

## **CHARTER**

**HOME RULE CHARTER  
OF  
THE CITY OF PLEASANTON**

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The Charter contained herein was adopted by the citizens of Pleasanton at an election held on August 14, 1982 and placed in effect by the City Council of the City of Pleasanton on October 4, 1982. Amendments adopted by the citizens at an election held on January 17, 1987, August 12, 1989, May 6, 1995, May 6, 2000, May 6, 2003, and May 9, 2009 have been inserted in their proper place.

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THE CITY OF PLEASANTON**

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*Charter amendments, see § 30.14*

**HOME RULE CHARTER**  
**CITY OF PLEASANTON, TEXAS**

***ARTICLE I. CORPORATION NAME***

The inhabitants of the City of Pleasanton, Texas, residing within the limits and boundaries hereinafter described or within such boundaries as may be legally fixed and established and such territory, are and shall continue to be, and are hereby continued and constitute a body politic and corporate by and under the name of the City of Pleasanton, with all the rights, powers, privileges and immunities hereinafter more fully defined and set forth. The City of Pleasanton, Texas is obligated to follow state law, as amended.

***ARTICLE II. BOUNDARIES***

**Section 1. Limits and Boundaries**

The boundaries of the City of Pleasanton shall be the same as have been heretofore established and now exist and those boundaries established and changed hereafter in all annexation ordinances or disannexation ordinances passed by the City Council of the City of Pleasanton, and filed in the office of the City Secretary of the City.

**Section 2. Additional Territory**

The City Council shall have power by ordinance to fix the boundary limits of the City of Pleasanton; and to provide for the alteration and the extension of boundary limits, and the annexation of additional territory lying adjacent to the City, with or without the consent of the owners and the inhabitants of the territory annexed.

**Section 3. Contraction of Boundaries**

Whenever there exists within the corporate limits of the City of Pleasanton adjoining the outer boundaries thereof any territory not suitable or necessary for orderly planning and development of the City, the City Council may, upon a petition signed by a majority of the qualified voters residing in such

territory, if the same be inhabited, or without any such petition if the same be uninhabited, by ordinance duly passed, de-annex such territory as a part of said city; and after the entry of such ordinance said territory and the inhabitants thereof shall cease to be a part of the city.

#### **Section 4. Privileges and Duties of Inhabitants**

After the admission of territory as provided in Section 2 of this Article, the inhabitants of the added territory shall have all the privileges, and be subject to all duties and liabilities of the inhabitants of the above particularly described territory.

#### **Section 5. City Property Outside City Limits**

The powers and jurisdiction of the city shall extend to property or territory beyond its limits, owned or held by it for municipal purposes.

### ***ARTICLE III. MUNICIPAL POWERS***

#### **Section 1. Legislative and Contractual Powers**

The City of Pleasanton shall have powers to ordain and establish acts, laws, rules, regulations, resolutions, and ordinances, not inconsistent with the Constitution and laws of Texas and with this Charter, as shall be required for the government, interests, health, welfare, and good order of the city and its inhabitants.

#### **Section 2. Property**

The City of Pleasanton shall have the power to take, hold, lease, grant, purchase and convey real property or personal property within or without its city limits, as the city may require.

#### **Section 3. Rights Reserved**

All suits, taxes, penalties, fines, forfeitures and all other rights, claims and demands, of every kind and character, which have accrued under the laws in favor of the city, shall belong to the city and shall not abate by reason of the adoption of this Charter.

#### **Section 4. Local Self-Government**

The City of Pleasanton shall possess and may exercise the full power of local self-government. It may hold, by gift, deed, device, or otherwise, any character of property, including any charitable or trust fund.

#### **Section 5. Other Powers**

For greater certainty, the following are hereby especially enumerated and referred to as being among the other powers which are hereby conferred upon and which may be exercised by the City of

Pleasanton, to wit:

a. All of the powers conferred upon cities and towns by Title 28 of the Revised Civil Statutes of the State of Texas, 1925, except as may hereafter be denied, limited or extended, are hereby conferred upon the City of Pleasanton as fully and completely as if such powers were herein separately enumerated.

b. All powers, privileges and immunities conferred upon cities of more than five thousand (5,000) inhabitants, by Section 4 of Chapter 147, acts of the 33rd Legislature, General Laws Regular Session, at pages 310 to 316, entitled, "An Act Authorizing Cities Having More Than Five Thousand Inhabitants, by a Majority Vote of the Qualified Voters of said City, at an Election Held for that Purpose to Adopt and Amend Their Charters," etc.; and such powers are hereby conferred upon the City of Pleasanton as fully and completely as if each said mentioned powers were herein separately enumerated; but enumeration of special powers herein or in the Statutes referred to, shall not be held or construed to preclude the city from exercising all powers of local government not denied by the Constitution and laws of the State of Texas, or by special limitations in this Charter, the purpose of this Charter being to enlarge upon the power extended by the general laws of cities incorporated thereunder, and to secure to the City of Pleasanton, all the powers conferred by the Constitution and laws of this State upon cities having more than five thousand (5,000) inhabitants.

## ***ARTICLE IV. MUNICIPAL GOVERNMENT***

### **Section 1. Form of Government**

The municipal government provided by this Charter shall be known as the "Council-Manager" government, pursuant to the provisions of, and subject only to the limitations imposed by the State Constitution, the state laws, and this Charter. All powers of the City Council shall be vested in an elected governing body to be known as the "City Council." The City Council shall be composed of six (6) Councilmembers and a Mayor. The Mayor shall preside over Council meetings and shall be entitled to vote in the same manner and to the same extent as other members of the City Council.

### **Section 2. Qualifications of Officers**

The Mayor and each Councilmember shall be residents of the City of Pleasanton and have the following qualifications:

1. Must be a citizen of the United States.
2. Must be a qualified voter of the State of Texas.
3. Must have resided at least twelve (12) months next preceding the election within the corporate limits of the City of Pleasanton.
4. Must be at least twenty-one (21) years of age.
5. Must not have been convicted of a felony.
6. Must not be disqualified by reason of any provision of any other section of the Charter.
7. The Mayor and each of the Councilmembers (or a candidate to become Mayor or Councilmember) shall be a resident of the City (for the Mayor) or district (for Councilmember) which

he or she represents or intends to represent at the time of filing for office and at all times during the term of office.

### **Section 2A. Disqualifications**

The Mayor, Councilmembers, and officers and employees shall not hold any other public elective or appointive office of emolument. The Mayor, Councilmembers, and officers and employees shall be bound in their conduct in accordance with applicable state law regulating conflicts of interest of officers of municipalities. Any member of the Council who has three (3) consecutive unexcused absences from Council meetings shall forfeit the office.

### **Section 2B. Forfeit**

Any officer or employee of the City, who shall cease to possess any of the qualifications herein required, shall forfeit his or her office or position. The Mayor, City Councilmembers, officers and City employees may be members of the Volunteer Fire Department of the City and receive such compensation as the City Council may provide.

