement of same as provided in Article 1105b, Chapter 9, Title 28, of the Revised Civil Statutes of the State of Texas of 1925, as now or hereafter amended;
- (n) Compromise and settle any and all claims and lawsuits of every kind and character in favor of or against the City of Pearland;
- (o) And such other and further powers as have been or may from time to time hereafter be delegated to home rule cities by the legislature of the State of Texas, including the powers incident to the exercise thereof;
- (p) All powers of this charter shall be vested in the city council. The council shall conduct all business in official meetings held and called pursuant to the provisions of the charter and applicable laws of the State of Texas. No individual member of the city council shall have any power to act, investigate, make appointments or inquire into the conduct of any office, depart-

ment or agency of the city without the specific authorization of the city council in an official meeting.

(Res. No. 82-16, § 3, ratified 4-3-82, approved 4-5-82)

**Editor's note**—The statute cited in subsection (m) of the above section has been transferred to V.T.C.A., Transportation Code ch. 313.

**Section 3.08. Meeting of the city council.**

The city council shall hold at least two (2) regular meetings in each month at a time to be fixed by said city council by ordinance or resolution fixing the dates of such regular meetings. As many additional special meetings may be held during the month as may be necessary for the transaction of all business of the city and its citizens. All meetings shall be public, except where authorized by law, and shall be held at the city hall, provided, however, the city council may designate another place for such meetings after publishing the due notice thereof in one (1) issue of the official newspaper of said city. The city secretary, upon written request of the mayor or any two councilmembers, shall call special meetings of the city council, notice of such special meetings shall be given to each member of the city council at least seventy-two (72) hours before the start of the meeting, which said notice shall state the date for such meeting and the subject to be considered at such meeting. Said notice to the city council shall be sufficient if delivered to the councilmembers in person, or in the event of the inability to locate said councilmember within the City of Pearland, Texas, delivery of such notice to his or her home shall be sufficient.

(Res. No. R90-14, § III, ratified 5-5-90, approved 5-7-90; Res. No. R94-22, §§ I(3), III, ratified 5-7-94, approved 5-9-94; Amd. of 5-13-06; Amd. of 5-19-14)

**Section 3.09. Rules of procedure.**

The city council shall determine its own rules of procedure and may compel the attendance of its members. Two-thirds ( $\frac{2}{3}$ ) of the qualified members of the city council, including the mayor, shall constitute a quorum to do business, and the affirmative vote of the majority of those present shall be necessary to adopt any ordinance or resolution. Minutes of the proceedings of all meetings of the city council shall be kept, to which any citizen may have access at all reasonable times and which shall constitute one (1) of the archives of the city. The vote upon the passage of all the ordinances and resolutions shall be taken by roll call and so entered upon the minutes, and every ordinance or resolution, upon its final passage, shall be recorded in a book kept for that purpose under full caption, and shall be authenticated by the signature of the presiding officer and the person performing the duties of the city secretary. Said ordinances or resolutions and the voting records shall be published in accordance with Article 3, section 3.10, of this charter.

**Section 3.10. Procedures for passing of ordinances or resolutions.**

Every ordinance shall be introduced in written or printed form and, upon passage, shall take effect at the time indicated therein, provided that any ordinance imposing a penalty, fine or forfeiture for a violation of its provisions shall become effective not less than ten (10) days from its publication in the official city newspaper of the City of Pearland. The city secretary shall give notice of the passage of every ordinance imposing a penalty, fine or forfeiture for a violation of the provisions thereof by causing the caption or title, including the penalty, of any such ordinance to be published in the official newspaper of the City of Pearland at least once within ten (10) days after the passage of said

ordinance. He/She shall note on every ordinance, the caption of which is hereby required to be published and on the record thereof, the fact that the same has been published as required by this charter and date of such publication which shall be prima facie evidence of the legal publication and promulgation of such ordinance, provided that the provisions of this section shall not apply to the correction, amendment, revisions and modification of the ordinances of the city for publication in book or pamphlet form. Except as otherwise provided by this charter, it shall be necessary to the validity of any ordinance that it shall be read and considered at two (2) regular sessions of the city council. The requirement of consideration and favorable action on an ordinance at two (2) regular sessions of the city council shall not apply, and only one (1) reading at one (1) regular or special meeting shall be required for the final passage and approval of an ordinance relating to an immediate public emergency affecting life, health, property or the public peace. In the event an ordinance is adopted as an emergency measure, a declaration of the specific emergency shall be expressed in the caption and body of such ordinance, and such ordinance shall not be adopted without the affirmative vote of at least three-fourths ( $\frac{3}{4}$ ) of all members of the city council.

The reading aloud of the official number assigned to the ordinance or resolution by the secretary shall suffice as a reading, provided printed copies of the ordinance or resolution in the form required for adoption are available to all members of the city council and a reasonable number of additional copies are available to all interested citizens present at the session. The city council may address selected items by consent agenda in the absence of any objection by council. Ordinances or resolutions may be read in their entirety at the discretion of a majority of the city council.

Every ordinance or resolution shall be authenticated by the signature of the mayor and city secretary and shall be systematically recorded and indexed in an ordinance or resolution book in a manner approved by the council. It shall only be necessary to record the caption or title of ordinances or resolutions in the minutes or journal of council meetings. The city council shall have power to cause the ordinances or resolutions of the city to be corrected, amended, revised and modified and the ordinances 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. Such printed code shall be admitted in evidence in all courts and places without further proof. (Res. No. 78-9, § 4, ratified 4-1-78, approved 4-3-78; Res. No. 82-16, § 3, ratified 4-3-82, approved 4-5-82; Res. No. R90-14, § III, ratified 5-5-90, approved 5-7-90; Res. No. R98-38, § III, ratified 5-2-98, approved 5-11-98)

**Section 3.11. Official bonds for city employees.**

All city officers and such employees as the city council may require shall, before entering upon the duties of their offices or employment of the City of Pearland, enter into a good and sufficient fidelity bond in a sum to be determined by the city council payable to the City of Pearland 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 of Pearland, and such bonds must be acceptable to the city council.

**Section 3.12. Investigation by the city council.**

The city council shall have power to inquire into the conduct of any office, depart-

ment, agency, officer or employee of the city and to make investigations as to municipal affairs, and for that purpose may subpoena witnesses, administer oaths and compel the production of books, papers, and other evidence. Failure to obey such subpoena or to produce books, papers or other evidence as ordered under the provisions of this section shall constitute a misdemeanor and shall be punishable by fine not to exceed two hundred dollars (\$200.00).

**Section 3.13. Audit and examination of city books and accounts.**

The city council shall cause an annual audit to be made of the books and accounts of each and every department of the city. At the close of each fiscal year, a complete audit shall be made by an independent certified public accountant, who shall be selected by the city council, and such audit shall include a recapitulation of all audits made during the course of the fiscal year, and all audit reports shall be filed with the city council, shall be available for public inspection, shall be made a part of the archives of the city.

(Amd. of 5-19-14)

**ARTICLE 4. ADMINISTRATIVE SERVICES**

**Section 4.01. City manager.**

(a) *Appointment and qualifications:* The city council shall appoint an administrative and executive officer of the city who shall be responsible to the city council for the administration of all the affairs of the city. He/She shall be chosen by the council solely on the basis of his/her executive and administrative training, experience and ability. No member of the city council shall, during the time for which he/she is elected and for two (2) years thereafter, be appointed city manager.

