



# Glenn Heights

## Home Rule Charter

Amended May 2012  
Amended May 2007  
Amended May 2002  
Adopted August 1987

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**CITY OF GLENN HEIGHTS**  
**HOME RULE**  
**CHARTER**

**This Charter is dedicated to the citizens of the “City of Glenn Heights, Texas” and to ensure such powers, rights, and duties as are herein provided and to encourage the citizens’ participation in the democratic government for proper and efficient progress of our city.**

**To this end we ordain this home rule charter as prescribed by law and with the guidance of God.**

**AMENDED MAY 2012**

**AMENDED MAY 2007**

**AMENDED MAY 2002**

**ADOPTED AUGUST 1987**

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## ARTICLE 1

### **Incorporation, Form of Government and Powers**

#### **Section 1.01 Incorporation.**

The citizens of the City of Glenn Heights in Dallas and Ellis Counties, Texas within the corporate limits as now established, or hereafter established in the manner prescribed by this Charter, shall be and shall continue to be a municipal body politic and corporate in perpetuity under the name of the “City of Glenn Heights.”

#### **Section 1.02 Form of Government.**

The municipal government provided by this Charter shall be known as the “Council-Manager” government. Pursuant to its provisions and subject only to the limitations imposed by the State constitution, by the statutory laws of Texas, and by this Charter, all powers of the City shall be vested in an elective Council, hereinafter referred to as the “Council,” which shall enact local legislation, adopt budgets, determine policies, appoint the City Attorney, Judge of the Municipal Court, and the City Manager, who shall execute the laws and administer the government of the City.

#### **Section 1.03 General Powers of the City.**

The City of Glenn Heights shall have all powers granted to municipalities by the Constitution and laws of the State of Texas, together with all of the implied powers necessary to carry into execution such granted powers.

The City may:

- (a) use a corporate seal;
- (b) sue and be sued;
- (c) contract and be contracted with;
- (d) cooperate with the government of the State of Texas or any agency or any political subdivision thereof or with the Federal government or any agency thereof, to accomplish any lawful purpose for the advancement of the interest, welfare, health, morals, comfort, safety, and convenience of the City and its citizens;
- (e) acquire property within or without its corporate limits for any municipal purpose in fee simple, or in any lesser interest or estate, by purchase, gift, devise, lease or condemnation, and subject to the provisions of this Charter;

- (f) sell, lease, mortgage, hold, manage, improve and control such property as may now or hereafter be owned by it provided however, the City shall not sell, convey, mortgage, or otherwise alienate any public utility without prior approval of the voters of the City;
- (g) exercise the power of eminent domain where necessary or desirable to carry out any of the powers conferred upon it by this Charter, or by the Constitution and laws of the State of Texas;
- (h) pass ordinances and enact such regulations as may be expedient for the maintenance of the City and the welfare, health, morals, comfort, safety and convenience of its citizens.

The powers hereby conferred upon the City shall include, but are not restricted to, the powers conferred expressly and permissively by Chapter 147, Page 307, of the Acts of the 33rd Legislature, Regular Session, enacted in 1923 pursuant to the Home Rule Amendment of the Constitution of Texas, known as the Enabling Act and including Articles 1175, 1176, 1177, 1180, of the Revised Civil Statutes of Texas, 1925, as now or hereafter amended, all of which are hereby adopted. In addition to the powers enumerated herein, and subject only to the limitations imposed by the State Constitution, the State laws, and this Charter, the City shall have, without the necessity of express enumeration in this Charter, each and every power which, by virtue of Article 11, Section 5 of the Constitution of Texas, the people of the City are empowered by election to grant to or confer upon the city by expressly and specifically granting and enumerating the same herein. All such powers, whether expressed or implied, shall be exercised and enforced in the manner prescribed in this Charter; or when not prescribed herein, in such manner as shall be provided by the ordinance of the Council.