### **Section 3. Appointive Officers**

There shall be appointed by a majority of the City Council, on the nomination of the Mayor or any member of the City Council, a City Manager, a City Secretary, a Municipal Judge or Judges, a City Health Officer, a City Attorney, and other officers as may be required by State Constitution or state law, any of whom may be removed by a majority vote of the City Council. These appointive officers shall serve at the will of the City Council and may be removed, with or without cause, by a majority vote of the City Council, but not less than four (4) affirmative votes for removal. These appointive officers shall be responsible to the City Manger for the administration of his or her department and for carrying out and enforcement of the resolutions and ordinances of the City Council. The duties of such officers shall be as prescribed by state law, or ordinance or direction of the City Council. The compensation of such officers shall be set by the City Council.

### **Section 4. Qualifications of Appointive Officers**

Officers appointed by the City Council shall possess such qualifications as may be prescribed by State Constitution or law, or as prescribed by ordinance not in direct conflict therewith.

### **Section 5. Terms of Office**

All elective officers, under this Charter, shall serve a term of two (2) years and until their successors have been elected and qualified. There shall be a limit of three (3) consecutive two-year terms served, with no person to serve more than six total two-year terms as a Councilmember or Mayor. This provision takes effect with the May, 2009 election and applies to anyone serving in office from that time forward. A person may be elected to serve up to six (6) terms as Councilmember and up to another six (6) terms as Mayor.

### **Section 6. Vacancy or Vacancies**

In the event of a vacancy or vacancies from any cause in the office of Mayor or Councilmember, the vacancy or vacancies may be filled as follows:

a. If no more than one (1) vacancy on the City Council exists, a majority of the remaining members of the City Council may fill the vacancy by appointment and the appointee will serve until the next regular City election.

b. If two (2) or more vacancies on the City Council exist at the same time, a special election shall be called to fill the vacancies.

c. Any special election to fill vacancies shall be ordered, held, and conducted in accordance with the general laws of the State of Texas.

d. In the event of a vacancy in any appointive office in the city, new appointments shall be made by a majority of City Council votes on nominations by the Mayor or any member of City Council.

## **Section 7. Compensation**

Beginning on the first of the month following the adoption of this Charter, and thereafter, the Mayor shall receive a compensation of thirty dollars (\$30.00) per regular Council meeting attended, and each Councilmember shall receive a compensation of twenty dollars (\$20.00) per regular Council meeting attended, and all appointive officers of the City Council, except where otherwise provided by law, shall receive such compensation as may be fixed by the City Council. Nothing contained herein shall prohibit the reimbursement of actual official city business expenses of the Mayor and City Council where same are provided in the annual city budget.

# ***ARTICLE V. THE BOARD OF CITY COUNCILMEMBERS***

## **Section 1. Regular Meetings and General Powers**

The City Council shall conduct regular meetings on the first and third Thursdays of each month. Special meetings may be called by the Mayor or at the request of three Councilmembers. At any meeting of the Council, a future meeting may be canceled by a majority vote of all members of the Council present. Notice of such cancellation shall be posted in accordance with applicable laws. The City Council shall see that all ordinances necessary and proper for carrying out the powers and duties prescribed in this Charter are passed and enforced. The City Council shall promote, in any way it sees fit, subject only to limitations imposed by the Constitution and laws of this State or by the provisions of this Charter, the welfare of the City and its inhabitants.

## **Section 2. Mayor Pro Tempore and Quorum**

At the first meeting of each new Council, or as soon as practicable, the council shall elect a Mayor pro tempore, who shall hold his or her office for one (1) year, and in case of the failure, inability or refusal of the Mayor to act in respect to any matter of duty, such Mayor pro tempore shall act. A majority of the City Council shall constitute a quorum for the transaction of business.

## **Section 3. Appointments**

The City Council shall appoint by majority vote officers, boards, and commissions as may be required by state law and may appoint other boards, commissions, and committees that the City Council may, within its discretion deem proper; any of these appointments may be removed by a

majority vote of the council at the pleasure of the City Council. This power of appointment includes the employment of professional, technical, and other expertise necessary and advisable to the efficient operation of the municipal government. The terms of these appointments shall be as prescribed by state law or City ordinance.

#### **Section 4. Combining Duties of Officers and Departments**

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

### ***ARTICLE VI. POWERS OF THE CITY COUNCIL***

#### **Section 1. Presiding Officer**

The Mayor, when present, shall preside over the City Council and in his or her absence the Mayor pro tempore shall preside.

#### **Section 2. Powers**

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

#### **Section 3. Attendance at Meetings**

It shall be the duty of each member of the City Council to attend each regular meeting, and each special meeting of which proper notice has been given. Failure of any Councilmember to remain throughout the entire meeting shall constitute an absence and subject the Councilmember to forfeiture of the compensation for that meeting. However, failure of any Councilmember to remain throughout the entire meeting due to a family emergency, medical emergency, professional emergency or other event which requires immediate attention, or any other good and sufficient excuse as determined by a majority of the remaining present Councilmembers shall excuse the Councilmember from forfeiture of the compensation for that meeting.

#### **Section 4. Control of Finances, Property, and Ordinances**

The City Council shall have control of the finances of the City, and the control and disposition of its property, subject to the limitations hereof, and shall have power to obtain, alter, amend or repeal all ordinances, resolutions, rules, orders and regulations not repugnant to the Constitution and laws of the United States or of this state, and to enact such ordinances, resolutions, rules, orders, etc., as are necessary or proper for the good government of the city, the preservation of peace, good health, and the recreation of the inhabitants of the city and of persons within its limits and to accomplish and enforce the duties and powers hereby conferred upon the city or which may hereafter properly be conferred upon it.

## **Section 5. Power To Determine Duties of Officers**

The City Council shall have power from time to time to require other and further duties of all officers whose duties are prescribed herein, and to define, prescribe and change, from time to time, the duties of all officers or employees appointed or elected by its authority to any office or employment under the City, as in the judgment of the City Council may be best for the public interest. The Council shall require good and sufficient bonds to be given by officers or employees handling funds of the City and may require bonds of other officers or employees if considered proper or necessary.

## **Section 6. Procedure for Passage of Ordinances**

Every ordinance shall be introduced in written or printed form and shall take effect upon passage or 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 the date of its passage, subject to the provisions of Article XIII, of this Charter. The City Secretary shall give notice of title, including the penalty, of such ordinance to be published in the official newspaper in the City of Pleasanton at least twice within ten (10) days after the passage of said ordinance. The City Secretary shall note on every ordinance, the caption of which is required to be published, as required by the Charter, and the date of such publication, which shall be prima facie evidence of the legal publication of such ordinance; provided, that the provisions of this section shall not apply to the correction, amendment, revision and codification of the ordinances of the city for publication in book or pamphlet form. Except as otherwise provided in Article XIII of this Charter, it shall be necessary to the validity of any ordinance that it shall (1) be in the hands of each City Councilmember at the time of a regularly scheduled session of the City Council prior to the meeting at which the ordinance is to be formally presented to the City Council; (2) said proposed ordinance shall be read at two (2) successive Council sessions prior to its being voted on by the city council; and (3) in case of an "emergency", which may be declared by the affirmative vote of four (4) Councilmembers, it shall be necessary that it be read only one (1) time at one (1) session of the City Council at which session the City Council may pass said ordinance.