(b) *Term and salary:* The city manager shall not be appointed for a definite term but may be removed at the will and pleasure of the city council by a vote of the majority of the entire city council. The action of the city council in suspending or removing the city manager shall be final, it being the intention of this charter to vest all authority and fix all responsibility of such suspension or removal in the city council. In case of the absence or disability of the city manager, the city council may designate some qualified person to perform the duties of the office during such absence or disability. The city manager shall receive compensation as may be fixed by the council.

(c) *Duties of the city manager:*

- (1) The city manager shall be responsible to the city council for the efficient and economical administration of the city government. He/She shall have the authority, with the approval of the city council, to appoint and remove all department heads. He/She shall have the authority to appoint and remove all other employees in the administrative service of the city. He/She may authorize the head of a department to appoint and remove subordinates in his/her respective department. Except for the purpose of inquiry, the city 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 city council and be responsible for its administration after adoption.
- (3) Prepare and submit to the city council as of the end of the fiscal year a complete report on the finances and administrative activities of the city for the preceding year.

- (4) Keep the city council advised of the financial condition and future needs of the city and make such recommendations as may seem desirable.
- (5) Perform such duties as may be prescribed by this charter or may be required of him/her by the city council, not inconsistent with this charter. (Res. No. 86-12, § 3, ratified 4-5-86, approved 4-7-86; Res. No. R90-14, § III, ratified 5-5-90, approved 5-7-90; Res. No. R94-22, §§ I(4), (5), III, ratified 5-7-94; approved 5-9-94)

**Section 4.02. Department of police.**

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

- (a) *Chief of police:* The chief of police shall be the chief administrative officer of the department of police. He/She shall, with the approval of the city manager, appoint and remove the employees of said department and shall perform such duties as may be required of him/her by the city manager. The chief of police shall be appointed by the city manager, with the approval of the city council, for an indefinite term. The chief of police shall be responsible to the city manager for the administration of his/her department and the carrying out of the directives of the city manager. He/She may be removed from office by the city manager with the approval of the city council. (Res. No. 82-16, § 3, ratified 4-3-82, approved 4-5-82; Res. No. R90-14, § III, ratified 5-5-90, approved 5-8-90; Res. No. R94-22, §§ I(6), III, ratified 5-7-94; approved 5-9-94)

**Code reference**—Police, Ch. 24.

**Section 4.03. City secretary.**

There shall be a city secretary for the City of Pearland. The city manager, with the ap-

proval of the city council, shall appoint a competent person as city secretary and such assistants as the city council may deem advisable. The city secretary, or an assistant city secretary, shall give notice of council meetings, shall keep the minutes of the proceedings of such meetings, and shall authenticate by his/her signature and record in full a book kept and indexed for the purpose all ordinances and resolutions and shall perform such other duties as the city manager shall assign to him/her and those elsewhere provided in this charter and laws of the State of Texas.

(Res. No. R90-14, § III, ratified 5-5-90, approved 5-7-90)

**Section 4.04. Reserved.**

**Editor's note**—An amendment adopted May 19, 2014, repealed § 4.04, which pertained to department of taxation, and derived from Res. No. 84-8, § 4, ratified April 7, 1984, approved April 9, 1984; Res. No. R90-14, § III, ratified May 5, 1990, approved May 7, 1990; Res. No. R94-22, §§ I(7), III, ratified May 7, 1994; approved May 9, 1994.

**Section 4.05. Department of finance.**

There shall be established and maintained a department of finance to administer the financial affairs of the city. The city manager with the approval of the city council shall appoint a competent person as the director of finance. The director of finance shall be the official city treasurer and shall perform the duties delegated to him/her by the city manager and those which may be imposed upon him/her by the laws of the State of Texas.

(Res. No. 82-16, § 3, ratified 4-3-82, approved 4-5-82; Res. No. R90-14, § III, ratified 5-5-90, approved 5-7-90; Amd. of 5-19-14)

**Section 4.06. 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 city council and shall be a licensed attorney and shall receive such salary as may be fixed by the city council. The judge of said court shall hold office at the pleasure of the city council.
- (b) There shall be a court clerk appointed by the city manager with the approval of the city council.
- (c) The clerk and the deputy clerks shall have the power to administer oaths and affidavits, make certificates, affix the seal of the court and perform all acts usual and necessary by the court clerk in issuing processes and conducting business of the court.
- (d) The city 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 salaries of these temporary judges are to be fixed by city council.

(Res. No. R90-14, § III, ratified 5-5-90, approved 5-7-90; Res. No. R94-22, §§ I(8), III, ratified 5-7-94, approved 5-9-94)

**Code reference**—Municipal court, Ch. 18.

**Section 4.07. City attorney.**

The city council shall appoint a competent attorney duly licensed in the State of Texas, who shall be the city attorney. He/She shall receive for his/her services such compensation as may be fixed by the city council and shall hold his/her office at the pleasure of the city council. The city attorney, or such other attorneys selected by him/her with the approval of the city council, shall represent the

city in all litigation. He/she shall answer directly to the city council and shall be the legal advisor of, attorney and counsel for, the city and all officers and departments thereof. (Res. No. R90-14, § III, ratified 5-5-90, approved 5-7-90; Res. No. R2002-147, § II, ratified 9-14-02, approved 9-17-02)

#### **Section 4.08. Reserved.**

**Editor's note**—An amendment adopted May 19, 2014, repealed § 4.08 which pertained to department of health and sanitation, and derived from Res. No. R90-14, § III, ratified May 5, 1990, approved May 7, 1990; Res. No. R94-22, §§ I(9), (10), III, ratified May 7, 1994, approved May 9, 1994; and an amendment adopted May 13, 2006.

#### **Section 4.09. Fire department.**

There shall be established and maintained a fire department to provide fire suppression, rescue, fire prevention and public fire education services to the City. The city manager with the approval of the city council shall appoint a competent person as the fire chief. The fire chief shall perform the duties delegated to him/her by the city manager and those which may be imposed upon him/her by the laws of the State of Texas. (Res. No. 86-12, § 3, ratified 4-5-86, approved 4-7-86; Amd. of 5-19-14)

**Editor's note**—An amendment adopted May 19, 2014, changed the title of § 4.09 from "Volunteer fire department" to "Fire department."

**Cross reference**—Fire prevention and protection, Ch. 10.

#### **Section 4.10. Department of public works.**

There shall be established and maintained a department of public works in the City of Pearland. The city manager, with the approval of the city 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 water and sewage facilities, maintenance of streets, and such other and further duties for the public at large as may be assigned by the city manager.

(Amd. of 5-19-14)

**Code references**—Building, Ch. 7; electricity, Ch. 9; garbage and trash, Ch. 12; mobile homes, Ch. 17; plumbing and gas, Ch. 23; rights-of-way, Ch. 26; subdivisions, Ch. 27; utilities, Ch. 30.

