



**CITY OF FAIR OAKS RANCH
HOME RULE CHARTER COMMISSION MEETING**

December 12, 2016; 4:00 p.m.

City Hall Council Chambers

7286 Dietz Elkhorn, Fair Oaks Ranch, TX 78015

I. ROLL CALL

II. CITIZENS and GUEST FORUM / PRESENTATIONS

To address the Home Rule Charter Commission, please sign the Attendance Roster located on the table at the entrance of the Council Chamber. In accordance with the Open Meetings Act, Council may not discuss or take action on any item which has not been posted on the agenda.

A. Citizens to be Heard

III. CONSENT AGENDA

All of the following items are considered to be routine, there will be no separate discussion on these items and will be enacted with one motion. Items may be removed by any Home Rule Committee Member by making such request prior to a motion and vote.

A. Approval of November 7, 2016 Home Rule Charter Commission Meeting Minutes.

B. Approval of November 14, 2016 Home Rule Charter Commission Meeting Minutes.

IV. CONSIDERATION/DISCUSSION ITEMS

A. Review, consideration and possible action on previously approved charter provision and transitional provisions.

C. Review, consideration and possible action on Charter Preamble.

D. Discussion and possible action on future meeting dates.

V. ADJOURNMENT

I, C. Picioccio, certify this Meeting Notice was posted on the outside bulletin board at the Fair Oaks Ranch City Hall, 7286 Dietz Elkhorn, Fair Oaks Ranch, Texas, and on the city's website www.fairoaksranchtx.org, both places being convenient and readily accessible to the general public at all times. Said Notice was posted by 4:00 p.m., December 9 18, 2016 and remained so posted continuously for at least 72 hours before said meeting was convened.

MINUTES, NOVEMBER 14, 2016; 6:00 PM
CITY OF FAIR OAKS RANCH HOME RULE CHARTER COMMISSION
7286 Dietz Elkhorn
Fair Oaks Ranch, Texas

I. ROLL CALL

Attendees: B. Sparks, C. Fothergill, D. Deleranko, F. Trapasso, B. Regan, R. Nichols, J. Merritt, G. Maxton, and D. Pearson

Absent: T. Jaster, J. McConnell

With a quorum present, President Nichols opened the meeting at 6:00 PM.

II. CITIZENS/GUEST FORUM PRESENTATIONS

No citizens/guest requested to be heard

III. CONSENT AGENDA

A. November 7, 2016 Home Rule Charter Commission Meeting Minutes.

Commission members felt there was an action item missing with Section 6.02 as drafted and B. Regan also commented on other minor edits needed. By consensus, the commission agreed to delay approving the minutes.

IV. CONSIDERATION/DISCUSSION ITEMS

A. Review, consideration and possible action on previously approved charter provision and transitional provisions.

Committee members agreed to review section by section, discuss areas of concern, and make changes where applicable

City Attorney Zech noted that non-substantive changes were made to the language in the charter to maintain consistency. He will note these changes to the committee during the review process.

I.-FORM OF GOVERNMENT AND POWERS

Section 1.02 B – Powers.

Motion: Made by D. Deleranko, seconded by J. Merritt to add the words “and proper” and “general” in paragraph B to read “Except where specifically limited in this Charter the City shall have all the powers granted to cities by the Constitution and Laws of the State of Texas or other law together with all of the implied and specific powers necessary to carry into execution those powers and those express, implied and specific powers necessary *and proper* for the government, interests, health, *general* welfare and good order of the City and its inhabitants.”

Vote: 9-0: Motion Passed

Section 3.01 A – Number, Selection, and Term.

Committee members discussed the current proposed number of seats of the City Council and the many factors that are involved in its final decision (recent history of unopposed

elections, the length of terms, lack of compensation, currently proposed staggered elections) and agreed by consensus to bring back next week for discussion. Changes made will impact several sections within the Charter.

Section 3.04 C- The Mayor.

By consensus, the words “as necessary” were removed in Section C and changed to read “The Mayor shall, when authorized ~~as necessary~~ by the City Council, sign all official documents.”

Section 3.06 C - Vote.

By consensus, the word “whole” was removed in Section 3.06 C and changed to read “No action of the City Council, except as specifically provided in this Charter, shall be valid or binding unless adopted by the affirmative vote of a majority of the ~~whole~~ City Council.”.

Section 3.06 F 4 – Legislation by Ordinance.

City Attorney Zech was requested to review the language in the first sentence in Section 3.06 F 4 for clarity.

Section 3.07 A – Compensation of Members.

Motion: Made by B. Regan, seconded by F. Trapasso to remove “~~Members of City Council shall serve without pay or compensation: provided, however, they shall be entitled to all necessary expenses incurred in the performance of their official duties~~” to “*Compensation of the City Council and the Mayor, and any subsequent increases, shall be determined and approved by the vote of the citizens at a regular election. No increase in such compensation shall take effect until the commencement of the terms of Mayor and/or Council Members elected at the next general election.*”

Vote: 7-2, (D. Deleranko and B. Sparks dissenting).

By consensus, this is to be reconsidered next week.

Section 3.08 – Term Limits.

By consensus, this is to be reconsidered next week.

Section 3.09 C – Vacancies; Forfeiture of Office; Filling of Vacancies.

Motion: Made by J. Regan, seconded by J. Merritt to remove the sentence “The hearing shall be held within 60 days of the City Council, as a body, learning of the alleged forfeiture.”

Vote: 9-0; Motion Passed

V. **ADJOURNMENT**

Due to schedule conflicts, City Attorney Zech requested that the November 21, 2016 meeting be rescheduled to 1:00 -3:00 PM. D. Deleranko submitted a draft Preamble to the Charter and requested that it be placed on the November 21, 2016 agenda. President Nichols adjourned the meeting at 8:06 PM.

Rich Nichols, Commission President

ATTEST:

Christina Picioccio, City Secretary

MINUTES, NOVEMBER 21, 2016; 1:00 PM
CITY OF FAIR OAKS RANCH HOME RULE CHARTER COMMISSION
7286 Dietz Elkhorn
Fair Oaks Ranch, Texas

I. ROLL CALL

Attendees: B. Sparks, C. Fothergill, D. Deleranko, F. Trapasso, B. Regan, R. Nichols, J. Merritt, G. Maxton, D. Pearson, T. Jaster, and J. McConnell.

With a quorum present, President Nichols opened the meeting at 1:00 PM.

II. CITIZENS/GUEST FORUM PRESENTATIONS

No citizens/guest requested to be heard

III. CONSENT AGENDA

A. November 7, 2016 Home Rule Charter Commission Meeting Minutes as amended per November 14, 2016 discussion.
Minutes approved by Commission Consensus.

IV. CONSIDERATION/DISCUSSION ITEMS

The consideration items below are brought back for discussion from the November 7, 2016 Home Rule Commission Meeting.

B. Review, consideration and possible action on Term Limits, City Council salary and number of Council Places.

Section 3.01 A – Number, Selection, and Term.

Motion: Made by B. Regan, seconded by B. Sparks to change the number of Council Members from six (6) to five (5). “The membership of City Council (Members of City Council) shall be composed of the Mayor and ~~six (6)~~ five (5) Council Members”.

Vote: 2-9, Motion Failed (D. Deleranko, C. Fothergill, T. Jaster, G. Maxton, J. McConnell, J. Merritt, R. Nichols, D. Pearson, and F. Trapasso dissenting).

