

ORDINANCE NO. 2020-37

AN ORDINANCE OF THE CITY OF IOWA COLONY, TEXAS, FOR THE PURPOSE OF CANVASSING AN ELECTION AND DECLARING ELECTION RESULTS CONCERNING THE **IOWA COLONY HOME RULE CHARTER**; RATIFYING ALL ACTIONS CONCERNING SUCH ELECTION; CONTAINING FINDINGS OF FACT; AND PROVIDING A SEVERANCE CLAUSE AND EFFECTIVE DATE.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF IOWA COLONY, TEXAS:

SECTION 1. This ordinance applies to the election held by the City of Iowa Colony, Texas ("the City"), on November 3, 2020, on the adoption of a home rule charter.

SECTION 2. The City Council hereby finds the following facts:

- (a) Notice of this election was given as required by law.
- (b) This election was called and in all ways held as required by law.
- (c) Only qualified voters voted in this election.
- (d) There were 0 write in votes in this election.
- (e) There were 143 absentee ballots cast, 2,897 early voting ballots cast, and 305 ballots cast on election day, for a total of 3,345 ballots cast.
- (f) The returns of this election have been prepared and presented as provided by law, and the results are as follows:

On the following proposition:

"The adoption by the City of Iowa Colony of the Home Rule Charter proposed by the Iowa Colony Charter Commission."

Votes for the Proposition:	1,705
Votes Against the Proposition:	885
Votes by which the Proposition was Approved:	820

SECTION 3. A true copy of the election returns is attached hereto as Exhibit "A" and incorporated herein in full. Those election returns are marked "Unofficial" only because they were printed before this ordinance was passed. The passage of this ordinance makes those election returns official.

SECTION 4. The City Council hereby declares that the proposition stated herein has been passed and approved in the election, and that the Home Rule Charter of the City of Iowa Colony, Texas, has been adopted. A true copy of the adopted Home Rule Charter of the City of Iowa Colony, Texas, is attached hereto as Exhibit "B" and incorporated herein in full.

SECTION 5. All actions taken by any officer of the City in connection with this election are hereby ratified.

SECTION 6. If any part of this ordinance, of whatever size, is ever declared invalid or unenforceable for any reason, the remainder of this ordinance shall remain in full force and effect.

SECTION 7. This ordinance shall be effective immediately upon its passage and approval.

PASSED AND APPROVED this 16th of November, 2020.

CITY OF IOWA COLONY, TEXAS



MICHAEL BYRUM-BRATSEN,
MAYOR

ATTEST:



KAYLEEN ROSSER, CITY SECRETARY



EXHIBIT “A”

ELECTION RETURNS

**City of Iowa Colony
Cumulative Report**

2020 General & Joint Election

Run Time 5:19 PM
Run Date 11/16/2020

Brazoria County

2020 General & Joint Election

11/3/2020

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Unofficial Results

Registered Voters

3346 of 4447 = 75.24%

Polling Places Reporting

46 of 46 = 100.00%

Council Position 1

Choice	Party	Absentee		Early Voting		Election Day		Total	
David Edward Dean	NP	10	9.90%	321	14.92%	34	15.38%	365	14.76%
Michael (Buck) Holton	NP	23	22.77%	376	17.48%	43	19.46%	442	17.87%
Sydney Hargroder	NP	23	22.77%	651	30.26%	63	28.51%	737	29.80%
Waylan Rhodes	NP	14	13.86%	266	12.37%	20	9.05%	300	12.13%
Douglas Marshall Chumley	NP	31	30.69%	537	24.97%	61	27.60%	629	25.43%
Cast Votes:		101	100.00%	2,151	100.00%	221	100.00%	2,473	100.00%
Undervotes:		42		747		84		873	
Overvotes:		0		0		0		0	

Council Position 2

Choice	Party	Absentee		Early Voting		Election Day		Total	
Arnetta Murray	NP	51	48.57%	1,090	48.90%	91	41.55%	1,232	48.26%
Gerane Padilla-Kerr	NP	17	16.19%	258	11.57%	20	9.13%	295	11.56%
Rebecca M. Hester	NP	37	35.24%	881	39.52%	108	49.32%	1,026	40.19%
Cast Votes:		105	100.00%	2,229	100.00%	219	100.00%	2,553	100.00%
Undervotes:		38		669		86		793	
Overvotes:		0		0		0		0	

City of Iowa Colony Proposed Amendment A

Choice	Party	Absentee		Early Voting		Election Day		Total	
For		72	61.54%	1,507	67.01%	126	56.25%	1,705	65.83%
Against		45	38.46%	742	32.99%	98	43.75%	885	34.17%
Cast Votes:		117	100.00%	2,249	100.00%	224	100.00%	2,590	100.00%
Undervotes:		26		649		81		756	
Overvotes:		0		0		0		0	

*** End of report ***

EXHIBIT “B”

HOME RULE CHARTER OF THE CITY OF IOWA COLONY, TEXAS



12003 Iowa Colony Blvd.
Iowa Colony, Tx. 77583
Phone: 281-369-2471
Fax: 281-369-0005
www.iowacolonytx.gov

Citizens of Iowa Colony:

On behalf of the fifteen member Iowa Colony Charter Commission,
I am pleased to distribute this proposed City Charter for your consideration.

A City Charter is an important document and an important milestone for our City government.
This document outlines a governance process that will set the tone for our community for many
years to come.

Currently the City is governed by the general laws of the state of Texas.
Now that Iowa Colony has passed 5,000 citizens, we can govern ourselves.

Each of the Charter Commission members are residents of our city.

The Commission was appointed in 2019 and recommended the Charter to the City Council in
March 2020.

However, due to the delay in the May election, it is only now being placed on the ballot for your
consideration.

Each member participated heartily in the process and they recommended this document on a
unanimous vote.

Please review closely our Charter.

We commend this Charter to the citizens of Iowa Colony and urge its adoption.

It is our belief that this Charter will permit our City Government to operate in a more effective
and satisfactory manner to the best interest of all citizens.

If you have any questions about the Charter, please feel free to contact any of the members.

Their names are listed in the document.

Sincerely,

Sydney Hargroder
Charter Commission Chair

**HOME RULE CHARTER
OF THE
CITY OF IOWA COLONY, TEXAS**

PREAMBLE

We, the citizens of Iowa Colony, Texas, in order to establish a home rule municipal government, provide for the future progress of our city, obtain more fully the benefits of local self-government, and provide for the public health, safety, and welfare, hereby adopt this Home Rule Charter in accordance with the constitution and statutes of the State of Texas.

ARTICLE 1. INCORPORATION, FORM OF GOVERNMENT, AND BOUNDARIES

Sec. 1.01. Incorporation

All inhabitants of the City of Iowa Colony, Texas, within the boundaries of this city as now established or as later amended, shall continue to constitute a municipal body politic and shall be incorporated forever as a home rule city under the name "City of Iowa Colony" (sometimes herein called the "city") with all powers, rights, authority, privileges, obligations, and immunities provided herein or by law.

Sec. 1.02. 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 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 execute the laws and administer 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 the state.

Sec. 1.03. The Boundaries

a. **Establishment of Boundaries.** The boundaries and extraterritorial jurisdiction of the city shall be as they exist when this charter is adopted, until changed as provided by law. Any authority or provision herein to establish or change the city's boundaries shall also establish and authorize changes to the extraterritorial jurisdiction.

b. **Official Map.** The City Secretary shall at all times keep on file a correct and complete description and official map of the city boundaries and extraterritorial jurisdiction.

Sec. 1.04. Extension of Boundaries

The extraterritorial jurisdiction and boundaries of the city may hereafter be enlarged and extended authorized under the terms and provisions of Texas Local Government Code chapters 42 and 43, as now existing or later amended, or as otherwise provided by law.

Sec. 1.05. Contraction of Boundaries

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

b. **Authority from Other Law.** In addition, the city may remove territory from the extraterritorial jurisdiction or city limits as provided by law.

