

**EXHIBIT A**  
**HALTOM CITY CHARTER 2018 PROPOSED AMENDMENTS**

**ARTICLE I. - BOUNDARIES AND ANNEXATIONS**

**Sec. 1.01. - Boundaries.**

The boundaries of the City of Haltom City are those previously established and as may be amended from time to time. The official map of the city indicating the current boundaries shall be kept in the office of the city secretary and shall be revised to reflect the city's boundaries each time a boundary of the city is changed.

**Sec. 1.02. - Annexation by city council.**

The city council shall have power by ordinance to fix the boundary limits of the City of Haltom City and to provide for the alteration and the extension of said boundary limits and the annexation of additional territory lying adjacent to the city, with or without the consent of the inhabitants of the territory annexed. Upon the annexation of any additional territory, however, the City of Haltom City must, in accordance with the provisions of state law, provide for the extension of municipal services to the territory so annexed. Before the consideration of an ordinance to annex territory, the city council shall cause notice to be published in accordance with state law. Upon final passage of an annexation ordinance in the original or amended form, the boundary limits of the city shall thereafter be as fixed in such ordinance; and when any additional territory has been so annexed, same shall be a part of the City of Haltom City and the property situated therein shall bear its pro rata part of taxes levied by the city and thereafter the inhabitants thereof shall be entitled to all of the rights and privileges of all citizens, and shall be bound by the acts, ordinances, resolutions and regulations of the city.

**Sec. 1.03. - Petition to annex.**

Whenever a majority of the legally qualified voters who are citizens of the State of Texas and inhabitants of any territory adjoining the City of Haltom City, as said territory may be designated by the city council, or in case there are no such qualified voters in said territory, then when persons owning a majority of land area in said territory, desire the annexation of such territory to the City of Haltom City, they may present a written petition to that effect to the city council and shall attach to said petition an affidavit signed by the majority of such qualified voters, or in case there are no such qualified voters in said territory, an affidavit stating that the person or persons so signing said petition own a majority of the land area in said territory; thereupon the city council at a regular session or a special session called in the manner required by this charter may by ordinance annex such territory to the City of Haltom City and thereafter said territory shall be a part of the City of Haltom City and the property situated therein shall bear its pro rata part of taxes levied by the city and the inhabitants thereof shall be entitled to all of the rights and privileges of all citizens, and shall be bound by the acts, ordinances, resolutions and regulations of the city.

**Sec. 1.04. - Disannexation of territory.**

The city council may, in its exclusive discretion, by ordinance disannex from the city any territory within the corporate limits of the city when and if at least sixty (60) percent of the inhabitants thereof qualified to vote for members of the council shall present a verified petition requesting that such territory be discontinued as a part of the city and tender to the city secretary with such petition a sum of money equivalent to that percentage of the then outstanding indebtedness of the city for bonds and warrants and fair proportion of the then existing budget which the assessed value of all property within such territory on the tax rolls next preceding the presentation of such petition bears to the total of all property on said rolls. Except as required by state law for failure to provide municipal services, the council shall never, regardless of the facts and circumstances, be required to discontinue any territory as a part of the city except at its exclusive discretion expressed by ordinance.

**Sec. 1.05. - Platting.**

Should any property situated within the city limits, as herein established or as may hereafter be established, or within the extraterritorial jurisdiction of such corporate limits of the City of Haltom City, as herein established or as may hereafter be established, be hereafter platted in blocks and lots, the owner or owners of said property shall comply with all the provisions of V.T.C.A., Local Government Code chs. 212 and 242 and any ordinances or regulations established by the city regarding platting.

**ARTICLE II. – POWERS**

**Sec. 2.01. - General.**

The City of Haltom City, made a body politic and corporate by the adoption of this charter, shall have and may exercise all the powers, functions, rights, privileges and immunities of every name and nature whatsoever now or hereafter granted to municipal corporations and to cities by the constitution and laws of the State of Texas, together with all the implied powers necessary to carry into execution all the powers, functions, rights, privileges and immunities granted.

**Sec. 2.02. - General powers adopted.**

The enumeration of particular powers by this charter shall not be deemed to be exclusive, and in addition to the powers enumerated herein or implied hereby, or appropriate to the exercise of such powers, it is intended that the City of Haltom City shall have, and may exercise, all powers of local self-government, and all powers enumerated in state law [2] or any other powers which under the constitution and laws of the State of Texas, it would be competent for this charter specifically to enumerate.

### **Sec. 2.03. - Powers of the city council.**

All powers of the city and the determination of all matters of policy shall be vested in the city council. Except where in conflict with and otherwise expressly provided by this charter, the city council shall have all powers authorized in state law [3] to be exercised by the city council. Without limitation of the foregoing and among the other powers that may be exercised by the council, the following are hereby enumerated for greater certainty:

- (1) Appoint and remove the city manager and city secretary.
- (2) Adopt the budget of the city.
- (3) Authorize the issuance of bonds by a bond ordinance.
- (4) Inquire into the conduct of any office, department or agency of the city and make investigations for this purpose.
- (5) Provide for and appoint members to a planning commission, a zoning commission, a zoning board of adjustment, **an Ethics Commission**, and all commissions and boards of the city unless required otherwise by this charter or state law. The planning and zoning commission may be combined. City boards and commissions shall have all powers and duties now or hereafter conferred and created by this charter, by city ordinance, or by other law.
- (6) Adopt plats.
- (7) Adopt and modify the official map of the city.
- (8) Adopt, modify, and carry out plans proposed by the planning commission for the clearance of slum districts and rehabilitation of blighted areas.
- (9) Adopt, modify and carry out plans proposed by the planning commission for the replanning, improvement and redevelopment of neighborhoods and for the replanning, reconstruction or redevelopment of any area or district which may have been destroyed in whole or part by disaster.
- (10) Provide for the establishment and designation of fire limits and to prescribe the kind and character of buildings or structures or improvements to be erected therein, and to provide for the erection of fireproof buildings within certain limits, and to provide for the condemnation of dangerous structures or buildings or dilapidated buildings or buildings calculated to increase the fire hazard, and the manner of their removal or destruction.
- (11) May regulate burial grounds, cemeteries, and crematories and condemn and close any such in the thickly settled portions of the city when public interest or

public health may demand, and may regulate interment of the deceased.

## ARTICLE III. - CITY COUNCIL

### Sec. 3.01. - Number, selection and term.

The legislative and governing body of the city shall consist of a mayor and seven (7) council members and shall be known as the "Council of the City of Haltom City."

- (a) The mayor shall be elected by a majority vote of the qualified voters voting at the election.
- (b) The seven (7) council members shall be elected to individual places, designated by number, from the city at large and each shall be elected by a majority vote of the qualified voters voting at the election.
- (c) The mayor and each council member shall hold his/her office for a period of two (2) years and until his/her successor is duly elected and qualified.
- (d) In each odd numbered year the mayor and three (3) council members shall be elected and in each even numbered year four (4) councilmen shall be elected. Places 1, 2 and 7 shall be elected in odd numbered years and places 3, 4, 5 and 6 shall be elected in even numbered years.

### Sec. 3.01a. - Limitation of consecutive terms for elected officials.

(a) A ~~person-city council member~~ who has served as ~~an elected official~~ a councilmember, regardless of place, in any one elected office for three consecutive terms shall not again be eligible to become a candidate for, or to serve ~~in, the elected office held~~ as a councilmember until the next general election after the third consecutive term has expired. ~~The office of city council member, regardless of place number, is a single elected office for purposes of this chapter (article).~~

(b) A Mayor who has served as mayor for five consecutive terms as mayor shall not again be eligible to become a candidate for or to serve in that office until the next general election after the fifth consecutive term has expired. Terms served as a councilmember shall not be included in the calculation of terms under this subsection.

(bc) Councilmembers may serve five consecutive terms if two or more terms are served as mayor. After the fifth combined consecutive term, the councilmember shall not be eligible to serve in an elected office of councilmember or mayor until the next general election. A person who has served in more than one elected office for five consecutive terms shall not be eligible to become a candidate for, or to serve in, an elected office until the next general election after the fifth consecutive two-year term has expired.

(c) As used in ~~Subsections (a) and (b)~~ this section, any length of service within a two-year

term that exceeds 360 days, is a term served, and "councilmember" means Places 1 through 7 and does not mean "mayor."

### **Sec. 3.02. - Qualifications for city council.**

To be qualified to serve on the city council, each of the seven (7) council members and the mayor shall:

- (1) Be a citizen of the United States of America;
- (2) Be a qualified voter of the city (which in this charter shall mean a person who is registered to vote in the State of Texas, whose registration is effective in the City of Haltom City);
- (3) Have resided in the city for at least 12 months prior to the date of the election;
- (4) Be 18 years of age or older on the first day of the term to be filled at the election;
- ~~(5) Not be in arrears in the payment of any taxes or other liability due the city;~~
- (65) Not have been finally convicted of a felony from which the person has not been otherwise released from the resulting disabilities;
- ~~(7) Not have any financial interest in any contract with the city or the sale of any equipment, materials, or other articles to the city, except as permitted by state law;~~
- ~~(8) Not hold any other public office except that of notary public, member of the national guard, any military reserve, or retired member of the armed services, except as otherwise permitted by state law;~~
- (69) Not have been declared mentally incompetent by the final judgment of a court; ~~and~~
- (407) Abide by the nepotism law (Chapter 573, Texas Government Code), and as provided in Section 10.02 of the Charter; ~~and-~~
- (8) Not be disqualified by reason of any other provision of law.

A member of the council who ceases to possess any of the qualifications specified in this section for a period of sixty (60) days following notice from the city secretary regarding same, or who is convicted of a felony while in office, shall immediately forfeit the office and the city council shall proceed to fill the vacancy in accordance with Section 3.06 of this Charter.