## ***ARTICLE VII. DUTIES AND POWERS OF OFFICERS***

### **Section 1. Required Oath and Bond**

Every person elected by the voters of the city or appointed by the City Council, to any office under the city government shall, before entering upon the duties of his or her office, take and subscribe the official oath prescribed by the Constitution of this State, and where a bond is required, shall execute such bond to the satisfaction of the City Council.

### **Section 2. Duties and Powers of the Mayor**

The Mayor of the City, in addition to duties prescribed elsewhere in this Charter, including acting as presiding officer at Council meetings and voting in case of a tie, shall from time to time communicate to the City Council such information and recommendations as may, in his or her judgment, tend to the improvement of the finances, police, health, comfort, and good government of the City. He or she shall represent the city in all its relations with other municipalities, and with the state, and the United States, and he or she shall perform such other duties and exercise such other powers not inconsistent with the provisions of this Charter and the Constitution of the State of Texas and all laws relative to mayors of home rule cities, and the Constitution and statutes of the State of Texas.

### **Section 3. Duties and Powers of Appointive Officers**

Officers appointed by the City Council shall have such duties and powers as may be prescribed by State Constitution, State law, City Charter or ordinances of the City of Pleasanton.

## ***ARTICLE VIII. CITY MANAGER***

### **Section 1. Qualifications**

The City Manager shall be employed by the City Council. He or she shall be selected solely on the basis of his executive and administrative qualifications with special reference to his or her actual experience or his or her knowledge of accepted practice with respect to the duties of his or her office. At the time of his or her appointment he or she need not be a resident of the city or state, but during his or her tenure of office he or she shall reside within the city. No member of the governing body shall, during the time for which he or she is elected or for two (2) years thereafter, be chosen as City Manager.

### **Section 2. Compensation**

The City Manager's salary shall be fixed by the City Council.

### **Section 3. Term of Office**

The City Manager shall be appointed for such term as the City Council sees fit, and a contract of employment may be entered into by the parties involved. Removal may be accomplished by a majority vote of the City Council, but not less than four (4) affirmative votes for removal.

### **Section 4. Powers and Duties**

The City Manager shall be the chief administrative officer of the city government. He or she shall be responsible to the City Council for the proper administration of all the affairs of the city placed under his or her control by this Charter or by ordinance or resolution of the City Council and to that end he or she shall:

- a. Except for officers appointed by the City Council under this Charter, appoint and remove any officer or employee of the City;
- b. Prepare a budget annually and submit it to the city council for approval and be responsible for its administration following adoption;
- c. Keep the City Council advised of the financial condition, administrative activities and future needs of the City, and make such recommendations as may be advisable;
- d. Attend all meetings of the City Council with the right to take part in the discussion but having no vote; and
- e. Perform such other duties as may be prescribed by this Charter or required of him or her by

the City Council, not inconsistent with the provisions of this Charter.

### **Section 5. Absence of City Manager**

During the temporary absence or temporary disability of the City Manager, he or she shall, by letter filed with the City Secretary, appoint a qualified administrative officer of the City to perform his or her duties during such absence or disability. In the event of the incapacity or failure of the City Manager to make such appointment, it may be made by the City Council. During any vacancy in the office of City Manager, the City Council shall designate, by letter filed with the City Secretary, a qualified administrative officer of the City to serve as acting City Manager during the existence of such vacancy.

### **Section 6. City Council's Relations with City Manager**

The City Council shall hold the City Manager responsible for the proper administration of all affairs of the City, but neither the Mayor, City Council, nor any board or commission created by it, nor any members thereof, shall dictate the appointment of any person to office or his or her removal from office or employment with the City, or in any manner interfere in the appointment of officers and employees in the departments of the administrative service vested in the City Manager by this Charter. Except for the purpose of inquiry, the City Council and its members shall deal with the administrative service solely through the City Manager, and neither the City Council nor any member thereof shall give orders to any subordinate of the City Manager either publicly or privately.

## ***ARTICLE IX. MISCELLANEOUS PROVISIONS***

### **Section 1. Contracts**

All existing contracts executed by the City of Pleasanton shall be unaffected by the adoption of this Charter.

### **Section 2. Tax Debt Arrears**

No money shall be paid by the city upon any claim, debt, demand or account whatsoever, to any person, firm or corporation who is in arrears to the City of Pleasanton for taxes or otherwise, and the city shall be entitled to a counter claim and offset against any such debt, claim, demand or account, in the amount of taxes or other debt in arrears, and no assignment or transfer of such debt, claim, demand or account after the said taxes or other debts are due, shall affect the right of the city to offset the said taxes or other debts against the same.

## **ARTICLE X. LEGAL AND JUDICIAL**

### **Section 1. 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 the 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 or she shall, with the approval of the City Manager, appoint and remove the employees of the department, and shall perform duties as may be required of him or her by the City Council.

The chief of police shall be appointed by the City Manager for an indefinite term. The Chief of Police shall be fully responsible to the City Manager for the administration of his or her department, and for the carrying out and enforcement of the resolutions and ordinances of the City Council. He or she may be removed from office by the City Manager.

b. Special Police

No person, except as authorized by general law, by this Charter or by the ordinances passed pursuant hereto, shall act as special police or special detective.

### **Section 2. City Secretary**

The City Council shall appoint the City Secretary. The City Secretary shall give notice of Council meetings, shall keep the minutes of the proceedings of the meetings, shall authenticate by his or her signature and record in full in a book kept and indexed for the purpose, all ordinances and resolutions, and shall perform other duties as the City Manager shall assign to him or her, and those elsewhere provided in this Charter.

### **Section 3. Municipal Court**

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

b. The judge of the municipal court shall be appointed by the City Council of the City of Pleasanton, and shall receive a salary as may be fixed by the City Council.

c. The City Secretary or an assistant city secretary may be ex officio clerk of the municipal court.

d. The clerk of the municipal court and his or her deputies shall have the power to administer oaths and affidavits, make certificates, affix the seal of said court thereto, and generally do and perform any and all acts usual and necessary to be performed by the clerks of courts in issuing process by courts, and conducting the business thereof.

e. In case of the disability or absence of the judge of the municipal court, the City Council shall have the power to appoint a temporary municipal judge.

## **Section 4. City Attorney**

The City Council shall appoint a competent and duly qualified and licensed attorney, practicing law in the State of Texas, who shall be the attorney for the City. He or she shall receive for his or her services a compensation as may be fixed by the City Council and shall hold his or her office at the pleasure of the City Council. The attorney for the City or other attorneys selected by him or her, with the approval of the City Council, shall represent the City in all litigation. He or she shall be the legal advisor of and attorney and counsel for the City and all officers and departments thereof; provided that the City Council may retain special counsel at any time they deem same appropriate and necessary.

## ***ARTICLE XI. NOMINATIONS AND ELECTIONS***

### **Section 1. Elections**

The regular City election shall be held annually on the first Saturday of May, in accordance with the election laws of the State of Texas at which time officers will be elected to fill those offices which become vacant that year. The City Council shall fix the hours and place for holding the election. The City Council may, by ordinance or resolution, order a special election, fix the date and place for holding same, and provide all means for holding the special election. Notice of the election shall be published in the official newspaper of the City of Pleasanton. The publication will be made not more than thirty (30) days, nor less than ten (10) days before the election.

