

## CITY OF VICTORIA

### HOME RULE CHARTER

#### ARTICLE I. - INCORPORATION, GENERAL POWERS, AND BOUNDARIES

##### **Section 1. - Incorporation and name.**

All the inhabitants of the City of Victoria, Victoria County, Texas, as the boundaries and corporate limits of said city were established by the qualified voters of the City of Victoria at an election held on the 5th day of October, 1915, and as extended by ordinances of the City of Victoria enacted subsequent thereto, shall continue to be and are hereby constituted a body politic, incorporated under and to be known by the name and style of the "CITY OF VICTORIA," with full power of local self-government. The City of Victoria, sometimes referred to in this Charter as the "City," shall have such powers, privileges, rights, duties, and immunities as are provided in this Charter.

##### **Section 2. - General powers of municipality, separation of legislative and executive functions.**

The City of Victoria 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 to carry into execution such granted powers. All powers of the City of Victoria granted under the provisions of the Constitution and laws of the State of Texas and of this Charter, subject only to the limitations imposed by such Constitution, laws, and Charter, shall be vested in and exercised by an elective governing body, referred to in this Charter as the "City Council," which shall enact legislation, fix and determine policies, adopt budgets, and make such appointments to office as provided in this Charter. The executive functions of the City shall be administered by the Chief Executive Officer who shall be known as the City Manager and who shall execute the laws and administer the government of the City of Victoria.

##### **Section 3. - Enumeration of powers in general.**

The City of Victoria, ~~in the exercise of~~ shall have the powers granted to cities by the Constitution and laws of the State of Texas, together with all such implied powers as may be necessary to exercise such granted powers, ~~may sue and be sued; may adopt and use a corporate seal; may contract and be contracted with; may acquire property within or without its corporate limits by purchase, gift, devise, lease, or condemnation, and subject to provisions of this Charter, may sell, lease, mortgage, hold, manage, and control such property as may now or hereafter be owned by the City; may in cooperation with the government of the State of Texas, or any agency or political subdivision thereof, or in cooperation with the government of the United States of America or any agency thereof, accomplish any lawful purpose for advancement of the general welfare, health, morals, and safety of the City and its inhabitants; may enact and enforce all ordinances necessary to protect health, life and property, to prevent and summarily abate and remove all nuisances, and to preserve and enforce good government, order, and security of the City and its inhabitants, provided that no ordinance shall be enacted inconsistent with the Constitution and laws of this State, or inconsistent with the provisions of this Charter. In addition to the powers enumerated herein, and subject only to the limitations imposed by the Constitution~~

~~and laws of this State and by this Charter, the City of Victoria shall have each and every power, without the necessity of its express enumeration in this Charter, which the people of the City are empowered in accordance with the Constitution of Texas or any amendment thereto by election to grant to or confer upon the City by expressly and specifically granting and enumerating such powers in this Charter.~~

#### **Section 4. - Power to hold property, vesting of titles.**

~~The City of Victoria shall have power to hold by gift, deed, devise or otherwise, any character of property, including any charitable or trust fund, plead and be impleaded in all courts, and to act in perpetual succession as a body politic. All real estate owned in fee simple, or held by lease, sufferance, easement, or otherwise, all public buildings, fire stations, public squares, parks, streets, alleys, and all property of whatever kind, character, and description, which has been granted, donated, purchased or otherwise acquired by the City of Victoria, through any means or agency, and all causes of action, choses in action, rights or privileges of every kind and character, and all property of whatever kind or character or description, which may have been held and is now held, controlled, or used by the City of Victoria for public use or in trust for the public use or in trust for the public, shall vest in and inure to the City of Victoria.~~

#### **Section 5. - Corporate boundaries, fixing limits, adding territory.**

~~The City of Victoria shall have power to fix the boundary limits of said City, and to provide for the extension of said limits, and the annexation of additional territory lying adjacent to said City consistent with the requirements of state law. Any area of the City may be disannexed by ordinance after City Council conducts a public hearing on the matter. The ordinance disannexing the property shall contain findings, taking into consideration the hardships and concerns of the citizens who live in the area to be disannexed and the overall benefits to the entire community, that the benefits to the entire community outweighs the hardships and concerns of the citizens living in the area. Any additional territory adjacent to the boundaries of the City of Victoria from time to time may be admitted in any size or shape desired and become a part of said City on application made, or written consent given, to the City Council, either by the owner or owners of all land constituting said addition, or by a majority of the voters resident on the land sought to be added; provided that the territory so added shall be described by metes and bounds in an ordinance accepting, assenting, and adding such territory to the City. The City Council shall have power by ordinance to fix the boundary limits of the City of Victoria, and to provide for extension of said boundary limits, and the annexation of additional territory lying adjacent to the City, with or without the consent of the territory and inhabitants annexed, and with or without the consent of the owner or owners of the land embraced within said territory; and upon final passage of such an ordinance, which shall describe by metes and bounds the boundaries fixed, extensions made, or territory annexed, and after publication of adequate legal notice of such ordinance and the territory to be annexed, the boundary limits of the City shall be fixed as in such ordinance, and when any additional territory has been so annexed, the same shall be a part of the City of Victoria, and the property situated therein shall bear its pro rata part of the taxes levied by the City, and the inhabitants therein shall be entitled to all the rights and privileges of other citizens and bound by the acts, ordinances, resolutions, and regulations of the City of Victoria passed in accordance with the provisions of this Charter and Constitution and laws of the State of Texas.~~

## ARTICLE II. - THE CITY COUNCIL

### **Section 1. - City Council, composition, quorum, general powers.**

There shall be a City Council of the City of Victoria, which shall be composed of a Mayor and six (6) Councilmembers, a majority of whom shall constitute a quorum, but no action of the City Council shall be effective which has not received a favorable vote of a majority of the City Council. When voting on the levy of taxes, a minimum of five-sevenths (5/7) of the members of the Council shall be present and voting. The Mayor, or in the Mayor's absence, the Mayor Pro-Tempore, shall be presiding officer of the City Council. The Council shall have full power and authority, subject to the Constitution and laws of the State and limitations provided in this Charter, to exercise all powers conferred upon the City of Victoria.

### **Section 2. - Qualifications of City Council members.**

Each member of the City Council at the time of election to office shall be at least twenty-one (21) years of age, shall be a United States citizen and qualified voter of the State of Texas, shall have resided in the City for not less than one year immediately preceding the date of the regular filing deadline for a candidate's application for a place on the ballot election, and if elected from a district shall have resided in the district from which elected for not less than six months immediately preceding the date of the regular filing deadline for a candidate's application for a place on the ballot election.

If any member of the City Council shall cease to reside in the city during their term of office, or in their respective District, their term of office as a member of the City Council shall terminate immediately.

**Note**— See the note following section 3, below.

### **Section 3. - Mayor elected at large, Councilmembers elected from districts, terms of members.**

~~The City Council shall be composed of a Mayor and six (6) Councilmembers. The Mayor shall be elected from the city at large, by virtue of receiving a majority of the votes cast for that position, to serve a term of three (3) years, at an election held in each of the election precincts of the City of Victoria on the second Saturday in August, 1992, and every three years thereafter; provided, however, that the election held in 1995 and subsequent years shall occur in May.~~

Each Councilmember shall occupy a position, or place, on the City Council, for a term of three (3) years, such positions being numbered One, Two, Three, Four, Five, and Six. Council positions numbered One, Two, Three, and Four shall be elected from Council Districts One, Two, Three, and Four, respectively, said Districts being delineated on a map on file in the City Secretary's Office. Council position Five shall be elected from the area defined by the combination of Council Districts One and Two, and Council District Six shall be elected from the area defined by the combination of Council Districts Three and Four. Areas for election Districts One, Two, Three, and Four shall be determined by the City Council by ordinance with said district areas to be reviewed periodically by the City Council as deemed necessary but at least once every ten (10) years.

The general elections for City Council shall be held in May.