ARTICLE 2. POWERS OF THE CITY

Sec. 2.01. General

The city may use a corporate seal; may sue and be sued; may contract and be contracted with; may implead and be impleaded in all courts in all matters whatsoever; may cooperate with the government of the State of Texas or any agency thereof, the federal government or any agency thereof, or any political subdivision of the State of Texas; and shall have all the powers granted to cities by the constitution and laws of the State of Texas, together with all the implied powers necessary or convenient to carry into execution all the powers granted. The city may acquire property within or without its boundaries for any municipal purpose in fee simple or in any lesser interest or estate, by purchase, gift, devise, lease or condemnation and may sell, lease, hold, manage and control any property now owned by it or which it may later acquire; and may construct, own, lease, operate and regulate public utilities; may assess, levy and collect taxes for general and special purposes on all lawful subjects of taxation; may borrow money on the faith and credit of the city by the issuance and sale of bonds, notes, or other lawful debt instruments 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 residences; and may provide suitable penalties for the violation of any ordinance enacted by the city; and, except as prohibited by the constitution and laws of this state or restricted by this charter, the city may exercise all municipal powers, functions, rights, privileges and immunities of every name and nature whatsoever.

Sec. 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, implied hereby, or appropriate to the exercise of those powers, the city shall have and may exercise all powers 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 shall have and may exercise all the powers enumerated in the laws of the State of Texas, as now or later amended.

Sec. 2.03. Eminent Domain

The city shall have the full power of eminent domain, subject to all limitations and restrictions provided by law.

ARTICLE 3. THE CITY COUNCIL

Sec. 3.01. Number, Selection, and Term

a. **General.** The legislative and governing body of the city shall consist of a mayor and six councilmembers and shall be known as the "City Council of the City of Iowa Colony" and is sometimes herein called the "council" or "City Council."

b. **Mayor.** The mayor shall be elected to office from the city at large. The mayor shall be a member of the city council for all purposes.

c. **At Large and District Council Places.** There shall be three at large council places, which shall be designated Position One, Position Two, and Position Three. These three positions shall be elected as at large positions. There shall also be three council places, which shall be designated District A, District B, and District C, and the council members in those places shall reside in and shall be elected from districts to be established and determined as herein provided in compliance with applicable law. Each council place shall constitute a separate office. A person may not be a candidate for more than one place on the council at one time, and a candidate must

specify that place at the time of officially becoming a candidate. Every qualified voter in the city shall be entitled to vote on a candidate for the Mayor and for each at large council position. Only qualified voters who reside within a council district shall be eligible to vote for a candidate for the council place for that district.

d. Staggered Terms

1. Transition Provisions

i. At the general election of city officers in 2020, persons shall be elected to Council Member Positions 1 and 2, which shall be the same as the current Council Member Positions 1 and 2, for two year terms and until their respective successors are rightfully sworn in.

ii. At the general election of city officers in 2021, persons shall be elected to the offices of Mayor and Council Member Positions 4 and 5, which shall be the same as the current positions of Mayor and Council Member Positions 4 and 5, for two year terms and until their respective successors are rightfully sworn in, and a person shall be elected to the office of Council Member Position 3 for a transitional one year term and until his or her successor is rightfully sworn in. For the sole purpose of determining when a successor is sworn in, Council Member District A shall be considered the successor to Council Position 4, and Council Member District B shall be considered the successor to Council Position 5.

2. After the Transition

i. At the general election of city officers in 2022, and in each even numbered year after that, persons shall be elected to the offices of Council Member Positions 1, 2, and 3 for two year terms and until their respective successors are rightfully sworn in.

ii. At the general election of city officers in 2023, and in each odd numbered year after that, persons shall be elected to the offices of Mayor and Council Members Districts A, B, and C for two year terms and until their respective successors are rightfully sworn in.

3. Uniform Election Dates. The annual election of city officers shall be held on the statutory uniform election date in May of each year, except as otherwise provided in response to the COVID-19 pandemic or other emergency measures. If an election of officers is postponed from the May uniform election date because of an emergency, the reference herein to a two year term shall mean two years from the May election date when the election would have been held without the emergency postponement, except as otherwise provided by law.

e. **Term of Office. Elections.** Each council member shall hold office for a period of two years and until his or her successor is rightfully sworn in. A council member whose term ends early due to a resignation or any other reason shall not hold over in office after the resignation or other early termination becomes effective. All elections shall be held in the manner provided in article 5 of this charter and in compliance with law.

f. **District Boundaries**

1. **Initial Districts.** The initial council district boundaries shall be drawn by the Charter Commission members, and they are hereby constituted as the initial District Boundaries Commission for that purpose. The initial district boundaries drawn by the District Boundaries Commission shall be delivered to the mayor and shall not be changed until after the City Council election of May 2022.

2. **Redistricting**

i. Beginning after the City Council election of May 2022, the council may at its discretion review and revise council district boundaries from time to time, and the council must review the district boundaries for possible revision as soon as practicable after the release of data from each decennial federal census. After the initial district boundaries are established, the Charter Review Commission appointed under Section 11.12 shall advise the council on redistricting.

ii. Changing district boundaries shall not require an amendment of this charter and may be done by ordinance, but the number of districts shall not be changed except by an amendment of this charter.

iii. The city must consult with one or more independent experts to ensure the district boundaries are drawn in accordance with applicable law; however, the boundaries shall not be subject to challenge on the grounds that such consultation was not done.

iv. Promptly following the addition of territory to the city by a boundary change, the City Council shall by ordinance add that territory to an adjacent district or districts.

Sec. 3.02. Qualifications. Resign-to-Run

a. **Qualifications.** To be eligible to be a candidate for, elected to, or appointed to the City Council, a person must:

1. Be a United States citizen;
2. Be 21 years of age or older on the first day of the term to be filled at the election or on the date of appointment, as applicable;

3. Have not been determined by a court exercising probate jurisdiction to be:
 - i. Totally mentally incapacitated; or
 - ii. Partially mentally incapacitated without the right to vote;
4. Be a qualified voter of the city, whether registered to vote or not;
5. Have been a resident of the territory from which the office is elected or appointed for 12 months immediately preceding the following date:
 - i. The date of the regular filing deadline for a candidate's application for a place on the ballot;
 - ii. For a write-in candidate, the date of the election for which the candidate's name is written in; or
 - iii. For an appointee to the council, the date of the appointment;
 - iv. If territory is annexed into the city within the 12 month period described in this section, then the person's residence in that territory before the annexation counts toward the residency requirement; and
6. Meet all requirements of applicable law.

b. Resign-to-Run

1. Any of the following events shall constitute an automatic resignation from the office on the council already being held by a person:
 - i. that person officially becomes a candidate for a different office on the council, which act entitles that person to a place on the ballot for that office or to receive write-in votes for that office, unless the term of the earlier office is scheduled to expire at or before the beginning of the term of the office for which the person becomes a candidate; or
 - ii. that person is sworn in to a different office on the council.
2. This subsection "b" does not apply to the office of mayor pro-tem or any office other than council member, which as always in this charter includes the mayor.
3. The city secretary shall give notice on the city's internet website of a vacancy created under this subsection promptly when the vacancy is created. The city secretary shall give notice on that website of any filing period for any special election to fill that vacancy, promptly when the election is ordered.

Sec. 3.03. Council to be Judge of Election and Qualification

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

Sec. 3.04. Compensation

a. **No Compensation for Services.** City council members shall not receive compensation for their services as council members.

b. **Expenses.** City ordinances may provide for and regulate payments to council members for reasonable expenses incurred in the performance of their official duties.