### **Section 2. Regulation of Election**

All elections shall be held in accordance with the laws of the State of Texas regulating the holding of municipal elections and in accordance with the ordinances adopted by the City Council for the conduct of elections. The City Council shall appoint the election judges and other election officials.

### **Section 3. Filing for Office**

Any person having the qualifications set forth for Councilmember or Mayor under Article IV, Section 2 of this Charter shall have the right to file an application to have his or her name placed on the official ballot as a candidate for any elective office, and the application in writing, signed by the candidate, filed with the City Secretary not less than forty-five (45) days prior to the date of election, shall entitle the applicant to a place on the official ballot. Each candidate for Councilmember shall file for a specific district within the city, such districts being numbered 1, 2, 3, 4, 5, and 6, respectively. Candidates filing for an office on the City Council are eligible to file for only one office. A Councilmember who announces his or her candidacy for the office of Mayor and files an application for a place on the ballot for the mayoral position shall immediately resign from his or her current Council position.

### **Section 4. The Official Ballot**

The names of all candidates for office, except those withdrawn, dead, or ineligible, shall be printed on the official ballots, without party designations, in the order determined in a drawing of lots (for each position) conducted by the City Secretary. All official ballots shall be printed in accordance with state election law. Absentee voting shall be governed by the general election laws of the State of Texas.

## **Section 5. Election of Mayor by Majority**

At any regular or special municipal election, the candidates for the office of Mayor who shall have received the majority of votes cast in the election shall be declared elected. Should any candidate for the office of Mayor fail to receive a majority of votes, the Council shall immediately order a special election to be held on the fourth, fifth, or sixth week following the date of the election in which no candidate received a majority of votes. At this special election the names of the two (2) candidates receiving the highest number of votes at the regular election, for the office of Mayor, shall be printed on the ballot and submitted to the qualified voters for election, and the candidate receiving the majority of votes in such special election for the office of the Mayor shall be declared duly elected.

### **EDITOR'S NOTE:**

*In a Joint Motion filed March 2, 1984 in U.S. District Court, this section was amended to order election of the Mayor by plurality vote. In the event of a tie vote, the City Council shall hold a run-off election within thirty (30) days of the date of the regular or special election, such run-off election to be between the tied candidates.*

## **Section 6. Election of Councilmembers by Majority**

At any regular or special municipal election the candidate for the office of Councilmember who shall have received the majority of votes in that district shall be declared elected. In the event of no majority vote, the City Council shall hold a runoff election within thirty (30) days of the date of the regular election, such runoff election to be between the two (2) candidates receiving the largest number of votes.

## **Section 7. Laws Governing City Elections**

All city elections shall be governed by the laws of the State of Texas governing general and municipal elections.

## **Section 8. Conducting and Canvassing Elections**

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

## **Section 9. Oath of Office**

I, \_\_\_\_\_, do solemnly swear (or affirm), that I will faithfully execute the duties of the office of \_\_\_\_\_ of the City of Pleasanton, and will to the best of my ability preserve, protect, and defend the Constitution and laws of the United States and of the State of Texas, and ordinances of the City of Pleasanton, and I furthermore solemnly swear (or affirm) that I have not directly or indirectly paid, offered or promised to pay, contributed, nor promised to contribute any money or valuable thing, or promised any public office or employment as reward \* (for the giving or withholding of a vote at the election which I was elected) \*\* (to secure my appointment or the confirmation thereof).

Signed \_\_\_\_\_

Sworn and subscribed to before me, this \_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_.

\* for elected official

\*\* for appointed officials

## **ARTICLE XII. RECALL OF OFFICERS**

### **Section 1. Scope of Recall**

Any City official, holding an elected office, whether elected to such office by 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 qualified voters of the City, or, in the case of officials elected by qualified voters residing in a district, by qualified voters of said district on grounds of incompetency, misconduct or malfeasance in office. Any member of the City Council who ceases to possess the required qualifications for office, or who is convicted, while in office, of a felony or misdemeanor involving moral turpitude shall forfeit his or her office, which forfeiture shall be declared and enforced by a majority vote of the total membership of the City Council.

### **Section 2. Petitions for Recall**

Prior to a petition and a gathering of signatures demanding a recall, the petition demanding the question to be so submitted must first be filed with the person performing the duties of City Secretary. A petition to recall a member of the City Council shall be signed by qualified voters residing in member's district equal in number to thirty percent (30%) of the number of votes cast in the last election conducted in such member's district or one hundred (100) petitioners, whichever is greater. A petition to recall the Mayor shall be signed by qualified voters residing in the City equal in number of thirty percent (30%) of the number of votes cast in the last municipal election for Mayor or five hundred (500) petitioners, whichever is greater. Each signer of the petition for recall of a Councilmember shall be a resident of such member's district or if for recall of the Mayor, such signer shall be a resident to the City. In addition, each signer shall personally sign his name in ink or indelible pencil, and shall write after his name, his or her place of residence and the day, the month, and the year his or her signature was affixed.

#### **EDITOR'S NOTE:**

*In a Joint Motion filed March 2, 1984 in U.S. District Court, this section was amended by the districting of the city. By order of the court, Councilmembers may only be recalled by the qualified*

*voters of the district from which they are elected, not by the voters of the entire city. The Mayor and those individuals appointed by the Council may be subject to recall by the voters of the entire City.*

### **Section 3. Form of Recall Petition**

The recall petition mentioned above must be addressed to the City Council of the City of Pleasanton, must distinctly and specifically point out the ground or grounds upon which the petition for removal is predicated, and if there is more than one ground for removal, the petition shall specifically state each ground clearly. The City legal attorney shall be authorized to file suit in District Court to determine the legal sufficiency of the grounds and proof for removal. The signature of the person presenting the petition to the person performing the duties of City Secretary shall be verified by oath in the following form:

THE STATE OF TEXAS  
COUNTY OF ATASCOSA

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

Sworn and subscribed to before me this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_\_.

\_\_\_\_\_  
Notary Public in and for  
Atascosa County, Texas

**Section 4. Various Papers Constituting Petition**

The petition may consist of one (1) or more copies, or subscription lists, circulated separately, and the signature thereto may be upon the paper or papers containing the form of petition, or upon any other papers attached. Verifications provided for in the next preceding section of this Article may be made by one (1) or more petitioners, and the several parts or copies of the petition may be filed separately and by different persons; any signatures placed on the petition more than forty-five (45) days prior to the filing of such petition shall be ineffective and not be counted. All papers comprising a recall petition shall be filed with the person performing the duties of City Secretary on the same day, and the Secretary shall immediately notify, in writing, the officer sought to be removed, by mailing notice to his or her Pleasanton address.

**Section 5. 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 the City Secretary shall present the petition to the City Council of the City of Pleasanton.

**Section 6. Public Hearing**

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

## **Section 7. Election to be Called**

If the officer whose removal is sought does not resign, then it shall become the duty of the City Council to order an election and fix a date for holding a recall election; the date of the election shall be the next available official election day as set by Texas Election Code.

## **Section 8. Ballots in Recall Elections**

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 9. 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 or she shall continue in office for the remainder of his or her unexpired term. If a majority of the votes cast at such an election be “YES”, that is, for the recall of the person named on the ballot, he or she shall be deemed removed from office and the vacancy filled as vacancies in the City Council are filled as provided in Article IV, Section 6 of this Charter.