The membership of City Council remains as written: 1 Mayor and 6 Council Members.

Section 3.07 A – Compensation of Members.

Motion: Made by B. Regan, seconded by J. Merritt to adopt language from Sec 3.05 of Cibolo Charter regarding compensation: “Compensation of the City Council and the Mayor, and any subsequent increases, shall be determined and approved by the vote of the citizens at a regular election. No increase in such compensation shall take effect until the commencement of the terms of Mayor and/or Council Members elected at the next general election.”

Vote: 5-6, Motion Failed (D. Deleranko, T. Jaster, J. McConnell, D. Pearson, B. Sparks and F. Trapasso dissenting).

Section 3.08 A – Term Limits.

Motion: Made by B. Regan to change the timeframe for eligibility to take office from 3 years to 1 year. “No Council Member shall be eligible to take office for a period of ~~three (3) years~~ *one (1) year* from the end of a second consecutive Term of Office.

Motion died due to lack of a second.

Motion: Made by T. Jaster, seconded by B. Regan to remove Term Limits for Council Members, excluding the Mayor.

Vote: 3-8; Motion Failed (D. Deleranko, C. Fothergill, G. Maxton, J. McConnell, J. Merritt, D. Pearson, B. Sparks, and F. Trapasso dissenting).

Terms Limits remain as written.

A. Review, consideration and possible action on previously approved charter provision and transitional provisions.

As previously discussed at the November 7, 2016 Home Rule Commission Meeting, Committee members agreed to review section by section, discuss areas of concern, and make changes where applicable.

City Attorney Zech reminded that non-substantive changes were made to the language in the charter to maintain consistency. He will note these changes to the committee during the review process.

I.-FORM OF GOVERNMENT AND POWERS

Section 4.06 A – Tie Votes.

City Attorney Zech identified new language added: “Except as provided for herein”. Section currently reads “*Except as provided for herein*, if two or more candidates for the same office tie for the number of votes required to be elected, a second election to fill the office shall be held.”

A non-substantive change was brought to City Attorney Zach’s attention in section B – The word “That” should read “The”. “~~That~~ *The* Mayor shall supervise the casting of lots.”

Section 5.02 – City Attorney.

A non-substantive change was brought to City Attorney Zach’s attention in section A – The word “attorney’s” should read “attorneys”. “The City Attorney or such other ~~attorney’s~~ *attorneys*’ selected by the City Attorney with the approval of the City Council shall represent the City in all legal matters.”

Section 5.04 A- City Secretary.

City Attorney Zech identified a non-substantive change in the language. The word “or” has been replaced by “and may”: “The City Council shall appoint, *and may* ~~or~~ remove without cause, the City Secretary upon the affirmative vote of a majority of the City Council.

Change approved by consensus.

Section 5.04 C- City Secretary.

Motion: Made by C. Fothergill, seconded by D. Pearson that the position of the City Secretary shall report administratively to the City Manager and shall be hired and fired by the City Manager.

Vote: 7-4, Motion Fails (D. Deleranko, J. McConnell, B. Sparks, and F. Trapasso dissenting).

Section 5.05 C- Other Departments, Offices, and Agencies.

City Attorney Zech identified a non-substantive formatting change. The second sentence originally located in Section B has been moved to the newly created Section C.

B. The City Council may, if it deems it advisable, consolidate the departments hereby established.

C. The City Council by ordinance may create, change, and abolish offices, departments, or agencies other than the offices, departments and agencies established by this charter.

Change approved by consensus.

Section 6.04 – Requirements specific to Petitions for Recall.

Motion: Made by F. Trapasso, seconded by J. McConnell to change the percentage of qualified voters from 30 percent to 25 percent “Before the question of a recall shall be submitted to the qualified voters of the City a petition, containing at least ~~30~~ 25 percent of the number of qualified voters registered to vote at the last general City election, demanding such question to be so submitted shall first be filed with the Office of the City Secretary pursuant to this Article.

Amended Motion: Made by Bill Sparks, seconded by J. Merritt to change the percentage of qualified voters from 25 percent to 20 percent “Before the question of a recall shall be submitted to the qualified voters of the City a petition, containing at least ~~25~~ 20 percent of the number of qualified voters registered to vote at the last general City election, demanding such question to be so submitted shall first be filed with the Office of the City Secretary pursuant to this Article.

Vote: 3-8, Motion Failed (D. Deleranko, C. Fothergill, T. Jaster, G. Maxton, J. McConnell, R. Nichols, D. Pearson, and B. Regan dissenting).

Main Motion:

Vote: 10-1; Motion Passed (B. Regan dissenting).

Section 6.10 A – Initiative; Requirements specific to Petitions for Initiative; Procedure.

Motion: Made by F. Trapasso, seconded by J. McConnell to change the percentage of valid signatures from total number of registered voters from 20 percent to 15 percent “A petition for initiative must contain the number of valid signatures totaling at least ~~20~~ 15 percent of the total number of registered voters registered to vote at the last general City election and shall otherwise comply with the requirements for petitions in this Article.

Amended Motion Made by B. Sparks to change the percentage of valid signatures from total number of registered voters from 15 percent to 10 percent.
Motion died for lack of a second.

Main Motion:

Vote: 9-2; Motion Passed (T. Jaster and B. Regan dissenting).

Section 6.11 A – Referendum; Requirements specific to Petitions for Referendum; Effect Prior to Election.

Motion: Made by F. Trapasso, seconded by J. McConnell to change the percentage of valid signatures from total number of registered voters from 20 percent to 15 percent: “A petition for referendum must contain the number of valid signatures totaling at least ~~20~~ 15 percent of the total number of registered voters registered to vote at the last general City election and shall otherwise comply with the requirements for petitions in this Article.

Vote: 11-0; Motion Passed.

J. McConnell provided the following language to be considered for establishing a Public Utilities Commission (Section 7.16): “City Counsel shall establish a Public Utilities Commission. The Commission shall conservatively ensure the City has ample supply of water and adequate wastewater treatment capacity for all planned and projected growth in the comprehensive plan. The Commission shall investigate and prepare reports to City Council on Water supply and use, wastewater capacity and other utility matters including power supplies.”

Motion: Made by J. McConnell, seconded by J. Merritt to establish Section 7.16 – Public Utilities Commission.

Discussion ensued regarding establishing a committee outside of City staff to oversee the water and wastewater services provided by the City to ensure the adequacy of supply and future growth provisions. City Attorney Zech stated that Texas Local Government Code states that Cities have the authority to run their own municipal utility systems, but that the City Council has the final say. A Commission could be created and act in an advisory capacity to City Council, but ultimately City Council makes the decisions.

Vote: 7-4, Motion Failed (D. Deleranko, T. Jaster, G. Maxton, and D. Pearson dissenting).

Section 8.05 – Transitional Provisions

A discussion ensued regarding the method of appointment of the new council seat (Place Six) contingent on the passing of the Charter. Questions as to whether the council would appoint the new council member since less than 1 year would remain in the proposed seats' term – current language in Charter calls for Place Six elections to occur in 2018. City Attorney Zech read from the State Law for Term of Office exceeding two years in Home Rule and General Law Cities:

“A municipality so providing the term exceeding two (2) years, but not exceeding four (4) years for any of its non-civil service officers must elect all of the members of this governing body by a majority vote in a call by voters in a municipality.