Sec. 3.05. Mayor and Mayor Pro Tem

a. **Mayor.** The mayor shall be the presiding officer of the City Council and may make and second motions, participate in discussions, and vote on all matters under consideration by the council, subject to the same restrictions as any other council member. The mayor shall be the head of the city government for all ceremonial purposes but shall have no regular administrative duties. The mayor shall be the official head of the city for purposes of martial law and of other emergency powers, except to the extent otherwise provided by law. The mayor shall annually present to the council a written report on the state of the city. The mayor shall perform such other duties consistent with the office as may be imposed upon the mayor by this charter, ordinances and resolutions passed pursuant hereto, or other law.

b. **Mayor Pro Tem.** The City Council, at its first meeting after installation of council members after each regular election of council members, shall elect a council member as mayor pro-tem, and he or she shall perform all the duties of the mayor in the absence or disability of the mayor.

Sec. 3.06. Vacancies

a. **Creation of Vacancy.** A vacancy in the office of a council member occurs upon any of the following:

1. The council member fails to maintain the qualifications for that office throughout the term of office, as determined by the council;

2. The council member is absent from three consecutive regularly scheduled council meetings without valid excuse, as determined by the council;

3. The council member resigns voluntarily or involuntarily;

4. The council member is removed from office; or

5. A vacancy otherwise exists by law.

b. Filling Vacancy by Appointment. The council must fill a vacancy on the council by appointment for the remainder of the unexpired term, except as otherwise provided in subsection c.

c. Special Election to Fill Vacancy. However, this subsection applies in either of the following circumstances:

- 1.** There are three or more appointed members on the council; or
- 2.** The vacancy is created by a resignation but not by an automatic resignation, not by a resignation while a recall petition is pending, and not by a disqualification.

Where this subsection applies, the council may fill the vacancy by appointment until the next regularly scheduled date for the election of municipal officers occurring long enough after the creation of the vacancy for an election to fill the vacancy to be held lawfully on that date, and on that date an election must be held to fill the vacancy for the remainder of the unexpired term.

Sec. 3.07. Powers of the City Council. All powers of the city and the determination of all matters of policy shall be vested in the City Council, except as otherwise specifically provided in this charter. Without limitation of the foregoing and among the other powers that may be exercised by the city council, the following are hereby enumerated for greater certainty:

a. Appoint and remove from any office or position of employment in the city government any officer, employee, or member of any board or commission, except as otherwise provided in Sections 4.1, 4.2, or any other provision of this charter.

b. Establish and consolidate any offices or administrative departments and abolish offices or departments established by the council but not by this charter.

c. Adopt the budget of the city.

d. Authorize the issuance of bonds by a bond ordinance.

e. Inquire into the conduct of any office, department or agency of the city and make investigations as to municipal affairs.

f. Provide for any boards and commissions and appoint the members thereof. Such boards and commissions shall have all powers and duties now or later conferred and created by this charter, by city ordinance, or by law.

g. Adopt and modify the zoning plan and the building code of the city.

h. Adopt and modify the official map of the city.

i. Adopt, modify, and carry out plans for urban renewal and economic development.

j. Adopt, modify, and carry out plans proposed by the planning commission for the planning, improvement, and redevelopment of any area destroyed in whole or in part by disaster.

k. Regulate, license, and fix the charges or fares made by any person, firm or corporation owning, operating, or controlling any vehicle of any character used for the carrying of passengers for hire or the transportation of freight for hire on the public streets and alleys of the city.

l. Provide for the establishment and designation of fire limits and prescribe the kind and character of buildings, structures, or improvements to be erected, and provide for the erection of fireproof buildings within those limits, and provide for the condemnation of buildings or structures that are dangerous, dilapidated, or likely to increase the fire hazard, and prescribe the manner of their removal or destruction within those limits.

m. Set the salaries and compensation of the city officers and employees, except to the extent that the council delegates that authority to the city manager.

n. The council may provide for sanitary garbage disposal, set fees and charges therefor, and provide penalties for failure to pay those fees and charges.

o. Exercise exclusive dominion, control, and jurisdiction 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 those as provided in Texas Transportation Code Ch. 313, as now or later amended, or in any applicable law.

p. Compromise and settle any and all claims and lawsuits of every kind and character in favor of or against the city, its officers, or its employees in their official capacity.

Sec. 3.08. Meetings of the City Council

The City Council shall hold at least one regular meeting in each month at a time to be fixed by it for such regular meetings and may hold additional or special meetings when called by the mayor or any two members of the council. All meetings of the City Council shall be public, except to the extent otherwise allowed by law. All council meetings shall be held at the city hall, except that the council or the mayor and two other council members may designate another place for those meetings, and notice of any meeting at a place other than city hall shall be posted at city hall, at the place of that meeting, and on the internet website of the city, in the manner provided by law for notice of council meetings.

Sec. 3.09. Rules of Procedure

The City Council shall determine its own rules of procedure and may compel the attendance of its members. A majority of the qualified members of the City Council shall constitute a quorum to do business, and the affirmative vote of a majority of the qualified

members 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 person may have access at all reasonable times and which shall constitute one of the archives of the city. The vote upon the passage of all ordinances and resolutions shall be entered upon the minutes, and every ordinance or resolution, upon its final passage, shall be recorded in a book or other suitable, lawful medium kept for that purpose, and shall be authenticated by the signature of the presiding officer and the city secretary.

Sec. 3.10. Procedure for Passage of Ordinances

a. The City Council shall only pass ordinances and resolutions that are in written or printed form.

b. All ordinances, except ordinances making appropriations, codifying or rearranging existing ordinances, or enacting a code of ordinances, shall state the general subject matter in the caption or title.

c. The enacting clause of all ordinances shall be: "Be it ordained by the City Council of the City of Iowa Colony." The enacting clause need not be included in a codification of ordinances.

d. No ordinance shall be finally passed unless either:

1. The general subject matter caption or title has been read at two regular council meetings on separate days;

2. The passage of the ordinance requires either a public hearing or more notice than normally required by the Texas Open Meetings Act; or

3. The council finds that an emergency, an urgent public necessity, or an imminent and unusual threat of substantial property damage or of other substantial economic loss requires the passage of the ordinance without two readings. The council must clearly identify in the ordinance the emergency, the urgent public necessity, or the imminent and unusual threat of substantial property damage or of other substantial economic loss. An emergency or an urgent public necessity exists only if immediate action is required of the council because of:

i. an imminent threat to public health and safety, including a threat described by paragraph "ii" below if imminent; or

ii. a reasonably unforeseeable situation, including:

A. fire; explosion; chemical release; flood; earthquake; hurricane; tornado; wind, rain, hail, ice, or snow storm; or other natural or human-caused disaster;

B. power failure; transportation failure; or interruption of water, sewage treatment, or communication services;

C. epidemic;

D. riot, civil disturbance, enemy attack, or other actual or threatened act of lawlessness or violence; or

E. the sudden relocation of a large number of residents from the area of a declared disaster to this city or its extraterritorial jurisdiction.

4. Amending a proposed ordinance between the first reading and the final passage shall not require restarting the process of two readings.

5. Each ordinance of the city passed after this charter takes effect shall be posted on the internet website of the city, unless that ordinance has been included in a codification of the city's ordinances appearing on the internet with a link from the city's website to that codification.

e. Notice of Passage of Ordinances

1. **Posting on Website.** The city secretary shall post every ordinance on the city's internet website promptly after final passage.

2. **Publication in Newspaper.** Except as otherwise required by law or by this charter, the city secretary shall give notice of the enactment of every penal ordinance and, to the extent required by law, every other ordinance promptly after final passage thereof, by causing the general subject matter title or caption of the ordinance, including a summary of the penalty for violation, to be published one time in a newspaper of general circulation in the city.

3. **Proof of Notice.** An affidavit of that publication by a printer or publisher of that newspaper, or an affidavit of that posting by an administrator of that website, filed with the city secretary shall be conclusive evidence in all courts and elsewhere of the legal publication and posting, respectively, of that ordinance.

4. **Effective Date of Penalty.** The penalty, fine, or forfeiture shall apply five days after publication, or at a later time provided in the ordinance.