#### **Section 1.04 Streets and Public Property.**

The City shall have exclusive dominion, control, and jurisdiction in, upon, over, and under the public streets, sidewalks, alleys, highways, public squares, and public ways within the corporate limits of the City, and in, upon, over, and under all public property of the City. With respect to each and every public street, sidewalk, alley, highway, public square, public park, or other public way within the corporate limits of the City, the City shall have the power to establish, maintain, improve, alter, abandon, or vacate the same, to regulate the use thereof and to abate and remove in a summary manner any encroachment thereon.

#### **Section 1.05 Street Development and Improvement.**

The City shall have the power to develop and improve, or cause to be developed and improved, any and all public streets, sidewalks, alleys, highways, and other public ways within the corporate limits of the City by laying out, opening, narrowing, widening, straightening, extending, lighting and establishing building lines along the same by purchasing, condemning, and taking property therefor by filling, grading, raising, lowering, paving, repaving, and repairing, in a permanent manner, the same and by constructing, reconstructing, altering, repairing, and realigning curbs, gutters, drains, sidewalks, culverts, and other appurtenances and incidentals in connection with such development and improvement authorized hereinabove, or any combination or parts thereof. The cost of such development and improvement may be paid

partly or entirely by assessments levied as a lien against the property abutting thereon and against the owners thereof, and such assessments may be levied in any amounts and under any procedure not prohibited by State Law provided, that no assessment shall be made against such land or owners in excess of the enhancement in value of such property occasioned by such improvement.

As an alternate and cumulative method of developing, improving, and paving any and all public streets, sidewalks, alleys, highways, and other public ways within its corporate limits, the City shall have the power and authority to proceed in accordance with Chapter 106, Page 489, Acts 1927, Fortieth Legislature, First Called Session, as now or hereafter amended, the same being Article 1105b of the Revised Civil Statutes of Texas, 1925.

**Section 1.06 Boundaries.**

The boundaries and limits of the City of Glenn Heights, until changed in the manner herein provided, shall be the same as have heretofore been established and exist on the date of the adoption of this Charter, which boundaries are more fully set out and described by metes and bounds in a book called, Official Record Describing the Metes and Bounds of the City of Glenn Heights, which is now and shall hereafter be in the office of the City Secretary of the City of Glenn Heights.

**Section 1.07 Annexation and Disannexation.**

The City shall have all powers possible for a city to have under the Constitution and laws of the State of Texas to fix the boundaries of the City, exchange area with other municipalities, extend the boundaries of the City and annex area adjacent to the City. The Council shall have the power by ordinance to fix the boundary limits of the City of Glenn Heights, Texas, and to provide for the alteration and extension of said boundary limits, and the annexation of additional territory lying adjacent to it whether said territory be inhabited or uninhabited. Should the territory be inhabited, the Council may also, upon a petition signed by a majority of the registered voters in such territory, consider such petition for annexation. Whenever, in the opinion of the Council, there exists within the corporate limits of the City any territory, either inhabited or uninhabited, not suitable or necessary for City purposes, or upon a petition signed by a majority of the qualified voters residing in said inhabited territory, the Council may, upon a public hearing and by ordinance duly passed, discontinue said territory as part of the City of Glenn Heights. The City shall comply with all applicable procedural rules and notice requirements set forth in Chapters 42 and 43 of the Texas Local Government Code, as now and hereafter amended, as well as any other applicable laws of the State of Texas.

## **ARTICLE 2**

### **City Council**

#### **Section 2.01 Number, Selection, Term of Office and Compensation.**

The governing and lawmaking body of the City of Glenn Heights shall consist of a Mayor and six (6) Council Members, and said body shall be known as the “City Council of the City of Glenn Heights.” The members of the City Council of the City of Glenn Heights shall be the only elective officers of the City and shall run for office by place and be elected from the City at large in the manner provided in Article 3, for a term of three (3) years, or until their successors are duly elected and qualified. Beginning in 2013, the General Election in the City of Glenn Heights for the Mayor and Council Members shall be held on the uniform election date occurring in November. The terms of office of those Council Members whose terms of office would have expired with a regular election in May shall each have their term of office extended by six (6) months, until the following November. All seven elected positions shall be subject to term limits. No person shall be a member of the City Council for more than three (3) consecutive three-year terms, and any person who does serve as a member of the City Council for three (3) consecutive terms shall not be eligible for election to a position on the City Council until a period of three (3) years has expired from the last date of that person’s service as a member of the City Council. Said Mayor and Council Members shall draw no compensation as such for their duties, but shall be reimbursed for any lawful expenditures made in behalf of the City or expenses incurred in the performance of their duties when approved by the Council.