### **Sec. 3.03. - Running for other office.**

If a person holding an elective office of the city becomes a candidate for nomination or election to any elective public office other than the office then held, the person automatically resigns the city office. The city council shall declare the office vacant and proceed to fill the office as provided in Section 3.06 of this charter.

**Sec. 3.04. - Council judge of election of member, declaring election results.**

The city council shall be the judge of the election and qualifications of its own members and of the mayor, subject to review of the courts in case of contest. The city council shall, after each regular or special election, canvass the return and declare the results of the election in accordance with state law.

**Sec. 3.05. - Compensation.**

For each regular or special council meeting, the city council members shall be paid twenty-five dollars (\$25.00) and the mayor shall be paid fifty dollars (\$50.00) plus such designated actual expenses supported by receipt.

**Sec. 3.06. - Vacancies.**

In the event of a vacancy occurring in the office of mayor or city council member from any cause whatsoever, a special election shall be held at the next state uniform election date that allows time for holding the election as provided in state law.

**Sec. 3.07. - Number of meetings.**

The city council shall hold at least one regular meeting per month, to be designated by ordinance or resolution, and so many special meetings as the mayor or council may deem necessary.

**Sec. 3.07a. - Attendance requirements.**

(a) If the mayor or a council member has three unexcused absences from regular city council meetings per term, the mayor or council member shall forfeit the office. The city council shall declare the office vacant and proceed to fill the office as in the case of other vacancies.

(b) At each regular meeting from which the mayor or a city council member is absent, the city council shall determine whether the absence is excused.

**Sec. 3.08. - Quorum.**

A quorum at any council meeting will be established by the presence of at least five (5) members. The mayor's presence may not be counted toward a quorum.

**Sec. 3.09. - Mayor pro-tem.**

The mayor pro-tem shall be elected by the council from among the members of the council and shall perform all duties of the mayor in case of the Mayor's absence or disability.

**Sec. 3.10. - The mayor.**

The mayor of the City of Haltom City shall preside over the meeting of said city council and perform such other duties consistent with the office as may be imposed upon the Mayor by this charter and ordinances and resolutions passed in pursuance thereof. The Mayor may participate in the discussion of all matters coming before the council. The Mayor shall not be entitled to vote as a member thereof, on legislative or other matters, except in case of a tie, when the Mayor shall have the right to cast the deciding vote.

**Sec. 3.11. - Appointment or removal by city council.**

Neither the council nor any of its members shall direct or request the appointment of any person to, or the person's removal from office by the city manager or by any of the City Manager's subordinates, or in any manner take part in the appointment or removal of officers and employees in the administrative service of the city. Except for the purpose of inquiry, the council and its members shall deal with the administrative service solely through the city manager and neither the council nor any member thereof shall give orders to any subordinates of the city manager, either publicly or privately. Any council member violating the provisions of this section, or voting for a resolution or ordinance in violation of this section, shall be guilty of a misdemeanor and upon conviction thereof shall cease to be a council member.

## ARTICLE IV. - NOMINATIONS AND ELECTIONS

**Sec. 4.01. - Elections.**

(a) General Elections. The regular city election shall be held on a date authorized by state law, at which time officers will be elected to fill those offices which become vacant that year. The city council shall designate the location of the polling place in such election. ~~The city council may, by resolution, or ordinance, order such special elections permitted by law, fix the time and place for holding same and provide all means for holding such special election.~~

(b) Special Elections. ~~The city council may order an election for any municipal purpose, and shall order special elections to fill vacancies, pursuant to citizen petitions or measures as promptly as possible while complying with state and federal requirements.~~

**Sec. 4.02. - Regulation of elections.**

The city council shall make all regulations which it considers needful or desirable, not inconsistent with this charter or the laws of the State of Texas, for the conduct of municipal elections, for the prevention of fraud in such elections and for the recount of ballots in case of doubt or fraud. Municipal elections shall be conducted by the appointed election authorities

who shall also have power to make regulations not inconsistent with this charter or with any regulations made by the council or the laws of the State of Texas.

**Sec. 4.03. - Filing for office.**

(a) Any qualified person may have his/ her name placed on the official ballot as a candidate for the office of mayor or council member by filing with the city secretary all required state applications. ~~providing information required by state law and filing an application in substantially the following form:~~

~~"I, \_\_\_\_\_, do hereby declare that I am a candidate for the office of \_\_\_\_\_ and request that my name be printed upon the official ballot for that particular office in the next City election. I meet all the qualifications to serve on the city council listed in Section 3.02 of this charter, which are as follows:~~

- ~~(1) — Be a citizen of the United States of America;~~
- ~~(2) — Be a qualified voter;~~
- ~~(3) — Have resided in the city for at least 12 months prior to the date of the election;~~
- ~~(4) — Be 18 years of age or older on the first day of the term to be filled at the election;~~
- ~~(5) — Not be in arrears in the payment of any taxes or other liability due the city;~~
- ~~(6) — Not have been finally convicted of a felony from which the person has not been otherwise released from the resulting disabilities;~~
- ~~(7) — Not have any financial interest in any contract with the city or the sale of any equipment, materials, or other articles to the city, except as permitted by state law;~~
- ~~(8) — Not hold any other public office except that of notary public, member of the national guard, any military reserve, or retired member of the armed services, except as permitted by state law;~~
- ~~(9) — Not have been declared mentally incompetent by the final judgment of a court; and~~
- ~~(10) — Abide by the nepotism law (Chapter 573, Texas Government Code), and as provided in Section 10.02 of this Charter.~~

~~At the present time I reside at \_\_\_\_\_ in the city. I further swear that the foregoing statements in my application are in all things true and correct.~~

\_\_\_\_\_  
**Signature of Candidate**

(b) The application shall be filed in the office of the city secretary not later than 5:00 p.m. of a day authorized by state law as a filing deadline for general or special elections. The application shall be witnessed by an officer of the city who is qualified to administer oaths. A fifty dollar (\$50.00) filing fee shall be paid by each candidate whose name appears on the official ballot. This fee shall be paid to the city secretary at the time of filing of the application, and credited to the general fund of the city. As an alternate procedure to payment of this fee, a person may submit a petition in favor of his/ her candidacy, signed by the requisite number of signatures prescribed by Chapter 143 of the Texas Election Code, as amended at least fifty (50) registered voters. The application must be accompanied by two forms of identification, one being a photo id, required by state law to identify a voter, reflecting an address that matches the address on the application. The official ballots shall be printed not less than twenty (20) days before the date of the election. The name of a person who does not file all required, completed documents by the deadline, will not be placed on the ballot.

#### **Sec. 4.04. - The official ballot.**

The names of all candidates for office, except such as may have withdrawn, died or become ineligible, shall be printed on the official ballots without party designations in the order determined in a drawing of lots conducted by the city secretary.

#### **Sec. 4.05. - Qualified voter.**

A "qualified voter," except as herein elsewhere defined within the meaning of the terms of this charter, is one who is a resident of the City of Haltom City and who possesses the other qualifications required by the general laws of the State of Texas. In addition to other qualifications set out in this charter, any candidate for elective office must be a qualified voter.

#### **Sec. 4.06. - Laws governing city elections.**

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

(a) State law and city charter. City elections are governed by the constitution and laws of the state applicable to municipal elections, except where state law provides that a Charter takes precedence, and this Charter varies from state law. If state law and this Charter fail to provide for some feature of city elections, the city council has the power to provide for the deficiency.

(b) Substantial compliance. No informalities in conducting a city election shall invalidate the election if it is conducted fairly and in substantial compliance with state law, where applicable, and the Charter and ordinances of the city.

#### **Sec. 4.07. - Conducting and canvassing elections.**

All elections shall be conducted and canvassed in accordance with state law.

**Sec. 4.08. - Oath of office.**

Every officer of the city shall, before entering upon the duties of the officer's office, take and subscribe to the following oaths in accordance with requirements of state law:

- (1) First, the officer elected or appointed must sign the following written statement before the second oath may be taken:

"I, \_\_\_\_\_, do solemnly swear (or affirm), that I have not directly or indirectly paid, offered, promised to pay, contributed, or promised to contribute any money or thing of value, or promised any public office or employment, as a reward for the giving or withholding of a vote at the election at which I was elected (or if the office is one of appointment, to secure my appointment) so help me God."

- (2) Second, the officer takes the following oath:

"I, \_\_\_\_\_, do solemnly swear (or affirm), that I will faithfully execute the duties of the office of \_\_\_\_\_, of the City of Haltom City of the State of Texas, and will to the best of my ability preserve, protect, and defend the constitution and laws of the United States and of this state and the charter and ordinances of this City; and I furthermore solemnly swear (or affirm), that I have not directly or indirectly paid, offered, or promised to pay, contributed, nor promised to contribute any money or valuable thing, or promised any public office or employment, as a reward for the giving or withholding of a vote at the election at which I was elected (or if the office is one of appointment, to secure my appointment). So help me God."

**Sec. 4.09. – Election of the city council.**

(a) Majority vote required. At an election for mayor or city councilmember, the candidate who receives the majority of the number of votes cast in the election for each office to be filled is elected.

(b) Runoff elections. If no candidate receives a majority of city council votes for mayor or particular place number at an election, then the city council shall order a runoff election to be held in accordance with state law.

**ARTICLE V. – FINANCE**

**Sec. 5.01. - Annual budget.**

The city's financial expenditures shall be governed by an annual budget. The budget shall embrace the fiscal year of the city as opposed to the calendar year.

**Sec. 5.02. - Preparation and submission of budget.**

The city manager shall prepare and submit to the city council a proposed budget at least forty-five (45) days prior to the beginning of the fiscal year. The city council shall hold a public hearing on the budget and shall give at least ten (10) days' notice of said hearing in the official newspaper of the city.

**Sec. 5.03. - Adoption of budget.**

At the public hearing or at any regular or special called council meeting, the city council shall make such changes in the proposed budget as it deems advisable and shall adopt a budget prior to the first day of the fiscal year. If the city council fails to adopt a budget in final form before such date, the budget proposed by the city manager shall be deemed to have been adopted.