~~A Councilmember to occupy position One shall be elected by only the registered voters of District One, by virtue of receiving a majority of the votes cast for that position, at an election to be held on the second Saturday in August, 1992.~~

~~A Councilmember to occupy position Two shall be elected by only the registered voters of District Two, by virtue of receiving a majority of the votes cast for that position, at an election to be held on the second Saturday in August, 1992.~~

~~A Councilmember to occupy position Three shall be elected by only the registered voters of District Three, by virtue of receiving a majority of the votes cast for that position, at an election to be held on the second Saturday in August, 1992.~~

~~A Councilmember to occupy position Four shall be elected by one [only] the registered voters of District Four, by virtue of receiving a majority of the votes cast for that position, at an election to be held on the second Saturday in August, 1992.~~

~~A Councilmember to occupy position Five shall be elected by only the registered voters of Council District Five (i.e. the combination of Council Districts One and Two) at an election to be held on the second Saturday in August, 1992.~~

~~A Councilmember to occupy position Six shall be elected by only the registered voters of Council District Six (i.e. the combination of Council Districts Three and Four) at an election to be held on the second Saturday in August, 1992.~~

~~Following the City Council election of the second Saturday in August, 1992, and following the official canvass of the votes of said election and official adoption of those results by the City Council, the four (4) single member district terms will expire May, 1994, and the two (2) super district (Council Districts Five and Six) and mayoral terms will expire May, 1995; and every three (3) years thereafter.~~

~~Members of the City Council, following completion of interim terms, shall hold their offices for a term of three years beginning on the date of the first regular meeting of the Council after election results are canvassed or until their successors have been duly elected and qualified.~~

No current or future elected official shall serve more than four (4) consecutive terms of office. For purposes of this section "office" shall be defined as an individual district place and the position of Mayor. Years or time of service that an official may serve in filling an unexpired term or a partial term of an office, to which they were appointed, shall not be counted toward the above limitations. Years or time of service that an official may serve in filling a full term, an unexpired term or a partial term of an office, to which they were elected, shall be counted as a full term toward the above limitations. Terms of service in one office shall not count towards the term of service in another office. A person who has reached the limitation on terms provided in this section shall not be eligible for election or appointment to the same office for a period of one year from the date of the canvas of the election of their final term.

**Note**— Amendments to Article II, Sections 2 and 3: Amended by Agreed Order Nunc Pro Tunc entered August 4, 1992, Judge John D. Rainey, United States District Court for the Southern District of Texas, Victoria Division, Cause No. V-92-0006

#### **Section 4. - Election to fill vacancy.**

~~In case of a vacancy in the office of the Mayor or any Councilmember, by refusal to accept or failure to qualify, or by death, resignation, or otherwise, the City Council shall order an election to fill such vacancy, and all special elections shall be conducted as provided for the holding of general elections for the City.~~

In the event of a vacancy in an office of City Council, the effective date of which shall be determined in accordance with the provisions of the Texas Election Code, if there are 180 days or more remaining on the term of the vacated office, the City Council shall call a special election to fill such vacancy. If there are fewer than 180 days remaining in the term of the vacant office, the City Council may, by majority vote of the remaining Members of City Council, at its discretion, leave the position vacant, appoint a new Council Member to fill such vacancy or call a special election to fill such vacancy.

#### **Section 5. - Limitations on powers of City Council.**

All powers and authority which are expressly or impliedly granted to or possessed by the City of Victoria shall be vested in and exercised by the City Council, but the City Council shall have no power to:

- (a) ~~Sell, convey, lease, mortgage, or otherwise alienate any land which is now or may be hereafter dedicated for park purposes unless such sale, conveyance, lease, mortgage, or other alienation is conducted consistent with the requirements of state law. ~~until the qualified voters of the City shall authorize such act by adopting at a general or special election a proposition submitting the question and setting out the terms and conditions under which such proposed sale, conveyance, lease, mortgage, or other alienation may be made; provided, however, that the City Council, without an election, shall have power to authorize leases or concessions not more than twenty (20) years in length of portions only of a park area when such leases, in the opinion of the Council, will be in furtherance of the purposes of a public park.~~~~
- (b) Sell, convey, or lease all or any substantial part of the facilities of any public utility owned by the City of Victoria; but the City Council may lease all or any substantial part of such utility to any person, firm, or corporation, or to any public agency of the State of Texas if the qualified voters of the City shall authorize such lease by adopting at a general or special election a proposition submitting the question and setting out the terms and conditions under which such lease may be made.
- (c) Accept or admit liability in any claim or pay any claim for damages asserted against the city without first obtaining from the City Attorney a written opinion as to the City's liability.

#### **Section 6. - Meetings of City Council, procedures, pay, absence of Mayor, and Mayor Pro Tem, inability of Mayor to act.**

The City Council shall prescribe by ordinance the time and place of its regular meetings and the manner in which special meetings may be called; and shall cause a journal to be kept of its own proceedings, which record shall be public and a part of the archives of the City of Victoria. All sessions of the City Council, whether regular or called, except executive, shall be open to the public. The City Council shall determine its own rules of procedure, may punish its members for disorderly conduct, and shall compel the attendance of its members. The City Council shall have power to determine whether members of the City Council shall be compensated for services as Mayor and Councilmembers and may fix such compensation. A Mayor Pro-Tem shall be a Councilmember elected by the City Council at the first regular City Council meeting following each regular City election. ~~At the first regular meeting of the City Council after election of its members, the City Council shall elect one Councilmember as Mayor Pro-Tem who shall hold the title and office until expiration of the term for which elected Councilmember.~~ If for any reason, the Mayor is absent, sick, or unable to perform the duties of office, the Mayor Pro-Tem shall act as Mayor, and during the Mayor's absence or disability, the Mayor Pro-Tem shall possess all the rights and powers and perform all the duties of the Mayor. If for any reason, the Mayor and the Mayor Pro Tem are absent, sick, or unable to perform the duties of office, the most senior city council member present at the meeting to act as Mayor, and during the Mayor's and Mayor Pro Tem's absence or disability, that individual shall possess all the rights and powers and perform all the duties of the Mayor. In case of the death, resignation, or permanent disability of the Mayor, the Mayor Pro-Tem shall act as Mayor and perform all duties of the Mayor under the official title of Mayor Pro-Tem until a Mayor is elected at a special election as provided in this Charter.

#### **Section 7. - City Secretary, appointment, duties.**

The City Manager shall appoint a City Secretary who shall have such duties and responsibilities as are assigned thereto and as provided by law.

(Ord. No. 2012-21, 5-12-12)

#### **Section 8. - Mayor's power in relation to City Council.**

The Mayor shall preside at all meetings of the City Council and shall be recognized as head of the City government for all ceremonial purposes, for receiving services of civil process on the City, and for military purposes. The Mayor, as a member of the City Council, shall be entitled to vote upon all matters considered by the City Council, but shall not have power to veto any action of the City Council.

#### **Section 9. - Ordinances, legality, emergency, records.**

The City Council shall legislate by ordinance only, and the style and enacting clause of all ordinances shall be: "BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF VICTORIA." Before any ordinance shall be adopted, the City Attorney shall approve the form and legality of such ordinance in writing or shall file with the City Secretary in writing any legal objections thereto. Every ordinance enacted by the City Council shall be signed by the Mayor, Mayor Pro-Tem, or by two Councilmembers, and shall be filed with and recorded by the City Secretary before the same shall become effective. Unless otherwise provided by law or this Charter, no ordinance shall be passed finally on the date of its first reading, except as an

emergency measure by the favorable vote of five or more members of the City Council and containing a statement of the nature of the emergency; provided, that no ordinance making a grant of any franchise or special privilege shall ever be passed as an emergency ordinance. The ayes and nays shall be taken upon the passage of all ordinances and resolutions and entered upon the minutes of the proceedings of the City Council.

**Section 10. - Notice of ordinances, proof of publication.**

Except as provided otherwise by law or by this Charter, the City Secretary shall give notice of the enactment of every penal ordinance, and of every other ordinance required by law or by this Charter to be published, by causing the caption of an adopted ordinance that summarizes the purpose of the ordinance and any penalty for violating the ordinance to be published at least one day within ten days after final passage thereof in a manner that provides notice to the general population of the City, which shall include but is not limited to a newspaper of general circulation in the City of Victoria so long as a newspaper of general circulation originating from within the City of Victoria is distributed therein, and shall be published on the City's website. ~~may include electronic media unless otherwise prohibited by state law.~~ On every ordinance and the recording thereof the City Secretary shall note in writing the date of publication and the method of publishing the ordinance, and shall attach to the original ordinance an affidavit of publication and copy of the publication. Such notations by the City Secretary shall be prima facie evidence of compliance with the requirements of this Section.

(Ord. No. 2012-21, 5-12-12)

**Section 11. - Code of Ordinances, publication not required.**

As soon as practicable after the effective date of all the provisions of this Charter, the City Council shall cause all general ordinances of the City of Victoria to be compiled, arranged, and printed in a code and be accessible electronically. For this purpose a general ordinance shall be deemed an ordinance of a permanent or continuing nature affecting the residents of the City at large. Every general ordinance enacted subsequent to the codification herein required shall be enacted as an amendment to the code. The City Council, after adoption of the first code under this Charter, may cause such code to be revised and reprinted whenever in the discretion of the City Council this is deemed advisable. When adopted by the City Council by ordinance, the printed codes of general ordinances shall be in full force and effect without the necessity of such codes or any part thereof being published as provided in the previous section.