#### **Section 4.11. Reserved.**

**Editor's note**—Res. No. R94-22, §§ I(11), III, ratified May 7, 1994, and approved May 9, 1994, provided for the deletion of Sec. 4.11, Department of public safety, as amended by Res. No. 78-9, § 4, ratified Apr. 1, 1978, approved Apr. 3, 1978; and Res. No. 86-12, § 3, ratified Apr. 5, 1986, approved Apr. 7, 1986.

#### **Section 4.12. Department of parks, recreation and beautification.**

There shall be established and maintained a department of parks and recreation. The city manager, with the approval of the city council, shall appoint a director of parks and recreation who shall be the administrator of this department. The city council shall appoint an advisory park, recreation and beautification board. The advisory park, recreation and beautification board shall study the recreation, park facilities and beautification programs of the city and shall confer with the director of parks and recreation and advise him/her with respect to the development and use of the city's parks, the recreation programs and city beautification. The advisory park, recreation and beautification board shall recommend to the city council rules for the use of parks, public grounds and recreation facilities consistent with the ordi-

nances of the city and the statutes of the State of Texas and appropriate programs for the beautification of the city.

(Res. No. 78-9, § 4, ratified 4-1-78, approved 4-3-78; Res. No. R90-14, § III, ratified 5-5-90, approved 5-7-90; Amd. of 5-19-14)

#### **Section 4.13. Other departments.**

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

### **ARTICLE 5. ELECTIONS**

#### **Section 5.01. Regular elections.**

City elections shall be held at a time established by state law.

(Res. No. R90-14, ratified 5-5-90, approved 5-7-90; Res. No. R98-38, § III, ratified 5-2-98, approved 5-11-98)

#### **Section 5.02. Qualified voters.**

All citizens qualified by the constitution and laws of the State of Texas to vote in the city and who satisfy the requirements for registrations prescribed by law shall be qualified voters of the city within the meaning of this charter.

#### **Section 5.03. Conduct of elections.**

The provisions of the general election laws, as amended, of the State of Texas shall apply to all elections, general and special, held under this charter. All elections provided for in the charter shall be conducted by the election authorities established by law. The council shall adopt any ordinances and/or

regulations which it considers desirable, consistent with the election laws of the State of Texas and this charter.

#### **Section 5.04. Filing for office.**

Any qualified citizen who desires to become a candidate for city office shall file with the mayor or, if designated by the mayor, the city secretary, a signed application and oath for his/her name to appear on the ballot. The application must be filed at least forty-five (45) days prior to the election.

(Res. No. R90-14, § III, ratified 5-5-90, approved 5-7-90)

#### **Section 5.05. Ballots.**

The positions of the several members of the council shall be designated on the official ballot as member of the council, position number 1, 2, 3, 4, 5, 6 or 7. Each candidate shall indicate the position which he/she desires to fill. Incumbent councilmembers seeking reelection must file for the position for which they were originally elected. Candidates for all positions may reside in any portion of the city. The names of all candidates for office, except such as may have withdrawn, died or became ineligible, shall be printed on the official ballots without party designations in the order determined in a drawing of lots conducted by the city secretary. All official ballots shall be printed at least twenty (20) days prior to the date of any general election, and early voting shall be governed by the general election laws of the State of Texas.

(Res. No. 74-7, § 3, ratified 4-6-74, approved 4-15-74; Res. No. R90-14, § III, ratified 5-5-90, approved 5-7-90; Res. No. R94-22, §§ I(12), III, ratified 5-7-94, approved 5-9-94; Amd. of 5-19-14)

#### **Section 5.06. Election by majority.**

At any general or special municipal election, the candidate for each office who has

received a majority of all votes cast for his/her particular office shall be declared elected. A runoff election shall be ordered by the mayor, or if he/she fails to do so, by the council in the event any candidate fails to receive a majority of all votes cast for his/her particular office. The date for the election shall be ordered and held in a timely manner as prescribed by the general election laws of the State of Texas. The two (2) candidates who receive the largest number of votes cast for each particular office requiring a runoff election shall again be voted for. The candidate receiving the largest number of votes in the runoff election shall be declared elected. The city secretary shall give notice of such runoff election by causing said notice to be published in accordance with Texas Election Laws.

(Res. No. R90-14, § III, ratified 5-5-90, approved 5-7-90; Res. No. R94-22, §§ I(13), ratified 5-7-94, approved 5-9-94)

**ARTICLE 6. LEGISLATION BY THE PEOPLE, RECALL, INITIATIVE AND REFERENDUM**

**Section 6.01. General power.**

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

(Res. No. R94-22, §§ I(14), III, ratified 5-7-94, approved 5-9-94)

**Section 6.02. Scope of recall.**

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

**Section 6.03. 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 (30) per cent 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 fifty (150) such petitioners. The printed name of each signer must appear on the petition. Each signer shall personally sign his/her name thereto in ink and date the petition, specifying the day, month and year. The signer must provide his/her voter registration number and county of registration. The signer must also include his/her address including the street name, number and zip code.

(Res. No. R90-14, § III, ratified 5-5-90, approved 5-7-90; Res. No. R98-38, § III, ratified 5-2-98, approved 5-11-98)

**Section 6.04. Form of recall petition.**

The recall petition must be addressed to the city council of the City of Pearland, 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 (1) 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/she is charged.

One (1) of the signers of each separate petition shall make a notarized affidavit that he/she and he/she only personally circulated such petition and that each signature appended thereto was made in his/her presence and is the genuine signature of the person whose name it purports to be.

(Res. No. R90-14, § III, ratified 5-5-90, approved 5-7-90)

**Section 6.05. Various papers constituting petition.**

The petition may consist of one (1) or more copies, and the several parts of copies of the petition may be filed separately and by different persons; but no signatures to such petition shall remain effective or be counted which were placed thereon more than forty-five (45) days prior to the filing of such petition or petitions with the person performing the duties of city secretary. All papers comprising a recall petition shall be filed with the person performing the duties of city secretary on the same day, and the said city secretary shall immediately notify, in writing, the officer so sought to be removed by mailing such notice by certified mail to his/her Pearland mailing address.  
(Res. No. R90-14, § III, ratified 5-5-90, approved 5-7-90)

**Section 6.06. Presentation of petition to city council.**

Within five (5) days after the date of the filing of the papers constituting the recall petition, the person performing the duties of city secretary shall 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 city council of the City of Pearland at the next regular meeting.

**Section 6.07. Public hearing to be held.**

The officer whose removal is sought may, within five (5) days after such recall petition has been presented to the city council, request that a public hearing be held to permit him/her to present facts pertinent to the charges specified in the recall petition. In this event, the city council shall order such public hearing to be held not less than five (5) days nor more than fifteen (15) days after receiving such request for a public hearing.  
(Res. No. R90-14, § III, ratified 5-5-90, approved 5-7-90)

**Section 6.08. Election to be called.**

If the officer whose removal is sought does not resign, it shall become the ministerial duty of the city council to order an election, fix a date for holding such recall election, and discharge any other duties imposed upon said council by the provisions of this Charter and state law. The date for the election shall be ordered and held in a timely manner as prescribed by the general election laws of the State of Texas.  
(Res. No. R94-22, § I(15), III, ratified 5-7-94, approved 5-9-94; Res. No. R98-38, § III, ratified 5-2-98, approved 5-11-98)

**Section 6.09. 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 there shall be printed the following words, one above the other, in the order indicated:

"YES"  
"NO"

**Section 6.10. 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/she shall continue in office for the remainder of his/her unexpired term, subject to recall as before. If a majority of the votes cast at such election be "Yes," that is for recall of the person named on the ballot, he/she shall, regardless of any technical defects in the recall petition, be deemed removed from of-

office, and the vacancy be filled as vacancies in the city council are filled, as provided in this charter.