**Sec. 5.04. - Budget establishes expenditures.**

Once the budget is adopted, the city manager shall authorize no expenditure over the total funds for expenditure in the overall budget unless the budget is amended by the same public notice procedure called for in adopting the budget.

**Sec. 5.05. - Budget a public record.**

The budget shall be a public record and a copy shall remain on file in the office of the city secretary for public inspection.

**Sec. 5.06. - Independent audit.**

The council shall cause an independent audit to be made of the books of account, records and transactions of all the administrative departments of the city at least once yearly. Such audits, during such fiscal year, shall be made by one or more certified public accountants who for three (3) years next preceding have held a certificate issued by the State Board of Accountancy of the State of Texas, or by a state maintaining an equal standard of professional requirements, which entitled the holder of such certificate to a Texas certificate. The auditor or auditors to make the said audit shall be selected by the council and shall be responsible to the council; provided, however, that no auditor may be selected for more than five (5) consecutive years without going through a formal selection process. The duties of the auditor or auditors so appointed shall include the certification of all statements. The report of such auditor or auditors for the fiscal year shall be printed and a copy thereof shall be furnished to each member of the council, the city manager, and to each citizen who may apply therefore. The original report of the said auditor or auditors shall be kept among the permanent records of the city.

**Sec. 5.07. - Power to tax.**

The city council shall have full power to provide for the prompt collection of taxes imposed and the procedures, time limits, interest, penalties and methods of levying, imposing, assessing

and collecting taxes shall be those prescribed by state law. The council shall impose such ad valorem taxes as are necessary to support the budget.

**Sec. 5.08. - Exempt property.**

There shall be exempt from taxation all property exempted by the State Constitution, state statutes and the ordinances of the city, as they are now or as they may be amended.

**Sec. 5.09. - Franchise fees.**

All rights, privileges and franchises granted to and held by any person, firm or corporation, in the streets, alleys, highways, or public grounds or places in the city, shall be subject to a fee charged by the city for their use. This fee shall be paid separately from and in addition to municipal taxes on the assets and sales of such person, firm or corporation.

**Sec. 5.10. - Disbursement of funds.**

All checks or warrants for the withdrawal of money from the city depository shall be signed by the city manager or assistant city manager with the signature being attested by the city secretary or assistant city secretary.

## **ARTICLE VI. - RECALL OF OFFICERS**

**Sec. 6.01. - Recall authorized.**

~~Any council member~~The Mayor and councilmembers shall be subject to recall and removal from office by the qualified voters of the city on grounds of incompetency, misconduct, or malfeasance in office.

- (1) For purposes of this section, the term “incompetency” shall mean lack of ability, legal qualification or fitness to discharge the required duty.
- (2) For purposes of this section, the term “misconduct” shall mean a transgression of some established and definite rule of law, charter provision or city ordinance. In order to constitute “misconduct,” such conduct must be of a forbidden nature, a dereliction from duty, unlawful behavior, and willful in nature.
- (3) For purposes of this section, the term “malfeasance” shall mean a wrongful act which the actor has no right to do and which affects, interrupts, or interferes with the performance of official duty of any officer, employee or member of the governing body of the city.

**Sec. 6.02. - Petition for recall—Filing requirements.**

Before the question of recall of such officer shall be submitted to the qualified voters of the city, a petition demanding such question to be so submitted shall first be filed with the person performing the duties of city secretary; which said petition shall be signed by qualified voters of the city equal in number to at least thirty-three (33) per centum of the number of votes cast at the last regular municipal election of the city. Each signer of such recall petition shall personally sign his/her name thereto in ink or indelible pencil, and each petition must contain the information required by Chapter 277 of the Texas Election Code, as amended, for the validity of signatures. ~~and shall write after his/her name his/her place of residence, giving name of street and number, or place of residence, and shall also write thereon the day, the month and year his/her signature was affixed. In addition to this information the signer must provide information required by Section 277.002, Texas Election Code.~~

**Sec. 6.03. - Same—Form.**

The recall petition mentioned above must be addressed to the city council of the city, must distinctly and specifically point out the ground or grounds upon which the petition for removal is predicated, and, if there be more than one ground, shall specifically state each ground with such certainty as to give the officer sought to be removed, notice of the matters and things which are alleged. The signature shall be verified by oath in the following form:

"STATE OF TEXAS §  
COUNTY OF TARRANT §

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

Sworn and subscribed to before me this #rule; day of ; date rule, \_\_\_\_\_.

\_\_\_\_\_  
Notary Public in and for  
the State of Tarrant  
County, Texas."

**Sec. 6.04. - Same—Various papers constituting.**

The petition may consist of one or more copies, or subscription lists, circulated separately, and the signature thereto may be upon the paper or papers containing the form of petition, or upon other papers attached thereto. Verifications provided for in the next preceding section of this article may be made by one or more petitioners, and the several parts or copies of the petition may be filed separately and by different persons; but no signatures to such petition shall remain effective or be counted which were placed thereon more than forty-five (45) days prior to the filing of such petition or petitions with the person performing the duties of city secretary. All papers comprising a recall petition shall be filed with the person performing the duties of city secretary on the same day, and said secretary shall immediately notify, in

writing, the officer so sought to be removed, by mailing such notice to the officer's Haltom City address.

**Sec. 6.05. - Same—Presentation to city council.**

Within five (5) working days after the date of the filing of the papers constituting the recall petition, the person performing the duties of the city secretary shall present such petition to the city council of the city. If the petition is certified as containing a sufficient number of valid signatures, this certification to the city council will constitute initiation of the election process.

**Sec. 6.06. Hearing to be held.**

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

**Sec. 6.07. - Election—To be called.**

If the officer whose removal is sought does not resign then it shall become the duty of the city council to order an election and fix a date for holding such recall election, the date of which election shall be the next state uniform election date that ~~is not less than forty-five (45) days from the date such petition was certified to the city council~~allows sufficient time to meet the requirements of this charter and state law.

**Sec. 6.08. - Same—Ballots.**

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

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

"Shall (Name of person) be removed from the office of (Name of office) by recall?"

- (2) Immediately to the left of each such question there shall be printed the following words, one above the other, in the order indicated:

"For the recall of (name of person) "YES"

"Against the recall of (name of person)" "NO"

~~(b) — In voting said ballot, the voter shall indicate his/ her vote in favor of recall or against recall by marking the ballot in the way ordinarily prescribed for ballot propositions.~~

**Sec. 6.09. - Same—Result.**

If a majority of the votes cast at a recall election shall be against the recall of the person named on the ballot, the person shall continue in office for the remainder of the person's unexpired term, subject to recall as before. If a majority of the votes cast at such an election be for the recall of the person named on the ballot, the person shall, regardless of any technical defects in the recall petition, be deemed removed from office and the vacancy shall be filled as vacancies in the city council are filled.

**Sec. 6.10. - Restriction recall.**

No recall petition shall be filed against any officer of the City of Haltom City within six (6) months after the officer's election, nor within six (6) months after an election for such officer's recall.

**Sec. 6.11. - Failure of city council to act.**

In case all of the requirements of this charter shall have been met and the city council shall fail or refuse to receive the recall petition, or order such recall election, or discharge any other duties imposed upon said city council by the provisions of this charter with reference to such recall, then the county judge of Tarrant County, Texas, shall discharge any of such duties herein provided to be discharged by the person performing the duties of city secretary or by the city council.

## **ARTICLE VII. - INITIATIVE AND REFERENDUM**

**Sec. 7.01. - General power.**

The qualified voters of the City of Haltom City shall have the power of direct legislation by the initiative and referendum.

**Sec. 7.02. - Initiative procedure.**

Qualified voters of the city may initiate legislation (except levying taxes, authorizing the issuance of bonds of other evidence of indebtedness, setting rates for services, adoption of a budget, any subject where state law requires a public hearing, or any other matter a court of competent jurisdiction has determined to be removed from the field of initiative or referendum) by submitting a petition addressed to the city council which requests the submission of a proposed ordinance or resolution to a vote of the qualified voters of the city. Said petition must be signed by qualified voters of the city equal in number to twenty-five (25) per centum of the number of votes cast at the last regular municipal election of the city, or two hundred fifty (250), whichever is greater, and each copy of the petition shall have attached to it a copy of the proposed legislation. The petition shall be signed in the same manner as recall petitions are signed, as provided in section 6.02 of this charter, and shall be verified by oath in the manner and form provided for recall petitions in section 6.03 of this charter. The petition may consist of one or more copies as permitted for recall petitions in section 6.04 of this charter.

Such petition shall be filed with the person performing the duties of city secretary. Within five (5) days after the filing of such petition, the person performing the duties of city secretary shall present said petition and proposed ordinance or resolution to the city council. Upon presentation to it of the petition and draft of the proposed ordinance or resolution, it shall become the duty of the city council, within ten (10) days after the receipt thereof, to pass and adopt such ordinance or resolution without alteration as to meaning or effect in the opinion of the persons filing the petition, or to call a special election as soon as possible, subject to the Texas Election Code, to be held at the next state uniform election date that is not less than forty-five (45) days after the date the petition is presented to the city council. At the election, the qualified voters of the city shall vote on the question of adopting or rejecting the proposed legislation. However, if any other municipal election is to be held within sixty (60) days after the filing of the petition, the question may be voted on at such election.

**Sec. 7.03. - Referendum.**

Qualified voters of the City of Haltom City may require that any ordinance or resolution passed by the city council be submitted to the voters of the city for approval or disapproval, by submitting a petition for this purpose within thirty (30) days after final passage of said ordinance or resolution, or within thirty (30) days after its publication. Said petition shall be addressed, prepared, signed and verified as required for petitions initiating legislation as provided in section 7.02 of this charter and shall be submitted to the person performing the duties of city secretary. Immediately upon the filing of such petition, the person performing the duties of city secretary shall present said petition to the city council. Thereupon the city council shall immediately within 10 days reconsider such ordinance or resolution and, if it does not entirely repeal the same, shall submit it to popular vote as provided in section 7.02 of this charter. Pending the holding of such election, such ordinance or resolution shall be suspended from taking effect and shall not later take effect unless a majority of the qualified voters voting thereon at such election shall vote in favor thereon.