Any vacancy or vacancies occurring in such governing body shall not be filled by appointment, but must be filled by majority vote of the qualified voters of a special election called for such purpose within one hundred and twenty (120) days after such vacancy or vacancies occur, except that a municipality may provide by charter or charter amendment procedure for filling a vacancy occurring on its governing body for an unexpired term of 12 months or less.”

Motion: Made by J. Merritt, seconded by B. Sparks that Council appoint the new council member (Place Six) during the transitional period. Language to be provided by City Attorney Zech.

Vote: 11-0, Motion Passed.

City Attorney Zech recalled language in the Charter which dictates provisions for terms less than 1 year. He will review notes and bring back findings at next meeting.

V. ADJOURNMENT

The Charter Preamble as provided by D. Deleranko will be brought back for review, consideration and possible action at the next scheduled meeting.

A discussion arose regarding timeline for finalizing Charter. Draft Charter will be updated, checked for consistency, and the final document will be provided to Commission for consideration. Anticipate public meetings in January with goal to make modifications as needed and to present Charter to Council by mid-February.

Due to a prior engagement, City Attorney Zech requested that the next Commission Meeting be rescheduled for December 12, 2016. President Nichols adjourned the meeting at 3:18 PM.

Rich Nichols, Commission President

ATTEST:

Christina Picioccio, City Secretary

I. - FORM OF GOVERNMENT AND POWERS

Section 1.01 – Form of Government.

The municipal government provided for by this Charter shall be known as the "Council-Manager" form of government. All powers of the City shall be vested in the Council, hereinafter referred to as the "City Council," and shall appoint the City Manager. The City Manager shall answer to the City Council for the execution of the laws and the administration of the government of the City.

Section 1.02 - Powers.

- A. The City of Fair Oaks Ranch shall have the power of local self government to the fullest extent permitted by law.
- B. Except where specifically limited in this Charter the City shall have all the powers granted to cities by the Constitution and Laws of the State of Texas or other law together with all of the implied and specific powers necessary to carry into execution those powers and those express, implied and specific powers necessary and proper for the government, interests, health, general welfare and good order of the City and its inhabitants.
- C. All powers shall be exercised and enforced in the manner prescribed by the laws of the State of Texas, in this Charter and action of City Council.

II. - BOUNDARIES

Section 2.01 - Boundaries.

The boundaries of the City of Fair Oaks Ranch shall be the same as existed prior to the adoption and ratification of this Charter and as are more fully set out and described by the official city map of the City of Fair Oaks Ranch.

Section 2.02 - Extension of Boundaries—Annexation.

The City Council shall have the full power to annex territory, to extend and enlarge the city boundaries and exchange areas with other municipalities.

Section 2.03 - Contraction of Boundaries—Disannexation.

Any area of the City may be disannexed pursuant to any procedure allowed under state law and whenever, in the opinion of the City Council, there exists within the corporate limits of the City a territory not suitable or necessary for City purposes, the City Council may discontinue said territory as part of the City by ordinance after conducting a public hearing on the matter.

III. – City Council

Section 3.01 – Number, Selection, and Term.

- A. The membership of City Council (Members of City Council) shall be composed of the Mayor and six (6) Council Members. The Mayor and Council Members shall be elected from the City at large for three (3) year terms. Each Council Member shall occupy a place on the Council, such places being numbered 1 through 6. In year one the Mayor and Council Place One shall be elected to their respective terms, in year two Council Places Three, Four and Five shall be elected to their respective terms and Each in -year three two-Council Pplaces Two and Six shall be elected for their respective terms except as set forth in the transitional provisions hereinafter-provide for in Section 8.05 of this Charter set forth.
- B. Each Member of City Council shall take office upon completing the oath of office and shall hold office until his or her successor is elected and qualified; such time period being defined as the Term of Office.
- C. No individual may run for more than one elective city office at a time.

Section 3.02 - Qualifications for Office

The Mayor and each Council Member shall:

- A. Be a qualified voter in the City and State at the time of taking office;
- B. Be a resident of the City;
- C. Have resided continuously in the corporate limits of the City for 12 months immediately preceding the date of the election or on the date of appointment, as applicable;
- D. Be 18 years of age or older on the first day of the term to be filled at the election or on the date of appointment, as applicable;
- E. Not be in violation of any provision in this Charter;
- F. Satisfy any other eligibility requirements prescribed by law for the office for which they are a candidate.

Section 3.03 - Judge of Qualifications.

The City Council is the final judge of all elections and the qualifications of its members.

Section 3.04 - The Mayor

- A. The Mayor shall be the presiding officer of the City Council and shall be recognized as the head of the City government for all ceremonial purposes, for emergency management purposes, and by the governor for purposes of military law.
- B. The Mayor may debate and discuss any matters before the City Council and shall vote on all issues with the City Council.
- C. The Mayor shall, when authorized by the City Council, sign all official documents.
- D. The Mayor shall appoint, upon nomination by majority vote of the City Council, the members of citizen advisory boards and commissions.

Section 3.05 - Mayor Pro-Tem.

- A. The Mayor Pro-Tem shall be a Council Member elected by the City Council at the first regular City Council meeting following each regular City election.
- B. The Mayor Pro-Tem shall act as Mayor during the absence or disability of the Mayor.

Section 3.06 – Meetings

A. Meetings.

- 1. The City Council shall hold at least one regular meeting per month at City Hall or other place designated by City Council. Said meeting to be held no earlier than 6:00 pm local time.
- 2. The regular meeting times, and places shall be set by resolution.

B. Quorum. A majority of the Members of City Council shall constitute a quorum for the purpose of transacting business.

C. Vote. No action of the City Council, except as specifically provided in this Charter, shall be valid or binding unless adopted by the affirmative vote of a majority of the City Council.

D. Agendas.

1. A Member of City Council may place an item on an agenda. The member of City Council desiring to place an item on an agenda shall submit in writing the request to place the item on an agenda to the City Secretary. The item shall be placed on the next City Council meeting occurring on or after the 5th calendar day after receiving the request.
2. At a meeting of City Council a member of City Council may place an item on an agenda by making a request to place the item on a future agenda. No discussion shall occur at the meeting regarding the placement of the item on a future agenda.
3. The City Manager may place any item on any City Council agenda.

E. Procedures. City Council shall, except as otherwise provided for in this Charter, create rules of procedure for all City Council workshops, regular and special meetings and public hearings by ordinance.

F. Legislation by Ordinance.

1. The City Council shall legislate by ordinance and the enacting clause of every ordinance shall be "Be it ordained by the City Council of the City of Fair Oaks Ranch, Texas. . . ."
Each proposed ordinance shall be introduced in the written or printed form required for adoption and shall not contain more than one subject, but general appropriation ordinances may contain various subjects and accounts for which monies are to be appropriated. The subject or subjects of all ordinances and resolutions shall be clearly expressed in the title. Copies of each proposed ordinance, in the form required for adoption, shall be furnished to the City Council. Copies of the proposed ordinance, in the form required for adoption, shall be available at the City offices and shall be furnished to citizens upon request to the City Secretary from and after the date on which such proposed ordinance is posted as an agenda item for a City Council meeting and, if amended, shall be available and furnished in amended form for as long as the proposed ordinance is before the City Council.
2. Except as otherwise provided for in this Charter no ordinance shall be finally adopted at the meeting of the City Council at which it is first introduced, but instead the ordinance

shall be considered for adoption, and the City Council will determine whether it shall be rejected or further considered at a subsequent meeting of the City Council. If rejected, no further action shall be required. No ordinance which has been amended in substance after its placement on the agenda for a City Council meeting may be finally adopted at such meeting. Such amended ordinance shall be placed on the agenda of a subsequent meeting of the City Council for consideration and final adoption.