**Section 12. - Proof of ordinances.**

An ordinance of the City of Victoria may be proved prima facie by a printed code of ordinances purporting to be printed by authority of the City of Victoria, or by a copy of the ordinance certified by the City Secretary to be a true copy of such ordinance, or by the official record of Ordinances kept by the City Secretary.

**ARTICLE III. - EXECUTIVE AND ADMINISTRATIVE AFFAIRS**

**Section 1. - City Manager as Chief Executive officer.**

The City Manager of the City of Victoria shall be head of the administrative and executive affairs of the City and shall be designated and known as the City Manager, who shall be elected by the City Council. The City Manager shall be a person qualified by training, experience, and ability to perform executive and administrative functions and duties in municipal governmental affairs. It shall not be required at the time of election to the office of City Manager that the City Manager be a resident of the City of Victoria but during tenure of office the City Manager shall be a resident citizen of the City. The City Manager shall be responsible to the City Council for the efficient administration of all the affairs of the City of Victoria, and shall hold office at the will of the City Council. The City Manager may be removed by a majority vote of all the members of the City Council. If removed at any time after six months from date of appointment, the City Manager may demand written charges and a public hearing thereon before the City Council prior to the date on which the City Manager's final removal shall take effect; but during such hearing the City Council may suspend the City Manager from office. The action of the City Council suspending or removing the City Manager shall be final. The City Manager shall attend all meetings of the City Council, with the right to take part in the discussions, but having no vote; but when the City Council is considering the removal of the City Manager in executive session, the City Manager may be excluded. The City Manager shall receive such compensation for services as City Manager as may be fixed by the City Council. During the absence or disability of the City Manager, the Assistant City Manager or other person as designated by the City Council shall perform the duties of the office.

(Ord. No. 2012-21, 5-12-12)

## **Section 2. - Duty and power of City Manager.**

It shall be the power and duty of the City Manager of the City of Victoria:

- (a) To appoint and remove all employees of the City, except the positions of certain department heads and their staffs as otherwise provided in this Charter, ~~members of the City Planning Commission, and members of all other official boards and commissions of the City, which excepted appointments are specifically reserved for action of the City Council;~~
- (b) To exercise control over all departments and divisions that may be created by the City Council, except those departments for which the City Council appoints the department head, and to supervise and direct all officers and employees of the City appointed by the City Manager in the final discharge of their duties;
- (c) To recommend to the City Council for adoption or repeal such measures, resolutions, and ordinances the City Manager may deem necessary or expedient;
- (d) To keep the City Council fully advised as to the financial conditions and needs of the City;
- (e) To prepare and submit to the City Council the annual budget and supplements thereto; and
- (f) To perform such other duties as may be required by ordinance or resolution of the City Council.

## **Section 3. - Freedom of City Manager from interference by City Council.**

~~It shall be unlawful for~~ Neither the City Council nor any of its members to shall dictate to the City Manager the appointment of any person to office or employment, except with respect to those positions filled by appointment by the City Council under the provisions of this Charter, or in any manner interfere with the City Manager in the performance of the duties of that office, or prevent him or her from exercising his or her own judgment in the appointment of such officers and employees in the administrative service whose employment, appointment, and supervision are reserved by this Charter to the City Manager. Except for the purpose of inquiry, the City Council and its members not having administrative or executive functions under this Charter shall deal with the administrative service solely through the City Manager and other council appointees, as appropriate; and neither the City Council nor any members thereof not having administrative or executive functions under this Charter shall give orders to any of the subordinates of the City Manager, either publicly or privately.

**~~Section 4. - Creation of departments by City Council, abolishing and combining, administrative code.~~**

~~In addition to administrative departments established by this Charter, the City Council may by ordinance create such administrative offices and departments as the City Council may deem advisable for the efficient and economical operation of the affairs of the City of Victoria. All administrative offices and departments, however created, shall be under the control and direction of the City Manager. The City Council may abolish any department or combine two or more departments created by the City Council; but no administrative department shall be created, abolished or combined with another until the City Council has requested and considered the recommendations of the City Manager with respect to such proposed action. The City Council may by ordinance prescribe the general organization of the administrative services of the City and prescribe procedures designed to promote efficiency and economy in administration of the business affairs of the City. In no case shall an officer or employee of the City of Victoria be entitled to any compensation or emolument of any office or employment which has been abolished, or from which such person has been removed, except for services rendered to date when the office was abolished or the incumbent removed.~~

**~~Section 5. - Holding additional office.~~**

~~Except as may be authorized by law, no member of the City Council may hold any other elected public office or any employment, compensation of which is paid out of City moneys, nor be appointed to any office created by the City Council, compensation of which was increased or fixed by the City Council which such person was a member thereof, until the expiration of at least one year after such person has ceased to be a member of the City Council. Nothing in this section shall be construed to prohibit the council from selecting any current or former Councilmember to represent the city on the governing board of any regional or other intergovernmental entity.~~

(Ord. No. 2012-21, 5-12-12)

**Section 6. - Legal department, city attorney.**

There is hereby created the Legal Department, and the head of the department shall be the City Attorney, who shall be head of the legal affairs of the City and who shall be a competent

practicing attorney of recognized ability appointed by the City Council to serve unless removed. The city Attorney shall receive such compensation as shall be fixed by the City Council. There shall be such assistant city attorneys as may be authorized by the City Council, who shall be appointed and removed by the City Attorney ~~and confirmed by the City Council~~, and such other Legal Department staff as may be authorized by the City Council, who shall be appointed and removed by the City Attorney. The Legal Department staff shall be directed by the City Council through the City Attorney in the discharge of their duties.

#### **Section 7. - Duties of city attorney.**

~~The City Attorney and the legal department shall be the legal advisor for the city and all its departments and officers in the conduct of city business and shall represent the city in all legal proceedings; however, the City Council may retain special counsel at any time it deems necessary or advisable, or where contractual obligations otherwise require it. represent the City of Victoria in all litigation and controversies~~ The City Attorney shall and shall prosecute in person or by an assistant all cases brought before the Municipal Court. The City Attorney shall review all proposed ordinances and provide any legal objections to the City Council in writing. ~~It shall be the duty of the City Attorney to approve in writing the form and legality of all proposed ordinances before adoption, or to file with the City Council in writing any legal objections to any such ordinances. The City Attorney shall draft all ordinances granting franchises, and in the event the City Attorney shall not approve any franchise ordinance as proposed by the City Council to be finally passed, the City Attorney shall file in writing with the City Council any legal objections to the ordinance. The City Attorney shall be the legal adviser and attorney for the Mayor and the City Council, the City Manager and all other officers and employees of the City with respect to any legal question involving an official duty or any matter pertaining to the affairs of the City of Victoria. The City Attorney shall inspect and pass upon all papers, documents, contracts, and other legal instruments in which the City may have an interest. The City Attorney shall perform such other duties and have such additional authority and responsibility as the City Council may direct. All powers and duties imposed on the City Attorney may be exercised and performed by any assistant under the direction of the City Attorney.~~

#### **Section 8. - City attorney on compromises and claims.**

Upon recommendation of the City Attorney, the City Council may compromise any suit filed or pending against the City of Victoria, but in all such cases the City Attorney shall file in writing with the City Secretary the reasons for such compromise. Any debt contracted by any officer of the City or by any person on account of the City, the payment of which has not been duly provided for previously by the City Council, shall be null and void and not collectible at law or in equity; and it shall be the duty of the City Attorney to plead this Charter provision to defeat the collection or enforcement of any such claim or debt.

### ARTICLE IV. – ~~RESERVED TAXES AND TAXATION~~

#### **Section 1. – Limitation of tax levy.**

- ~~(a) — The City of Victoria shall have power to levy, assess, and collect taxes for any municipal purpose on property of any kind or character, within the corporate limits within the maximum authorized now or hereafter by the Constitution and laws of the State of Texas, and on persons, privileges, subjects, and occupations. Provided, that the total tax levied annually for general purposes, and for the purpose of paying the interest and providing the sinking fund on the outstanding bonded indebtedness of the City of Victoria, and for paying the interest and making provisions for the sinking fund on such future bond issues as may be authorized, shall not exceed Two Dollars on the One Hundred Dollar assessed valuation of taxable property; except that an additional tax within the maximum authorized now or hereafter by the Constitution of the State of Texas may be levied upon approval of a majority vote of the qualified voters of the City of Victoria at an election in the City at which the increased rate of taxation shall be submitted to such voters of the City.~~
- ~~(b) — The governing body of the City of Victoria may decrease the official tax rate for the current year at any time.~~

(Ord. No. 2012-21, 5-12-12)

## ARTICLE V. - REVENUES AND EXPENDITURES

### **Section 1. - Fiscal year, funds of budget.**

The municipal or fiscal year of the City of Victoria shall begin on the first day of October of each year and end on the thirtieth day of September of the following year. All funds collected by the City during any fiscal year, including both current and delinquent revenues, shall belong to such fiscal year, and not legally allocated or pledged specifically, shall become resources of the fiscal year next succeeding. Except for funds derived to pay interest and create a sinking fund on the bonded indebtedness of the City, revenues collected in any fiscal year shall be applied to the payment of expenses incurred during such fiscal year. The fiscal year designated here shall also constitute the budget and accounting year, and the term "budget year" shall mean the fiscal year for which an annual budget is adopted and in which it is administered.