(Res. No. R90-14, § III, ratified 5-5-90, approved 5-7-90)

**Section 6.11. Recall, restrictions thereon.**

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

(Res. No. R90-14, § III, ratified 5-5-90, approved 5-7-90)

**Section 6.12. Reserved.**

**Editor's note**—Section III of Res. No. R98-38, ratified on May 2, 1998 and approved on May 11, 1998, repealed § 6.12 which pertained to failure of city council to call an election and derived from the original charter adopted February 6, 1971.

**Section 6.13. Initiative.**

Qualified voters of the City of Pearland may initiate legislation by submitting a petition addressed to the city 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 in number of at least thirty (30) per cent of the number cast at the regular last municipal election of the city, or one hundred fifty (150) qualified voters, whichever is greater, and each copy of the petition shall have attached to it a copy of the proposed legislation. The petition shall be signed as provided in section 6.03 of this charter. The petition may consist of one (1) or more notarized copies as permitted in section 6.05 of this charter. Such petition shall be filed with the person performing the duties of city secretary. Within five (5) days after the filing of such petition, the

person performing the duties of city secretary shall certify such petition or return same to petitioners. After certification, the person performing the duties of the city secretary shall present said petition and proposed ordinance or resolution to the city council at the next regular meeting. Upon presentation to the city council of the petition and draft of the proposed ordinance or resolution, it shall become the duty of the city council within ten (10) days after receipt thereof, to pass and adopt such ordinance or resolution without alteration as to meaning or effect in the opinion of the persons filing the petition, except changes made to comply with federal or state laws, or to call a special election, to be held within thirty (30) days thereafter, at which the qualified voters of the City of Pearland shall vote on the question of adopting or rejecting the proposed legislation with any City Council proposed changes made to comply with federal or state laws. However, if any other municipal election is to be held within sixty (60) days after the filing of the petition, the question may be voted on at such election. No ordinance shall be proposed by an initiative petition which is on the same subject as an ordinance so submitted and defeated at an election held within the preceding twelve (12) months.

(Amd. of 5-13-06; Amd. of 5-19-14)

**Section 6.14. Referendum.**

Qualified voters of the City of Pearland may require that any ordinance or resolution with the exception of ordinances or resolution levying taxes or issuing tax or revenue bonds, passed by the city council be submitted to the voters of the city for approval or disapproval by submitting a petition for this purpose within thirty (30) days after final passage of said ordinances or resolution or within thirty (30) days after its publication. Said petition shall be addressed, prepared, signed and verified as required for petitions initiating legislation, as provided in section 6.13 of this

charter and shall be submitted to the person performing the duties of city secretary. Upon the filing of such petition, the city secretary shall present said petition to the city council at the next regular meeting of the city council. Thereupon the city council shall at the same meeting reconsider such ordinance or resolution and if it does not entirely repeal the same, shall submit it to popular vote as provided in section 6.13 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.

(Amd. of 5-13-06)

**Section 6.15. Voluntary submission of legislation by the council.**

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

**Section 6.16. Form of ballots.**

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

"For the ordinance" and  
 "Against the ordinance," or  
 "For the resolution" and  
 "Against the resolution."

**Section 6.17. 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 published in the city 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.

**Section 6.18. Adoption of ordinances.**

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

**Section 6.19. Inconsistent ordinances.**

If the provisions of two (2) 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 6.20. Ordinances passed by popular vote, repeal or amendment.**

No ordinances or resolutions which may have been passed by the city council upon a petition or adopted by popular vote under the provisions of this article shall be repealed or amended except by the city council in response to a referendum petition or by submission as provided in section 6.15 of this charter or to comply with federal or state law.  
 (Amd. of 5-19-14)

**Section 6.21. Further regulation by city council.**

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

**Section 6.22. Franchise ordinances.**

Nothing contained in this article shall be construed to be in conflict with any of the provisions of Article 9 of this charter, pertaining to ordinances granting franchises when valuable rights shall have accrued thereunder.

**ARTICLE 7. MUNICIPAL PLANNING AND ZONING\***

**Section 7.01. Planning and zoning commission.**

The city council shall appoint a city planning and zoning commission, consisting of seven (7) members, who shall be residents of the City of Pearland, real property owners, and shall not be employees of the city.

- (a) *Term of office:* Seven (7) members will be appointed in 1971 within thirty (30) days after the regular city election. The first two (2) members will be appointed for a one-year term. The next two (2) members will be appointed for a two-year term. The last three (3) members will be appointed for a three-year term. All reappointments after the original appointments will be for three-year terms.
- (b) *Rules of procedure:* The commission shall elect, annually, one (1) of its number chairperson 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 kept

by the person performing the duties of the city secretary and shall be a public record.

- (c) *Vacancies:* Members on the planning and zoning commission shall be accompanied by active participation 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 city 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 city council for the remainder of the unexpired term.
- (d) *Powers and duties:* The commission shall have the power and shall be required to:
  - (1) Amend, extend and add to the master plan for the physical development of the city.
  - (2) Recommend, approve or disapprove plats of proposed subdivisions submitted in accordance with city ordinance as adopted or hereafter amended.
  - (3) Recommend to the city council approval or disapproval of proposed changes in the zoning plan.
  - (4) Make and recommend to the city council for adoption, plans for the clearance and rebuilding of slum districts and blighted areas which may develop within the city.
  - (5) Recommend to the city council the amendment, extension and revision of the building code, which code shall include the minimum standards of construction

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\*Code reference—Subdivisions, Ch. 27.

for building, the minimum standards for plumbing and the minimum standards for wiring.

- (6) 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.
- (7) Meet no less than once each month, 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 of Pearland.
- (8) Planning commission to be granted all powers as outlined by civil statutes of the State of Texas.
- (e) *Liaison with city council:* The city manager or his/her representative shall attend the meetings of the planning and zoning commission and shall serve as liaison between the commission and the city council.

(Res. No. R90-14, § III, ratified 5-5-90, approved 5-7-90)

#### **Section 7.02. Reserved.**

**Editor's note**—Res. No. R94-22, §§ I(17), III, ratified May 7, 1994, approved May 9, 1994, provided for the deletion of Sec. 7.02, Zoning board of adjustment, as amended by Res. No. R90-14, § III, ratified May 5, 1990, approved May 7, 1990; and Res. No. R94-22, § I(16), III, ratified May 7, 1994, approved May 9, 1994.

#### **Section 7.03. Platting of property.**

Hereafter, every owner of any tract of land situated within the corporate limits of the City of Pearland or its extraterritorial zones, who may divide the same in two (2) or more parts for the purpose of laying out any subdivision or any addition to the city shall comply with all applicable provisions contained in the code of ordinances of the city, as adopted or hereafter amended.