3. Every ordinance shall become effective upon final adoption or at any later time(s) specified in the ordinance, except that every ordinance imposing any penalty, fine or forfeiture shall become effective only after its caption having been published twice after adoption, in a newspaper designated as the official newspaper of the City.
4. Notwithstanding the provisions of this Section if the City Council, by a vote of not less than two-thirds of the members present at the meeting at which an ordinance is first introduced, determines that an emergency exists related to public peace, health or safety and requiring immediate action, such ordinance may then be voted upon and rejected or adopted at that meeting. Copies of each ordinance, in the form adopted, shall be furnished to the City Council, be available at the City offices and shall be furnished to citizens upon request to the City Secretary from and after the date on which such ordinance was adopted. The reason for the emergency and a roll call of the vote shall be recorded in the ordinance and the minutes for the meeting. Such ordinance must be confirmed by a majority vote of the City Council at the next meeting of the City Council. If the ordinance is not confirmed, it is rescinded. Any ordinance adopted as an emergency and confirmed by City Council shall expire on the sixty-first (61st) day after adoption unless extended by a majority vote of the City Council.
5. Every ordinance shall be authenticated by the signature of the Mayor and the City Secretary.
6. Every ordinance shall be approved as to form and legal sufficiency by the City Attorney's office prior to adoption by the City Council.
7. The City Council shall have the power to codify ordinances of the City. All printed ordinances or codes of ordinances shall be admitted as evidence in all courts without further proof and shall have the same force and effect as did the original ordinance.

Section 3.07 - Compensation of Members.

- A. Members of City Council shall serve without pay or compensation; provided, however, they shall be entitled to all necessary expenses incurred in the performance of their official duties.
- B. The policy regulating payment of expenses incurred in performance of official duty shall be determined by the City Council.

Section 3.08 - Term Limits.

A. Office of Council Member.

No current or future elected Council Member shall serve more than two (2) consecutive three (3) year terms of office nor more than four(4) three (3) year terms of office during a lifetime. No Council Member shall be eligible to take office for a period of three (3) years from the end of a second consecutive Term of Office.

B. Office of Mayor

No current or future elected Mayor shall serve more than two (2) three (3) year terms of office in a life time.

C. Years of Service

Years or time of service that an individual serves in filling an unexpired term or a partial term of office less than two (2) years shall not be counted toward the above limitations.

D. Time Served in Office

Time served in the office of Council Member or the office of Mayor do not count towards the term limits of the other.

Section 3.09 - Vacancies; Forfeiture of Office; Filling of Vacancies.

A. Vacancies. The office of a Council Member or office of the Mayor shall become vacant upon death, resignation, removal from office by recall, or forfeiture of his/her office.

B. Forfeiture. A Council Member or the Mayor shall forfeit his/her office if he/she:

1. Fails to maintain at any time during the term of office any qualification for the office prescribed by this Charter or by law;
2. Is convicted of a misdemeanor involving moral turpitude, a violation of any state laws regulating conflicts of interest of municipal officers, a felony, or is assessed a deferred adjudication or probation for a felony or any state laws regulating conflicts of interest of municipal officers;

3. Failure to regularly attend City Council meetings without an approved absence obtained by a majority vote by City Council either before or after the absence. There shall be a presumption of failure to regularly attend when three (3) regular meetings are missed during a term year without obtaining an approved absence from City Council.
- C. If a Member of City Council violates any provision of this section and does not immediately resign, the City Council may conduct an investigation and hearing pursuant to Section 3.12 of this Charter to determine if the office holder is in violation of this section. No vote on a forfeiture of office shall be taken until after a hearing has been held pursuant to Section 3.11.
 - D. Filling Vacancies. In the event of a vacancy in the City Council, if there are 365 days or more remaining on the term of the vacated City Council position, the City Council shall call a special election to fill such vacancy. If there are less than 365 days remaining in the term of the vacant City Council position, the City Council may, by majority vote of the remaining Councilmembers, at its discretion, leave the position vacant, appoint a new Mayor or Councilmember to fill such vacancy or call a special election to fill such vacancy. All vacancies shall be filled pursuant to state law.

Sec. 3.10. - Prohibitions.

- A. Holding other office. Except where authorized by law, no Member of City Council shall hold any other City office or employment by the City during the term for which he was elected to the City Council, and no former Member of City Council shall hold any compensated appointive city office or employment until one (1) year after the expiration of the term for which he was elected to the City Council.
- B. Appointments and removals. Neither the City Council nor any City Council Member shall in any manner dictate the appointment or removal of any city administrative officers or employees whom the City Manager or any of his subordinates are empowered to appoint, unless otherwise provided in this Charter, but the City Council may, at a properly noticed meeting, express its views and fully and freely discuss with the City Manager anything pertaining to appointment and removal of such officers and employees.
- C. Interference with administration. Except for the purpose of inquiries and investigations, unless otherwise provided in this Charter, the City Council and City Council Members shall deal with City officers and employees who are subject to the direction and supervision of the City Manager solely

through the City Manager, and neither the City Council nor City Council Members shall give orders to any such officer or employee, either publicly or privately.

- D. Admission of liability. Neither the City Council nor City Council Members shall accept or admit liability or pay any claim for damages asserted against the City without first obtaining a written opinion from the City Attorney regarding the City's liability therein.

3.11 Council Investigations; Hearings; Process.

- A. *General.* In addition to any other specific authority of investigation and hearing provided for in this Charter, the City Council shall have the power to inquire into the official conduct of any department, agency, appointed boards, office, officers, employees or appointed board members of the City. For the purpose of investigations and hearings, the City Council shall have the power to administer oaths, subpoena witnesses, reasonably compel the production of books, papers, and other evidence material to the inquiry. The City Council shall provide, by ordinance, penalties for contempt in failing or refusing to obey any such subpoena or to produce any such books, papers or other evidence. The City Council shall have the power to punish any such contempt in an amount not to exceed one hundred dollars (\$100.00).
- B. *Hearings Process for Forfeitures of Office and Prohibitions.*
 - 1. All hearings held under this subsection shall be conducted in open session, except that the City Council may conduct a closed session to get advice from its attorney pursuant to the Texas Open Meetings Act;
 - 2. The officer holder subject to any investigation and/or hearing under this section shall be entitled to written notice, delivered by certified mail return receipt requested, of the allegations of forfeiture and/or the alleged violation of this Charter as applicable; delivery shall be complete on the fifth business day following upon deposit of the written notice, postpaid and properly addressed, in the mail.
 - 3. A special meeting shall be called to hold the hearing; said special meeting to be held no earlier than fourteen (14) days subsequent from the delivery of written notice and no later than ninety

(90) days after delivery of written notice, unless otherwise agreed to by a majority of the City Council and the individual subject to the hearing.