## **Section 10. Recall, Restrictions Thereon**

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

## **Section 11. Failure of City Council to Call an Election**

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

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

## **Section 1. General Power**

The qualified voters of the City of Pleasanton, in addition to the method of legislation hereinbefore

provided, shall have the power to direct legislation by initiative and referendum.

## **Section 2. Initiative**

Qualified voters of the City of Pleasanton may initiate legislation, except an ordinance appropriating money or authorizing the levy of taxes, or zoning, or annexations, or one repealing such an ordinance, by submitting a petition addressed to the City Council which requests the submission of a proposed ordinance or resolution to a vote of the voters of the City. The petition must be signed by qualified voters of the city equal in number to thirty (30) percent of the number of votes cast in the last regular municipal election of the city, or five hundred (500), whichever is greater, and each copy of the petition shall be signed in the same manner as recall petitions are signed, as provided in Article XII, Section 2 of this Charter, and shall be verified by oath in the manner and form provided for in recall petitions as given in Article XII, Section 3 of this Charter. The petition may consist of one (1) or more copies as permitted for recall petitions in Article XII, Section 4 of this Charter. The petition shall be filed with the person performing the duties of City Secretary. Within five (5) days after filing the petition, the person performing the duties of City Secretary shall present the petition and proposed ordinance or resolution to the City Council. 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 the receipt thereof), to pass and adopt the ordinance or resolution without alteration as to meaning or effect in the opinion of the persons filing the petition, or to call a special election, to be held on the next available official election day as set by Texas Election Code, at which time the qualified voters of the City of Pleasanton shall vote on the question of adopting or rejecting the proposed legislation. 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.

## **Section 3. Referendum**

Qualified voters of the City of Pleasanton may require that any ordinance or resolution, with the exception of ordinances or resolutions levying taxes, appropriating money, or authorizing the issuance of either tax bonds or revenue bonds, whether original or refunding, passed by the City Council, be submitted to the voters of the City for approval or disapproval, by submitting a petition for this purpose within thirty (30) days after final passage of said ordinance or resolution, or within thirty (30) days after its publication. Said petition shall be addressed, prepared, signed, and verified as required for petitions initiating legislation as provided in Article XIII, Section 2 of this Charter, and shall be submitted to the person performing the duties of the City Secretary. Immediately upon the filing of such petition, the person performing the duties of City Secretary shall present said petition to the City Council. Thereupon the City Council shall immediately reconsider such ordinance or resolution and, if it does not entirely repeal the same, shall submit it to popular vote as provided in Article XIII, Section 2 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 vote in favor of retaining the ordinance or resolution.

## **Section 4. Voluntary Submission of Legislation by the Council**

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

## **Section 5. 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”  
“AGAINST THE ORDINANCE”  
or  
“FOR THE RESOLUTION”  
“AGAINST THE RESOLUTION”

**Section 6. Publication of Proposed and Referred Ordinances**

The person performing the duties of City Secretary shall publish at least once in the official newspaper of the City the proposed or referred ordinance or resolution submitted for public vote within fifteen (15) days of the election, and shall give such other notices and do such other things relative to the election as required in general municipal elections or by the ordinance or resolution calling said election.

**Section 7. Adoption of Ordinances**

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

**Section 8. Inconsistent Ordinance**

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 greatest number of votes shall prevail.

**Section 9. Ordinances Passed by Popular Vote, Repeal or Amendment**

No ordinance or resolution which may have been passed by the City Council upon a petition or adopted by popular vote under the provisions of this Article shall be repealed or amended, except by the City Council, in response to a referendum petition or by submission to popular vote as provided in Article XIII, Sections 3 and 4 of this Charter.

**Section 10. Further Regulations by City Council**

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

**Section 11. Franchise Ordinances**

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

## ***ARTICLE XIV. THE BUDGET***

### **Section 1. Fiscal Year**

The fiscal year of the City of Pleasanton shall begin on the first day of October of each year and shall end the last day of September of the next succeeding calendar year.

### **Section 2. Preparation, Submission, and Content of Budget**

The City Manager shall submit a proposed budget containing a complete financial plan for the fiscal year. The budget shall be submitted to the City Council not more than one hundred twenty (120) days but not less than sixty (60) days prior to the beginning of each fiscal year. The budget shall contain the following:

- a. A budget explanatory message;
- b. A consolidated statement of receipts and expenditures, for all funds;
- c. An analysis of property valuations;
- d. An analysis of tax rate;
- e. Tax levies and tax collections by years for at least five (5) years;
- f. General fund resources in detail;
- g. Summary of proposed expenditures by function, department and activity;
- h. Summary of proposed expenditures by character and object;
- i. Detailed estimates of expenditures shown separately for each activity to support summaries, items “g” and “h” above. Such estimates of expenditures are to include an itemization of positions showing the number of persons having each title and the rate of pay;
- j. A revenue and expense statement for all types of bonds;
- k. A description of all bond issues outstanding, showing rate of interest, date of issue, maturity day, amount authorized, amount issued and amount outstanding;
- l. A schedule of requirements for the principal and interest on each issue of bonds;
- m. A special funds section;
- n. The appropriation ordinance;
- o. The tax levying ordinance;
- p. A capital improvement program for the budget year and proposed method of financing;
- q. A plan for capital improvement covering the next five (5) years and proposed method of financing;
- r. A summary of the condition of machinery, equipment, and buildings; and

- s. A suggested legislative program and the highlights of the proposed administrative program.

### **Section 3. Budget a Public Record**

The proposed budget shall be filed with the City Secretary and shall be available for public inspection.

### **Section 4. Publication of Notice of Public Hearing**

At the meeting of the Council at which the budget and budget message are submitted, the Council shall determine the place and time of the public hearing on the budget, and shall cause to be published a notice of the place and time of such date for public hearing, to be not less than ten (10) days after date of publication.

### **Section 5. Public Hearing on Budget**

At the time and place so advertised, or at any time and place to which such public hearing shall from time to time be adjourned, the Council shall hold a public hearing on the budget as submitted, at which all interested persons shall be given an opportunity to be heard, for or against the estimates or any item thereof.

### **Section 6. Proceeding on Adoption of Proposed Budget**

After public hearing, the Council shall analyze the proposed budget, making any additions or deletions which it feels appropriate, and shall, at least ten (10) days prior to the beginning of the next fiscal year, adopt a budget by a majority vote. No budget shall be adopted or appropriations made unless the total of estimated income and funds available shall be equal to or in excess of such budget or appropriations.

### **Section 7. Appropriation**

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

### **Section 8. 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.

### **Section 9. Anticipated Revenues and Expenses Compared with Other Years**

In parallel columns opposite the several items of revenue and proposed expenditures there shall be placed the actual amount of such item for the last completed fiscal year, the estimated amount for the current fiscal year, and the proposed amount for the ensuing budget year.

## **Section 10. Contingent Appropriation**

Provision shall be made in the annual budget and in the appropriation ordinance for a contingent appropriation in an amount not more than three (3) percent of the total general fund expenditure, to be used in the case of unforeseen items of expenditures. Such contingent appropriation shall be under the control of the City Manager and distributed by him or her after approval by the City Council. Expenditures from this appropriation shall be made only in case of established emergencies and a detailed account of such expenditures shall be recorded and reported. The proceeds of the contingent appropriation shall be disbursed only by transfer to other departmental appropriations, the spending of which shall be charged to the departments or activities for which the appropriations are made.