(Res. No. 78-9, § 4, ratified 4-1-78, approved 4-3-78)

#### **Section 7.04. Development of property.**

The city council shall cooperate in every manner possible with persons interested in the development of property within or beyond the city limits. 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 8. MUNICIPAL FINANCE**

#### **Section 8.01. Fiscal year.**

The fiscal year of the City of Pearland 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. Preparation and submission of budget.**

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

- (a) A budget message, explanatory of the budget, which message shall contain

an outline of the proposed financial policies of the city for the fiscal year, shall set forth the reasons for salient changes from the previous fiscal year in 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) An analysis of property valuations.
- (d) An analysis of tax rates.
- (e) Tax levies and tax collections by years for at least the immediate past five (5) years.
- (f) General funds resources in detail.
- (g) Special funds resources in detail.
- (h) Summary of proposed expenditures by function, department and activity.
- (i) Detailed estimates of expenditures shown separately for each activity to support the summary (h) above.
- (j) A revenue and expense statement for all types of bonds, time warrants and other indebtedness.
- (k) 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.
- (l) A schedule of requirements for the principal and interest of each issue of bonds, time warrants and other indebtedness.
- (m) The appropriation ordinance.
- (n) The tax levying ordinance.

**Section 8.03. Anticipated revenues compared with other years in budget.**

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

**Section 8.04. Proposed expenditures compared with other years.**

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

**Section 8.05. Budget a public record.**

The budget and all supporting schedules shall be filed with the person performing the duties of city secretary, submitted to the council and shall be a public record.

**Section 8.06. Notice of public hearing on budget.**

In accordance with state law, the city council shall cause to be published in the official newspaper of the City of Pearland a notice of the hearing setting forth the date, time and place of the public hearing on the submitted budget.

(Amd. of 5-19-14)

**Section 8.07. Public hearing of budget.**

At the time and place set forth in the notice required by section 8.06, or at any time and place to which such public hearing shall from time to time be adjourned, the city council

shall hold a public hearing on the budget submitted, and all interested persons shall be given an opportunity to be heard for or against any item or amount of any item therein contained.

**Section 8.08. Amendment before adoption.**

After the hearing, the City Council may adopt the budget with or without amendment. In amending the budget, it may add or increase programs or amounts, provided that no amendment to the budget shall increase the authorized expenditures to an amount greater than the total of estimated income plus funds available from prior years.

(Amd. of 5-19-14)

**Editor's note**—An amendment adopted May 19, 2014, repealed the former § 8.08 and enacted a new § 8.08 as set out herein. The former § 8.08 pertained to proceedings on budget after public hearings, and derived from the original charter adopted February 6, 1971.

**Section 8.09. Vote required for adoption.**

The budget shall be adopted by a majority of the members of the whole city council.

**Section 8.10. Date of final adoption.**

The budget shall be adopted no later than the last regularly scheduled council meeting of September to allow compliance with the state tax laws, and should the city council fail to so adopt a budget, the then existing budget, together with its tax levying ordinance and its appropriation ordinance, shall be deemed adopted for the ensuing fiscal year.

(Res. No. R2010-68, § I, 5-17-10; Amd. of 5-19-14)

**Section 8.11. Effective date of budget; certification; public availability.**

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 and the county clerk of Brazoria County. The final budget shall be published on the City's website made available for the use of all offices, departments, and agencies and for the use of interested persons and civic organizations.

(Res. No. R94-22, §§ I(18), III, ratified 5-7-94, approved 5-9-94; Amd. of 5-19-14)

**Editor's note**—An amendment adopted May 19, 2014, changed the title of § 8.11 from "Effective date of budget; certification; copies made available" to "Effective date of budget; certification; public availability."

**Section 8.12. Budget established appropriations.**

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

**Section 8.13. Budget established amount to be raised by property tax.**

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

**Section 8.14. Contingent appropriation.**

Provision shall be made in the annual budget and in the appropriation ordinance for a contingent appropriation in an amount not to exceed one (1) per centum of the general fund expenditures to be used in case of unforeseen items of expenditures. Such contingent appropriation shall be under the

control of the city manager and distributed by him/her after approval by the city council. (Res. No. R90-14, § III, ratified 5-5-90, approved 5-7-90; Amd. of 5-19-14)

**Section 8.15. Estimated expenditures shall not exceed estimated resources.**

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

**Section 8.16. Emergency appropriations.**

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 regular or recurring requirements, to protect the public health, safety or welfare. Such appropriations shall be by ordinance adopted by the majority vote of the councilmembers at one (1) special or regular meeting. (Res. No. R90-14, § III, ratified 5-5-90, approved 5-7-90)

**Section 8.17. Purchase procedure.**

All purchases made and contracts executed by the city shall be pursuant to a requisition from the head of the office, department or agency whose appropriation will be charged, and no contract or order shall be binding upon the city unless and until the city manager certifies that there is to the credit of such office, department or agency a sufficient unencumbered appropriation and allotment balance to pay for the supplies, materials, equipment, or contractual services

for which the contract or order is issued. All purchases made and contracts executed by the city shall be made in accordance with the requirements of this charter and all applicable requirements of the Constitution and Statutes of the State of Texas. All contracts for purchases or expenditures must be expressly approved in advance by the council, except that the council may by ordinance confer upon the city manager, general authority to contract for expenditures without further approval of the council for all budgeted items the cost of which does not exceed the constitutional and statutory requirements for competitive bidding.

(Res. No. 74-7, § 3, ratified 4-6-74, approved 4-15-74; Res. No. 82-16, § 3, ratified 4-3-82, approved 4-5-82)

**Section 8.18. Disbursement of funds.**

All checks, vouchers or warrants for the withdrawal of money from the city depository shall be signed by the city manager or the mayor, and countersigned by the city secretary, or the city treasurer.

(Amd. of 5-19-14)

**Section 8.19. Power to tax.**

The city 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 as they now exist, or as they may be amended.

(Res. No. 84-8, § 4, ratified 4-7-84, approved 4-9-84)

**Section 8.20. Property subject to tax; rendition, appraisal and assessment.**

All real and tangible and intangible personal property within the jurisdiction of the City of Pearland not expressly exempted by laws 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 as now or hereafter amended.

(Res. No. 84-8, § 4, ratified 4-7-84, approved 4-9-84)

**Editor's note**—The Property Tax Code is in V.T.C.A., Tax Code ch. 1 et seq.

**Section 8.21. Taxes, when due and payable.**

All taxes due the City of Pearland shall be payable to the office of the city assessor-collector on receipt of the tax bill and shall be considered delinquent if not paid before February first 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 of Pearland and the Property Tax Code of the State of Texas.

(Res. No. 84-8, § 4, ratified 4-7-84, approved 4-9-84)

**Editor's note**—Res. No. 84-8, ratified April 7, 1984, approved April 9, 1984, repealed §§ 8.21—8.23 relative to the board of equalization. Further, §§ 8.24—8.27 were renumbered as 8.21—8.24.