### **Section 2. - Finance Department, Director.**

There is hereby created the Finance Department of the City of Victoria, and the head of the Department shall be the Director of Finance, who shall be appointed to office by the City Manager. It shall be the duty of the Director to administer all financial affairs of the City of Victoria, except the assessment and collection of taxes, in accord with provisions of this Charter and ordinances of the City. The Director shall be a person having knowledge of municipal accounting, budgeting, and financial controls.

### **Section 3. - Duties of Director.**

It shall be the duty of the Director of Finance of the City of Victoria to maintain and supervise a general accounting system for the City and exercise control in financial matters over all departments, offices, and agencies of the City as directed by the City Manager. The Director of Finance shall:

- (1) report to the City Council through the City Manager a quarterly statement of all receipts and disbursements, showing from what source said funds were derived, specifying the amount and kind, and for what purpose such funds were disbursed, and such report shall be in sufficient detail to reflect accurately the financial condition of the City; and
- (2) report to the City Council through the City Manager, as soon as practicable after the close of each fiscal year, a complete financial statement for the City covering the fiscal year ended.

#### **Section 4. - City depositories.**

All monies received by any department, office, person or agency of the City for or in connection with affairs of the City shall be deposited promptly with such City Depository or Depositories as shall be designated by the City Council and in accordance with such regulations and subject to such requirements as to security for deposits and interest thereon as may be established by ordinance. The City Council shall adopt an ordinance which provides appropriate signatory authority for Aall checks, vouchers, or warrants for the withdrawal of money from a City Depository- shall be signed by the Director of Finance or a designated deputy and countersigned by the City Manager.

#### **Section 5. - Preparing budget, adoption by City Council.**

Not later than thirty days prior to the date the City Council makes its tax levy for the year, the City Manager shall submit in writing to the City Council a proposed budget for the next fiscal year, in accordance with laws of the State of Texas and in the form prescribed by this Charter. Upon receipt of the proposed budget from the City Manager, the City Council shall order a public hearing on the budget, at which all interested persons shall be given an opportunity to be heard, and shall cause to be published at least ten days prior to such hearing a notice of the time and place of such hearing. The City Council shall finally adopt the budget prior to the beginning of the fiscal year, and upon final adoption the budget shall be in effect for the next fiscal or budget year. Copies of the budget shall be filed with the City Secretary and the County Clerk of Victoria County, or as required by law, and copies shall be made available for use and guidance of all departments, offices, and agencies of the City. The City Council may make budget amendments in ease of grave public necessity may amend the original budget to authorize emergency expenditures to meet unusual and unforeseen conditions which could not by reasonable diligence, thought and attention have been included in the original budget in a manner consistent with state law.

#### **Section 6. - Contents of annual budget.**

The annual budget for the City of Victoria shall include a complete financial statement of the municipality, a budget message from the City Manager showing the proposed fiscal plan for the City and describing significant aspects of the budget for the fiscal period of the budget, and shall contain all items and contents required by State law.

#### **Section 7. - Control of expenditures within appropriations.**

No funds of the City of Victoria shall be expended, nor shall any obligation for the expenditure of money be incurred, except in pursuance of the annual appropriation ordinance

provided by this Charter. At the close of each fiscal year an unencumbered balance of an appropriation shall revert to the fund from which appropriated and may be reappropriated by the City Council. The City Council may direct the transfer of any unencumbered appropriation balance or portion thereof from one department, office, or agency of the City to another. The City Manager shall have authority, without necessity of approval by the City Council, to transfer appropriation balances from one expenditure account to another within a single department, office or agency of the City. The City Manager may adopt such methods as will be appropriate to maintain effective administrative controls over expenditures during the year by departments, offices, and agencies to prevent the making of expenditures in excess of available revenues and appropriations.

**Section 8. -- General obligation bonds.**

~~The City of Victoria shall have power to borrow money on the credit of the City and to issue general obligation bonds for the acquisition of property, for permanent public improvements, or for any other public purpose not now or hereafter prohibited by the Constitution and laws of the State of Texas. Except for the refunds of bonds previously issued, any proposition to borrow money and to issue such bonds shall be approved first by a majority of the qualified voters at an election called for the purpose of authorizing the issuance of such indebtedness. The ordinance calling such election and the manner of conducting the election shall conform in all respects to the general laws of the State of Texas.~~

(Ord. No. 2012-21, 5-12-12)

**Section 9. -- Revenue bonds.**

~~The City of Victoria shall have power to borrow money for the purpose of constructing, purchasing, improving, extending, or repairing of public utilities, recreational facilities, or facilities for any other self-liquidating municipal function not now or hereafter prohibited by any general law of the State of Texas, and to issue revenue bonds to evidence the obligation thereby created. Such bonds when issued shall be a charge upon and payable solely from the properties acquired, or interest therein, and the income therefrom, and shall never be a debt of the City of Victoria. All revenue bonds issued by the City shall be authorized first by a majority of the qualified electors voting at an election held for such purpose. The City Council shall have authority to provide for the terms and form of any purchase agreement, contract, mortgage, bond or document desired or necessary for the issuance of revenue bonds and the acquisition and operation of any such property or interest.~~

**Section 10. -- Interest and sinking fund.**

~~The City Council shall levy an annual tax sufficient to pay the interest and provide the necessary sinking fund required by law on all outstanding general obligation bonds of the City of Victoria. The interest and sinking fund shall be deposited in a separate account and shall not be diverted to or used for any other purpose than to pay the interest and principal on such bonds. The sinking fund maintained for the redemption of any debt may be invested in any interest bearing bond of the United States of America, the State of Texas, the City of Victoria, or in any other investment authorized by law.~~

**Section 11. -- Sale of bonds by City Council.**

~~No bonds issued by the City of Victoria shall be sold for less than par value and accrued interest, and such bonds shall be sold only upon bids received and considered by the City Council, submitted in response to public advertisement therefor, but the City Council shall have the right to reject any or all bids submitted.~~

## ARTICLE VI. - PUBLIC UTILITIES AND FRANCHISES

### **Section 1. -- Grant of franchise must be express, by City Council.**

~~The provision of this Charter shall never grant to any person, firm, or corporation any right or franchise to use or occupy the public streets, avenues, highways, sidewalks, alleys, parks, public squares, or public grounds of the City of Victoria, but the City Council shall have the exclusive power and authority to make such grants of any franchise or right to use and occupy the public streets, avenues, highways, sidewalks, alleys, parks, public squares, and grounds of the City. The right of control and use of the public streets, avenues, highways, sidewalks, alleys, parks, public squares, and grounds of the City is hereby declared to be inalienable by the City of Victoria, except by ordinances duly adopted by the City Council not in conflict with provisions of this Charter; and no act or omission by the City Council, or by any officer or agent of the City, shall be construed to grant, renew, extend, or amend by estoppel or indirection any right, franchise, or easement affecting the public streets, avenues, highways, sidewalks, alleys, parks, public squares, public places and other real property of the City of Victoria.~~

### **Section 2. -- No right to franchise without grant, rates and regulations by City Council.**

~~The City of Victoria shall have the power to prohibit the use of any street, avenue, highway, sidewalk, alley, park, public square, or grounds of the City by any telegraph, telephone, electric light, electric power, street railway, interurban railway, gas company, or any other character of public utility, without there first being obtained the consent of the City Council expressed by ordinance, and upon paying such compensation as may be prescribed and upon such conditions as may be provided by any such ordinance. The City shall have power to determine, fix, and regulate charges, fares, or rates of any person, firm, or corporation enjoying, or that may enjoy, the franchise, or exercising any other public privilege in the City of Victoria; and to prescribe the kind of service to be furnished by such person, firm, or corporation, and the manner in which it shall be rendered; and from time to time to alter or change such rules, regulations, and compensations.~~