## ***ARTICLE XV. BORROWING FOR CAPITAL IMPROVEMENTS***

### **Section 1. 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 the 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.

### **Section 2. Revenue Bonds**

The city shall have the power to borrow money for the purpose of constructing, purchasing, improving, extending or repairing of public utilities, recreational facilities or any other self-liquidating municipal function not prohibited by the Constitution and laws of the State of Texas, and to issue revenue bonds to evidence the obligation created thereby. Such bonds shall be a charge upon and payable solely from the properties, or interest therein, pledged, or the income therefrom, or both, and shall never be a debt of the city. All such bonds shall be issued in conformity with the laws of the State of Texas.

### **Section 3. Sale of Bonds**

No bonds (other than refunding bonds issued to refund and in exchange for 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 and sold in accordance with the terms of this section and having been delivered to the purchasers thereof, shall thereafter be incontestable and all bonds issued to refund and in exchange for outstanding bonds previously issued shall and after said exchange, be incontestable.

## ***ARTICLE XVI. FINANCE ADMINISTRATION***

### **Section 1. Director of Finance; Powers and Duties**

The City Manager shall have charge of the administration of the financial affairs of the City and to that end he or she shall have authority and shall be required to:

- a. Maintain a general accounting system for the City government and each of its offices, departments, and agencies; require bookkeeping and exercise financial budgetary control over each office, department and agency; keep separate accounts for the items of appropriation contained in the city budget, each of which accounts shall show the amount of the appropriation, the amounts paid therefrom, the unpaid obligation against it and the unencumbered balance, require reports of receipts and disbursements from each receiving and spending agency of the city government to be made daily or at such intervals as he or she may deem expedient.
- b. Submit to the Council a monthly statement of all receipts and disbursements in sufficient detail to show the exact financial condition of the City.
- c. Prepare, as of the end of each fiscal year, a complete financial statement and report.
- d. Supervise the activities of the City Secretary who shall serve as ex officio City Treasurer and shall have custody of all public funds belonging to or under the control of the City, or any office, department or agency of the city government, and deposit all funds coming into his or her hands in such depositories as may be designated by resolution of the Council, or, if no such resolution be adopted, by the City Manager, subject to the requirements of law as to surety and the payment of interest on deposits, but all such interest shall be the property of the city and shall be accounted for and credited to the proper account.
- e. Have custody of all investments and invested funds of the city government, or in possession of such government in a fiduciary capacity, and have the safekeeping of all bonds and notes of the city and the receipt and delivery of city bonds and notes for transfer, registration, or exchange.
- f. Supervise and be responsible for the purchase, storage, and distribution of all supplies, materials, equipment, and other articles used by any office, department, or agency of the city government.
- g. Approve all proposed expenditures. Unless he or she shall certify that there is an unencumbered balance of appropriation and available funds, no appropriation shall be encumbered and no expenditure shall be made.
- h. Prescribe the forms of receipts, vouchers, bills, or claims to be used by all the offices, departments, and agencies of the city government.
- i. Audit and approve before payment all bills, invoices, payrolls, and other evidences of claims, demands, and charges against the city government and with the advice of the city attorney determine the regularity, legality, and correctness of such claims, demands, or charges.
- j. Inspect and audit any accounts or records of financial transactions which may be maintained in any office, department, or agency of the city government apart from or subsidiary to the accounts kept in his or her office.
- k. There shall be an annual audit to 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 a licensed public accountant who shall be selected by the City Council, and such audit shall be performed insuring systems integrity. The audit shall be executed in a manner that maintains accountability of all financial records, in accordance with established accounting procedures. Such accountant, so selected, shall not maintain or keep any of the City's accounts or records.

## **Section 2. Transfer of Appropriations**

The City Manager may at any time transfer any unencumbered appropriation balance or portion thereof between general classifications of expenditures, within the same department. At the request of the City Manager, the Council may order the transfer of any unencumbered appropriation balance or portion thereof from one department to another department.

## **Section 3. Appropriations Lapse at End of Year**

All appropriations shall lapse at the end of the budget year to the extent that they shall not have been expended or lawfully encumbered.

## **Section 4. Fees Shall Be Paid to City Government**

All fees for city services received by any officer or employee shall belong to the city government and shall be deposited to the appropriate fund at such time as required by the City Manager.

## **Section 5. Sale of City Property; Procedure**

The City Council may authorize the sale of personal property belonging to the City by auction, advertised bid or sale to another governmental agency, providing the City obtains the fair market value set by the City Council for the personal property. Sale of real property shall be conducted in accordance with applicable state law.

## **Section 6. Purchase Procedure**

Before the City Council makes any non-budgeted purchase of contract for supplies, materials, equipment or contractual services (but not including professional services), opportunity shall be given for competition. The City Manager shall have authority to make expenditures without the approval of the City Council for all budget items not exceeding twenty-five thousand dollars (\$25,000.00). Any expenditure involving more than twenty-five thousand dollars (\$25,000.00) must be expressly approved by the City Council. All contracts or purchases involving more than twenty-five thousand dollars (\$25,000.00) shall be let to the lowest and best bid by a responsible bidder after there has been an opportunity for competitive bidding. Where an expenditure of more than twenty-five thousand dollars (\$25,000.00) is involved, notice of the time and place when and where such contract shall be let shall be published in the official newspaper of the City of Pleasanton once a week for two (2) consecutive weeks prior to the time for making such purchase or letting such contract, provided, however that the City Council shall have the right to reject any and all bids; and provided further that nothing herein shall apply to contracts for professional services nor to work done by the City and paid for by the day as such work progresses.

## **Section 7. Emergency Purchase of Materials and Services**

When, in the opinion of the Mayor, the City Manager and if appropriate, a department head, any emergency exists, the nature of which makes it impracticable to following ordinary purchase procedures as set out in this Charter, emergency purchases of materials and services may be made by the City Manager upon the written certificate of the Mayor, the City Manager and such department head, filed promptly with the City Secretary. Non-budgeted purchases made under the provisions of this section shall not exceed twenty-five thousand dollars (\$25,000.00) for any one emergency. The form of notice shall read:

We, the undersigned, Mayor, City Manager, and department head, hereby certify that an emergency has occurred making it impracticable to follow ordinary purchase procedures as set out in the City Charter of the City of Pleasanton, Texas, and it is urgent the city purchase materials and/or services of the value of not more than twenty-five thousand dollars (\$25,000.00) the nature of same being generally as follows:

(General Description .....)

\_\_\_\_\_

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
City Manager

\_\_\_\_\_  
Department Head

When such an emergency occurs and the cost of the materials and services are known to be, or are estimated by the City Manager, to exceed twenty-five thousand dollars (\$25,000.00), the Mayor shall forthwith call a special meeting of the City Council to be held at the earliest date and time for the purpose of taking appropriate action under such emergency.