Sec. 3.11. Official Bonds for City Officers and Employees

The city manager, the city secretary, and such other city officers and employees as the City Council may require, shall before entering upon the duties of their offices, enter into a good and sufficient fidelity bond in a sum to be determined by the City Council, payable to the city and conditioned upon the faithful discharge of the duties of those persons and upon the faithful

accounting for all monies, credits, and things of value coming into the hands of those persons, and those bonds shall be signed as surety by a company authorized to do business under the laws of the State of Texas, and the premium on those bonds shall be paid by the city, and those bonds must be acceptable to the City Council.

Sec. 3.12. Investigation by City Council

The City Council shall have power to inquire into the conduct of any office, department, agency, officer, or employee of the city and to make investigations as to municipal affairs, and for that purpose may subpoena witnesses, administer oaths, and compel the production of books, papers, and other evidence. Failure to obey that 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.

Sec. 3.13. Audit and Examination of City Books and Accounts

The City Council may require a special audit to be made of the books and accounts of each and every department of the city at any time during the year. At the close of each fiscal year a complete audit shall be made by a certified public accountant, who shall be selected by the City Council, and that audit shall include a recapitulation of all audits made during the course of that fiscal year, and all audit reports shall be presented to the City Council, shall be available for public inspection, and shall be made a part of the records of the city. The accountant so selected shall not maintain or keep any of the city's accounts or records.

ARTICLE 4. ADMINISTRATIVE SERVICES

Sec. 4.01. Appointment and Removal of Personnel

a. **Action by Council.** The council appoints and removes the city manager, city attorney, municipal judge, and members of any board or commission. In the event of any conflicting terms concerning the authority to appoint or remove personnel, the authority of the council shall take precedence.

b. **Action by City Manager with Concurrence of Council**

1. **Appointments.** The city manager appoints, with the concurrence of the council, all department heads except the city manager, city attorney, and municipal judge.

2. **Removal.** Not applicable.

c. Action by City Manager

1. Appointments. The city manager hires all employees except the city manager, city attorney, municipal judge, and other department heads. Those exceptions are appointed as described in subsections (a) and (b) (1).

2. Removal. The city manager removes all employees, including department heads, except the city manager, city attorney, and municipal judge.

Sec. 4.02. Restrictions on Personnel Authority of Council

a. Appointments. Except as otherwise provided in Section 4.01, neither the City Council nor any of its members shall direct the appointment of any person to office by the city manager or by any of his or her subordinates.

b. Dealing through City Manager. Except for the purpose of inquiry, the City Council and its members shall deal with the administrative services solely through the city manager. Neither the council nor any member thereof shall give orders to any subordinate of the city manager, either publicly or privately.

c. Mayor's Emergency Powers. However, the emergency powers of the mayor are an exception to this section.

Sec. 4.03. City Manager

a. Appointment and Qualifications. The City Council shall appoint a city manager who shall be the chief administrative and executive officer of the city and shall be responsible to the city council for the administration of all the affairs of the city. He or she shall be chosen by the City Council solely on the basis of his or her executive and administrative training, experience and ability. The city manager must become a resident of the city within a time to be set by the council. No member of the City Council shall be appointed city manager during the time for which he or she is elected or appointed and for one year thereafter.

b. Term and Salary. The council shall set the terms of employment and compensation of the city manager and may enter into an employment agreement with the city manager. In case of the absence or disability of the city manager, the city council may designate a person or persons to perform the duties of the office during that absence or disability. The city manager shall receive such compensation as may be fixed by the council.

c. Annual Performance Review. The council shall cause a performance review of the city manager to be done annually.

d. Powers and Duties of the City Manager. The City Manager shall have the following powers and duties:

1. Appoint and remove any employee of the city, except as otherwise provided by Section 4.01, any other provision of this charter or any ordinance consistent with this charter.

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

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

4. Keep the City Council advised of the financial condition and future needs of the city and make such recommendation as may seem desirable.

5. Supervise all employees of the city, including department heads.

6. Perform such duties as may be prescribed by this charter or may be required of him or her by the City Council, not inconsistent with this charter.

Sec. 4.04. Police Department

The city shall establish and maintain a Police Department to preserve order within the city, to secure the residents of the city from violence and the property therein from injury or loss, and for all other lawful purposes.

Sec. 4.05. City Secretary

a. **Duties.** The city secretary is subject to appointment and removal as provided in Section 4.01. The city secretary or an assistant city secretary shall give notice of council meetings, shall keep the minutes of the proceedings of those meetings, shall authenticate those minutes by his or her signature, and shall keep all those minutes, all ordinances, and all resolutions in records indexed for the purpose. The city secretary or an assistant city secretary shall perform such other duties as the city manager shall assign to him/her, and those elsewhere provided for in this charter or by law.

b. **Assistants, Deputies, and Substitutes.** Any reference to the city secretary in this charter or in an ordinance passed pursuant hereto shall mean the person performing the duties of the city secretary, unless the reference expressly excludes anyone other than the city secretary.

Sec. 4.06. Municipal Court

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

b. Municipal Judge. The judge of that court shall:

1. be a citizen of the United States,
2. be a resident of the State of Texas,
3. not meet any of the disqualifications to vote under either the Texas Constitution or state law,
4. be a duly licensed attorney in the State of Texas, unless that person has continuously served as a municipal judge of this city since the adoption of this charter, and
5. hold no other city office or city employment with this city during the term for which that person is appointed judge of the municipal court.

c. Appointment and Removal of Judge. The judge shall be appointed by the council, shall hold this office at the pleasure of the council, and shall receive such salary as may be fixed by the council.

d. Alternate Judges. To provide for adequate judicial service, the City Council may appoint temporary, alternate, or relief judges in case of the disability, absence, or other unavailability of the municipal judge. All temporary, alternate, or relief judges must meet the same qualifications as the municipal judge.

e. Municipal Court Clerk

1. The clerk of the municipal court shall be appointed and removed as provided in Section 4.1.

2. The clerk of the court and his or her deputies shall have the power to administer oaths and affidavits, make certificates, affix the seal of the court thereto, and generally perform any and all acts usual and appropriate by the clerk of a court in issuing process of a court and conducting its business.

Sec. 4.07. City Attorney

The City Council shall appoint a competent attorney licensed to practice law in the State of Texas, who shall be the city attorney. He or she shall receive for his or her services such compensation as may be fixed by the City Council and shall hold office at the pleasure of the City Council. The city attorney, or such 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, attorney, and counsel for the city and all officers and departments thereof.

ARTICLE 5. NOMINATIONS AND ELECTIONS

Sec. 5.01. Elections

Regular municipal elections shall be conducted by the appointed election authorities and shall be held on a uniform election date set out in state law. The City Council shall fix the hours and place for holding those elections. The City Council may order a special election in a manner provided by law.

Sec. 5.02. Regulation of Elections

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

Sec. 5.03. Filing for Election to Office

Any person having the qualifications set forth for council members under section 3.02 of this charter shall have the right to file an application in writing for any elective office of the city as provided by law.

Sec. 5.04. Official Ballot

Ballots shall be as provided by the Texas Election Code. No party designation shall appear on the ballot in connection with the name of a candidate for city office.

Sec. 5.05. Election by Plurality

To be elected to city office, a person must receive more votes than any other candidate for that office, except that ties shall be resolved as provided by law.

Sec. 5.06. Laws Governing City Elections

All city elections shall be governed, except as otherwise provided by this charter, by the laws of the State of Texas governing general and municipal elections.

Sec. 5.07. Conducting and Canvassing Elections

The election judges and other necessary election officials for conducting all city elections shall be appointed by the City Council. The election judges shall conduct the elections and perform all duties as provided by the general election laws of Texas. Within the time set by state law, the City Council shall canvass the elections as provided by law.

Sec. 5.08. Oath of Office

Every officer of the city shall, before entering upon the duties of office, take the oaths or affirmations of office as set forth in the Texas Constitution.