### **Section 3. -- How franchise ordinances are passed, term limited to fifteen years.**

~~The City Council shall have power by ordinance to grant, renew, and extend all franchises of all public utilities of every character operating within the City of Victoria, and may amend such franchise with consent of the holder. The City Council shall have no power to grant, renew or extend any franchise for an indeterminate period or term, and no franchise shall be granted for a term of more than fifteen years. Every ordinance granting, renewing, extending, or amending a public utility franchise shall be read at three regular meetings of the City Council, and shall not be finally passed until thirty days after the first reading. Within seven days following each of the three readings of the ordinance, the full text thereof shall be published one time in some newspaper of general circulation in the City of Victoria, and the expense of such publication shall be borne by the utility seeking the franchise. No ordinance granting, renewing, extending, or amending a public utility franchise shall become effective until the expiration of sixty days~~

~~following the date of its final adoption by the City Council. No public utility franchise, after being granted by the City Council, shall be transferred by the holder, except upon the approval of the City Council expressed by ordinance.~~

**Section 14. - Safeguards for public with respect to franchise holders and other public utilities.**

Regardless of whether so provided in the franchise ordinance, every grant, renewal, extension, or amendment of a public utility franchise shall be subject to, and every holder of such franchise accepts such grant, renewal, extension, or amendment subject to, the right of the City Council in the respects hereinafter mentioned, and every other public utility operating in the City shall be subject to the right of the City Council to do the following:

- (1) To forfeit any such franchise by ordinance at any time for failure of the holder to comply with the terms of the franchise, such power to be exercised by the City Council only after due notice and hearing.
- (2) To impose reasonable regulations to insure safe, efficient, and continuous service to the public.
- (3) To require such expansion and extension of plants, lines, distribution, and utility facilities as are necessary to provide adequate service to the public.
- (4) To require every franchise holder and every other public utility to furnish to the City, without cost to the City, full information regarding the location, character, extent, and condition of all facilities of such franchise holder or public utility in, over, and under the streets, alleys, and other public places and property of the City; and to impose reasonable regulations designating and controlling the location, relocation and removal of such facilities.
- (5) To collect from every public utility operating in the City its fair and just proportion of the expense of excavating, grading, repairing, and maintaining such portions of the alleys, bridges, culverts, viaducts, and other public places and ways of the City as may be occupied or used in whole or in part by such utilities; or to compel such public utility to perform without expense to the City its just share of such excavating, grading, paving, repaving, constructing, repairing, and maintaining.
- (6) To require every public utility or franchise holder to allow other public utilities to use the tracks, poles, wires, pipes, bridges, and viaducts, wherever, in the judgment of the City Council such use shall be in the public interest; provided, that the use does not materially interfere with the use thereof by the owner for its purposes nor materially impair the safety of said facilities, and that in such event, said owner of said facilities may fix and collect reasonable rental, to be approved by the City Council, to be paid to the owner of the facility for such use.
- (7) To prescribe the form of accounts kept by every public utility or franchise holder, provided that, if the public utility or franchise holder shall keep its accounts in accordance with the uniform system of accounts for said utility prescribed by or acceptable to the National Association of Railroad and Public Utility Commissioners, the Federal Power Commission, the Federal Communications Commission, or the

Railroad Commission of Texas, their successor or successors, this shall be deemed sufficient compliance with the provisions of this Section.

- (8) To examine and audit at any time during business hours the accounts and other records of any franchise holder or public utility, and to require annual and other reports, without cost to the City, including, without limitation, reports on the local operations of the public utility or franchise holder, which shall be in such form and contain such information taken from the books and records of such utility or franchise holder as the City Council shall prescribe.
- (9) To require and collect any compensation and rental not now or hereafter prohibited by the laws of the State of Texas.

### **Section 2.5. - Rate-making power of City Council.**

The City Council shall have full power after notice and hearing to regulate by ordinance the rates, charges, and fares of every public utility or holder of a public utility franchise operating in the City of Victoria, but no such ordinance shall be passed by the City Council as an emergency measure. Any public utility or holder of a utility franchise making application to the City Council for an increase in its rates, charges, or fares shall have the burden at the hearing on such request of establishing the value of its property and the amount and character of its revenues and expenses. No legal action to contest any rate, charge or fare fixed by the City Council shall be instituted by the public utility or holder of a utility franchise until such holder or utility has filed a motion for rehearing with the City Council setting out specifically each ground of its complaint against the rate, charge, or fare fixed by the City Council, and until after the City Council shall have acted upon such motion or had a period of sixty days within which to act upon motion for rehearing.

## ARTICLE VII. - ELECTIONS, GENERAL AND SPECIAL

### **Section 1. - Elections under state law and ordinance; general elections.**

All elections in the City of Victoria shall be conducted and results canvassed and announced by the authorities as prescribed by and in accordance with the laws of the State of Texas regulating the holding of municipal elections ~~and in accordance with ordinances adopted by the City Council for the conduct of elections. All provisions of the Texas Election Code and any amendments to it which result in conflicts with any of the provisions of this Charter shall supersede this Charter to the extent of any conflict, even if the provision or amendment does not expressly provide for it to supersede any such charter provision.~~

### **~~Section 2. - General elections, run-off elections.~~**

~~The general election of the members of the City Council shall be held on the Uniform Election Date nearest the first Saturday in May of each election year. At every general election and at every special election called to fill one or more vacant places on the City Council, election to each place on the City Council shall be by a majority of all the votes cast for such place at each election. Each qualified voter in every such election shall vote for not more than one candidate for each place on the City Council to be filled. Where in an election to a place on the~~

~~City Council no candidate receives a majority of all the votes cast for such place in such election, the City Council, immediately upon declaring the official returns of the election, shall order a run-off election for every place to which no one was elected to be conducted in accordance with the election laws of the State of Texas, and the candidate who receives the majority of the votes cast for each such place in the run-off election shall be elected to such place on the City Council.~~

(Ord. No. 2012-21, 5-12-12)

### **Section 3. - Filing for places on City Council, consent of candidates.**

~~Any qualified person may have his or her name placed on the official ballot as a candidate for Mayor or Councilmember at any election held for the purpose of electing a Mayor or Councilmember by filing with the City Secretary a sworn application on a form prescribed by the Secretary of State in conformance with Section 141.031 of the Texas Election Code or any successor statute thereto, not earlier than the 75th day nor later than the 45th day before the date of election. Nomination of candidates for Mayor or Councilmember may also be made by petition filed with the City Secretary not earlier than the 75th day nor later than the 45th day before the date of election, provided the candidate accepts such nomination in writing and files an acceptance with the City Secretary not earlier than the 75th day nor later than the 45th day before the date of election. Any such petition and the signatures thereon must conform to the requirements for a petition for a candidate's application for a place on the ballot in other elections as prescribed by the Texas Election Code. The minimum number of signatures that must appear on the petition is the greater of 25 or one-half of one percent of the total vote received in the territory or district from which the office is elected by all candidates for mayor in the most recent mayoral general election. Verification of signatures will be performed by the City Secretary, who shall follow the verification procedures provided by the Election Code.~~

### **Section 4. - Official ballot, placing names on ballot.**

~~For every general election and for every special election in the City of Victoria called to fill one or more vacant places on the City Council, the City Secretary shall place upon the official ballot the name of every candidate who has filed an application, or who has been nominated, in compliance with the provisions of the Texas Election Code. The places to be filled on the City Council shall be placed on the ballot in numerical order after the place of Mayor which shall be first on the ballot.~~

### **Section 5. - Election judges, emergency appointments, returns, record of canvass.**

~~The City Council shall appoint the election judges and other election officials as required by and in accordance with the Texas Election Code. Emergency appointments shall be made in compliance with said Code. The returns of every municipal election shall be delivered by the election judges to the City Secretary within twenty-four hours after the polls are closed, and the returns, together with the official results of the election as declared in canvass by the City Council, shall be recorded in the Minutes of the City Council by voting precinct totals for each candidate or for each measure.~~

### **Section 6. - Special elections.**

~~The City Council may call by ordinance such special elections as are authorized by the laws of the State of Texas and by the provisions of this Charter, and may fix the time of holding and provide all reasonable means for holding such special elections.~~

~~(Ord. No. 2012-21, 5-12-12)~~

### **~~Section 7. - Campaign expenses.~~**

~~Every candidate for elective office of the City of Victoria shall file with the City Secretary such sworn statements of all contributions received and all expenditures made as required by and in conformance with Title 15 of the Texas Election Code and any amendments to it.~~

## ARTICLE VIII. - INITIATIVE, REFERENDUM, RECALL

### **Section 1. - Initiative power.**

The people of the City of Victoria reserve the power of direct legislation by initiative. In the exercise of such power the people may propose any ordinance, not in conflict with the laws and Constitution of the State of Texas and not in conflict with this Charter, except an ordinance appropriating money or authorizing the levy of taxes. Any ordinance initiated by the people may be submitted to the City Council by petition signed by registered qualified voters of the City of Victoria equal in number to ten percent or more of the registered qualified voters of the City.