**Section 8.22. 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 foreclose 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 fore-

close 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 which the taxes are due, which lien may be foreclosed in any court having jurisdiction. The city's tax lien shall exist from January first 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 of Pearland on January first of each year shall be liable for city taxes levied thereon for each year. The tangible personal property of all persons, associations, corporations, firms or partnerships owning any taxes to the City of Pearland 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 commenced no later than three (3) years after taxes first become delinquent.

(Res. No. 84-8, § 4, ratified 4-7-84, approved 4-9-84; Amd. of 5-19-14)

**Note**—See the editor's note following § 8.21.

**Section 8.23. Tax remission and discounts.**

Except as provided by state law, neither the city council nor 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.

(Res. No. 84-6, § 4, ratified 4-7-84, approved 4-9-84)

**Section 8.24. Issuance of bonds.**

The City of Pearland 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 sec-

tion 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.

(Res. No. 84-8, § 4, ratified 4-7-84, approved 4-9-84)

**Note**—See the editor's note following § 8.21.

**ARTICLE 9. FRANCHISES AND PUBLIC UTILITIES**

**Section 9.01. Powers of the city.**

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

**Section 9.02. Power to grant franchise.**

The council shall have the power, by ordinance, to grant, renew, extend and amend all franchises of all public utilities, including cable television or community antenna television systems, of every character operating within the city. No franchise shall be for an indeterminate period, and no franchise shall be granted for a term of more than fifty (50) years from the date of the grant, renewal or extension.

**Section 9.03. Grant not to be exclusive.**

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

**Section 9.04. Ordinances granting franchise.**

All ordinances granting, renewing, extending or amending a public utility franchise

shall be read at two (2) separate regular meetings of the council, and shall not be finally passed until thirty (30) days after the first reading; and no such ordinance shall take effect until thirty (30) days after its final passage; and the full text of such ordinance shall be published once, within fifteen (15) days following the first reading, in the official newspaper of the city, and the expense of such publication shall be borne by the prospective franchise holder.

**Section 9.05. Transfer of franchise.**

No public utility franchise shall be transferable except with the approval of the council expressed by ordinance. The term "transferable," as used herein, shall not be construed in such a manner as to prevent the franchise holder from pledging said franchise as security for a valid debt or mortgage.

**Section 9.06. Franchise value not to be allowed.**

No value shall be assigned to any franchise granted by the city 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 may be acquired by condemnation or otherwise.

**Section 9.07. 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 council:

- (a) To forfeit any such franchise by ordinance at any time for the failure of holder thereof to comply with the terms of the franchise, such power to be exercised only after notice and hearing, and a reasonable opportunity to correct the default.

- (b) To establish reasonable standards of service and quality of products and prevent unjust discrimination in service or rates.
- (c) To impose reasonable regulations to insure safe, efficient and continuous service to the public.
- (d) To examine and audit at any time during regular business hours the accounts and records of any such utility which are relevant to the city's right of regulation, and to require annual and other reports, including reports on operation within the city.
- (e) To require such compensation and rental as may be permitted by the laws of the State of Texas.

**Section 9.08. Regulation of rates.**

The council shall have full power, after notice and hearing, to regulate by ordinance, 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 of Pearland 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.

**Section 9.09. 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 liabilities, appropriately subdivided by classes, depreciation reserve, other reserves and surplus; also revenues, operating expenses including depreciation, interest payments, rental and other disposition of annual income. The accounts shall show actual capital cost to the

city of each utility owned, also the cost of all extensions, additions, and improvements and the source of funds expended for such capital purposes. The accounts shall show as nearly as possible the cost of any service furnished to or rendered by any such utility to any city department. The council shall cause an annual report to be made by a certified public accountant and shall publish such report showing the financial results of such city ownership and operation, giving the information specified in this section and such other data as the council shall require.

**Code reference**—Utilities, Ch. 30.

**Section 9.10. Sales of municipal services.**

The council shall have the power and authority to:

- (a) In or outside the limits of the city, sell and distribute water, sell and provide sewer service, provide for garbage and trash collection and disposition, and to provide similar services.
- (b) Prescribe the kind 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 non-compliance with same.

**ARTICLE 10. GENERAL PROVISIONS**

**Section 10.01. Official oath.**

All officers of the city 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.

**Section 10.02. Public records.**

All public records of every office, department or agency of the city shall be open to inspection by any citizen at all reasonable times, provided that police records and vital statistics records, and any other records closed to the public by law, shall not be considered public records for the purpose of this section.

**Section 10.03. Official newspaper.**

The council shall contract annually with, and by resolution designate, a public newspaper of general circulation in the city as [the] official organ thereof, and to continue as such until another is designated, and shall cause to be published therein all ordinances, notices and other matter required by this charter, by the ordinances of the city, or by the constitution and laws of the State of Texas, to be published.

**Section 10.04. Notice of claim.**

In the absence of legally sufficient actual notice, the city shall not be liable for damages resulting from death, personal injury, or property damage unless the claimant shall have first filed with the city secretary a written notice of claim. The city is entitled to receive notice of claim against it not later than six (6) months after the day that the incident giving rise to the claim occurred. The notice must reasonably describe:

1. The damage or injury claimed;
2. The time and place of the incident; and,
3. The incident.

Actual notice, to be legally sufficient, shall be defined by the law of the state, but in no event shall extend to claims arising from the discharge of proprietary functions of the city. (Res. No. R94-22, §§ I(19), III, ratified 5-7-94, approved 5-9-94)

**Section 10.05. Provision 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 to garnishment, attachment or sequestration nor shall the city be liable to garnishment on account of any debt it may owe or funds or property it may have on hand or owing to any person. Neither the city nor any of its officers or agents shall be required to answer any such writ 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 10.06. City not required to give security or execute bond.**

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

**Section 10.07. Personal interest in city contract.**

Personal interest in city contracts or any other actual or potential conflicts of interest shall be governed by applicable state law, including Texas Local Government Code Chapter 171.

(Res. No. R90-14, § III, ratified 5-5-90, approved 5-7-90; Res. No. R2002-147, § II, ratified 9-14-02, approved 9-17-02)

**Section 10.08. Nepotism.**

No person related within the second degree by affinity, or within the third degree by

consanguinity to any elected officer of the city, or to the city manager, shall be appointed to any office, position or clerkship or other service of the city. Provided that nothing herein contained shall prevent the appointment, voting for, or confirmation of an employee related within the prohibited degree who shall have been continuously employed in any such office, position, clerkship, employment or duty for two (2) years prior to the election to office of any city official or two (2) years prior to such city manager's appointment.

**Section 10.09. Reserved.**

**Editor's note**—An amendment adopted May 19, 2014, repealed former § 10.09 which pertained to continuation of budget, and derived from the original charter adopted February 6, 1971.

**Section 10.10. 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 the 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 the law in force at the time of the beginning of such proceedings or under the law after the adoption of this charter.

**Section 10.11. Reserved.**

**Editor's note**—An amendment adopted May 19, 2014, repealed former § 10.11 which pertained to interim municipal government, and derived from Res. No. R90-14, § III,

ratified May 5, 1990, approved May 7, 1990; Res. No. R94-22, §§ I(20), III, ratified May 7, 1994 approved May 9, 1994.