4. A Member of City Council who initiated or is the subject of the investigation or hearing shall not sit at the dais and shall not participate in deliberation or vote;
5. City Council shall adopt by ordinance rules of procedures to be followed;
6. The City Council shall state the nature of the hearing and the allegations to be considered, shall be provided the results of any investigation and a presentation of the evidence against the office holder including, but not limited to testimony from individuals;
7. The individual who is subject to the hearing shall be provided a copy of the results of the investigation, including any written testimony acquired during the investigation, an opportunity to respond to the allegations and present any relevant evidence including, but not limited to, testimony from individuals;
8. City Council may ask questions of any individual giving testimony;
9. Public comment shall be allowed. Rules for public comment shall be set by City Council;
10. In the case of a violation of Section 3.09 of this Charter City Council shall vote on the forfeiture and on the affirmative vote of two-thirds of City Council declare the office of said office holder to be forfeited and vacant;
11. In the case of a violation of Section 3.10 of this Charter City Council may on the affirmative vote of a majority of the City Council may take any of the following actions: directing further investigation, requesting further information, vote to enforce a penalty pursuant to section 7.15. B. of this Charter, vote to bring an action in municipal court, take a vote of censure; or, upon the affirmative vote of two-thirds of City Council, declare the office of said office holder to be forfeited and vacant; and
12. In the case of a violation of Section 7.01 or 7.02 of this Charter by a Member of City Council or a City Official, City Council may take any of the following actions: directing further investigation, requesting further information, vote to enforce a penalty pursuant to section **7.15.B.** of this

Charter, vote to bring an action in municipal court, take a vote of censure; or, upon the affirmative vote of two-thirds of City Council, declare the office of said office holder to be forfeited and vacant.

13. Any Investigation conducted pursuant to this section shall be conducted by an outside, independent third party.

IV. – CITY ELECTIONS

Section 4.01 - Elections.

- A. The regular City election shall be held annually on the uniform election date in May, or at such other times as may be authorized by State Law.
- B. The City Council shall fix the place for holding such election.
- C. The City Council may, by ordinance or resolution, order a special election, fix the date and place for holding same, and provide all means for holding such special election.
- D. Notice of elections shall be published in a newspaper of general circulation of the City of Fair Oaks Ranch, such publication to follow the requirements of the Election Code and any applicable law.
- E. Early voting shall be governed by the general election laws of the State of Texas.

Section 4.02 - Regulation of Elections.

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

Section 4.03 - Filing for Office.

- A. Any person having the qualifications set forth under Section 3.02 of this Charter shall have the right to file an application to have their name placed on the official ballot as a candidate for any elective office.
 - 1. Any such application shall be in writing, signed by such candidate, and filed with the City Secretary in accordance with the Texas Election Code and this Charter.
 - 2. An application filed in accordance herewith shall entitle such applicant to a place on the official ballot.
- B. A candidate of City Council shall specify the position and, if applicable, the place number the candidate is seeking.

Section 4.04 - Official Ballot.

The names of all candidates for office, except such as may have withdrawn, died or become ineligible, shall be placed on official ballots without party designations specifying the office, and if applicable, the council place for which each is seeking election.

Section 4.05 – Failure to Obtain Majority.

In the event no candidate for an elective office receives a majority of the votes cast for that place in the general or special election a run-off election shall be held between the two (2) candidates who received the greater number of votes.

Section 4.06 – Tie Votes.

- A. Except as provided for herein, if two or more candidates for the same office tie for the number of votes required to be elected, a second election to fill the office shall be held.
- B. The tying candidates may agree to cast lots to resolve the tie. The agreement must be filed with the City Council at the office of the City Secretary. The Mayor shall supervise the casting of lots.

Section 4.07 - Taking of Office.

Each newly elected person to the City Council shall be inducted into office at the first regular City Council meeting following the canvass of the votes.

V. – DEPARTMENTAL AND ADMINISTRATIVE ORGANIZATION

Section 5.01 - City Manager.

A. Creation of City Manager Position:

1. The municipal position of “City Manager” is hereby created.
2. The City Manager is the chief administrator of the City and shall be responsible for the proper and efficient management of the affairs and day to day operations of the City. The City Manager shall report to and shall receive policy direction from the whole of the City Council.
3. The City Manager shall be chosen by the City Council solely on the basis of his executive and administrative training, experience, fit for the community and ability.

B. Appointment and Removal:

1. A two-thirds (2/3) vote of the City Council is required to appoint the City Manager.
2. A majority vote of the City Council is required to remove the City Manager.
3. The City Manager shall serve at the will of the City Council.

C. Duties and Responsibilities:

1. The City Manager is responsible for implementing the ordinances and policies adopted by the City Council and for upholding State and federal laws and regulations.
2. The City Manager attends and participates in City Council Meetings but has no vote.
3. The City Manager shall supervise the preparation of agendas for all meetings of the City Council. The agendas shall be prepared in accordance with Rules and Procedures adopted by the City Council and as provided for in this Charter.
4. The City Manager provides staff support services to the Mayor and Councilmembers.
5. The City Manager has a professional obligation to provide recommendations and advice to the City Council on City policy issues.
6. The City Manager conducts research and analyses to assist the City Council in the formulation of policy.
7. The City Manager shall initiate and assist the City Council in the development of long term goals for the City and assist in the formulation of strategies to achieve such objectives and goals.
8. The City Manager shall prepare and administer the budget in accordance with state law.
9. The City Manager shall keep the City Council fully advised as to the financial condition of the City and future needs of the City.

10. The City Manager shall oversee the purchasing of all merchandise, materials, supplies and services as budgeted and shall put in place such rules and regulations governing contracts, requisitions and transactions of business between City departments and vendors of goods and services in compliance with all State procurement laws.
11. The City Manager is authorized to make all purchases on behalf of the City according to the City's financial policy.
12. The City Manager shall negotiate, sign, execute and monitor implementation of all contracts including franchise agreements entered into by the City in accordance with City Financial policy.
13. The City Manager shall prepare and present to City Council a risk management plan.
14. The City Manager is responsible for the coordination of City communication with the public and the news media including outreach initiatives to the citizens and general public through various media venues.
15. The City Manager shall make reports to the City Council and public on the affairs, finances and operations of the City as directed through Council policy.
16. Except as otherwise provided for in this Charter the City Manager shall direct and supervise the administration of all departments, offices and public utilities of the City and shall investigate or cause to be investigated as appropriate any complaints concerning the administration of the City.
17. The City Manager may appoint, suspend or remove any City employee except as otherwise provided by this Charter. The City Manager may authorize any employee who is subject to the City Manager's direction and supervision to exercise these powers with respect to subordinates in that employee's department, office or agency.
18. The City Manager shall direct and supervise the administration of all departments, officers, and agencies of the City, except as otherwise provided by this Charter or by law.
19. The City Manager shall publish and make personnel policies and procedures adopted by City Council available to all City employees.
20. The City Manager shall promote cooperation and collaboration among the Mayor, Council members, staff, community groups and individual citizens in building a sense of community.

21. The City Manager shall encourage and provide staff support for regional and intergovernmental cooperation and collaboration.
22. The City Manager shall keep a written inventory of all real property and all permanent equipment belonging to the City, said inventory to be subject to annual audit. A system shall be established to control the use and replacement of expendable items.
23. The City Manager shall perform other duties as required by the City Council and as provided for in this Charter.

D. Performance and Accountability:

The City Council shall meet with the City Manager at least once annually to evaluate the performance, orally and in writing, of the City Manager and establish performance goals and expectations for the upcoming year.

E. Compensation:

The Manager shall receive the compensation as provided and directed by the City Council.

Section 5.02 – City Attorney.