ARTICLE 6. RECALL OF OFFICERS

Sec. 6.01. Scope of Recall

Any city officer holding an elective office, whether elected by the voters or appointed to fill a vacancy, shall be subject to removal from office by a recall election only on the grounds of incompetency, corruption, misconduct, or malfeasance in office, and only in compliance with the requirements of this Article.

Sec. 6.02. Procedures Before Circulating Petition

a. **Filing Petition for Preliminary Review.** Before an election is ordered on the question of the recall of an officer, a petition with the number of valid signatures required by this charter and demanding that recall must be filed with the city secretary. Before a recall petition is circulated for multiple signatures, one petitioner must sign the proposed petition and submit it to the city secretary.

b. **Review by City Attorney.** Upon receipt of a petition under subsection "a," the city secretary shall promptly transmit it to the city attorney for an advance determination of the legal sufficiency of the alleged grounds for removal and of the form and content of the petition. The city attorney must, within ten days after receiving the petition, notify one petitioner who filed the petition with the city secretary ("the submitting petitioner") of the city attorney's determination concerning the legal sufficiency, form, and content of the petition. That notice shall state the reasons for any insufficiency.

c. **Consequence of Insufficiency.** The city shall not consider a petition that the city attorney determines is insufficient.

d. **No Fee for Review.** No fee shall be due from a petitioner for the review of a petition.

Sec. 6.03. Contents of Petition

a. **Addressed to Council. Statement of Grounds.** The recall petition must be addressed to the City Council and must distinctly and specifically state each separate ground for which the petition seeks removal, with sufficient certainty to give the officer sought to be removed notice of the charges against him or her.

b. Multiple Counterparts. The petition may consist of one or more counterparts, and the petitioners may sign the same or separate counterparts. The petitioners' signatures may be on the same page as the charges or on other pages firmly attached to the pages containing the charges.

c. Sworn Declaration by Petitioners. Each page bearing one or more signatures must state at the top of the page in conspicuous lettering distinct from the other writing on the page:

"BY SIGNING THIS PETITION, EACH SIGNER SWEARS OR AFFIRMS UNDER PENALTY OF PERJURY AS FOLLOWS:

"1. I HAVE READ THE CHARGES IN THIS PETITION, AND I HAVE GOOD REASON TO BELIEVE AND DO BELIEVE THOSE CHARGES ARE TRUE.

"2. I AM NOW A REGISTERED VOTER OF THE CITY OF IOWA COLONY.

"3. ALL OF THE INFORMATION ABOUT ME ON THIS PETITION IS TRUE."

d. Number of Signatures. The petition must be signed by at least the following numbers of registered voters of the area from which the officer sought to be removed was selected:

- 1.** at least twenty percent of the number of registered voters in that area as of the voter registration deadline for the most recent general election date for officers of the city for that area before the petition is filed with the city secretary, as shown on the voter registration records of the Brazoria County Clerk; but
- 2.** in any event, not less than:
 - i.** 900 such petitioners for a recall of an officer selected from the entire city; or
 - ii.** For an officer selected from a council district, a number of such petitioners equal to 900 divided by the number of council districts in the city at the time of the most recent general election of officers of the city before the petition is filed with the city secretary.

A reference in this subsection to the most recent general election date shall also include the date such an election would have been held if it had not been cancelled.

e. Information on Signers. Each signer of the recall petition must personally handwrite the following information on the petition in ink: his or her printed name; his or her signature; his or her place of residence, including the street name and number; and the day, month, and year he/she signed the petition.

f. Oath of Circulators. Each signature page of the petition shall also bear the signed, notarized oath of any signer of any page of the petition, as follows:

"I, _____ (printed name of affiant), being first duly sworn, on oath state that I am one of the signers of the above petition, although I may have signed a different page or counterpart of this same petition; and that each signature appearing on this page was made in my presence on the day and date it purports to have been made; and I solemnly swear that each signature on this page is the genuine signature of the person whose name it purports to be."

Sec. 6.04. Procedures upon Filing of Petition with City Secretary

a. Time for Filing Signed Petition. A petition must be filed with the city secretary no later than 45 days after being signed, and no signature on the petition shall remain effective or be counted if it was placed on the petition more than forty-five days before the filing of the petition with the city secretary; however, the one signature required before the preliminary review of the petition shall not be subject to this 45 day limit. All papers comprising a recall petition shall be filed with the city secretary on the same day.

b. Notice by City Secretary. Upon receipt of a petition under subsection "a," the city secretary shall promptly notify in writing the city attorney and the officer to be removed.

c. Review by City Attorney. Within ten days after receipt of a petition from the city secretary, the city attorney shall determine the legal sufficiency of anything changed on the petition since the city attorney previously reviewed it, and the city attorney shall notify the city secretary and the submitting petitioner of the city attorney's determination, stating the reasons for any insufficiency.

d. Review by City Secretary. If the city attorney finds the petition legally sufficient, then within thirty days after that determination, the city secretary shall review the petition to determine the existence of the requisite number of valid, genuine, qualifying signatures of registered voters, and the city secretary shall notify the submitting petitioner of that determination, including a statement of the reasons for any insufficiency.

e. **Presentation of Petition to Council.** If the city attorney and city secretary find the petition sufficient, the city secretary shall present it to the City Council at its next regular meeting with a certification from the city secretary to that effect.

Sec. 6.05. Manner of Notice from City Officers

Any notice from a city officer under this article must be in writing, and if it is to the submitting petitioner, it must be by United States Mail, certified or registered mail, postage prepaid, addressed to the submitting petitioner at the address stated on the petition, unless the submitting petitioner signs and delivers to the city a document acknowledging receipt of the notice.

Sec. 6.06. Public Hearing to Be Held

The officer whose removal is sought may, within five days after the recall petition has been presented to the City Council, request that the council hold a public hearing to permit him or her to present matters pertinent to the charges specified in the recall petition. In this event, the City Council shall hold a public hearing not less than ten days nor more than thirty days after receiving the request for a public hearing. The hearing cannot change the requirement that the council order an election if the officer does not resign, as provided in this article.

Sec. 6.07. Resignation. Recall Election

a. **Election Ordered if No Timely Recall.** Except as otherwise provided in subsection "b," the council must order a recall election to be held on the next uniform election date for which all advance requirements can be satisfied:

1. if the officer whose removal is sought does not resign within five days after the hearing by the council; or
2. if that officer does not timely request, as provided in Section 6.06, a hearing by the council, he or she does not resign within ten days after the recall petition has been presented to the council.

b. **Timing and Consequences of Resignation with Recall Pending.** If the officer resigns at any time after the circulated, signed recall petition is filed with the city secretary and before the recall election is ordered, then the election shall not be held, and the consequences of the resignation shall be the same as if the officer were recalled by the voters on the first uniform election date after the resignation. If the officer resigns after the recall election is ordered, then the election shall still be held, and if a majority of the votes are for a recall, then the officer is subject to the disqualification resulting from a recall.

c. **Area of Election.** The recall election shall be for the same area from which the officer was selected.

Sec. 6.08. Ballot in Recall Election

The ballot in a recall election shall state:

“Shall [name of officer] be removed from the office of [name of office] by recall?

“FOR the recall of [name of person].

“AGAINST the recall of [name of person].”

Sec. 6.09. Result of Recall Election

If a majority of the votes cast at a recall election are for the recall of the person named on the ballot, he or she shall be deemed removed from office, and the vacancy shall be filled as provided in Section 3.06 of this charter. An officer recalled shall be ineligible to hold or run for city office for the area of the office from which he or she was recalled, until after the next regular city election of officers after the recall election.

Sec. 6.10. Restrictions on Recall

No recall petition shall be filed against any officer of the city within six months after the start of that officer's current term of office, nor within six months after an election for that officer's recall.

Sec. 6.11. Failure of City to Comply Concerning Recall

If all requirements of this charter concerning a recall petition have been met by the petitioners, and the city fails to comply with this charter concerning that recall, then any petitioner may bring suit in the appropriate district court to require the city to comply with this charter concerning the recall.