### **Section 2. - Referendum power.**

The people of the City of Victoria reserve the power to approve or reject at the polls any legislation enacted by the City Council which is subject to the initiative process under this Charter, except an ordinance which is enacted for the immediate preservation of the public peace, health, or safety and contains a statement of its urgency, and which is adopted by the favorable votes of four or more members of the City Council. Within 30 days of the effective date of any ordinance which is subject to referendum, a petition signed by registered qualified voters of the City equal in number to ten percent or more of the registered qualified voters of the City may be filed with the City Secretary requesting that any such ordinance be repealed or be submitted to a vote of the people. When any such petition has been certified by the City Secretary as sufficient, the ordinance specified in the petition shall not go into effect, or if it has gone into effect then further action shall be suspended, until and unless the ordinance is approved by a majority of the voters at an election as provided in this Charter.

(Ord. No. 2012-21, 5-12-12)

### **Section 3. - Recall power.**

The people of the City of Victoria reserve the power to recall any member of the City Council, and the people may exercise such power by filing with the City Secretary a petition, signed by registered qualified voters of the City, equal in number to ten percent or more of the registered qualified of the City, demanding removal of a member of the City Council. The

petition shall be signed and verified in the manner required in Section 4 of this Article for an initiative petition, shall contain a general statement of the grounds for which removal is sought, and one of the signers of each petition paper shall make and file an affidavit that the statements made in the petition are true. No petition for recall shall be filed against a member of the City Council within six months after such member takes office, and no member of the City Council shall be subjected to more than one recall election during a term of office.

#### **Section 5. - Certification on initiative and referendum petitions.**

Within twenty days after an initiative or referendum petition is filed, the City Secretary shall examine the petition and determine whether it contains the requisite number of valid signatures. If a petition contains more than 1000 signatures, the City Secretary may use any reasonable statistical sampling method in determining whether the petition contains the required number of valid signatures, except that the sample may not be less than 25 percent of the total number of signatures appearing on the petition or 1000, whichever is greater. In examining the petition the City Secretary shall write in red ink the letters "D.V." opposite every signature found invalid. The City Secretary need not examine, and shall declare void, any petition paper which does not have attached thereto the affidavit of the person who circulated it as required in Section 4 of this Article. Upon completing examination of the petition, the City Secretary shall certify the result of such examination to the City Council at its next regular meeting stating the number of signers found on the petition ~~registered~~ qualified to vote and the number of signers found not ~~registered~~ qualified to vote. If the certificate of the City Secretary shall show an initiative, referendum, or recall petition to be insufficient, the City Secretary shall notify the person filing the petition, and the petition may be amended within ten days from date of such notice by filing a supplementary petition upon additional papers signed and filed as provided for an original petition. Within ten days after the filing of such amendment, the City Secretary shall examine and certify such amended petition as to its sufficiency. If the amended petition is found insufficient, the City Secretary shall return the petitions to the person who filed them, without prejudice to the filing of a new petition for the same purpose.

#### **Section 6. - Action of City Council on initiative petition.**

When the City Council receives an authorized initiative petition duly certified by the City Secretary to be sufficient, the City Council shall:

- (a) Pass the initiated ordinance without amendment within sixty days after date of certification to the City Council; or
- (b) Submit the initiated ordinance without amendment to a vote of the ~~registered~~ qualified voters of the City at a regular or special election to be held on the next uniform election date which occurs not less than 60 days after the date of certification of the petition to the City Council; or
- (c) Submit to a vote of the ~~registered~~ qualified voters of the City at such election the initiated ordinance without amendment, and in the alternative an ordinance on the same subject proposed by the City Council.

#### **Section 7. - Action of City Council on referendum petition.**

When the City Council receives an authorized referendum petition duly certified by the City Secretary to be sufficient, the City Council shall reconsider the referred ordinance, and if upon such reconsideration the ordinance is not repealed, it shall be submitted to a vote of the ~~registered qualified~~ voters of the City at a regular or special election to be held on the next uniform election date which occurs not less than 60 days after the date of certification of the petition by the City Secretary to the City Council.

#### **Section 8. - Ballots for initiative and referendum.**

Special elections on initiated or referred ordinances shall not be held more often than once each six months, and no ordinance on the same subject as an initiated ordinance which has been defeated at any election may be initiated by the voters within two years from the date of such election. The ballot used in voting upon initiated or referred ordinances shall state the caption of the ordinance and below the caption shall set forth on separate lines the words: "For the Ordinance" and "Against the Ordinance." When an initiated ordinance and an alternative ordinance proposed by the City Council are submitted, the ballot shall state the captions of each ordinance, designating them "Ordinance Number One" and "Ordinance Number Two," respectively, and shall set forth below the captions on separate lines the words: "For Ordinance Number One, " "For Ordinance Number Two" and "Against Both Ordinances." When an initiated ordinance and an alternative ordinance proposed by the City Council are submitted, each voter shall vote "For" only one ordinance or "Against Both Ordinances, " and a vote cast for one ordinance shall be counted as a vote against the other ordinance. Any number of ordinances may be voted on at the same election in accordance with the provisions of this Article. If a majority of the votes cast in an election favor a submitted ordinance, the ordinance shall become an ordinance of the City as so adopted, but may be repealed or amended by the City Council at any time after the expiration of two years following the election at which the ordinance was adopted by the people. A referred ordinance not approved by a majority of the votes cast in an election shall be deemed repealed.

#### **Section 9. - Certificate on recall petition.**

Within twenty days after a petition for recall of a member of the City Council is filed, the City Secretary shall examine the petition and determine whether it is signed by the requisite number of voters. The provisions contained in Section 5 of this Article regulating examination, certification and amendment of initiative petitions shall apply to petitions for recall. If the petition is certified by the City Secretary to be sufficient and the member of the City Council whose removal is sought does not resign within five days after the certification to the City Council, the City Council shall order a special election to be held on the next uniform election date which occurs not less than 60 days from the date of such certification at which election the question of recall shall be submitted.

#### **Section 10. - Ballots for recall election.**

Ballots used at any election on the question of recall of a member of the City Council shall conform to the following requirements:

- (1) With respect to each person whose removal is sought the question shall be submitted:

"Shall (name of the member of the City Council) be removed from the office of (Mayor or City Councilman)?," and

- (2) Immediately below each such question there shall be printed the two propositions following:

"For the Recall of (name of member of City Council)."

"Against the Recall of (name of member of City Council)."

**Section 11. - Results of recall election.**

If a majority of the votes cast at an election at which the question of recall of a member of the City Council is submitted shall be against the removal of the member of the City Council named on the ballot, he or she shall continue in office. If the majority of the votes cast at such election are for removal of the member of the City Council named on the ballot, the City Council shall immediately declare his or her office vacant, and such vacancy shall be filled in accordance with the provisions of this Charter for filling vacancies on the City Council. A member of the City Council thus removed shall not be a candidate to succeed himself or herself in an election called to fill the vacancy thereby created.

**Section 12. - Election date in the event of conflict with state law.**

In the event that there is in existence any statute of the State of Texas which would prohibit the calling of the referendum election or the recall election as provided hereinabove within the time limits set out therein, then such election shall be held upon the next authorized date following the time limits set out in Sections 7 and 9.

ARTICLE IX. - CITY PLANNING

**Section 1. - Planning commission created.**

There is hereby created the Planning Commission of the City of Victoria which shall consist of nine members appointed by the City Council. Every member of the Planning Commission shall be a resident citizen of the City of Victoria and shall be a qualified voter. The Planning Commission shall act as an advisory body to the City Council on other matters relating to municipal planning and development deemed by the City Council beneficial to the City of Victoria.