- A. The City Council shall appoint a licensed attorney of the State of Texas to be the City Attorney. The City Attorney shall receive for services such compensation as may be fixed by the City Council for regular and special duties and shall hold office at the pleasure of the City Council. The City Attorney or such other attorneys selected by the City Attorney with the approval of the City Council shall represent the City in all legal matters.
- B. The City Council shall have the right to retain special counsel at any time that it may deem necessary and appropriate.

Section 5.03 – Municipal Court.

- A. The City Council shall establish and cause to be maintained a Municipal Court. The Court shall have all the powers and duties as are now, or as may be, prescribed by the laws of the State of Texas.
- B. The City Council shall appoint, by the affirmative vote of a majority of the voting membership of the City Council, such Municipal Judges of the Municipal Court, as may be necessary, all of whom shall be competent, duly qualified attorneys licensed and practicing for at least two (2) years in the State of Texas. In the event a duly qualified attorney is not available, the City

Council shall then select a qualified person to be the Municipal Judge. The Municipal Judge(s) of the Municipal Court(s) shall be appointed to a term of two (2) years. The appointment of the Municipal Judge(s) may be terminated at any time by the affirmative vote of a two-thirds majority of the City Council, after due notice and a public hearing. The Municipal Judge(s) shall receive compensation as may be determined by the City Council.

- C. All special expenses and fines imposed by the Municipal Court(s) shall be paid into the City Treasury for the use and benefit of the City, as may be consistent with present and future laws.

Sec. 5.04. - City secretary.

- A. The City Council shall appoint, and may remove without cause, the City Secretary upon the affirmative vote of a majority of the City Council.
- B. The City Council shall fix the compensation of the City Secretary, and the City Secretary's compensation may be amended, from time to time, in accordance with the City Secretary's experience, qualifications and performance. The City Secretary shall report administratively to the City Manager but may be removed from office only by the Council.
- C. The City Secretary shall:
 - 1. Give notice of all official public meetings of the City Council, Commissions, and Boards in a manner consistent with this Charter and state laws;
 - 2. Attend all public meetings and hearings of the City Council;
 - 3. Keep the minutes of the proceedings of all public official meetings and hearings of the City Council in a manner prescribed by the City Council consistent with applicable law;
 - 4. Act as custodian of all official records of the City Council;
 - 5. Hold and maintain the seal of the City and affix this seal to all appropriate documents;
 - 6. Authenticate, by signature and seal, and record all ordinances, resolutions and proclamations of the City;
 - 7. Perform such other duties, as may be required by the City Council, which are consistent with this Charter and state and federal law; and
 - 8. Schedule and oversee all City elections in accordance with the Texas Election Code [Tex. Election Code, § 1.001 et seq.] and any other applicable law.

Section 5.05 - Other Departments, Offices, and Agencies.

- A. There are hereby created the following administrative departments: Police, Finance, Public Works, and such other departments as may be established by the City Council as hereinafter provided.

- B. The City Council may, if it deems it advisable, consolidate the departments hereby established.
- C. The City Council by ordinance may create, change, and abolish offices, departments, or agencies other than the offices, departments and agencies established by this charter.

VI. - INITIATIVE, REFERENDUM AND RECALL

Section 6.01 - General Authority.

A. Initiative. The qualified voters of the City shall have power to propose ordinances to the Council. Such power shall not extend to the granting of franchises, budget or any capital program, or relating to appropriation of money, issuing of bonds, setting of utility rates and levy of taxes or salaries of City officers or employees, or any other ordinance not subject to initiative as provided by state statute or common law.

B. Referendum. The qualified voters of the City shall have power to require reconsideration by the Council of any adopted ordinance. Such power shall not extend to the granting of franchises, budget or any capital program, or relating to appropriation of money, issuing of bonds, setting of utility rates and levy of taxes or salaries of City officers or employees, or any other ordinance not subject to referendum as provided by state statute or common law.

C. Recall. The qualified voters of the City shall have the power to petition for recall of the Mayor or any Council Member.

Section 6.02 - Commencement of Initiative, Referendum and Recall Petitions; Petitioners' Committee; Affidavit.

A. Any five (5) qualified voters may commence initiative, referendum, or recall proceedings by filing with the City Secretary an affidavit stating they will constitute the petitioners' committee and be responsible for circulating the petition and filing it in proper form, stating their names and addresses and specifying the address to which all notices to the committee are to be sent and setting out in full the proposed initiative ordinance or citing the ordinances sought to be reconsidered, or the name of the individual to be recalled.

B. All papers of a petition shall be uniform in size and style and shall be assembled as one instrument for filing. Each signature shall comply with Chapter 277 of the Texas Election Code as it may be amended from time to time.

C. Petitions shall be returned to the Office of the City Secretary for filing within ninety (90) days after filing of the affidavit of petitioners committee and no signature on said petition shall have been affixed prior to the filing of the affidavit of petitioners committee.

D. Each signer of such recall petition shall personally sign their name thereto in ink or indelible pencil and shall write after their name their place of residence, giving the name of the street and the number, and shall also write thereon the day, the month and the year their signature was affixed. The signatures on petitions shall be verified by oath in the following form:

STATE OF TEXAS

COUNTY OF [petition circulator's county of residence]

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

Signature _____

Sworn and subscribed before me this _____ day of _____ / _____ / _____
20 _____.

NOTARY PUBLIC, STATE OF TEXAS

My commission expires: _____ / _____ / _____

Section 6.03 - Initiative, Referendum and Recall Petitions; Certificate of City Secretary; Supplemental; Presentation to Council; Council Review.

A. Certificate of City Secretary. Within 30 working days after the petition (the "Original Petition") is filed, the City Secretary shall complete a certificate as to its sufficiency or insufficiency as mandated herein, specifying, if it is insufficient, the particulars wherein it is defective and shall within that 30 working day period send a copy of the certificate to the petitioners' committee by certified mail return receipt requested or by hand delivery to a committee member.

B. A petition certified insufficient for lack of the required number of valid signatures may be supplemented once if the petitioners' committee files a notice of intention to supplement with the City Secretary within three working days after receiving the copy of the Certificate of the City Secretary. The supplementary petition shall be filed within the time specified in Subsection 6.03.C. Such supplementary petition shall comply with the requirements of Subsections 6.02.B and D, and within ten (10) working days after the supplementary petition is filed, the secretary shall complete a certificate as to the sufficiency of the petition as supplemented and send a copy of such certificate to the petitioners' committee by registered mail as in the case of an original petition.

C. Upon the submission of the Original Petition to the City Secretary the 90 day time line for submission as provided for in Section 6.02.C shall be tolled. The petitioners committee shall submit the supplementary petition to the City Secretary within the remaining tolled 90 day deadline, said remaining time to be calculated from receipt of the certificate of insufficiency by the petitioner's committee or committee member as applicable. No signature on said supplementary petition shall have been affixed prior to the receipt by the petitioners committee of the certificate of insufficiency.

D. Presentation to Council. The City Secretary shall, at the next regular Council meeting in compliance with the Texas Open Meetings Act after completion of certification of the petition or

supplementary petition, present such certificate to the Council and the certificate shall then be a final determination as to the sufficiency of the petition.

Section 6.04 - Requirements specific to Petitions for Recall.