ARTICLE 7. INITIATIVE AND REFERENDUM

Sec. 7.01. General Power

a. **Power of Initiative and Referendum.** The registered voters of the city shall have the power of direct legislation by initiative and referendum, only as provided in this article.

1. Initiative is begun by petition to the council demanding that the council enact a proposed ordinance.

2. Referendum is begun either (i) by petition to the council demanding that the council repeal an ordinance, or (ii) by the council on its own motion ordering an election on the passage or repeal of an ordinance or resolution or on the approval or disapproval of a measure.

b. Exceptions. The powers of initiative and referendum shall not apply to ordinances approving franchises or agreements, authorizing any utilities, levying taxes (but this shall not be construed to limit the right to a statutory tax rollback election), appropriating funds, setting any fees or rates, annexing or disannexing territory, amending the extraterritorial jurisdiction, approving or issuing bonds that have been approved by the voters, approving or issuing certificates of obligation after the time established by law for the petitioners to challenge those certificates of obligation, or concerning personnel and administrative matters.

c. Review of Petition and Ordinance Together. Any reference in this article to review of a petition shall also include review of any proposed ordinance attached to that petition. Any reference in this article to the sufficiency of a petition shall also include the sufficiency and lawfulness of the proposed ordinance or repeal.

Sec. 7.02. Procedures Before Circulating Petition

a. Filing for Preliminary Review. Before an election is ordered on the question of an initiative or referendum, except as provided by section 7.07 on voluntary action by the council, a petition must be filed with the city secretary and must have the number of valid signatures required by this charter, a demand to pass or repeal the ordinance in question, and the proposed ordinance, if any, stated in the petition or attached to it. Before such a petition is circulated for multiple signatures, one petitioner (the "submitting petitioner") must sign the proposed petition and submit it to the city secretary.

b. Review by City Attorney. Upon receipt of a petition under subsection "a," the city secretary shall promptly transmit it to the city attorney for an advance determination of: (1) the legal sufficiency, form, and content of the petition; and (2) the lawfulness of the proposed ordinance or repeal. The city attorney must, within ten days after receiving the petition, notify the submitting petitioner of that determination, including the reasons for any insufficiency or unlawfulness.

c. Consequence of Insufficiency or Unlawfulness. The city shall not consider the petition if the city attorney determines that the petition is insufficient or that the proposed ordinance or repeal would be unlawful.

d. No Fee for Review. No fee shall be due from a petitioner for the review of a petition.

Sec. 7.03. Contents of Petition

a. Addressed to Council. The petition must be addressed to the City Council.

b. Multiple Counterparts. The petition may consist of one or more counterparts, and the petitioners may sign the same or separate counterparts. Each signature must be either on

the same page as, or on a page firmly attached to, the demand for council action and any proposed ordinance.

c. **Sworn Declaration by Petitioners.** Each page bearing one or more signatures must state at the top of the page in conspicuous lettering distinct from the other writing on the page:

"BY SIGNING THIS PETITION, EACH SIGNER SWEARS OR AFFIRMS UNDER PENALTY OF PERJURY AS FOLLOWS:

"1. I AM NOW A REGISTERED VOTER OF THE CITY OF IOWA COLONY.

"2. ALL OF THE INFORMATION ABOUT ME ON THIS PETITION IS TRUE."

d. **Number of Signatures.** The petition must be signed by at least the following numbers of registered voters of the city:

1. at least twenty percent of the number of registered voters in the city as of the voter registration deadline for the most recent general election date for officers of the city before the petition is filed with the city secretary, as shown on the voter registration records of the Brazoria County Clerk; but

2. in any event, not less than 900 such petitioners.

3. A reference in this subsection to the most recent general election date shall also include the date such an election would have been held if it had not been cancelled.

e. **Information on Signers.** Each signer of the petition must personally handwrite the following information on the petition in ink: his or her printed name; his or her signature; his or her place of residence, including the street name and number; and the day, month, and year he or she signed the petition.

f. **Oath of Circulators.** Each signature page of the petition shall also bear the signed, notarized oath of any signer of any page of the petition, as follows:

"I, _____ (printed name of affiant), being first duly sworn, on oath state that I am one of the signers of the above petition, although I may have signed a different page or counterpart of this same petition; and that each signature appearing on this page was made in my presence on the day and date it purports to have been made; and I solemnly swear that each signature on this page is the genuine signature of the person whose name it purports to be."

Sec. 7.04. Procedures upon Filing of Petition with City Secretary

a. **Time for Filing Petition.** A petition must be filed with the city secretary no later than 45 days after being signed, and no signature on the petition shall remain effective or be counted if it was placed on the petition more than forty-five days before the filing of the petition with the city secretary; however, the one signature required before the preliminary review of the petition shall not be subject to this 45 day limit. All papers comprising a petition under this article shall be filed with the city secretary on the same day.

b. **Notice by City Secretary.** Upon receipt of a petition under subsection "a," the city secretary shall promptly notify the city attorney.

c. **Review by City Attorney.** Within ten days after receipt of a petition from the city secretary, the city attorney shall determine the legal sufficiency of anything changed on the petition since the city attorney previously reviewed it, and the city attorney shall notify the city secretary and the submitting petitioner of the city attorney's determination, stating the reasons for any insufficiency.

d. **Review by City Secretary.** If the city attorney finds the petition legally sufficient, then within thirty days after that determination, the city secretary shall review the petition to determine the existence of the requisite number of valid, genuine, qualifying signatures of registered voters, and the city secretary shall notify the submitting petitioner of that determination, including a statement of the reasons for any insufficiency.

e. **Presentation to City Council.** If the city attorney and city secretary find the petition sufficient and the proposed ordinance or repeal lawful, then the city secretary shall present the petition to the City Council at its next regular meeting with a certification from the city secretary to that effect.

Sec. 7.05. Manner of Notice from City Officers

Any notice from a city officer under this article must be in writing, and if it is to the submitting petitioner, it must be by United States Mail, certified or registered mail, postage prepaid, addressed to the submitting petitioner at the address stated on the petition, unless the submitting petitioner signs and delivers to the city a document acknowledging receipt of the notice.

Sec. 7.06. Council Action Upon Presentation of Petition for Initiative or Referendum

a. **Initiative.** Upon presentation of an initiative petition with the draft of the proposed ordinance, the City Council must, within thirty days after that presentation, enact that ordinance without alteration as to meaning or effect or order a special election, to be held on the next uniform election date for which all advance requirements can be satisfied, at which the qualified voters of the city shall vote for or against adopting the proposed ordinance.

b. **Referendum.** Upon presentation of a referendum petition, the City Council must, within thirty days after that presentation, either entirely repeal the ordinance specified in the petition or order a special election, to be held on the next uniform election date for which all advance requirements can be satisfied, at which the qualified voters of the city shall vote on the question of repealing that ordinance. Pending the holding of that election, that ordinance shall be suspended from taking effect and shall not later take effect, unless a majority of the votes in that election are for the ordinance.

Sec. 7.07. Voluntary Submission of Legislation by the Council

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

Sec. 7.08. Form of Ballot

The proposition on the ballot in an election on an initiative or referendum shall be drafted by the City Council and shall set forth the nature of the ordinance, resolution, or measure in question sufficiently to identify it 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.”

Sec. 7.09. Posting of Proposed and Referred Ordinances

The city secretary shall post the proposed or referred ordinance, resolution, or measure, together with a notice of the proposed passage or repeal by initiative or referendum, on the city’s internet website from no later than fifteen days after the election is called through election day, in addition to any other notices required by law for that election.

Sec. 7.10. Effect of Election

If a majority of the qualified votes in an election under this article are in favor of the proposed or referred ordinance, resolution, or measure, it shall take or remain in effect immediately or at such other time stated therein.