**Sec. 7.04. - Voluntary submission of legislation by the council.**

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

**Sec. 7.05. - Form of ballots.**

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

"FOR the ORDINANCE," and  
"AGAINST the ORDINANCE," or  
"FOR the RESOLUTION," or

"AGAINST the RESOLUTION."

**Sec. 7.06. - Publication of proposed and referred ordinances.**

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

**Sec. 7.07. - Adoption of ordinance.**

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

**Sec. 7.08. - Inconsistent ordinances.**

If the provisions of two (2) or more proposed ordinances or resolutions approved at the same election are inconsistent, the ordinance or resolution receiving the highest number of votes shall prevail.

**Sec. 7.09. - Ordinances passed by popular vote, repeal or amendment.**

No ordinance or resolution which may have been passed by the city council upon a petition or adopted by popular vote under the provisions of this article shall be repealed or amended except by the city council in response to a referendum petition or by submission as provided in section 7.04 of this charter

**Sec. 7.10. - Further regulations by city council.**

The city council may pass ordinances or resolutions providing other and further regulations for carrying out the provisions of this article not inconsistent herewith.

**Sec. 7.11. - Franchise ordinances.**

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

**ARTICLE VIII. - FRANCHISES AND PUBLIC UTILITIES**

**Sec. 8.01. - Powers of the city as to utilities generally.**

~~The city has the power to buy, sell, own, construct, maintain, and operate utilities, within or without the city limits, and to manufacture and distribute electricity, gas, or anything else that may be needed or used by the public. Further, the city shall have all powers as set forth in this Article VIII to regulate utilities to the fullest extent permitted by law.~~

(a) *City owned utilities.* The city has the following powers:

(1) to buy, construct, lease, maintain, operate, and regulate public utilities;

(2) to manufacture, distribute, and sell the output of utility operations; and

(3) other powers regarding utility services granted under the constitution and laws of the state.

(b) *Services outside city limits.* The city may extend utility lines and sell utility services outside the city limits, in accordance with state law.

## **Sec. 8.02. - Franchise power of city council.**

~~Unless provided otherwise by state or federal law, the city council shall have power to grant, amend, renew or extend by ordinance all franchises of all public utilities of every character operating within the City of Haltom City, and for such purposes is granted full power. All ordinances granting, amending, renewing, or extending franchises for public utilities shall be read at two separate regular meetings of the city council and shall not be finally passed until fifteen (15) days after the first reading; and no such ordinance shall take effect until thirty (30) days after its final passage. No public utility franchise shall be transferable except to persons, firms or corporations taking all or substantially all of the holder's business in the City of Haltom City and except with the approval of the council expressed by ordinance.~~

(a) *Power to grant franchise; term.* Unless provided otherwise by state or federal law, the City Council shall have power by ordinance to grant, renew, extend, and amend franchises of public utilities operating within the city. A franchise shall not be granted for an indeterminate period nor for a term of more than 20 years from the date of the grant, renewal, or extension.

(b) *Grant not to be exclusive.* The grant of a franchise to construct, maintain, or operate a public utility and the renewal or extension of the grant shall not be exclusive.

(c) *Ordinance granting franchise.* All ordinances granting, amending, renewing, or extending franchises for public utilities shall be read at two separate regular meetings of the City Council and shall not be finally passed until fifteen (15) days after the first reading; and no such ordinance shall take effect until thirty (30) days after its final passage. The full text of the ordinance must be published once between the first and second approval in a newspaper of general circulation in the city. The expense of the publication shall be paid by the prospective franchise holder.

(d) *Transfer of franchise.* No public utility franchise shall be transferable except to persons, firms or corporations taking all or substantially all of the holder's business in the City of Haltom City and except with the approval of the Council expressed by ordinance. This

restriction on transfer does not prevent the franchise holder from pledging the franchise as a security for a valid debt or mortgage.

**Sec. 8.03. - Regulation of rates and service.**

The city council shall have the following powers:

- (a) After due notice and hearing, to regulate by ordinance or otherwise the rates and services of every public utility operating in the City to the fullest extent permitted by law;
- (b) To employ at the expense of the public utility expert assistance and advice in determining a reasonable rate and equitable profit to the public utility; and
- (c) To require within the franchise grant, extension, or renewal, or as a condition of a hearing concerning rates and services, that the public utility seeking the rate or service change pay the cost of the expert advice and assistance as chosen by the city council.

**Sec. 8.04. - Right of regulation.**

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

- (1) To repeal the same ordinance at any time for failure to begin construction or operation within the time prescribed or for failure otherwise to comply with the terms of the franchise, such power to be exercised only after due notice and hearing.
- (2) To require an adequate and reasonable extension of plant and service, and the maintenance of the plant and fixtures at the standard necessary to render the highest reasonable quality of utility service to the public.
- (3) To establish reasonable standards of service and quality of products and prevent unjust discrimination in service or rates.
- (4)
  - (a) To prescribe the form of accounts kept by each such utility; provided, that if the utility shall keep its accounts in accordance with the uniform system of accounts for said utility prescribed by the National Association of Railroad and Public Utility Commissioners, the Federal Power Commission, the Federal Communications Commission, the Railroad Commission of Texas, or their successors, or other state or federal utility regulating agencies, this shall be deemed sufficient compliance with this paragraph.
  - (b) At any time to examine and audit the accounts and other records of any such utility and to require annual and other reports, including reports on local operations by each such public utility.
- (5) To impose such reasonable regulations and restrictions as may be deemed desirable

or conducive to the safety, welfare, and accommodation of the public.

**Sec. 8.05. - Consent of property owners.**

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

**Sec. 8.06. - Extensions.**

All extensions of public utilities within the city limits shall become a part of the aggregate property of the public utility, shall be operated as such, and shall be subject to all the obligations and reserved rights contained in this charter and in any original grant hereafter made. The right to use and maintain any extension shall terminate with the original grant and shall be terminable as provided in section 8.04. In case of an extension of public utility operated under a franchise hereafter granted, such right shall be terminable at the same time and under the same conditions as the original grant.

**Sec. 8.07. - Other conditions.**

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

**Sec. 8.08. - Franchise records.**

Within six (6) months after this charter takes effect, every public utility and every owner of public utility franchise shall file with the city, as may be prescribed by ordinance, certified copies of all franchises owned or claimed, or under which such utility is operated in the City of Haltom City. The city shall compile and maintain a public record of public utility franchises.

**Sec. 8.09. - Accounts of municipally owned utilities.**

Accounts shall be kept for each public utility owned or operated by the city, in such manner as to show the true and complete financial results of such city ownership and operation, including all assets, appropriately subdivided into different classes, and all liability subdivided by classes, depreciation reserve, other reserves, and surplus; also revenues, operating expenses including depreciation, interest payments, rental, and other disposition of annual income. The accounts shall show the actual capital cost to the city of each public utility owned, also the cost of all extensions, additions, and improvements, and the source of the funds expended for such capital purposes. They shall show as nearly as possible the cost of any service furnished to or rendered by any such utility to any other city or governmental department. The council shall annually cause to be made by a certified public accountant, and shall publish, a report showing the financial condition of said public utility and the financial results of such city ownership and operation, giving the information specified in this section and such additional data as the council shall deem expedient.

**Sec. 8.10. - Restoration of property; use of public right-of-way.**

(a) A franchise holder shall at its expense refill and repair openings or other damage to the public rights-of-way or other public or private property caused by the franchise holder. It shall replace the pavement and perform all other work necessary to complete restoration of streets, sidewalks, or grounds to a condition equally as good or better than before disturbed. The city council may adopt ordinances to implement the requirements of this paragraph.

(b) A franchise holder shall comply with the provisions of any ordinance governing the use of the City's right-of-way and prescribing regulations for the use of the right-of-way. The franchise holder shall require its employees and contractors to comply with such ordinances and regulations.

**ARTICLE IX. – ADMINISTRATION**

**Sec. 9.01. - City manager.**

(a) Appointment and qualifications: The city council shall appoint a city manager who shall be the chief administrative and executive officer of the city and shall be responsible to the city council for the administration of all the affairs of the city. The City Manager shall be chosen by the city council solely on the basis of the City Manager's executive and administrative training, experience and ability, and need not, when appointed, be a resident of the City of Haltom City. No member of the city council shall, during the time for which he is elected and one year thereafter, be appointed city manager.

(b) Term and salary: The city manager shall not be appointed for a definite term but may be removed at the will and pleasure of the city council by an affirmative vote of at least five members of the city council voting in an open meeting. The action of the city council in suspending or removing the city manager shall be final, it being the intention of this charter to

vest all authority and fix all responsibility for such suspension or removal in the city council. In case of absence or disability of the city manager, the council may designate some qualified person other than an elected officer of the city to perform the duties of the office during such absence or disability. The city manager shall receive such compensation as may be fixed by the council.

(c) Power and duties of the city manager: The powers and duties herein conferred upon the city manager shall include but shall not be limited to:

- (1) Appoint, and when necessary for the welfare of the city, remove any employee of the city, except as otherwise provided by this charter.
- (2) Prepare the budget annually and submit it to the city council, and be responsible for its administration after adoption.
- (3) Prepare and submit to the city council as of the end of the fiscal year a complete report on the finances and administrative activities of the city for the preceding year.
- (4) Keep the city council advised of the financial condition and future needs of the city and make such recommendations as may seem desirable.
- (5) Perform such duties as may be prescribed by this charter or may be required of him/her by the city council, not inconsistent with this charter.
- (6) Establish administrative departments and distribute the work of divisions.
- (7) Direct and supervise the administration of all departments, offices, and agencies of the city, except as otherwise provided by law or this charter.
- (8) Attend all meetings of the council except when excused by the council.
- (9) See that all state laws and city ordinances are effectively enforced.