Before the question of a recall shall be submitted to the qualified voters of the City a petition, containing at least ~~30~~25 percent of the number of qualified voters registered to vote at the last general City election, demanding such question to be so submitted shall first be filed with the Office of the City Secretary pursuant to this Article. The petition shall be addressed to the City Council of the City and shall state distinctly and specifically the alleged action(s) and the factual circumstance(s) surrounding such action(s) taken by the individual that warrant the reason for the recall as to give the individual sought to be removed notice of the matter(s) and thing(s) with which the individual's recall is predicated. If there be more than one reason, said petition shall distinctly and specifically state each reason upon which such petition for removal is predicated and shall distinctly and specifically state the alleged action(s) and the factual circumstance(s) surrounding such action(s) taken by the individual that warrant the recall as to give the individual sought to be removed notice of the matter(s) and thing(s) on which the recall is predicated.

Section 6.05 - Public Hearing to be Held on Recall Petition.

The individual whose removal is sought may, within five (5) working days after such recall petition has been presented to the City Council, request that a special meeting be held to permit him/her to present a response to the reasons for recall specified in the recall petition. In this event, the City Council shall order such special meeting to be held, no more than thirty (30) and no less than fifteen (15) days before early voting.

At any special meeting held under this Section the individual whose removal is sought shall have a thirty (30) minute period to state their response to the recall petition. There shall be no public participation in the special meeting and no other items of business shall be a part of the special meeting.

Section 6.06 - Calling of Recall Election.

If the individual whose removal is sought does not resign, then the City Council shall for the next available uniform election date, order an election for holding such recall election. If, after the recall election date is established, the officer vacates his/her position, the election shall be cancelled, in accordance with State Law.

Section 6.07 - Ballots in Recall Election.

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

- A. With respect to each individual whose removal is sought, the question shall be submitted: "Shall _____ be removed from the office of _____ by recall?"

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

"Yes"

"No"

Section 6.08 - Result of Recall Election.

If a majority of the votes cast at a recall election shall be "No", that is against the recall of the individual named on the ballot, the individual shall continue in office for the remainder of his/her unexpired term, subject to recall as provided herein. If a majority of the votes cast at such election be "Yes", that is for the recall of the individual named on the ballot, the individual shall, regardless of any technical defects in the recall petition, be deemed removed from office upon passing of the resolution canvassing the election, and the vacancy shall be filled by the City Council as provided for in State law.

Section 6.09 - Recall Restrictions.

No petition shall be filed for the recall of an individual within 270 days of the date of the individual's election to City Council or within 180 days before the end of the individual's term on City Council.

Section 6.10 - Initiative; Requirements specific to Petition for Initiative; Procedure.

A. A petition for initiative must contain the number of valid signatures totaling at least ~~20~~15 percent of the total number of registered voters registered to vote at the last general City election and shall otherwise comply with the requirements for petitions in this Article. Each copy of the petition shall have attached to it a copy of the full text of the proposed ordinance.

B. Upon presentation to the City Council, it shall become the duty of the City Council, within sixty (60) days after the date the petition was finally determined sufficient, to pass and adopt such ordinance without alteration as to meaning or effect, or to call for an election, to be held on the soonest date allowed under the Texas Election Code, at which the qualified voters of the City shall vote on the question of adopting or rejecting the proposed ordinance.

C. If a majority of the qualified electors voting on a proposed initiative ordinance vote in its favor, it shall be considered adopted upon the canvassing of the election results and shall be treated in all respects in the same manner as ordinances of the same kind adopted by the Council. If conflicting ordinances are approved at the same election, the one receiving the greatest number of affirmative votes shall prevail to the extent of such conflict.

Section 6.11 - Referendum; Requirements specific to Petition for Referendum; Procedure; Effect Prior to Election.

A. A petition for referendum must contain the number of valid signatures totaling at least ~~20~~15 percent of the total number of registered voters registered to vote at the last general City election and shall otherwise comply with the requirements for petitions in this Article.

B. Within 45 days after final sufficiency of the petition City Council shall either repeal the referred ordinance or order an election to submit the referred ordinance to the qualified voters of the City said election to be held on the first available uniform election date authorized by law.

C. If a majority of the qualified electors voting on a referred ordinance vote against the ordinance, it shall be considered repealed upon certification of the election results.

D. A petition for referendum on the same subject matter may only be submitted once every two (2) years.

Section 6.12 - Initiative and Referendum; Form of Ballots.

The ballots used when voting upon initiative or referendum shall set forth their nature sufficiently to identify them and shall also set forth, upon separate lines, the words:

"For the Ordinance"

or

"Against the Ordinance"

Section 6.13 - Ordinances Passed by Popular Vote, Repeal or Amendment.

No ordinance which may have been passed by the City Council upon a petition or adopted by popular vote under the provisions of this Article may be repealed or amended by the City Council for a period of three years from the date said ordinance became effective and then only upon by an affirmative vote of two-thirds of the City Council.

VII. – GENERAL PROVISIONS

Section 7.01 - Conflict of Interest Prohibition.

For purposes of this Section 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.

Section 7.02 – General Prohibitions.

A. Activities prohibited.

- (1)** In appointments to and removal from any City office or employment, persons shall not be favored or discriminated against because of race, sex, political or religious opinions, or religious affiliations.
- (2)** No person who seeks appointment or promotion with respect to any City position or appointive City administrative office shall directly or indirectly give, render or pay any money, service or other valuable thing to any person for or in connection with his test, appointment, proposed appointment, promotion or proposed promotion.
- (3)** No City official or employee, elected or appointed, shall orally, by letter, or otherwise solicit or assist in soliciting any assessment, subscription, or contribution for any political party or political purpose whatever from any subordinate city official or employee holding any compensated City position.
- (4)** No person who holds any compensated City position shall solicit or receive any contribution to the campaign funds of any candidate for municipal office or take any part in the management, affairs, or political campaign of any municipal candidate.
- (5)** No employee of the city shall continue in such position after becoming a candidate for City Council.

B. Penalties. In addition to any other penalty provided for in this Charter any person determined to have violated this Section shall be ineligible for a period of five (5) years thereafter to hold any City office or position and, if an officer or employee of the City, shall immediately forfeit his office or position.

Section 7.03 - Liability Coverage

The City shall ensure liability coverage exists to insure officers and employees of the City in a minimum amount consistent with standard practice to provide protection for any claim, judgment or litigation arising out of the employee's, official's or officer's active or alleged error or misstatement of fact or omission or neglect or breach of duty, including misfeasance, malfeasance or nonfeasance, by the employee, official or officer in the discharge of their duties with the City, individually or collectively, or any matter claimed against them solely by reason of their being or having been employees, City officials or officers.

Section 7.04 - Notice of damage or injury required.

A. The City of Fair Oaks Ranch shall never be liable for any personal injury, whether resulting in death or not, unless the person injured or someone in his behalf, or in the event the injury results in death, the person or persons who may have a cause of action under the law by reason of such death injury, shall file a notice in writing with the City Manager within ninety (90) days after the same has been received, stating specifically in such notice when, where and how the exact injury occurred and the full extent thereof, together with the amount of damages claimed or asserted. The notice requirements provided for herein do not apply if the City has actual notice that death has occurred, or that the claimant has received some injury. Further, should the claimant provide good cause for failure to comply with the notice requirements herein then said notice requirements shall not apply.