7.11. Inconsistent Results

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

Sec. 7.12. Ordinances Passed by Popular Vote, Repeal, or Amendment

No legislative action taken by the council in response to a petition for initiative or referendum or by the voters in an election under this article shall be repealed or amended except pursuant to a petition for initiative or referendum or by a voluntary referendum under this article.

7.13. 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 with this article.

Section 7.14. Failure of City to Comply

If all requirements of this charter concerning an initiative or referendum by petition have been met by the petitioners, and the city fails to comply with this charter concerning that initiative or referendum, then any petitioner may bring suit in the appropriate district court to require the city to comply with this charter concerning the initiative or referendum.

ARTICLE 8. MUNICIPAL ZONING

Sec. 8.01. Zoning.

The City of Iowa Colony shall be a zoned city in accordance with applicable law.

ARTICLE 9. MUNICIPAL FINANCE

Sec. 9.01. Fiscal Year

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

Sec. 9.02. Preparation and Submission of Budget

The city manager, at least 45 days prior to the beginning of each fiscal year, shall submit to the council a proposed budget.

Sec. 9.03. Vote Required for Adoption

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

Sec. 9.04. Budget as Appropriations

Adoption of the budget shall constitute an appropriation of the amounts specified therein as expenditures from the funds indicated, except as otherwise provided by ordinance.

Sec. 9.05. Date of Final Adoption

The budget shall be finally adopted prior to the beginning of the fiscal year, and if the City Council fails to adopt a budget, then the existing budget shall remain in effect for the ensuing fiscal year, but only until such time as the council passes a budget for the new fiscal year or amends the budget as provided by law.

Sec. 9.06. Amendment of Budget

The city budget may be amended as provided by law.

Sec. 9.07. Power to Tax

The City Council shall have the power to levy, assess, and collect an annual property tax within the city as provided by law.

ARTICLE 10. FRANCHISES AND PUBLIC UTILITIES

Sec. 10.01. Powers of the City

The city shall have the power to buy, own, construct, lease, maintain, operate, and regulate public services and utilities and to manufacture, distribute, and sell the output of those services and utility operations, and the city shall have further powers as may now or later be granted by law.

Sec. 10.02. Franchises. Power of City Council

a. **Franchises.** The City Council shall have power by ordinance to grant, amend, renew, and extend all franchises of all public utilities of every character.

b. **Additional Procedure for Passing Franchise Ordinance.** The title or caption stating the general subject matter of an ordinance granting, amending, renewing, or extending a franchise for public utilities shall be read at two separate regular meetings of the City Council, and that ordinance shall not be finally passed until twenty-eight days after the first reading. The repeal of a franchise after a hearing shall not require two readings. Passage of a franchise ordinance is subject to the same requirements as other ordinances, except as otherwise provided in this subsection.

Sec. 10.03. Transfer of Franchise

No public utility franchise shall be transferable except with the approval of the City Council expressed by ordinance. The term "transferable" herein shall not be construed to prevent the franchise holder from pledging the franchise as security for a bona fide debt or mortgage.

Sec. 10.04. Right of Regulation

All grants, removals, extensions, or amendments of public utility franchises shall be subject to the following rights of the City Council:

a. To repeal the same by ordinance at any time, after due notice and opportunity for a hearing, upon the failure of the grantee to comply with any provision of the franchise, any ordinance, or other applicable law;

b. To require proper and adequate extension of plant and service, and the maintenance of the plant and fixtures at the highest reasonable standard of efficiency;

c. To establish reasonable standards of service and quality of products;

d. After due notice and opportunity for a hearing, to regulate by ordinance the rates, charges, and fares of all public utility franchise holders operating in the city as authorized by applicable law;

e. At any time to examine and audit the accounts and other records of any such utility and to require annual and other reports, including reports on operations within the city;

f. To require such compensation and rental as not prohibited by law; and

g. To impose any regulations and restrictions as the city considers desirable or conducive to the health, safety, welfare, or accommodation of the public.

Sec. 10.05. Franchise Not Exclusive

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

Sec. 10.06. 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 hereunder shall deprive any such property owner of any right of action for damage or injury to his or her property as provided by law.

Sec. 10.07. Extensions

Any extension of a public utility 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 obligations, reserved rights, and other terms of this charter and of any then-existing franchise to that utility, whether granted before or after the adoption of this charter. The right to use and maintain any such extension shall terminate with that pre-existing franchise and shall be terminable as provided in this charter.

Sec. 10.08. Other Conditions

a. Franchises as Contracts. All franchises existing when this charter is adopted are recognized as contracts between the city and the grantee, and the contractual rights contained in any such franchise shall not be impaired by this charter, except that the city fully reserves:

1. the power of the city to exercise the right of eminent domain in the acquisition of utility property; and

2. all powers of the city to regulate the rates and services of a grantee, which shall include the right to require proper and adequate extension of plant and service and the maintenance of the plant and fixtures at the highest reasonable standard of efficiency.

b. Applicability of Charter Provisions. Every public utility franchise granted after this charter is adopted shall be subject to all the terms and conditions of this article, whether or not such terms and conditions are specifically mentioned in the franchise.

c. Discretion of City. Nothing in this charter shall limit in any way the discretion of the City Council or voters of the city in imposing terms and conditions as may be reasonable in connection with any franchise grant.

Sec. 10.09. Accounts of Municipally Owned Utilities

Accounts shall be kept for each public utility owned or operated by the city and shall show the true and complete financial results of such city ownership and operation including but not limited to the contents listed in this section. The accounts shall show actual capital and operating costs to the city of each public utility owned and the sources and amounts of funds expended for those purposes. The accounts shall show as nearly as possible the cost of any

service furnished by any such utility to any department of this city and to any other governmental entity.

Sec. 10.10. Sales of Water, Sewer, and Other Services

a. **Power of City.** The city shall have the power to sell and distribute water, sewer services, any other city utilities, and any other city services to any persons within or outside the city limits. The city may permit those persons to connect with those systems under contract with the city, under terms and conditions that the city considers for the best interests of the city.

b. **Advance Notice Required.** At least two years before the following requirements take effect, the city must deposit notice of the applicable requirement and the earliest date the requirement will take effect in the United States Mail, addressed to the owner of the premises at the owner's address according to the records of the Brazoria County Tax Assessor-Collector:

1. A requirement that any residence lawfully connected to a lawful water well must connect to city-owned water services; or
2. A requirement that any residence lawfully connected to a lawful sewage treatment system must connect to city-owned sewer services.

c. **Regulations by City Council.** The City Council shall have the power and authority: (1) to regulate and prescribe the specifications for utility infrastructure where the city furnishes the service, within or beyond the city limits; (2) to inspect that infrastructure and require it to be kept in good order and condition at all times; and (3) to make such rules and regulations as shall be necessary and proper, and prescribe penalties for noncompliance with those rules and regulations.

Sec. 10.11. Regulation of Rates and Service

The City Council shall have the power, after due notice and opportunity for a hearing, to regulate by ordinance the rates and services of every public utility operating in the city. The council 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, all as provided by law. The council may choose to cede to an agency of the State of Texas the authority to regulate rates of a particular utility, as provided by law.

ARTICLE 11. GENERAL PROVISIONS

Sec. 11.01. Publicity of Records and Open Meetings. Internet or Website Malfunctions

a. **Public Records and Meetings.** Records of the city shall be open to inspection by any person as provided by law, including but not limited to the Texas Public Information Act.

Meetings of the council and boards or commissions appointed by the council shall be held in accordance with the applicable provisions of the laws of the State of Texas, including but not limited to the Texas Open Meetings Act. Minutes of all such open meetings shall be kept, and those minutes shall constitute public records. This section shall not be construed to require any action or measure beyond that required by state law.

b. Internet or Website Malfunctions. When this charter or other applicable law requires any type of information to be posted on the city's internet website, and an outage or malfunction of the website or internet, which was not deliberately caused by the city, prevents or interrupts the required posting, then such failure or interruption of the internet posting shall not be a violation of that posting requirement. The city shall use good faith efforts to resolve the malfunction and post the information as soon as reasonably practicable.