#### **Sec. 9.02. - City secretary.**

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

#### **Sec. 9.03. - Street department.**

The city council shall establish and maintain a street department for the construction and maintenance of the streets of the City of Haltom City.

**Sec. 9.04. - Reserved.**

**Sec. 9.05. - City attorney.**

The city council shall appoint a competent and duly licensed attorney practicing law in Tarrant County, Texas, who shall be the city attorney. The city attorney shall receive for the city attorney's services such compensation as may be fixed by the city council and shall hold his/her office at the pleasure of the city council. The city attorney, or such other attorneys selected by the city attorney with the approval of the city council, shall represent the city in all litigation. The city attorney shall be the legal advisor of, and attorney and counsel for, the city and all departments thereof. The city council shall review the performance and effectiveness of the city attorney every three (3) years, beginning the year this section is adopted.

**Sec. 9.06. - Municipal court.**

(a) There is hereby created and established a court to be the municipal court of the city, which court shall have jurisdiction within the territorial limits of said city of all criminal cases arising under the ordinances of such city, and shall have concurrent jurisdiction with the justice of the peace of the precinct in which the city is or may be situated of all criminal cases arising under the criminal laws of the state, where the offense is committed within the territorial limits of said city and the punishment is by fine only with the maximum of said fine, being that which is established under the laws of this state. The court shall have civil jurisdiction as conferred by state law. It shall also have jurisdiction over criminal offenses committed outside the corporate limits of the city under ordinances authorized by state law, including, but not limited to those enacted for the preservation of the city's water system, watersheds of the city's water supply and the purity of the water supply, the city's sewer disposal plant and the city's garbage dumping grounds; violations committed on municipal property; and any nuisance within five thousand feet outside of the corporate limits of the city.

(b) The judge of said court shall be designated as judge of the municipal court, and shall be selected as provided by law. If the judge is selected by election, the term limitations imposed upon elected officials in Section 3.01a of this charter also apply to the judge's position.

(c) The judge of the municipal court shall have power to punish for contempt to the same extent and under the same circumstances as the justice of the peace may punish for contempt in all criminal cases.

(d) The term of office of the judge of the municipal court shall be established by ordinance in accordance with state law. The city council shall have the authority to remove the municipal court judge for good cause as determined by the council. A hearing shall be held if requested by the judge, and removal shall require an affirmative vote of at least 2/3 of the members of the council.

(e) The judge of the municipal court shall serve as a part-time judge and must reside in,

and be engaged in the private practice of law in Tarrant County, Texas.

(f) All complaints, prosecution, the service of process, commitment of those convicted of offenses, the collection and payment of fines, the attendance and service of witnesses and juries, punishment for contempt, bail and the taking of bonds shall be governed by the provisions of Vernon's Ann. C.C.P. ch. 45, as amended, applicable to municipal courts.

**Sec. 9.07. - Clerk of municipal court.**

There is hereby created the position of clerk of the municipal court. The clerk of said court and the clerk's deputies shall have the power to administer oaths and affidavits, make certificates fix the seal of said court thereto and generally do and perform any and all acts usual and necessary by clerks of courts in issuing process of said courts and conducting the business thereof.

**Sec. 9.08. - Abolishing and consolidating departments.**

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

**Sec. 9.09. - Establishing residence by city manager and city secretary.**

It shall be the duty of the city council to ascertain within six (6) months from the date of hiring of the city manager and the city secretary that each has established residence in the City of Haltom City.

**ARTICLE X. - GENERAL PROVISIONS**

**Sec. 10.01. - Ordinances.**

(a) Every ordinance shall be introduced in written or printed form and shall take effect upon publication (when required by this charter) and final passage. The city secretary shall give notice of the passage of every ordinance imposing a penalty, fine or forfeiture for a violation of its provisions, by causing the caption or title and the penalty or forfeiture clause to be published in the official newspaper of the city at least once within ten (10) days after the first consideration of the ordinance. It shall be necessary to the validity of any ordinance that it shall be considered and adopted at two sessions of the city council, the sessions being at least five (5) days apart, except in the case of an emergency measure. An emergency measure is an ordinance or resolution for the immediate preservation of the public peace, property, health or safety. The city council shall, within its discretion, declare what measures are emergency measures, and any ordinance or resolution carrying an emergency clause shall be construed to be an emergency measure, which emergency shall be set forth and defined in the preamble or in the closing section of the ordinance.

(b) All ordinances of the city, published or compiled in book or pamphlet form by the city shall be presumed to have been adopted by and with the authority of the city, and shall be admitted as evidence in all courts, state and federal, without further proof beyond the production of the printed book or pamphlet; and provided, further, that copies of ordinances, resolutions, minutes and proceedings of the city council, or prior governing bodies of the city, certified by the city secretary to be true copies of the originals, with the seal of the city affixed thereon, shall also be admitted in evidence without further proof in all courts.

(c) Every ordinance shall be authenticated by the signature of the mayor and city secretary and shall be systematically recorded and indexed in an ordinance book in a manner approved by the council. The city council shall have power to cause the ordinances of the city to be codified and printed in code form, and such printed code, when adopted by the council, shall be in full force and effect without the necessity of publishing the same or any part thereof in a newspaper. Such printed code shall be admitted in evidence in all courts and places without further proof.

**Sec. 10.02. - Nepotism.**

No person related within the second degree by affinity or within the third degree by consanguinity, to the mayor, or to any member of the city council, or to the city manager, shall be appointed to any office, position, clerkship or service of the city.

**Sec. 10.02a. - Ethics policy.**

(a) The city council, by ordinance, shall adopt and maintain in force an ethics policy, entitled the Municipal Code of Ethics, governing elected officials, members of city boards and commissions, and city employees, which shall address, but is not limited to, contractual relationships with the city. The city council may from time to time amend the ethics policy as the city council determines is appropriate.

(b) The city council shall enforce the ethics policy (utilizing the Ethics Commission) as it applies to the city council, board and commission members, and city council-appointed officers; and the city manager shall enforce the ethics policy as it applies to employees. Enforcement may include disciplinary action up to and including removal from office or employment.

**Sec. 10.03. - Preservation of contract rights.**

All contracts entered into by the City of Haltom City, or for its benefit, prior to the taking effect of this charter, shall continue in full force and effect. All rights, immunities, powers, privileges and franchises now possessed by said city shall also continue in full force and effect.

**Sec. 10.04. - Partial invalidity.**

If any section or part of section of this charter shall be held invalid by a court of competent

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

**Sec. 10.05. - Amendment of charter.**

This charter may be amended at any time in accordance with the provisions applicable thereto contained in V.T.C.A., Local Government Code ch. 9 or any amendments thereto or any amendments that may be made hereafter thereto. The qualified voters of the city shall have the opportunity of voting on any such amendments.

**Sec. 10.06. - Construction.**

The use of the singular number includes the plural, and the plural the singular, and words used in the masculine gender include the feminine also, unless by reasonable construction, it appears that such was not the intention of the language of this charter.

**Sec. 10.07. - Official newspaper.**

The city council shall designate as the "official newspaper" of the city a newspaper published either daily, semi-weekly, or weekly, and of general circulation in the City of Haltom City.

**Sec. 10.08. - Present ordinances.**

All ordinances of the City of Haltom City now in existence and not inconsistent with the provisions of this charter shall remain in full force and effect until altered, amended or repealed by the city council. If parts of ordinances now in existence are inconsistent with the provisions of this charter, then such parts are hereby repealed, but the remaining parts of such ordinances shall remain in full force and effect until altered, amended or repealed by the city council.

**Sec. 10.09. - Special provision covering damage suits.**

Before the city shall be liable for damages for personal injury of any kind or damage to property, the person who is injured or whose property is damaged, or someone on his/her behalf shall give the mayor or the city secretary notice in writing duly verified within ninety (90) days after the occurring of the alleged injury or damage, stating specifically in such notice when, where and how the injury or damage was sustained and setting forth the extent of the injury or damage and the amount of damages sustained, as accurately as possible, and giving the names and addresses of all witnesses and upon whose testimony such person is relying to establish the injury or damage. No action for damages shall be brought against the city for personal injury or damage to property prior to the expiration of sixty (60) days after the notice hereinbefore described has been filed with the mayor or the city secretary.

**Sec. 10.10. – Jurisdiction.**

Jurisdiction for matters relating to the City of Haltom City shall only lie in courts of law established in the U.S. Constitution, the Texas Constitution, the Haltom City Charter or ordinances of the City.

## **ARTICLE XI. - CIVIL SERVICE**

### **Sec. 11.01. - System established.**

The City of Haltom City provides due process to Regular Full-Time Employees when dealing with disciplinary actions resulting in the loss of pay. There is hereby established in the City of Haltom City, a municipal civil service system for Sworn Employees of the Police and Fire Department. There is also hereby established a sick leave payout policy for certain Regular Full-Time Employees and Sworn Employees of the City of Haltom City.

### **Sec. 11.02. - Definitions.**

In this article:

- (1) "Regular full-time employee" means an employee of the City of Haltom City that has completed the probationary period and is filling a budgeted full-time position. An appointed employee shall be considered a Regular Full-Time Employee for purposes of Section 11.34 of this Article only.
- (2) "Business day" means Monday through Friday and excludes all City observed holidays/closings and Saturday and Sunday.
- (3) "Commission" means the City of Haltom City civil service commission.
- (4) "Department Head" means the chief or head of a fire or police department or his/her designee, regardless of the name or title used.
- (5) "Director" means director of the City of Haltom City civil service.
- (6) "Sworn Employee" means an employee of the fire department who is certified by the Texas Commission on Fire Protection Personnel Standards and Education (or a successor agency) or an employee of the police department who is licensed by the Texas Commission on Law Enforcement Officer Standards and Education (or a successor agency) below the ranks of chief and assistant chief.
- (7) "Seniority Pay" means any pay in addition to longevity pay required by state law that may be provided to an employee based upon continuous length of service in the rank including but not limited to pay received due to step increases.