(Ord. No. 2012-21, 5-12-12)

**Section 2. - Powers and duties of Planning Commission.**

The Planning Commission of the City of Victoria shall exercise control over platting and subdividing land within the corporate limits of the City and within the City's defined extraterritorial jurisdiction ~~an area extending five miles beyond the City limits,~~ and shall exercise such additional powers and have such additional duties and responsibilities as may be prescribed by ordinance of the City Council not inconsistent with the Constitution and laws of the State of Texas and the provisions of this Charter. ~~It is specifically here provided that the City Council~~

~~may by ordinance assign to the Planning Commission the power and duty to recommend to the City Council approval or disapproval of proposed changes in the zoning plan of the City.~~

### **Section 3. - City Council may authorize master plan.**

The City Council may authorize and direct the Planning Commission to create a master plan for the physical development of the City of Victoria and to amend and supplement such plan from time to time, and such plan shall contain recommendations of the Planning Commission for the orderly growth, development, and improvement of the City. The master plan and all amendments and supplements shall be filed with the City Secretary. The City Council may adopt such plan and any amendment or supplement, may amend, revise, and make additions, and any such action by the City Council shall be placed of record and filed with the City Secretary.

### **Section 4. - If master plan is adopted.**

Upon adoption of a master plan under Section 3 of this Article by the City Council, no subdivision, street, public way, ground, space, park, public building or structure, public utility, whether publicly or privately owned, not in conformity with the principles of the master plan, shall not be constructed or authorized by the City Council or any officer or agency of the City, until and unless the location and extent of any such project shall have been submitted to the Planning Commission for study and recommendation to the City Council and unless and until the City Council shall approve the location and extent of such project. After the City Council has adopted a master plan, the widening, narrowing, relocating, vacating, or change in the use of any street, river or watercourse, or other public ground, and the sale of any public building or real property not consistent with the master plan and its objectives shall be submitted to the Planning Commission for study and recommendation to the City Council before such action is taken.

## **ARTICLE X. - RESERVED ~~PUBLIC PROPERTY AND PUBLIC STREETS~~**

### **~~Section 1. - Control over streets and public property.~~**

~~The City of Victoria shall have exclusive dominion, control, and jurisdiction in, upon, over, and under the public streets, sidewalks, alleys, highways, public squares, and public ways within the corporate limits of the City, and in, upon, over, and under all public property of the City of Victoria. With respect to each and every City street, sidewalk, alley, highway, public square, or other public way within the corporate limits of the City of Victoria, the City shall have the power to establish, maintain, alter, abandon, or vacate the same; to regulate, establish, or change the grade thereof; to control and regulate the use thereof; to abate and remove in a summary manner all obstructions or other encroachments or encumbrances; and to regulate and control the moving of buildings or other structures over and upon such streets, avenues, or other public ways.~~

(Ord. No. 2012-21, 5-12-12)

### **~~Section 2. - Improving and paving streets.~~**

~~The City of Victoria shall have the power to develop and improve, or cause to be developed and improved, any and all public streets, avenues, sidewalks, alleys, highways, and other public~~

~~ways within the corporate limits of the City by laying out, opening, narrowing, widening, straightening, extending, and establishing building lines along the same; by purchasing, condemning, and taking property therefor; by filling, grading, raising, powering, paving, repaving, and repairing the same in a permanent manner; and by constructing, reconstructing, altering, repairing, and realigning curbs, gutters, drains, sidewalks, culverts, and other appurtenances and incidentals in connection with such development and improvements. The City may make or cause to be made any one or more of the kinds or classes of development and improvement here authorized, or any combination of parts thereof. The cost of such development and improvement shall be paid by the City of Victoria, or partly by the City and partly by assessments levied against the property, and such assessments may be levied in any amounts and under any procedure now or hereafter permitted by the laws of the State of Texas.~~

~~(Ord. No. 2012-21, 5-12-12)~~

**~~Section 3. – May adopt other methods.~~**

~~The powers herein stipulated and reserved for making street improvements and assessing the cost by special assessment in the several manners herein stated shall not be construed to prevent the City of Victoria from adopting and employing any other method or plan for the development, improvement, or paving of the public streets, avenues, alleys, sidewalks, highways, curbs, boulevards, and other public ways within the corporate limits which the City Council may provide by ordinance.~~

~~(Ord. No. 2012-21, 5-12-12)~~

**~~Section 4. – Saving clause for prior assessments and contracts.~~**

~~The adoption of this Charter or any amendment of the same shall never be construed to affect the right of the City of Victoria to collect by special assessment any special assessment heretofore levied under any law for the purpose of improving any street, highway, avenue, or boulevard of the City, or for the purpose of opening, extending, widening, straightening, or otherwise improving the same; nor affecting any right on contract or obligation existing between the City of Victoria and any person, firm, or corporation for the making of any such improvements, and for the purpose of collecting any such special assessment and carrying out any such contract.~~

**ARTICLE XI. - MUNICIPAL COURT**

**Section 1. - Creation and jurisdiction.**

There is hereby established a Municipal Court of the City, which shall have such jurisdiction and powers as are given and prescribed by the laws of Texas.

**Section 2. - Judge of the court.**

The Municipal Court shall be presided over by a Magistrate who shall be known as the Judge of the Municipal Court. The Judge shall be appointed by the City Council and shall hold office for two years from the date of appointment unless sooner removed by a majority of the members of the City Council. The Judge shall be a competent practicing attorney in good standing and shall have resided within the City of Victoria for at least three years immediately preceding the date of appointment. In the event the Judge of the Municipal Court is unable to act for any reason, the City Council shall appoint a qualified attorney to act in the Judge's place. The Judge or any person acting in such place shall receive such compensation as may be fixed by the city Council. The City Council shall have the power to create and establish by ordinance two or more divisions of the Municipal Court, one of which shall be presided over by a presiding judge with each additional division to be presided over by an associate judge, who will be a magistrate with the same powers as the presiding judge.

**Section 3. - Clerk of the Court and deputies.**

There shall be a Clerk of the Municipal Court who shall be appointed by the City Manager.

(Ord. No. 2012-21, 5-12-12)

**~~Section 4. - Remitting fines, pardons and reprieves.~~**

~~The City Council shall have the power to remit fines, forfeitures, and penalties for the violation of penal ordinances of the City of Victoria and to grant reprieves and pardons for all offenses arising under the penal ordinances of the City, when the City Council deems that justice requires such action, or upon recommendation of the Judge of the Municipal Court.~~

**~~Section 5. - Fines paid into Treasury.~~**

~~Fines and forfeitures imposed by the Municipal Court of the City of Victoria in any prosecution therein shall be paid into the Treasury of the City of Victoria for the use and benefit of the City of Victoria.~~

**~~Section 6. - Charter cumulative of State law.~~**

~~This Article is hereby declared to be cumulative of any laws of the State of Texas now in force or hereafter enacted regulating, prescribing, or increasing the jurisdiction of Municipal Courts in cities of the class and population of the City of Victoria.~~

**ARTICLE XII. - GENERAL AND MISCELLANEOUS PROVISIONS**

**Section 1. - Notice of claims.**

Before the City of Victoria shall be liable for damages for the death or personal injuries of any person or for damages to property of any kind which does not constitute a taking or damaging of property under Article 1, Section 17 of the Constitution of the State of Texas, the person injured, if living, or legal representatives, if dead, or the owner of the property damaged shall give the City Council or the City Manager notice in writing of such death, injury, or damage, duly verified by affidavit, within six months after the same has been sustained, stating

specifically in such written notice the damage or injury claimed; the incident giving rise to the damage or injury claimed; when, where, and how the death, injury, or damage, occurred and the apparent extent of such injury; the amount of the damages sustained; the actual residence of the claimant by street and number on the date the claim is presented; the actual residence of such claimant for six months immediately preceding the occurrence of such death, injury, or damage; and the names and addresses of all witnesses upon whom it is relied to establish a claim for damages; and the failure so to notify the City Council or the City Manager within the time and manner specified herein shall exonerate, excuse, and exempt the City of Victoria from any liability whatsoever. No act of any officer or employee of the City of Victoria shall waive compliance or estop the City from requiring compliance with the provisions of this section as to notice, but such provisions may be waived by resolution of the City Council made and passed before the expiration of the six month period herein provided and evidenced by the Minutes of the City Council. In accordance with state law, these notice requirements do not apply if the city has actual notice that death has occurred, that the claimant has received some injury, or that the claimant's property has been damaged.