#### **Section 2.02 Prohibiting Holding or Running for Other Office.**

If a member of the Council shall become a candidate for nomination or election to any publicly elected office, other than a position on the City Council, or if any employee or officer other than a member of a City board or commission becomes a candidate for a position on the City Council, he/she shall forfeit his/her place or position with the City effective immediately upon the filing as a candidate for the nomination or election to such public office.

#### **Section 2.03 Qualifications.**

Each of the six (6) Councilmembers and Mayor shall be a citizen of the United States of America and a registered qualified voter of the State of Texas and shall be at least 18 years of age; and shall live within the Corporate Limits of the City of Glenn Heights shall have resided for at least one (1) year preceding the election at which they are candidates within the corporate limits of the City of Glenn Heights, and shall not be in arrears in the payment of any taxes or other liability due the City nor be disqualified by reason of any provision of any other section of this Charter.

A member of the Council ceasing to possess any of the qualifications specified in this section or any other section of this Charter, or convicted of a felony while in office, shall immediately forfeit his office. No member of the Council shall hold any other public office within the city except that of Notary Public or member of the National Guard or naval or military reserve or a retired member of the Armed Forces.

#### **Section 2.04 Council to Be the Judge of the Qualification of its Own Members.**

The City Council shall be the judge of the qualifications of its own members, and for such purpose shall have power to subpoena witnesses, require the production of records, conduct an investigation, hold a hearing, and determine by majority vote whether a member is guilty of an infraction for which a member may be censured or removed from office for cause. Cause shall include:

- (a) knowingly and intentionally violating the provisions of this Charter;
- (b) official misconduct, which shall be defined as intentional unlawful behavior relating to official duties, including corrupt failure, refusal, or neglect of a duty imposed by law;
- (c) incompetency, which shall be defined as gross ignorance of official duties; gross carelessness in the discharge of official duties; or inability or unfitness to promptly and properly discharge official duties because of a serious mental or physical defect that did not exist at the time of the officer's election;
- (d) intoxication while performing the duties of office by consuming alcoholic beverages or other chemical substances that cause intoxication;
- (e) unexcused absence from three consecutive regular meetings or five unexcused absences from regular and special meetings within any six month period.

The Council may adopt an ordinance or resolution further specifying the procedure for investigation, notice, hearing, censure, and removal of a council member, and for excuse of absences, as provided herein.

In censuring a Council member, the Council shall have the authority to issue a public reprimand or to suspend the member from office for a specific period of time. In the event the Council removes a Council member, that member's seat shall become vacant and may be filled as provided in this Charter.

#### **Section 2.05 Vacancies.**

In the event a vacancy occurs in the office of Mayor or Council members from any cause whatsoever, a special election shall be held after the vacancy occurs on the earliest date permitted by state law for the purpose of filling such position for the remainder of the unexpired term.

#### **Section 2.06 Powers of the Council.**

All powers and authority which are explicitly conferred on or possessed by the City shall be vested in and exercised by the City Council, provided however, that the Council shall have no power to exercise those powers which are expressly conferred upon other City officers by this Charter.

All members of the Council present, including the Mayor, shall vote upon every resolution or ordinance, except where there is a conflict of interest, the reason for which shall be stated concisely in the records.