**Sec. 11.03. - Civil service commission—Establishment, members.**

There is hereby established in the City of Haltom City, an Employees Civil Service Commission, which shall consist of ~~three~~ five (5) ~~(3)~~ members, with two (2) additional alternates, to be selected as follows: Members of the commission shall be appointed by the mayor of the City of Haltom City and such appointments shall be confirmed by the city council of said city before any such appointments shall be effective. Each commission member shall hold their office for a period of two (2) years with a maximum of two (2) terms and/or until a successor is appointed, confirmed, and qualified and shall not again be eligible to serve as a commission member until a third consecutive two-year (2) term has expired. ~~The term of office of each commissioner shall be for a term of three (3) years, and/or until a successor is appointed, confirmed, and qualified.~~ Any such vacancies in said Commission caused by death, resignation, or otherwise, or by failure of any appointee to qualify within ten (10) days after appointment, shall be filled in the manner hereinabove specified. All such commissioners shall be of good moral character, resident citizens of the City of Haltom City, and shall have resided in said city for a period of more than three (3) years and shall not have held any city elective office within the preceding three (3) years.

**Sec. 11.04. - Same—Organization.**

The Commissioners shall elect a chairman and a vice-chairman annually, at the first meeting scheduled on or after October 1st.

**Sec. 11.05. - Same—Powers.**

~~Two (2)~~ Sixty (60) percent of the members of said commission shall constitute a quorum to transact business. The Commission shall operate under the authority of this article of the Charter and the policies and procedures created by the City Manager or his/her designee and approved by the city council to discharge the duties of the Commission. The Commission shall hear matters outlined in this article. At any hearing a commissioner must recuse himself/herself if any relationship, other than acquaintance, with the appealing party or the department head exists that would cause a reasonable person to doubt the commissioner's ability to remain impartial.

**Sec. 11.06. - Same—Policies.**

This article and the policies and procedures approved by the city council shall prescribe what shall constitute cause for removal or suspension of Sworn Employees. Proposed policy and procedure revisions will be made available [to] Regular Full-Time and Sworn Employees for review prior to presentation to the city council. Policy changes will be considered as regular agenda items affording Regular Full-Time and Sworn Employees the opportunity to provide input regarding proposed changes.

**Sec. 11.07. - Same—Appointment, etc., of director of civil service.**

There is hereby created the office of Director of the Haltom City municipal civil service system.

The Director shall be appointed by the city manager subject to confirmation by the Commission. The city council shall determine what salary, if any, shall be paid to the Director. The Director shall at all times be subject to removal by the Commission, and shall perform all such work incidental to the Haltom City civil service system as may be required of the Director by the Commission. The Director shall serve as the liaison to the Commission.

In the absence of a Director, the duties of Director revert to the city manager, or the city manager's designee, until a Director is appointed by the city manager and confirmed by the Commission. If the Director position is vacant, the city manager must appoint a new Director within 90 days unless approved by the Civil Service Commission.

**Sec. 11.08. - Commission appeal procedure.**

(a) Except as otherwise provided by this article, a Sworn Employee may appeal to the Commission disciplinary appeals resulting from suspensions, involuntary demotions, and indefinite suspensions by filing a written notice of appeal with the Director within ten (10) business days after the date the action occurred. Except as otherwise provided by this article, a Sworn Employee may challenge promotional exam questions and promotional bypass to the Commission by filing a written notice of appeal to the Director within five (5) business days of the date of the promotional examination or promotional bypass.

(b) The appeal notice must include the basis for the appeal and a request for a Commission hearing. For disciplinary appeals, the appeal must also contain a statement denying the truth of the charge(s) as made, a statement taking exception to the legal sufficiency of the charge or action taken, a statement alleging that the recommended action does not fit the alleged offense or circumstances, or a combination of these statements.

(c) In each hearing, appeal, or review of any kind in which the Commission performs an adjudicatory function, the Sworn Employee is entitled to be represented by counsel or a person the Sworn Employee chooses. Each Commission proceeding shall be held in accordance with the Texas Open Meetings Act (or successor law).

(d) Witnesses may be placed under "The Rule" at the Commission hearing.

(e) The Commission shall conduct the hearing fairly and impartially as prescribed by this article and shall render a just and fair decision. The Commission may consider only the evidence submitted at the hearing.

**Sec. 11.09. - Decisions and records.**

(a) Each concurring Commission member shall sign a decision issued by the Commission.

(b) Records of each hearing or case that comes before the Commission shall be forwarded by the Director to the Human Resources Department to be maintained in accordance with established records retention policies of the City.

(c) Each rule, opinion, directive, decision, or order issued by the Commission must be written and constitutes a public record that the Director shall retain on file in accordance with retention requirements. Such records shall be available to the public as provided in the Texas Public Information Act (or successor law).

**Sec. 11.10. - Appointment of department head for departments with sworn employees.**

A person appointed as a head of a fire or police department must be eligible for certification by the agency governing his/her respective department at a level equivalent to similarly situated cities in North Texas. The head of the fire or police department must have served as a fully paid fire fighter or police officer in his/her respective service, for at least five years.

**Sec. 11.11. - Classification examination requirement.**

The city council shall approve the number of positions in each classification each year as part of the budget approval process. An existing sworn position/classification or a sworn position/classification created in the future may be filled only from an eligibility list that results from an examination held in accordance with this article.

An applicant for a beginning sworn position with the police department must be able to meet all legal requirements necessary for licensing as a sworn peace officer under state law. An applicant for a beginning sworn position with the fire department must be able to meet all legal requirements necessary for certification under state law and be eligible to meet all requirements to be licensed or certified as a paramedic in the State of Texas.

**Sec. 11.12. - Reappointment after resignation.**

The city manager, with the approval of the city council, may adopt rules regarding eligibility for Sworn Employees who leave the employment of the City to be reappointed to the department without taking another departmental entrance examination.

**Sec. 11.13. - Probationary period.**

(a) A certified person appointed to a beginning position in the fire or police department must serve a probationary period of one year beginning on that person's date of employment as a fire fighter, police officer, ~~or academy trainee~~. A person appointed to a beginning position in the fire or police department that is not certified must serve a probationary period of eighteen (18) months beginning on that person's date of employment as a fire fighter, police officer, or academy trainee.

(b) A Sworn Employee who was appointed in substantial compliance with this article and who serves the entire probationary period automatically becomes a civil service employee.

(c) A person already employed by the City in a non-civil service position shall serve the appropriate probationary period when moving to a sworn position.

**Sec. 11.14. - Temporary duties in a higher classification.**

(a) The Department Head may designate a person from the next lower classification to temporarily fill a position in a higher classification. The designated person is entitled to the base salary of the higher position plus any other applicable pay including, but not limited to, longevity pay.

(b) The temporary performance of the duties of a higher position by a person who has not been promoted as prescribed by this article may not be construed as a promotion. A Sworn Employee may perform duties in a higher classification for a maximum of one-hundred eighty (180) consecutive calendar days as long as no vacancy exists. All vacancies will be filled in accordance with other provisions within this article.

**Sec. 11.15. - Compensation.**

(a) All Sworn Employees in the same classification are entitled to the same base salary except as provided under the Temporary Duties in a Higher Classification section of this article.

(b) In addition to the base salary, if applicable each Sworn Employee is entitled to supplemental pay including, but not limited to, seniority and longevity pay. Seniority Pay shall be based on years of service in the rank since the employee was most recently promoted and as authorized by the city council in the annual budget unless the employee is demoted. An employee that is demoted will be placed at the level of Seniority Pay that he would have held if the promotion had not taken place.

**Sec. 11.16. - Entrance examination notice.**

At least twenty-one (21) days in advance of any entrance examination for a Sworn Employee position, the Director shall post continuously in plain view on a bulletin board in the main lobby of the City Hall and in the Human Resources office, a notice of such examination, and said notice shall show the position(s) to be filled or for which examination is to be held, with date, time and place thereof. The notice of the examination may include a deadline to register prior to the test.

**Sec. 11.17. - Entrance examinations/eligibility lists.**

(a) Open and competitive entrance examinations shall be administered to provide eligibility lists for beginning positions in the fire and police departments. The examinations are open to each person who makes a proper application and meets the prescribed requirements.

(b) An eligibility list for a beginning position in the fire or police department may be created only as a result of a competitive examination held in the presence of each applicant for the position, except as provided by Subsections (c) and (d). The examination must be based on the person's general knowledge and aptitude and must inquire into the applicant's general education and mental ability. A person may not be appointed to the fire or police department other than through the examination except as otherwise provided in this article.

(c) Examinations for beginning positions in the fire department may be held at different locations within a twenty-one (21) day period, if each applicant takes the same examination and is examined in the presence of other applicants; or electronically if technology is available that maintains the integrity of the testing process. One eligibility list will be created from the scores of all examinations and administered within the twenty-one (21) day period.

(d) An applicant may not take an examination unless at least one other applicant taking the examination is present, except as provided by Subsection (c).

(e) Each applicant's grade on the written examination is based on a maximum grade of 100 points and is determined entirely by the correctness of the applicant's answers to the questions. The minimum passing grade on the examination is 70 points. An applicant must pass the examination to be placed on an eligibility list.

(f) An additional five points, for a possibility of fifteen additional points, shall be added to the examination grade of an applicant who made a passing grade and:

- who served in the United States armed forces, and received an honorable discharge, and made a passing grade on the examination as long as appropriate documentation showing honorable discharge (or current enlistment) is presented at the time of the test;
- Who is an applicant for the police department and is certified as a peace officer through the State of Texas; or -
- Who is an applicant for the police department and has 36-months continuous service as a paid full-time peace officer in Texas with no more than a 90-day break in service from a comparable law enforcement agency as long as verification is presented at the time of the test.