Sec. 11.02. Conflict of Interest and Nepotism

All city officers and employees must comply with applicable state law related to conflicts of interest and nepotism.

Sec. 11.03. Drilling Operations

The City Council may, by ordinance, regulate the drilling and use of water wells, subject to the restrictions on mandatory connections to city water and sewer in Section 10.10.

Sec. 11.04. Assignment, Execution, and Garnishment

No property of any kind owned or held by the city shall be subject to any garnishment, sequestration, attachment, seizure, forced sale, or execution of any kind. No property, funds, or debt held by the city shall be subject to garnishment, and the city shall never be required to answer in any garnishment proceeding. The city shall not be obligated to recognize any assignment of wages or funds by its employees, agents, or contractors.

Sec. 11.05. City Not Required to Give Security or Execute Bond

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

b. City Officers and Employees. The exemption from a bond, undertaking, or security in subsection "a" shall also apply in favor of any city officer or employee in his or her official capacity, except in a suit by the city against that officer or employee.

Sec. 11.06. Notice of Claim Required. Immunities

a. **Notice of Claim.** The city shall not be subject to liability for any death, personal injury, property damage, economic loss, or any other liability, loss, damage, or costs of any nature, and no suit shall be filed against the city on such claim, where the claimant fails to notify the city manager or city secretary in writing within six months of the initial incident or condition allegedly causing such damage or loss. That notice must include:

1. when, where, and how the death, injury, damage, or loss was sustained;
2. the amount of the damage, injury, or loss incurred, as accurately as possible;
3. the name and address of:
 - i. each person who is dead, injured, or incurred property damage or any loss; and
 - ii. all persons with knowledge of facts pertinent to the claim; and
4. a statement of how any fault of the city allegedly contributed to causing the incident or loss.

b. **Not a Waiver.** This section shall not be construed to create any liability of the city or as a waiver by the city of any rights, privileges, defenses, or immunities.

c. **City Officers and Employees.** Any right, privilege, defense, or immunity of the city under this charter or any other applicable law shall also apply in favor of all city officers and employees in their official capacity, except in a claim by the city against such officer or employee.

Sec. 11.07. Severability Clause

If any section or part of a section of this charter is ever 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 a section so held invalid may appear, except to the extent that an entire section or part of a section is inseparably connected in meaning and effect with the section or part of section to which that holding directly applies.

Sec. 11.08. Effect of this Charter on Existing Law

All ordinances, resolutions, rules, and regulations now in force under the city government of Iowa Colony 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 under existing franchises and contracts are preserved in full force and effect to the city.

Sec. 11.09. Transition

The adoption of this charter shall neither end nor extend the term of office of any current officer or employee of the city.

Sec. 11.10. Applicability of General Laws

In addition to all powers and rights available to home rule cities in Texas, the city shall also have all powers of any other type of municipality in Texas not contrary to the laws governing home rule cities. However, the exercise of any those additional powers by the city shall be optional with the city, and the city shall not be required to conform to the law governing any other types of municipalities, unless by ordinance it adopts those laws.

Sec. 11.11. Use of Terms

Any term used herein, whether used in singular or plural form, shall be deemed to refer to the object of that term, regardless whether that object is singular or plural, as the context may suggest or require. Any pronoun, whether in masculine, feminine, or neuter form, shall be deemed to refer to the object of that pronoun, whether that object is masculine, feminine, or neuter in gender, as the context may suggest or require.

Sec. 11.12. Amending the Charter, Charter Review Commission, and District Boundaries Commission.

a. Amendment of Charter by Voters. Amendments to this charter may be drafted and submitted to the voters of the city as provided by this charter and applicable law.

b. Charter Review Commission.

1. Appointment. The City Council shall appoint a Charter Review Commission every five years or more often as determined by the City Council. The Charter Review Commission shall consist of the same number of members as the City Council. Charter review commissioners must be residents of the city for one year at the time of appointment. Each council member shall have the opportunity for at least one nomination to the commission for consideration by the council, but the appointments by the council are not limited to those nominees.

2. Duties. The Charter Review Commission shall:

i. Inquire into the operation of the city government under the charter and determine whether any charter provisions should be revised. To this end public hearings may be held, and the commission shall have the power to compel the attendance of any officer or employee of the city and to require the submission of any city records it deems or helpful to the work of the commission;

ii. Propose any recommendations it may deem desirable to ensure compliance with the charter by the city government;

iii. Propose any charter amendments the commission deems desirable;
and

iv. Report its findings and present its proposed amendments, if any, to the City Council.

c. **District Boundaries Commission.** After the initial adoption of district boundaries, the Charter Review Commission shall also serve as the District Boundaries Commission, to review and make recommendations to the City Council on amending the boundaries of the council districts, as provided in Section 3.01(f).

d. **Action by City Council.** The City Council shall:

1. receive and post on the city's website any report presented by the Charter Review Commission;

2. consider any recommendations made by the Charter Review Commission;
and

3. if any charter amendment is presented as a part of that report, the council may choose to order that amendment to be submitted to the voters of the city in the manner provided by law.

e. **Term of Office.** The term of office of the Charter Review Commission shall be six months, or longer if approved by the City Council. Upon the completion of the proceedings of the Charter Review Commission, or upon dissolution of the commission, all records of the proceedings of the commission shall be filed with the city secretary.

Sec. 11.13. Submission of Charter to Voters

a. The Charter Commission finds that it is impracticable to segregate each subject of this charter to be voted on separately, because the charter is so constructed that in order to function, it must be adopted in its entirety. Therefore, the Charter Commission directs that this charter shall be voted upon as a whole, and that it shall be submitted to the registered voters of the city at an election on May 2, 2020. [Editor's Note: This election was deferred to November 3, 2020, due to the COVID-19 emergency.]

b. Before the 30th day before the date of the election, the City Council shall order the city secretary to mail a copy of this charter to each registered voter of the city. If a majority of the qualified voters voting in that election vote in favor of the adoption of this charter, then it shall become the Home Rule Charter of the City of Iowa Colony, and it shall take effect when

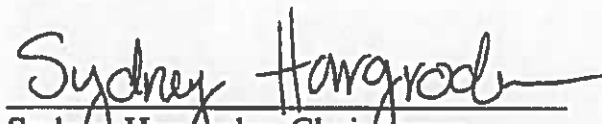
the election returns have been canvassed, and when the council enters an order in the records of this city declaring this charter adopted.

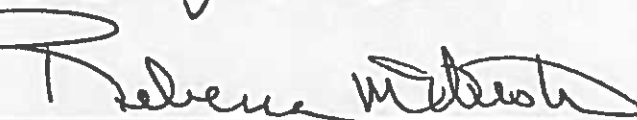
c. The city secretary shall file an official copy of the charter with the records of the city and record it in a book or other appropriate, lawful medium for that purpose.

d. As soon as practicable after the city adopts this charter, the mayor shall certify to the secretary of state of Texas an authenticated copy of the charter under the city's seal showing approval by the voters of this city.

We, the undersigned officers of the Iowa Colony Charter Commission, duly selected to prepare a Home Rule Charter for the City of Iowa Colony, Texas, hereby certify that this document is the Home Rule Charter of the City of Iowa Colony, Texas, as duly approved by a majority of this Commission.

April 15, 2020


Sydney Hargroder, Chairperson


Rebecca Hester, Secretary

IOWA COLONY CHARTER COMMISSION MEMBERS:

Rebecca Barnett
Steven Byrum-Bratsen
Douglas Chumley
Brenda Dillon
Rosie Flores
Sydney Hargroder
Rebecca Hester
Michael Holton
Brenda Ledbetter
Marge Madariaga
Perry Roberts
Diana Tahtinen
Timothy Varlack
Carol Wall
Robert Wall