**Section 2. – Limitation on liability for damages.**

~~The City of Victoria shall not be liable for damages to anyone on account of any defect in, obstruction on, or anything else in connection with any sidewalk, street, avenue, alley or public place, unless and until it be shown that some person in the employment of the City of Victoria, and having superintendence or control of the work on the sidewalks, streets, avenues, alleys, or public places, had actual notice of such defect, obstruction, or other thing for a length of time sufficient before such injury was received to have remedied such condition of the sidewalk, street, avenue, alley or public place before the injury was received.~~

**Section 3. – Security by city not required.**

~~It shall not be necessary in any action, suit, or proceeding in which the City of Victoria is a party for any bond, undertaking, or security to be demanded or executed by or on behalf of the City. The City of Victoria shall have all remedies of appeal provided by law to all courts in the State of Texas without bond or security of any kind, but shall be liable in the same manner and to the same extent as if such bond, undertaking, or security actually had been executed or given.~~

**Section 4. – City free from execution, garnishment, and assignments.**

~~The property, real and personal, belonging to the City of Victoria shall not be liable for sale or appropriation under any writ of execution. The funds belonging to the City of Victoria 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 of Victoria nor any of its officers or agents shall be required to answer any such writ of garnishment on any account whatever. The City of Victoria shall not be obligated to recognize any assignment of wages or funds by its employees, agents, or contractors.~~

**Section 5. – Oaths or affirmations of officers.**

~~Every person elected or appointed to any office in the City of Victoria shall, before entering upon the duties of office, subscribe to the statement and take the oath or affirmation of office prescribed in Article 16, Section 1, of the Texas Constitution or any amendment to it.~~

### **Section 6. - Nepotism.**

No person related within the second degree of affinity or within the third degree of consanguinity, as determined by state law, to the Mayor, any other member of the City Council, or the City Manager, shall be appointed to any office, position, clerkship, employment or duty of the City of Victoria. This prohibition shall not apply, however, to any person who shall have been continuously employed by the City of Victoria for a period of thirty days preceding the date of appointment of the City Manager or six months preceding the date of election of the Mayor or Councilmember so related to such person.

### **Section 7. - Conflicts of Interest ~~Officers and employees not to be interested in city contracts.~~**

For purposes of this Section the term "City Official" means any individual subject to the requirements of Texas Local Government Code, Chapter 171.

It is hereby prohibited for Members of City Council or a City Official to violate the rules and regulations regarding conflicts of interests as set out in the Texas Local Government Code, Chapter 171.

~~No member of the City Council or any officer or employee of the City of Victoria shall be directly or indirectly interested in any work, business, or contract, the expense, price or consideration of which is paid from funds of the City or by assessment levied by ordinance or resolution of the City Council; nor be the surety for any person having a contract, work, or business with the City for the performance of which security may be required; nor be the surety on the official bond of any officer of the City of Victoria; nor be pecuniarily interested directly or indirectly in any contract let by the City Council, or in any work done by the City Council, nor in any matter wherein the rights or liabilities of the City of Victoria may be involved, nor have a financial interest, direct or indirect, in the sale to the City of any land, materials, supplies, or service except on behalf of the City as an officer or employee. Any officer or employee of the City of Victoria becoming directly or indirectly interested as aforesaid in any contract, work, purchase, or sale by or with the City of Victoria shall forfeit all right of claim to the title and emoluments of any office which such person may hold in the City. Any violation of this Section with the knowledge, express or implied, of the person or corporation contracting with the City Council shall render the contract involved voidable by the City Manager or by the City Council.~~

### **Section 8. - ~~Prohibition against participation in franchises.~~**

~~Should the Mayor or any other member of the City Council, or any elective officer of the City be directly or indirectly, in the employ of any person, firm or corporation holding, or seeking to hold, any franchise from the City of Victoria, or the right to use the City's streets and alleys, or should such officer have received directly, or indirectly, any wage, commission, fee, favor, gift, or payment from such party, he or she shall publicly disclose such interest to the City Council, and the same shall be made a matter of record prior to any consideration or other action in regard to such matter. No elected or appointed officer or employee having any interest as set out above shall vote, render a decision or use his or her position, authority or influence to any~~

degree in regard thereto. Failure to comply with the above shall be deemed malfeasance in office and cause for removal thereof. Violation of this section shall render the granting of such franchise, or right to use the City's streets and alleys, or any action taken in connection therewith, voidable by the City Council.

#### **Section 9. -- Officers and employees not to assist candidates.**

~~Any officer or employee of the City who, while on duty, by solicitation or otherwise shall exert his or her influence directly or indirectly to influence any other officer or employee of the City to favor any particular person or candidate for office in the City shall be guilty of a misdemeanor and upon conviction thereof shall forfeit his or her office or employment and be punished by a fine not exceeding five hundred dollars (\$500.00). Officers and employees shall not be permitted to take an active part in any political campaign of another for an elective position of the City if they are in uniform or on active duty. The term "active part" means making political speeches, passing out cards or other political literature, wearing campaign buttons, writing letters, circulating or signing petitions, soliciting votes, soliciting contributions, and making public derogatory remarks about candidates for such elective positions. City officers and employees are prohibited from contributing or using city resources, city equipment or city money for election campaigning. Officers and employees coming under the provisions of this section are not required to contribute to any political fund or render any political service to any person or party whatsoever; and no person shall be removed, reduced in classification or salary, or otherwise prejudiced by refusing to do so; and any official who attempts the same shall be guilty of violating the provisions of this section. The provisions of this charter shall not prohibit City officers and employees from campaigning for elective office, soliciting and contributing personal funds, and engaging in other First Amendment protected activities while they are not on active duty or in a City uniform. For purposes of this section, elected officers are not on "active duty" if they are not in a City owned building and not in a City Council meeting.~~

#### **Section 10. - Officer defined.**

The term "officer" as used in this Charter shall include elective officers under the provisions of this Charter.

#### **Section 11. -- Judicial notice.**

~~This Charter shall be deemed a public act and may be read in evidence without pleading or proof, and judicial notice of this Charter shall be taken in all courts and places in the State of Texas.~~

#### **Section 12. -- When this Charter becomes effective.**

~~The Mayor and four Aldermen who were elected to the City Council of the City of Victoria on the first Tuesday in April, 1955, shall constitute the City Council from and after the adoption of this Charter until the election of a City Council on the first Tuesday in April, 1957, and the provisions of this Charter contained in Article II affecting the qualifications of members of the City Council, the composition of the City Council, and the election of a Mayor and four other Councilmen, and the provisions of this Charter contained in Article VII prescribing the time and manner of holding regular or general elections for members of the City Council shall become effective and be binding upon the City Council and the people of the City of Victoria from and~~

~~after the first day of January, 1957. All provisions of this Charter not effective as provided hereinabove shall be effective upon and after the first Tuesday in April, 1957.~~

### **Section 13. - Construction of Charter.**

This Charter shall not be construed as a mere grant of enumerated powers, but shall be construed as a general grant of power and as a limitation of power on the government of the City of Victoria in the same manner that the Constitution of the State of Texas is construed as a limitation on the powers of the Legislature of this State. Except where prohibited expressly by this Charter, each and every power under Article XI, Section 5, of the Constitution of the State of Texas which it would be competent for the people of the City of Victoria expressly to grant to the City shall be construed to be granted to the City of Victoria by this Charter.

### **Section 14. - Continuing ordinances.**

All ordinances, resolutions, rules and regulations now in force under the government of the City of Victoria and not in conflict with the provisions of this Charter shall remain in force until altered, amended, or repealed by the City Council after the provisions of this Charter become effective. All rights of the City of Victoria under existing franchises and contracts and all existing authority for the issuance of bonds, not in conflict with the provisions of this Charter, shall be preserved in full force and effect.

### **Section 15. - Saving clause.**

If a court of competent jurisdiction shall adjudge to be invalid or unconstitutional any clause, sentence, subsection, section, or Article of this Charter, such judgment or decree shall not affect, impair, invalidate, or nullify the remainder of this Charter, but the effect thereof shall be confined to the clause, sentence, subsection, section, or Article of this Charter so adjudged to be invalid or unconstitutional.

### **Section . - Loss of Quorum.**

In the case of an event when a legal quorum of the City Council cannot otherwise be assembled due to multiple deaths, injuries, incapacitations, or recall elections, and the currently elected mayor is among the remaining members of council, then the Mayor shall within 72 hours appoint a number of qualified residents of the City of Victoria equal to the number necessary to make a quorum to act as the City Council. In the event the mayor is not among the remaining members of council, the remaining members of the City Council, or highest surviving officer, if no elected official remains, shall, within 72 hours of such event, request the highest surviving officers of the Victoria County Commissioners Court to appoint a number of qualified residents of the City of Victoria equal to the number necessary to make a quorum to act as the City Council. The residents so appointed shall serve as members of the City Council, and may if necessary, elect a mayor from among the sitting members of City Council. The newly appointed City Council shall, as soon as authorized by law, call a City election to be held on the next authorized date for holding an election for election of the vacant offices, if for good reasons it is known a quorum of the most recently elected City Council will never again meet. The appointed council members shall serve until the newly elected members are qualified to take office. If it is determined that an elected member of City Council will resume his or her capacity to serve as a council member, the appointed Council Members shall serve in their position until such time as the then present Council Members may again begin serving.