**Section 10.12. Applicability of general laws.**

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

**Section 10.13. Amending the charter.**

Amendments to this charter may be framed and submitted to the voters of the city in the manner provided by the applicable statute of the State of Texas.

**Section 10.14. Separability clause.**

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

**Section 10.15. Charter review commission.**

The city council shall appoint at its first regular meeting in January of every sixth year, beginning with 2019, or more frequently if the city council deems necessary, a charter review commission of five (5) citizens of the City of Pearland:

- (a) *Duties of the commission:* It shall be the duty of such charter review commission to:
  - (1) Inquire into the operations of the city government under the charter provisions and determine whether any such provisions require revision. To this end public hearings may be held including a required final public hearing to present the official results of the charter review examination to the citizens of Pearland. The schedule for public meeting will be determined by the charter review commission board members. In addition, the charter review commission changes and recommendations will also be published in the newspaper of local circulation. The commission shall have the power to compel the attendance of any officer or employee of the city and to require the submission of any of the city records which it may deem necessary to the conduct of such hearing.
  - (2) Propose any recommendations it may deem desirable to insure compliance with the provisions of this charter by the several departments of the city government.
  - (3) Propose, if it deems desirable, amendments to this charter to

improve the effective application of said charter to current conditions.

- (4) Report its findings and present its proposed amendments, if any, to the city council. Any report of the commission shall be delivered to the city attorney at least thirty (30) days prior to its presentation to the council. Within such time, and no later than ten (10) days prior to its presentation to the council, the city attorney shall advise the commission in writing of any changes in proposed amendments which he/she deems necessary or desirable. A copy of the city attorney's recommendations shall be attached to the report of the commission at the time of its presentation to the council.

- (b) *Action by the city council:* The city council shall receive and have published in a newspaper of general circulation in the City of Pearland any report presented by the charter review commission, shall consider any recommendations made, and if any amendments or amendment be presented as a part of such report may order such amendment or amendments to be submitted to the voters of the city in the manner provided by the applicable statute of the State of Texas.
- (c) *Term of office:* The term of office of such charter review commission shall be six (6) months; and, if during such term no report is presented to the city council, then all records of the proceedings of such commission shall be filed with the person performing the duties of city secretary and shall become a

public record. This commission shall meet at least once every three (3) months.

(Res. No. 74-7, § 3, ratified 4-6-74, approved 4-15-74; Res. No. R94-22, §§ I(21), III, ratified 5-7-94, approved 5-9-94; Res. No. R2002-147, § II, ratified 9-14-02, approved 9-17-02; Amd. of 5-19-14)

**Section 10.16. Reserved.**

**Editor's note**—An amendment adopted May 19, 2014, repealed former § 10.16, which pertained to submission of charter to voters, and derived from Res. No. R90-14, § III, ratified May 5, 1990, approved May 7, 1990.

**Section 10.17. Reserved.**

**Editor's note**—An amendment adopted May 19, 2014, repealed the former § 10.17 which pertained to meaning of word "city," and derived from the original charter adopted February 6, 1971.

Respectfully submitted,  
 /s/ Glen M. Chaney  
 Chairman, Pearland Charter Commission

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 Dale Howard Pryor  
 Ralph Arnold, Jr.  
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 Pat. E. Clark  
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 John R. Kubasik  
 William T. McClelland  
 Thomas J. Morris  
 Thomas L. Reeves  
 Jerry N. Spencer (Resigned)

### CHARTER COMPARATIVE TABLE

Ord./ Res. No.	Date Ratified	Date Approved	Section	Disposition Art./Sec.
74-7	4- 6-74	4-15-74	3	5 5.05 8 8.17 10 10.15(a)(4)
78-9	4- 1-78	4- 3-78	4	3 3.10 4 4.11 4 4.12 7 7.03
82-16	4- 3-82	4- 5-82	3	3 3.07(p), 3.10 4 4.02(a), 4.05 8 8.17
84-8	4- 7-84	4- 9-84	4	4 4.04, 8.19, 8.20 Rpld 8 8.21—8.23 Rnbd 8 8.24—8.27 as 8 8.21—8.24
86-12	4- 5-86	4- 7-86	3	4 4.01(d) 4 4.09 4 4.11
R90-14	5- 5-90	5- 7-90	III	3 3.01, 3.02, 3.05, 3.08, 3.10 4 4.01—4.04, 4 4.06, 4.08, 4.12 5 5.01, 5.04—5.06 6 6.03—6.05, 6.07, 6.10, 6.11 7 7.01, 7.02 8 8.14, 8.16 10 10.07, 10.11, 10.16
R94-22	5- 7-94	5- 9-94	I(1), III (2) (3) (4) (5) (6) (7) (8) (9) (10) (11) (12)	1 1.02 3 3.01 3 3.08 4 4.01(a) Rpld 4 4.01(d) Rpld 4 4.02(b) 4 4.04 4 4.06 4 4.08(c) Rpld 4 4.08(d) Rpld 4 4.11 5 5.05

PEARLAND CODE

Ord./ Res. No.	Date Ratified	Date Approved	Section	Disposition Art./Sec.
			(13)	5 5.06
			(14)	6 6.01
			(15)	6 6.08
			(16)	7 7.02
			(17)	Rpld 7 7.02
			(18)	8 8.11
			(19)	10 10.04
			(20)	10 10.11
			(21)	10 10.15(a)(1)
R98-38	5- 2-98	5-11-98	III	3.10, 5.01, 6.03, 6.08
				Rpld 6.12
R2002-147	9-14-02	9-17-02	II	4 4.07
				10 10.07
				10 10.15
Amd.		5-13-06		1 1.02
				3 3.01
				3 3.08
				4 4.08(c)
				6 6.13, 6.14
R2010-68	5- 8-10	5-17-10	I	8 8.10
Amd.		5-19-14		3 3.01
				3 3.06
				3 3.08
				3 3.13
				4 4.08
				Rpld 4 4.04,
				4 4.09, 4.10
				4 4.12
				5 5.05
				6 6.13
				6 6.20
				8 8.06
				Rpld 8 8.08
				Added 8 8.08
				8 8.10, 8.11
				8 8.14
				8 8.18
				8 8.22(c)
				Rpld 10 10.09,
				10 10.11,
				10 10.16, 10.17
				10 10.15