**Section 2.07 Mayor--Mayor Pro Tem.**

The Mayor of the City shall preside over the meetings of the City Council and perform such other duties consistent with the office as may be imposed upon him/her by this Charter and the ordinances and resolutions passed in pursuance hereof. He/She may participate in the discussion of all matters coming before the Council and shall be required to vote, but shall have no veto power. He/She shall sign conveyances made or entered into by the City and all bonds issued under the provisions of this Charter. He/She shall be recognized as the official head of the City by the court for the purpose of serving civil process, by the Governor for the purpose of enforcing military law, and on all ceremonial purposes. In time of danger or emergency, the Mayor may with the consent of the Council take command of the police and govern the City by proclamation and maintain order and enforce all laws.

The Mayor Pro Tem shall be elected from among the six (6) Councilmembers shall be selected each year at the first regular meeting following the general city election, and shall in the absence or disability of the Mayor perform all the Mayor's duties.

**Section 2.08 City Attorney.**

The City Council shall appoint or remove a City Attorney who shall be duly licensed and admitted to the practice of law by the State of Texas. The City Attorney shall be legal advisor of and attorney for all officers of the City and shall represent the City in all litigation and legal proceedings.

**Section 2.09 Meeting of the Council.**

The City Council shall hold two (2) regular meetings in each month, except December, at a time to be fixed by it for such regular meetings. The City Council may hold as many additional meetings during the month as may be necessary for the transaction of the business of the City and its citizens.

**Section 2.10 Rules of Procedure.**

The City Council shall determine its own rules of procedure and order of business and may compel the attendance of its members. Five (5) members of the City Council shall constitute a quorum to do business however, the affirmative vote of at least four (4) of those attending any meeting at which there is a quorum present shall be necessary to adopt any ordinance or resolution. All meetings of the City Council shall be open to the public, as provided by state law, and minutes of all proceedings shall be kept, to which any citizen may have access at all reasonable times and which shall constitute one of the archives of the City. The vote upon the passage of all ordinances and resolutions shall be taken by ayes and nays made in open meeting by a canvass of the Council, and the vote of each Councilmember shall be entered upon the minutes, and every ordinance or resolution, upon its final passage, shall be recorded in a book

kept for that purpose and shall be authenticated by the signature of the presiding officer and the City Secretary.

**Section 2.11 Procedure to Enact Legislation.**

The City Council shall legislate by ordinance and the enacting clause of every ordinance shall be: "Be it ordained by the City Council of the City of Glenn Heights." No ordinance may be adopted by the City Council unless the ordinance is considered at two separate meetings of the Council, provided, however, that if two-thirds of the number of Council members in attendance at a meeting at which an ordinance is considered for the first time determine and vote that circumstances involving public urgency or other important public purpose require that the ordinance be adopted after consideration at only one meeting, the ordinance may be adopted following such two-thirds vote.

Every ordinance enacted by the Council shall be signed by the Mayor or Mayor Pro Tem and shall be filed with and recorded by the City Secretary. The descriptive caption of all ordinances enacted by the Council shall be read in open meeting of the Council at one (1) regular or special Council meeting. All ordinances, unless otherwise provided by law or by the terms of such ordinance, shall take effect in accordance with Article 2, Section 2.13.

**Section 2.12 Publication of Ordinances.**

Except as otherwise provided by law, or by this Charter, the City Secretary shall give notice of the enactment of every ordinance imposing any penalty, fine or forfeiture for any violation of any of its provisions and of every other ordinance required by law, or this Charter, to the public, by causing the said ordinance, or its caption and penalty, to be published at least one time after final passage thereof in the official newspaper of the City. The affidavit of such publication by the publisher of such newspaper, taken before any officer authorized to administer oaths, and filed with the City Secretary shall be conclusive proof of the legal publication and promulgation of such ordinance in all courts. Such ordinance shall take effect upon publication as required by law.

**Section 2.13 Adoption and Ratification of Existing City Ordinances and Prior City Actions.**

All ordinances of the City of Glenn Heights adopted prior to the adoption of this Charter 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.

All official actions taken by the City of Glenn Heights, its City Councils or other City officials, and all previous elections, contracts, bonds, warrants and other evidences of indebtedness and any annexations, prior to the adoption of this Home Rule Charter, are hereby adopted, validated, confirmed and ratified.