**Section 8. Contracts for City Improvements**

Any city improvement costing more than five thousand dollars (\$5,000.00) shall be executed by contract except where such improvement is authorized by the City Council to be executed directly by a city department in conformity with detailed plans, specifications, and estimates. All such contracts for more than five thousand dollars (\$5,000.00) shall be awarded to the lowest responsible bidder bidding in conformity with detailed plans and specifications approved by the City Council after such public notice and competition as may be prescribed, provided the City Council shall have the power to reject any or all bids. Except in case of emergency, alterations in any contract not to exceed twenty-five (25) percent of the total contract may be made when authorized by the Council. The contract may be decreased more than twenty-five (25) percent with the consent of the contractor.

**Section 9. Accounting Control of Purchases**

All purchases made and contracts executed shall be pursuant to a written requisition from the head of the office, department, or agency whose appropriation will be charged, and no contract or order shall be issued to any vendor unless and until the City Manager certifies that there is to the credit of such office, department, or agency, a sufficient unencumbered appropriated balance to pay for the supplies, materials, equipment, or contractual services, for which the contract or order is to be issued.

**Section 10. Disbursement of Funds**

All checks, vouchers, or warrants for the withdrawal of money from the City depository shall be signed by the City Secretary or his or her deputy, and countersigned by the City Manager or designated alternate.

**Section 11. Borrowing in Anticipation of Property Taxes**

In any budget year, in anticipation of the collection of the property tax for such year, whether levied or to be levied in such year, the Council may by resolution authorize the borrowing of money by the issuance of negotiable notes of the city, each of which shall be designated "tax anticipation note for

the year 19\_\_ (stating the budget year). Such notes shall mature and be payable not later than the end of the fiscal year in which the original notes have been issued.

## **Section 12. Sale of Notes, Report of Sale**

All notes issued pursuant to this Article shall be advertised for sale and sold at the best price and interest rate offered, but, in any event, such note or notes shall be made by the City Manager, after authorization by the City Council.

## ***ARTICLE XVII. TAX ADMINISTRATION***

### **Section 1. Appraisal, Assessment and Collection**

The appraisal, assessment, and collection of taxes shall be in conformity with the Tax Code of the State of Texas (Acts of the 1979 66th Legislature, Chapter 841, as amended).

## ***ARTICLE XVIII. FRANCHISES AND PUBLIC UTILITIES***

### **Section 1. Powers of the City**

In addition to the city's power to buy, own, construct, maintain and operate utilities and to manufacture and distribute electricity, gas or anything else that may be needed or used by the public, the city shall have further powers as may now or hereafter be granted under the Constitution and laws of the State of Texas.

### **Section 2. Franchises; Power of the Council**

The City Council shall have power by ordinance to grant, amend, renew and extend all franchises of all public utilities of every character operating within the City of Pleasanton. No franchise shall exceed the term of twenty-five (25) years. All ordinances granting, amending, renewing or extending franchises for public utilities shall be read at two (2) separate regular meetings of the City Council, and shall not be finally passed until thirty (30) days after its final passage; and pending such time, the full text of such ordinance shall be published once each week for four (4) consecutive weeks in the official newspaper of the City of Pleasanton, and the expense of such publication shall be borne by the proponent of the franchise. No public utility franchise shall be transferable except with the approval of the Council expressed by ordinance.

### **Section 3. Franchise; Value Not To Be Allowed**

No value shall be assigned to any franchise granted by the city under this Charter in fixing reasonable rates and charges for utility service within the city and in determining the just compensation to be paid by the city for public utility property which the city may acquire by condemnation or otherwise.

### **Section 4. Right of Regulation**

All grants, renewals, extensions or amendments of public utility franchises, whether it be so provided in the ordinance or not, shall be subject to the right of the city.

a. To repeal the same by ordinance at any time upon the failure to begin construction within the time prescribed or otherwise to comply with the terms of the franchise, such power to be exercised only after due notice and hearing.

b. To require adequate extensions of plants and services, and the maintenance of the plants and fixtures at the highest reasonable standard of efficiency.

c. To establish reasonable standards of service and quality of products and prevent unjust discrimination in service or rates.

d. To prescribe the form of accounts kept by each utility; provided, that if the utility shall keep its accounts in accordance with the uniform system of accounts for said utility prescribed by the Railroad Commission of Texas and the Public Utility Commission of Texas, their successor or successors, this shall be deemed sufficient compliance with this paragraph.

e. At any time examine and audit the account and other records of any such utility and to require annual and other reports on local operations by each such public utility.

f. To impose such reasonable regulations and restrictions as may be deemed desirable or conducive to the safety, welfare and accommodation of the public.

g. To any time require such compensation and rental as may be permitted by the laws of the State of Texas.

## **Section 5. Consent of Property Owners**

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

## **Section 6. Extensions**

All extensions of public utilities within the city limits shall become a part of the aggregate property of the public utility, shall be operated as such, and shall be subject to all the obligations and reserved rights contained in this Charter and in any original grant hereafter made. The right to use and maintain any extension shall terminate with the original grant and shall be terminable as provided in Section 4. In case of an extension of a public utility operated under a franchise hereafter granted, such right shall be terminable at the same time and under the same conditions as the original grant.

## **Section 7. Other Conditions**

All franchises heretofore granted are recognized as contracts between the City of Pleasanton and the grantee, and the contractual rights as contained in any such franchise shall not be impaired by the provisions of this Charter, except that the power of the City of Pleasanton to exercise the right of eminent domain in the acquisition of utility property is in all things reserved, and except the general power of the city heretofore existing and herein provided for to regulate the rates and services of a grantee which shall include the right to require proper and adequate extension of the plant and service and the maintenance of the plant and fixtures at the highest reasonable standard of efficiency. Every public utility franchise hereafter granted shall be held subject to all the terms and conditions contained in the various sections of this Article whether or not such terms are specifically mentioned in the franchise. Nothing in this Charter shall operate to limit in any way, as specifically stated, the discretion of the City Council or electors of the City in imposing terms and conditions as may be reasonable in connection with any franchise grant.

### **Section 8. Accounts of Municipally-Owned Utilities**

Accounts shall be kept for each public utility owned or operated by the city, in such a manner as to show the true and complete financial results of such city ownership and operation, including all assets, 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 the actual capital cost to the city of each public utility owned, also the cost of all extensions, additions and improvements, and the source of funds expended for such capital purposes. They shall show as nearly as possible the cost of any service furnished to or rendered by any such utility to any city or governmental department. The City Council shall cause a semi-annual report to be made by a qualified 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 data as the City Council shall deem expedient.

### **Section 9. Regulation of Rates and Services**

The City Council shall have the full power to regulate by ordinance the rates and charges for utility and other services furnished by the city and by public and private companies operating in the City of Pleasanton. Notice of any proposed increase in utility rates and service costs shall be given the residents of the city by publishing notice thereof one (1) time in the City's official newspaper at least ten (10) days prior to the date of a public hearing which shall be held on such proposal. The notice shall state the time and place of the hearing, the name of the proponent and the type of utility or service for which the rate increase is sought. The proponent shall pay the full cost of such notice and a correct stenographic transcript of the hearing, which the Council may at its discretion require be made. A copy of such transcript shall be filed with the City Secretary and made available to any citizen upon receipt and reasonable deposit to insure its safe return under such rules and regulations as the City Council may prescribe. No notice need be given nor public hearing had where the rate change is solely one of a rate reduction.