## CHARTER INDEX

	Section		Section
<b>A</b>			
AGREEMENTS. See: CONTRACTS AND AGREEMENTS			
AMENDMENTS			
Amending the charter .....	10.13		
ANNEXATIONS			
Annexation for all purposes .....	1.03		
<b>B</b>			
BONDS			
City not required to give security or execute bond .....	10.06		
Issuance of bonds .....	8.24		
Official bonds for city employees .....	3.11		
BOUNDARIES			
Detachment of territory .....	1.04		
<b>C</b>			
CHARTER			
Amending the charter .....	10.13		
Applicability of general laws .....	10.12		
Charter review commission .....	10.15		
City not required to give security or execute bond .....	10.06		
Effect of charter on existing law .....	10.10		
Nepotism .....	10.08		
Notice of claim .....	10.04		
Official newspaper .....	10.03		
Official oath .....	10.01		
Personal interest in city contract .....	10.07		
Provisions relating to assignment, execution and garnishment .....	10.05		
Public records .....	10.02		
Separability clause .....	10.14		
CHARTER REVIEW COMMISSION			
General provisions .....	10.15		
CITY ATTORNEY			
Provisions re .....	4.07		
CITY BOOKS. See: PUBLIC RECORDS			
CITY COUNCIL			
All powers of charter vested in .....	3.07(p)		
Appointive powers .....	3.07(p)		
Compensation .....	3.04		
Composition .....	3.01		
Corporate powers .....	1.01		
Council as judge of election qualifications .....	3.03		
Duties .....	4.01(c)		
Elections. See also that title			
Government vested in .....	1.01		
Initiative, referendum and recall. See that title			
Investigation by the city council .....	3.12		
Mayor pro tem .....	3.05		
		CITY COUNCIL (Cont'd.)	
		Meetings .....	3.08
		Minutes, keeping, duties of city secretary. See: City Secretary	
		Number of members .....	3.01
		Powers enumerated .....	3.07
		Qualifications .....	3.02
		Council to be judge of .....	3.03
		Residency requirements .....	3.02
		Rules of procedure .....	3.09
		Salaries .....	3.04
		Selection .....	3.01
		Terms of office .....	3.01
		Vacancies .....	3.06
		CITY MANAGER	
		Appointment .....	4.01(a)
		Powers of council .....	1.01
		Duties .....	4.01(c)
		Qualifications .....	4.01(a)
		Term of office .....	4.01(b)
		CITY SECRETARY	
		Appointment, generally .....	4.03
		Minutes and proceedings of council, keeping .....	4.03
		CITY TREASURER	
		Appointment, duties in general .....	4.05
		CLAIMS AGAINST CITY	
		Compromising and settling by council .....	3.07(n)
		Notice of claims .....	10.04
		CONDEMNATION	
		Dangerous or dilapidated buildings	
		Condemnation, destruction .....	3.07(1)(7)
		Eminent domain powers .....	2.03
		CONFLICTS OF INTEREST	
		Personal interest in city contracts .....	10.07
		CONSTITUTION AND STATE LAWS	
		Applicability of general laws .....	10.12
		Powers of the city .....	2.01
		CONTRACTS AND AGREEMENTS	
		General powers .....	2.01
		Personal interest in city contracts .....	10.07
		CORPORATE SEAL	
		Authority to have and use .....	2.01
		COUNCIL. See: CITY COUNCIL	
		COURTS. See: MUNICIPAL COURTS	
<b>D</b>			
		DEPARTMENTS AND OTHER AGENCIES OF CITY	
		Abolishing, consolidating, establishing, dividing responsibility, etc. ....	4.13
		Boards and commissions	
		Providing additional boards, etc., .....	3.07(e)

PEARLAND CODE

	Section		Section
DEPARTMENTS AND OTHER AGENCIES OF CITY (Cont'd.)		FINANCES (Cont'd.)	
Charter review commission.....	10.15	Effective date; certification; public avail- ability .....	8.11
City manager		Notice of public hearing on budget.....	8.06
Powers and duties.....	4.01(c)	Preparation and submission of budget .	8.02
Department of parks, recreation and beau- tification .....	4.12	Proposed expenditures compared with other years .....	8.04
Department of public works .....	4.10	Public hearing of budget .....	8.07
Establishing, consolidating, abolishing, dis- tributing work, etc. ....	3.07(a)	Disbursement of funds .....	8.18
Finance, department of.....	4.05	Estimated expenditures shall not exceed estimated resources .....	8.15
Investigation into municipal affairs by city council .....	3.07(d), 3.12	Fiscal year .....	8.01
Planning and zoning commission.....	7.01	Issuance of bonds .....	8.24
DIRECTOR OF FINANCE		Purchase procedure .....	8.17
Appointment and duties.....	4.05	Taxation	
		Power to tax .....	8.19
<b>E</b>		Property subject to tax; rendition, ap- praisal and assessment .....	8.20
ELECTIONS		Tax liens .....	8.22
Ballots .....	5.05	Tax remission and discounts .....	8.23
Conduct of .....	5.03	Taxes, when due and payable .....	8.21
Election by majority .....	5.06		
Filing for office .....	5.04	FIRE DEPARTMENT	
Official oath .....	10.01	Provisions re .....	4.09
Qualified voters.....	5.02		
Regular elections .....	5.01	FRANCHISES AND PUBLIC UTILITIES	
EMERGENCIES		Franchise value not to be allowed .....	9.06
Emergency appropriations.....	8.16	Grant not to be exclusive .....	9.03
EMPLOYEES. See: OFFICERS AND EM- PLOYEES		Municipally owned utilities .....	9.09
EXECUTION		Ordinances granting franchise .....	9.04
Provision relating to .....	10.05	Power to grant franchise .....	9.02
		Powers of the city.....	9.01
<b>F</b>		Regulation of rates.....	9.08
FEDERAL GOVERNMENT		Right of regulation.....	9.07
Cooperation with, contracting with.....	2.01	Sales of municipal services .....	9.10
FINANCES		Transfer of franchise .....	9.05
Appropriations			
Contingent appropriations .....	8.14	<b>I</b>	
Emergency.....	8.16	INITIATIVE, REFERENDUM AND RECALL	
Audit and examination of city books and accounts .....	3.13	Adoption of ordinances .....	6.18
Budget		Ballots for initiative or referendum	
Adoption		Form of ballots .....	6.16
Council authority .....	3.07(b)	Form of recall petition .....	6.04
Date of final adoption .....	8.10	Franchise ordinances.....	6.22
Vote required .....	8.09	Further regulation by city council .....	6.21
Amendment before adoption.....	8.08	General powers .....	6.01
Anticipated revenues compared with other years in .....	8.03	Inconsistent ordinances .....	6.19
Appropriations established by .....	8.12	Initiative petition	
Budget a public record.....	8.05	Generally.....	6.13
City manager, duties .....	4.01(c)	Ordinances passed by popular vote, repeal or amendment .....	6.20
Contingent appropriation .....	8.14	Petition for recall .....	6.03
		Election to be called .....	6.08
		Ballots in recall elections.....	6.09
		Form .....	6.04
		Presentation to city council .....	6.06
		Public hearing to held .....	6.07
		Various papers constituting .....	6.05
		Petitions. See herein specific types	



PEARLAND CODE

	Section	Section
<b>T</b>		
TAXATION. See: FINANCE		
TERRITORY		
Detachment of territory .....	1.04	
TREASURER. See: CITY TREASURER		
<b>U</b>		
UTILITIES		
Franchises and public utilities .....	9.01 et seq.	
See: FRANCHISES AND PUBLIC UTILITIES		
General powers .....	2.01	
<b>V</b>		
VEHICLES FOR HIRE		
Power to regulate, license, fix charges on fares .....	3.07(b)	
<b>W</b>		
WARRANTS OR NOTES		
General powers .....	2.01	
WATER AND SEWERS		
Council authority to provide, required connections, etc. ....	3.07(j)	
Department of public works, functions. ....	4.10	
WRITS, WARRANTS AND OTHER PROCESSES		
Council investigative authority .....	3.12	
<b>Z</b>		
ZONING		
Zoning plan, adoption and modification ...	3.07(f)	