B. The City of Fair Oaks Ranch shall never be liable for any claim for damage or injury to personal property unless the person whose personal property has been injured or damaged or someone in his behalf, shall file a claim in writing with the City Manager within ninety (90) days after said damage or injury has occurred and the full extent thereof, and the amount of damage sustained. The City of Fair Oaks Ranch shall never be liable for any claim for damage or injury to real property caused by negligent act or omission of its officers, servants, agents, or employees, unless the person whose real property has been injured or damaged or someone in his behalf, shall file a claim in writing with the City Manager within ninety (90) days after said damage or injury has occurred, stating specifically when, where and how the injury or damage occurred and the amount of damage claimed. The notice requirements provided for herein do not apply if the City has actual notice that the claimant's property has been damaged. Further, should the claimant provide good cause for failure to comply with the notice requirements herein then said notice requirements shall not apply.

Section 7.05 - Construction of Charter.

The Charter shall not be construed as a mere grant of enumerated powers, but shall be construed as a general grant of power and, except where expressly prohibited by this Charter, each and every power

under Article XI, Section 5 of the Constitution of Texas, which it would be competent for the people of the City of Fair Oaks Ranch to expressly grant to the City, shall be construed to be granted to the City by this Charter.

Section 7.06 - Service of Process Against the City.

All legal process against the City shall be served upon the City Manager.

Section 7.07 - Judicial Notice.

This Charter shall be deemed a public act, may be read in evidence without pleading or proof, and judicial notice shall be taken thereof in all courts and places provided that the City Secretary certifies the most current City Charter with any amendments.

Section 7.08 - Property Not Exempt From Special Assessments.

No property of any kind, by whomsoever owned or held or by whatsoever institution, agency, political subdivision or organization, owned or held, whether in trust or by non-profit organization, or corporation, or by foundation, or otherwise, (except property of the City), shall be exempt in any way from any of the special taxes, charges, levies and assessments except where required by state law.

Section 7.09 - City Council May Require Bonds.

In addition to any provisions contained herein, the City Council may require any City official, department director, or City employee, before entering upon his/her duties, to execute a good and sufficient bond with a surety company doing business in the State of Texas and approved by the City Council. The premium of such bond shall be paid by the City.

Section 7.10 - Regulation of Alcohol.

The City Council may enact any and all other regulations regarding the sale, consumption, distribution, etc. of alcoholic beverages, as permitted by law, including but not limited to the regulation of the sale of liquor in residential sections or areas of the City.

Section 7.11 - Oaths.

All elected and appointed officers of the City shall take and sign an oath of office based on those prescribed for state elective and appointive offices, respectively, in the Constitution of the State of Texas.

Section 7.12 - Disaster Clause.

In case of disaster when a legal quorum of the City Council cannot otherwise be assembled due to multiple deaths or injuries, the surviving persons of the City Council, or highest surviving City official, if no elected official remains, shall, within 24 hours of such disaster, request the highest surviving officers of the Kendall

County Commissioners Court to appoint a number of residents of Fair Oaks Ranch equal to the number necessary to make a quorum to act during the emergency as the City Council. The newly appointed City Council shall call a City election within 15 days of their appointment, or as provided in the Texas Election Code, for election of the vacant offices, if for good reasons it is known a quorum of the present City Council will never again meet. If it is determined that a quorum of the present City Council will meet again, the appointed Council Members shall serve in their position until such time as the present Council Members may begin serving.

Section 7.13 - City Comprehensive Plan.

A. It is the purpose and intent of this section that the city council establish comprehensive planning as a continuous and ongoing government function in order to promote and strengthen the existing role, processes and powers of the City to prepare, adopt and implement a City Comprehensive Plan to guide, regulate, and manage the future development within the corporate limits and the extraterritorial jurisdiction of the city to assure the most appropriate and beneficial use of land, water, and other natural resources, consistent with the public interest.

B. The City Council shall adopt a Comprehensive Plan which shall be reviewed and adopted no less than every two years.

Section 7.14 - Planning and Zoning Commission.

Consistent with all applicable Federal and State laws with respect to land use, development and environmental protection, the City Council shall:

1. Establish a Planning and Zoning Commission to carry out planning functions and such planning responsibilities as may be specified in this Charter and by ordinance;
2. The Planning and Zoning Commission shall have the following planning responsibilities:
 - a. Make recommendations to Council on the adoption of the City's comprehensive plan;
and
 - b. Make recommendations to City Council on the adoption of subdivision and other land use and development regulations; and
 - c. Hold a minimum of two public hearings on any proposed Development Agreement entered into with a property owner pursuant to the authority granted to municipalities by Texas Local Government Code Chapter 212.172, as amended, and make recommendations to City Council on its approval.

Section 7.15 - Penalty Clause.

- A. *Criminal Penalty.* Any person who by himself or with others violates any provision of this charter shall, in addition to any other penalty, be guilty of a misdemeanor and upon conviction thereof shall be punishable by a fine of not more \$500.00. City Council shall enact an ordinance enforcing this section.

- B. *Civil Penalty.* Upon the affirmative vote of two-thirds of the City Council any person who by himself or with others violates any provision of this charter shall be, in addition to any other penalty provided for herein, subject to a civil fine of not more than \$500.00.

VIII. - TRANSITIONAL PROVISIONS

Section 8.01 - Existing Ordinances and Resolutions.

At the time of initial adoption of this Charter, all existing ordinances, resolutions, regulations, and other prior actions of the City Council, not in conflict with this Charter, shall remain in effect without being subject to the provisions of this Charter for referendum.

Section 8.02 - Officers and Employees.

- A. *Rights and Privileges Preserved.* Nothing in this Charter except as otherwise specifically provided shall affect or impair the rights or privileges of persons who are City officers or employees at the time of its adoption.
- B. *Continuance of Office or Employment.* Except as specifically provided by this Charter, if at the time this Charter takes full effect, a City administrative officer or employee holds any office or position which is or can be abolished by or under this Charter, he shall continue in such position or office until the taking effect of some specific provision under this Charter directing that he vacate the office or position.

Section 8.03 - Pending Matters.

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

Section 8.04 - Manner of Submission to Electors.

In preparing this Charter, the Charter Commission finds and decides that it is impractical to segregate each subject so as to permit a vote of "yes" or "no" on the same, for the reason that the Charter is so constructed that in order to enable it to work and function, it is necessary that it should be adopted in its entirety.

Section 8.05 - Staggered Elections.

In order to provide for a smooth transition between a five-member council elected for two-year terms and a seven-member council elected for three-year terms, the following ~~election~~-schedule shall be followed until such time as all council members are elected to three-year staggered terms:

2017

Within [??] days of the adoption of this Charter the City Council shall appoint an individual to fill the vacant Place Six.

2018

The Mayor shall be elected to a three (3) year term.

Place One shall be elected to a three (3) year term.

Place Two shall be elected to a two (2) year term.

Place Six shall be elected to a two (2) year term.

2019

Place Three shall be elected to a three (3) year term.

Place Four shall be elected to a three (3) year term.

Place Five shall be elected to a three (3) year term.

2020

Place Two shall be elected to a three (3) year term.

Place Six shall be elected to a three (3) year term.

Staggered Terms starting 2018

	2017	2018	2019	2020	2021	2022	2023	2024	2025	2026
Mayor		3			3			3		
Place 1		3			3			3		
Place 2		2		3			3			3
Place 3	2		3			3			3	
Place 4	2		3			3			3	
Place 5	2		3			3			3	
Place 6	Appoint	2		3			3			3

Mayor	May 2018
Place 1	May 2018
Place 2	May 2018
Place 3	May 2017
Place 4	May 2017
Place 5	May 2017
Place 6	APT 2017