## ***ARTICLE XIX. GENERAL PROVISIONS***

### **Section 1. Publicity of Records**

All records and accounts of every office, department or agency of the city shall be open to inspection by any citizen, any representative of a citizens' organization or any representative of the press at all reasonable times, except where such information is deemed confidential by the Texas Open Records Act, Article 6252-17a, Vernon's Texas Civil Statutes.

## **Section 2. Private Development**

The City Council shall never authorize the expenditure of public funds for the development of a privately owned subdivision. In this section a subdivision shall be deemed to be privately owned when the owner or owners, whether individual, partnership, corporation or other body, shall have filed a plat as required by this Charter, and shall have undertaken the sale of lots or parcels from the platted area. The prohibition herein shall not apply to extension of utilities or services to any incorporated area for the purpose of serving existing houses, housing facilities or commercial buildings.

## **Section 3. Notice of Claim Against City for Damages**

Before the City of Pleasanton shall be liable for damages for personal injuries to or destruction of property, the person, or the owner of the property injured or destroyed, or someone in his or her behalf (or in the case the injuries result in death, the person who may have a cause of action under the law by reason of such death), shall give the City Secretary notice in writing of such injury or destruction duly verified, within thirty (30) days after the same has been sustained, stating in such written notice when, where and how the injury or destruction occurred, and the apparent extent thereof, the amount of damage sustained, the amount for which claimant will settle, the actual residence of the claimant by street and number at the date the claim is presented, and the actual residence of such claimant for six (6) months immediately preceding the occurrence of such injuries or destruction, and the names and addresses of the witnesses upon whom he or she relies to establish his or her claim. A failure to so notify the City Secretary within the time and manner specified herein shall exonerate, excuse and exempt the city from any liability whatsoever. In the event a claim for injury or damages has been processed and duly investigated by or on behalf of the insurance carrier with whom the City carries the applicable insurance coverage, neither the City Council nor any City official may overturn the final determination of the insurance carrier.

## **Section 4. Drilling Operations**

The Council shall by ordinance provide regulations for the drilling, spacing, completion and operation of oil, gas, and commercial, industrial, and residential water wells within the territorial limits of the City of Pleasanton.

## **Section 5. Nepotism**

No person related within the second degree of affinity, or within the third degree of 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. This provision shall not apply, however, to any person who shall have been employed by the city six months prior to and at the time of the election of the Mayor or Councilmember, or appointment of the City Manager, so related to him or her, in accordance with the laws of the State of Texas.

## **Section 6. Public Library**

The City Council shall have the authority to establish and maintain a free public library within the City and to cooperate with any person, firm, association or corporation under such terms as the City Council may prescribe for the establishment of such free public library. For budget purposes, the library shall be considered as a department of the City and the appropriations therefor shall comply with all the budgetary requirements as outlined in this Charter and as may be prescribed from time to

time by the City Council.

## **Section 7. Zoning Ordinances**

For the purpose of promoting the health, safety, morals, or general welfare of the City, the Council may by ordinance regulate the location, height, bulk and size of buildings and other structures, the size of yards, courts and other open spaces, the density of population and the uses of buildings, structures and land for trade, industry, business, residence or other purposes. Such ordinances may provide that the zoning board of adjustment may, in appropriate cases and subject to appropriate principles, standards, rules, conditions and safeguards set forth in the ordinances, make special exceptions to the terms of the zoning regulations in harmony with their general purpose and intent. Such ordinances may provide that the zoning board of adjustment may authorize variances from the strict application of the regulations in such situations and subject to such limitations as may be set forth in ordinance. All of the powers granted by Section 211.001-211.021, Local Government Code, Vernon's Texas Codes Annotated, together with existing amendments and all amendments as hereinafter may be made relating to zoning in cities, are hereby adopted and made a part of this charter.

## **Section 8. Provisions Relating to Assignment, Execution, and Garnishment**

The property, real and personal, belonging to the city shall not be liable to be sold or appropriated under any writ of execution of cost bill. The funds belonging to the city, in the hands of any person, firm or corporation, shall not be liable to garnishment, attachment, or sequestration; nor shall the city be liable to garnishment on account of any debt it may owe or funds or property it may have on hand or owing to any person. Neither the city nor any of its officers or agents shall be required to answer any such writ of garnishment on any account whatever. The city shall not be obligated to recognize any assignment of wages or funds by its employees, agents or contractors.

## **Section 9. 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 Pleasanton is a party, for any bond, undertaking or security to be demanded or executed by or on behalf of said city in any of the state courts, but in all such actions, suits, appeals or proceedings same shall be conducted in the same manner as if such bond, undertaking or security had been given as required by law, and said city shall be just as liable as if security or bond had been duly executed.

## **Section 10. Effect of This Charter on Existing Law**

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

## **Section 11. Interim Municipal Government**

a. Upon the adoption of this Charter, those persons holding elective offices shall continue to serve until the expiration of their present terms, and thereafter shall be elected as provided in this Charter.

b. During such interim, persons, who on the date this Charter is adopted, are employed or filling

appointive positions with the City of Pleasanton which are retained under this Charter, may continue to fill those positions for the term for which they were employed or appointed.

c. All rights, claims, orders, contracts, and legal or administrative proceedings shall continue except as modified pursuant to the provisions of this Charter and in each case shall be maintained, carried on, or dealt with by the city department, office, or agency appropriate under this Charter.

d. The budget in effect immediately preceding the adoption of this Charter shall remain in effect for the balance of the fiscal year and until such time as a new budget is adopted for the next succeeding year.

## **Section 12. Amending the Charter**

The Home Rule Charter of the City of Pleasanton, Texas shall be reviewed every two (2) years by a Charter Review Committee. The Charter Review Committee shall consist of seven (7) members, one (1) appointed by the Mayor, and the other six (6) members are appointed by each Councilmember in office at that time, from his or her district. Amendments to this Charter may still be framed and submitted to the voters of the City in the manner provided in Section 9.004 of the Texas Local Government Code, as now or hereafter amended.

## **Section 13. Separability Clause**

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

## **Section 14. Submission of Charter to Electors**

The Charter Commission in preparing this Charter finds and decides that it is impracticable to segregate each subject so as to permit a vote of “yes” or “no” on the same, for the reason that the Charter is so constructed that in order to enable it to work and function it is necessary that it should be adopted in its entirety. For these reasons, the Charter Commission directs that the Charter be voted upon as a whole and that it shall be submitted to the qualified voters of the City of Pleasanton at an election to be held for that purpose. If a majority of the qualified electors voting in such election shall vote in favor of the adoption of this Charter, it shall become the Charter of the City of Pleasanton, and after the returns have been canvassed, the same shall be declared adopted and the City Secretary shall file an official copy of the Charter with the records of the city. The City Secretary shall furnish the Mayor a copy of said Charter, which copy of the Charter so adopted, authenticated and certified by his or her signature and the seal of the city, shall be forwarded by the Mayor to the Secretary of State of the State of Texas and shall show the approval of such Charter by majority vote of the qualified electors voting at such election. In not less than thirty (30) days prior to such election, the City Council shall cause the City Secretary to mail a copy of this Charter to each qualified voter of the City of Pleasanton.