(g) Ties will be broken by a pre-determined method approved by the Commission.

(h) The Director shall keep each eligibility list for a beginning position in effect for a period of 12 months, unless the names of all applicants on the list have been referred to the appropriate department or the list has been exhausted. The effective date of the eligibility list begins on the day of the test with the test expiring as outlined above.

(i) The Director is responsible for the preparation and security of each entrance examination.

(j) A person commits an offense if the person knowingly or intentionally: (1) reveals a part of an entrance examination to an unauthorized person for either person's unfair personal gain or advantage; or (2) receives from an authorized or unauthorized person a part of an entrance examination for unfair personal gain or advantage.

(k) An offense under this section is a Class C misdemeanor.

**Sec. 11.18. - Procedures for filling beginning positions.**

When a vacancy occurs in a beginning position in the fire or police department, the

Department Head shall appoint the person having the highest grade on the eligibility list unless there is a good and sufficient reason why the person having the second or third highest grade should be appointed. If the Department Head does not appoint the person having the highest grade, the Department Head shall clearly set forth in writing the good and sufficient reason why the person having the highest grade was not appointed and submit such documentation to the Director. The Department Head will utilize this process to hire or eliminate all persons on the eligibility list until the list is either exhausted or expires.

**Sec. 11.19. - Eligibility for promotional examination and promotion.**

(a) A firefighter is not eligible for promotion unless the person has served in the fire department in the next lower rank for at least two years immediately preceding the date the promotional examination is held. A firefighter is not eligible for promotion to the rank of ~~battalion chief captain~~ or its equivalent unless the person has at least four years' actual service in the fire department.

(b) A police officer is not eligible for promotion unless the person has served in the police department in the next lower rank for at least two years immediately preceding the date the promotional examination is held. A police officer is not eligible for promotion to the rank of ~~captain lieutenant~~ or its equivalent unless the person has at least four years' actual service in the police department.

(c) If a Sworn Employee is recalled on active military duty the Sworn Employee's eligibility for promotion will be handled in accordance with the Uniformed Services Employment and Reemployment Rights Act (or successor law).

(d) If there are not a minimum of three (3) candidates in the next lower rank with two years' service in that position to allow the Department Head to consider three potential candidates ~~for each current vacancy~~, the examination will open to Sworn Employees in that rank with less than two years' service. If there are still fewer than three (3) candidates, the examination will open to Sworn Employees with at least two years' experience in the second lower rank, to the position for which the examination is to be held.

(e) If a candidate had previously terminated employment with either the police or fire department and is subsequently reemployed by the same department, the candidate must again meet the service requirement for eligibility to take a promotional examination. In determining if a candidate has met the service requirement, service in another department may not be considered.

**Sec. 11.20. - Promotional examination notice.**

At least twenty-one (21) days in advance of any promotional examination for a Sworn Employee position, the Director shall post continuously in plain view on a bulletin board in the main lobby of City Hall and in the Human Resources office, a notice of such examination, and said notice shall show the position(s) to be filled or for which examination is to be held, with date, time and place thereof and shall include the name of each source used for the

examination. The notice of the examination may establish a deadline to register prior to the test. Copies of such notice of examination shall be posted in the department in which the position is to be filled.

**Sec. 11.21. - Promotional examination procedure.**

(a) Each eligible promotional candidate shall be given an identical examination in the presence of other eligible promotional candidates unless technology exists that provides an identical test and testing period to be utilized.

(b) The examination must be entirely in writing and may not in any part consist of an oral interview.

(c) The examination questions must test the knowledge of the eligible promotional candidates about information and facts and must be based on: (1) the source material referenced in the Examination Notice~~the duties of the position for which the examination is held~~; and (2) ~~the duties of the position for which the examination is held~~the source material referenced in the Examination Notice.

(d) The examination questions must be prepared and composed so that the grading of the examination can be promptly completed immediately after the examination is over.

(e) The Director is responsible for the preparation and security of each promotional examination.

(f) A person commits an offense if the person knowingly or intentionally: (1) reveals a part of a promotional examination to an unauthorized person for either person's unfair personal gain or advantage; or (2) receives from an authorized or unauthorized person a part of a promotional examination for unfair personal gain or advantage.

(g) An offense under this section is a Class C misdemeanor punishable by fine of \$500.

**Sec. 11.22. - Promotional examination grades.**

(a) The grading of each promotional examination shall begin when one eligible promotional candidate completes the examination. As the eligible promotional candidates finish the examination, the examinations shall be graded at the examination location.

(b) Each Sworn Employee is entitled to receive one point for each full year of seniority as a Sworn Employee in the affected department, with a maximum of 10 points. A Sworn Employee will only receive seniority points based upon the Sworn Employee's most recent and continuous service with the City.

(c) Reserved.

(d) Each candidate's grade on the written examination(s) is based on a maximum grade of

100 points and is determined entirely by the correctness of the candidate's answers to the questions. All candidates who score a total of at least 70 points on the test(s) shall be determined to have passed the examination. Seniority points will be added to all candidates that pass the test. If no candidates score at least 70 points after question challenges are resolved, the minimum score shall be reduced to 60 points to create an eligibility list. If no candidates score at least 60 points the test shall be declared invalid and another test scheduled and opened to the next level of eligible Sworn Employees.

(e) Unless a different procedure is adopted under an alternate promotional system, the grade that must be placed on the eligibility list for each promotional candidate shall be computed by adding the candidate's points for seniority to the candidate's grade on the written examination. Ties will be broken by a predetermined method approved by the Commission.

#### **Sec. 11.23. - Review and appeal of promotional examination.**

(a) On request, each eligible promotional candidate from the fire or police department is entitled to review the questions that were marked as incorrect on his/her promotional examination, and the source material for the examination. The candidate may appeal test questions he/she believes have been marked as wrong in error, within five business days from the date of the test, to the Commission for review in accordance with this article.

(b) The eligible promotional candidate may not remove the examination or copy a question used in the examination.

#### **Sec. 11.24. - Alternate promotional system.**

(a) On the recommendation of the Department Head of the police or fire department and a majority vote of the Sworn Employees in the affected department, the Commission may adopt an alternate promotional system to select persons to occupy non-entry level positions other than positions that are filled by appointment by the Department Head.

(b) Upon the receipt of a recommendation by the Department Head for a revised promotional system, the Commission may order the Director to conduct an election and to submit the revised promotional system either to all Sworn Employees within the rank immediately below the classification for which the promotional examination is to be administered or to all Sworn Employees in the affected department.

(c) The Director shall hold the election on or after the 30th day after the date [of] notice of the election is posted at the affected department. The election shall be conducted throughout each regular work shift at an accessible location within the department during a 24-hour period. (In the Fire Department, such election shall be conducted for one 24-hour period for each regular work shift at an accessible location within the department over six consecutive days). If technology is available that allows for electronic elections, such electronic elections are permitted over a period of time that covers all works shifts of each department. throughout each regular work shift at an accessible location within the department during three

~~consecutive 24-hour periods.)~~

(d) The ballot shall contain the specific amendment to the promotional procedure. Each Sworn Employee in the affected department shall be given the opportunity to vote by secret ballot "for" or "against" the amendment.

(e) The revised promotional system must be approved by a majority vote of the affected Sworn Employees voting. A defeated promotional system amendment may not be placed on a ballot for a vote by the affected Sworn Employees for at least 12 months after the date the prior election was held, but this provision does not apply if the head of the department recommends a different proposal to the Commission.

(f) The Commission shall canvass the votes within 30 days after the date the election is held. An appeal alleging election irregularity must be filed with the Commission within five business days after the date the election closes. If approved by the affected Sworn Employees, the promotional system amendment becomes effective after all election disputes have been ruled on and the Commission has canvassed the election votes.

(g) At any time after an alternate promotional system has been adopted under this section and has been in effect for at least 180 days, the Department Head may petition the Commission to terminate the alternate system, and the Commission shall determine whether or not to terminate the alternate system.

(h) At any time after an alternate promotional system has been adopted under this section and has been in effect for at least 180 days, a petition signed by at least 35 percent of the affected Sworn Employees may be submitted to the Commission asking that the alternate promotional system be reconsidered. If a petition is submitted, the Commission shall, within 60 days after the date the petition is filed, hold an election as prescribed by this section. If a majority of those voting vote to terminate, the Commission shall determine whether or not to terminate the alternate promotional system.

(i) If the alternate system is terminated, an additional eligibility list may not be created under the alternate system.

(j) An eligibility list may not be created if an election under this section is pending. An existing eligibility list, whether created under the system prescribed by this article or created under an alternate system adopted under this section, may not be terminated before or extended beyond its expiration date. A Sworn Employee promoted under an alternate system has the same rights and the same status as a Sworn Employee promoted under this article even if the alternate system is later terminated.

#### **Sec. 11.25. - Promotional eligibility lists/appointments.**

(a) If an eligibility list for the promotional position to be filled exists on the date the vacancy occurs, or a new position is created, the Director, upon request of the Department Head, shall

provide the eligibility list to the Department Head.

(b) If an eligibility list does not exist on the date a vacancy occurs or a new position is created, an examination will be held to create a new eligibility list within ~~90~~100 days after the date the vacancy occurs or a new position is created. Once the eligibility list is created, the Director shall provide the eligibility list to the Department Head. The Department Head shall fill the position by appointment from the eligibility list furnished by the Director within 30 days after the date the list is created unless promotional examination test question appeals have not been resolved in which case the Department Head shall wait until all promotional examination test question appeals have been resolved by the Commission.

(c) If an eligibility list exists on the date a vacancy occurs or a new position is created, the Department Head shall fill the position by appointment from the eligibility list furnished by the Director within 30 days after the date the vacancy occurs. The eligibility list will remain valid until such appointment.

(d) Unless the Department Head has a good and sufficient reason for not appointing the candidate having the highest grade on the eligibility list, the Department Head shall appoint the eligible promotional candidate having the highest grade on the eligibility list. If the Department Head has a good and sufficient reason for not appointing the eligible promotional candidate having the highest grade, the Department Head shall personally discuss the reason with the candidate being bypassed before appointing another candidate. The Department Head shall within five business days file the reason in writing with the Commission and shall provide the bypassed candidate with a copy of the written notice. On application of the bypassed candidate, the reason the Department Head did not appoint the bypassed candidate is subject to review by the Commission.

(e) If a candidate is bypassed, the candidate's name is returned to its place on the eligibility list and shall be reconsidered by the Department Head if a vacancy occurs. If the Department Head refuses three times to appoint a candidate, files the reasons for the refusals in writing with the Commission, and the Commission does not set aside the refusals, the candidate's name shall be removed from the eligibility list. If the candidate(s) is bypassed and therefore results in there being no other candidates on the list then the list is invalid and a new test shall be administered.

(f) The Commission shall keep each eligibility list for a promotional examination in effect for a period of 12-months after the date on which the promotion process is completed, unless the list has been exhausted as provided in this article. An examination will not be administered until a vacancy occurs or is reasonably anticipated.

### **Sec. 11.26. - Disciplinary suspensions.**

The Department Head may suspend any Sworn Employee under his/her jurisdiction or supervision for disciplinary purposes, not to exceed two-hundred forty working hours (240). The Department Head shall provide to the employee and file with ~~the Commission by delivery~~

~~to~~ the Director a written statement of action within five business days. Said order of suspension shall inform the employee that he has ten (10) business days after receipt of a copy thereof, within which to file a written appeal with the Commission. If the Sworn Employee appeals, the Commission shall have the power to review and determine whether just cause exists to support the discipline. In the event the Department Head fails to file said statement with the Director within five business days, the suspension shall be void and the Sworn Employee shall be entitled to the Sworn Employee's full salary. The Commission shall have the power to, uphold, modify, or reverse the decision of the Department Head.

#### **Sec. 11.27. - Demotions.**

The Department Head may demote any Sworn Employee under his/her jurisdiction or supervision for disciplinary purposes or inadequate performance. The Department Head shall provide to the Sworn Employee and file with ~~the Commission by delivery to~~ the Director a written statement of action within five (5) business days. The order of demotion shall inform the Sworn Employee that the Sworn Employee has ten (10) business days after receipt of a copy thereof, within which to file a written appeal with the Commission. The Commission shall have the power to review and determine whether just cause exists to support the demotion. In the event the Department Head fails to file said statement with the Director within five business days, the demotion shall be void and the Sworn Employee shall be entitled to the Sworn Employee's full salary and position. The Commission shall have the power to uphold or reverse the decision of the Department Head. This paragraph does not apply to a voluntary demotion initiated by the Sworn Employee.

#### **Sec. 11.28. - Indefinite suspensions.**

The Department Head may indefinitely suspend any Sworn Employee under his/her supervision or jurisdiction for the violation of established City policies and/or civil service rules. The Department Head shall provide to the Sworn Employee and file with ~~the Commission by delivery to~~ the Director a written statement of action within five (5) business days. The order of indefinite suspension shall inform the Sworn Employee that the Sworn Employee has ten (10) business days after receipt of the order, within which to file a written appeal with the Commission. The Commission shall have the power to review and determine whether just cause exists to support the indefinite suspension. In the event the Department Head fails to file said statement with the Director within five business days, the indefinite suspension shall be void and the Sworn Employee shall be entitled to the Sworn Employee's full salary and position. The Commission shall have the power to uphold, modify or reverse the decision of the Department Head.

#### **Sec. 11.29. - Appeal hearings.**

(a) The Commission shall hold a hearing within ~~thirty-sixty (60)~~ thirty (30) business days after it receives a notice of appeal for suspension, involuntary demotion, indefinite suspension, or challenges to promotional exam questions and promotional bypass. This period may be extended by written request of the City or the Sworn Employee for an additional ninety (90)

business days subject to the approval of the Commission chairperson.

An additional extension can be granted with the approval of the Department Head and appealing employee, which shall not be unreasonably withheld, pending approval of the city service commission chairperson.

If the initial request for an extension is not approved and dated by the chairperson within the initial sixty (60) business days, the maximum extension is thirty (30) business days.

- (b) If the appeal is not heard within the prescribed deadlines in this section due to the appealing employee, the Department Head's decision stands. The Department Head's decision is overturned if the delay is due to the City.
- (c) The Commission shall render a decision in writing within fifteen (15) business days after the civil service hearing. Said decision shall state whether the decision or question is upheld, modified, or reversed.
- ~~(a) The Commission shall render a decision in writing within forty five (45) business days after it receives said notice of appeal. Said decision shall state whether the decision or question is upheld, modified, or reversed. This period may be extended by written request of the City or the Sworn Employee subject to the approval of the civil service Commission chairperson.~~
- (d) In any civil service hearing hereunder the Department Head is hereby restricted to the Department Head's original written statement and charges, which shall not be amended except that the Department Head may include employee performance issues occurring within the last five (5) years of the incident that is being appealed.
- (e) Within five (5) business days of the filing of the appeal, either the City or appealing party may each request recusal of one commissioner who has any relationship, other than acquaintance, with the appealing party or the department head that would cause a reasonable person to doubt the commissioner's ability to remain impartial.

### **Sec. 11.30. - Reduction of force; reinstatement.**

If any sworn position in the police or fire department is vacated or abolished by action of the city council:

- (a) The Sworn Employee with the least seniority holding the position shall be demoted to the position next below the position vacated or abolished. For purposes of this section, seniority means years of service in the rank since the employee was most recently promoted. An employee that is demoted will be placed at the level of seniority the Sworn Employee would have held if the promotion had not taken place.
- (b) If no vacancy exists in the next lower classification, the Sworn Employee with the least

seniority in that classification shall be demoted to the next lower classification, if any. The process of demoting the least senior Sworn Employee in each classification to the next lower classification shall continue until the demoted Sworn Employee shall fill an existing vacancy in the lower classification or until the lowest classification is reached. If no vacancies exist in the lowest classification or positions in the lowest classification are abolished, the Sworn Employee with the least seniority in the lowest classification shall be indefinitely suspended.

(c) All Sworn Employees demoted or indefinitely suspended under provisions of this section shall be placed on reinstatement lists in order of their seniority as provided herein. Appointments and promotions shall be made from the reinstatement lists before they are made from the eligibility lists or by other selection procedures. Sworn Employees shall remain on the reinstatement list for not longer than three (3) years.

**Sec. 11.31. - Reinstatement to lower position for rank immediately below chief.**

(a) The Department Head may remove, without cause, a person occupying a position in the rank immediately below the Department Head. If a person is removed without cause, the person shall be placed on a reinstatement list to be restored to that person's highest rank earned by competitive examination. Employees shall remain on the reinstatement list for not longer than two (2) years.

(b) A person occupying a position in the rank immediately below the Department Head may voluntarily be placed on a reinstatement list to demote himself to the highest rank the person earned by competitive examination.

**Sec. 11.32. - Status of present employees.**

All Sworn Employees who have completed the probationary period at the time of the final passage of this article are entitled to civil service classification, and shall enjoy the status of civil service employees without having to take any competitive examinations for the position occupied at the time. Persons in the probationary period at the time of final passage of this article shall serve the probationary period in effect at the time of hire.

**Sec. 11.33. - Appeal to the district court.**

In the event a Sworn Employee is dissatisfied with the decision of the Commission on an appeal filed by such Sworn Employee based on a suspension, involuntary demotion, or indefinite suspension, the Sworn Employee may, within ten (10) business days after the rendition of such final decision, file a petition in the district court, asking that the decision of the Commission be set aside. Such case shall be tried under the substantial evidence rule.

**Sec. 11.34. - Sick leave payout.**

(a) Regular Full-Time Employees and Sworn Employees working 2080 hours annually who have accrued more than 240 hours of sick leave shall be paid for all additional unused sick

leave hours up to 96 hours at the employee's regular rate during the month of November each year. Sworn Employees working 24-hour shifts will receive the equivalent of the employee's regular rate calculated based upon working 2080 hours prior to payout outlined above.

(b) In the event that an employee terminates employment with the City, after five (5) years continuous service, the employee shall receive, in a lump sum payment, the full amount of the employee's sick leave at the employee's regular rate provided that such payment shall not be based upon more than 240 hours of accumulated sick leave. Sworn Employees working 24-hour shifts will receive the equivalent of the employee's regular rate calculated based upon working 2080 hours prior to the payout above.

(c) This section shall not apply to Regular Full-Time Employees and Sworn Employees hired or rehired after the passage of this amendment. Regular Full-Time Employees and Sworn Employees hired or rehired after the passage of this amendment shall have the sick leave payout provision, if any, outlined in the City's policies and procedures. The city policy outlining sick leave payout may not be eliminated until all Regular Full-Time and Sworn Employees hired under this section of the charter have separated service with the city.

**Sec. 11.35. - Repeal and saving clause.**

If any section, paragraph, portion, sentence, line, phrase, clause or word of this article should be held to be unconstitutional or invalid, then such unconstitutionality or invalidity shall not affect the constitutionality or validity of any other section, paragraph, portion, sentence, line, phrase, or word thereof; and it is hereby declared to be the legislative intent that each and all of the said portions as above specified that are not held to be unconstitutional or invalid, shall be and remain in full force and effect, just as though said unconstitutional and invalid portions, if any, were eliminated from the text of this article.

**Sec. 11.36. - Expanding provisions.**

The city council in conjunction with the city manager may add to but not detract from this article to the extent deemed necessary to effectively and efficiently promote the interest of the City of Haltom City. This article may be amended upon agreement of the city council, the city manager and a majority of the sworn employees of the police or fire departments, as applicable.