**Section 2.14 Code of Ordinances.**

The City Council shall have power to cause the ordinances of the City of Glenn Heights to be printed in code form and shall have the same arranged and digested as often as the Council may deem advisable however, failure to print the ordinances as herein provided shall not affect the validity of same.

## **ARTICLE 3**

### **Elections**

#### **Section 3.01 General Elections.**

The regular City Election shall be held on the first Saturday in May, or at such other time as is prescribed by state law, at which time officers shall be elected to fill those offices which become vacant that year. The City Council shall fix the hours and place for holding such elections. All candidates for the City Council shall file for one place and shall be elected to that place by obtaining no less than 50% of the votes cast. Places 1, 3, and 5 shall be up for election and filled in the same year. The Mayor's office and places 2, 4 and 6 shall be up for election and filled in the same year.

#### **Section 3.02 Regulation of Elections.**

The Council shall make all regulations considered to be necessary or desirable which are not inconsistent with this Charter or the laws of the State of Texas, for the conduct of municipal elections, or for the prevention of fraud, and shall make provisions for recount of the ballots in case of doubt or fraud. The Council will appoint election officials who will conduct the municipal elections consistent with this Charter, regulations made by the Council and the laws of the State of Texas. The Council shall provide for the compensation of all election officials in City Elections and for all other expenses of holding such elections.

#### **Section 3.03 Filing for Office.**

Any qualified person who desires to become a candidate for election to the office of Mayor or City Council Member shall file with the City Secretary, in accordance with the filing periods and deadlines now or hereafter established by state law, an application on the form provided by the City Secretary, which form shall be in accordance with State law.

#### **Section 3.04 Official Ballot.**

The official ballot shall be drawn up by the City Secretary and approved by the City Attorney and will contain the names of all candidates for office, except those who may have been withdrawn, deceased or become ineligible. The ballot shall have the designation of the particular office (Mayor or Councilmember) and under the appropriate designation shall appear the applicable place numbers. Names will be placed under each place without party designation and position will be determined by drawing conducted by the City Secretary.

#### **Section 3.05 Conducting and Canvassing Elections.**

The returns of every municipal election shall be delivered forthwith by the election judges to the Mayor. The Council shall canvass the returns, investigate the qualifications of the candidates and declare the official results of the election in the manner and within the time provided by law and deliver the votes to the City Secretary. Returns of every municipal election shall be recorded in

the minutes of the Council. The candidate for Mayor who receives the majority of ballot votes, by qualified voters at the election, shall be declared elected. The candidates for election to the places of Councilmembers, who receive the majority of ballot votes, for each place cast by qualified voters voting at the election shall be declared elected. The results of said election shall be posted in the City Hall as soon as they are declared official.

The City Council shall be the judge of the election and qualifications of its own members, but the decision of the Council in any case shall be subject to review by the Courts.

### **Section 3.06 Election Runoff.**

In the event any candidate for any of said officers fails to receive greater than fifty percent (50%) of all votes cast for all the candidates for such office at such election, the Council shall not later than the fifth day after the date of the final canvass of the main election, or at such time hereafter prescribed by state law, issue a call for a second election to be held in the City within thirty (30) days, at which said second election the two candidates receiving the highest number of votes for any such office in the first election at which no one was elected at the first election by receiving greater than fifty percent (50%) of all votes cast for all candidates for such election, shall again be voted for. In the event of a tie between two candidates for any office at said second election, they shall cast lots to determine who shall be elected to such office.

### **Section 3.07 Special Elections.**

The Council may, by ordinance or resolution, call such special election as are authorized by the state law and this Charter, fix the time and place of holding same, and provide all means for holding such special elections, provided that every special election shall be called and held as nearly as practicable according to the provisions of the general election laws of the State of Texas.

## **ARTICLE 4**

### **Initiative, Referendum and Recall**

#### **Section 4.01 Power of Initiative.**

The citizens of the City of Glenn Heights reserve the power of direct legislation by initiative, and in the exercise of power, may propose any ordinance not in conflict with this Charter, the State Constitution, or the state laws, except an ordinance appropriating money or authorizing the levy of taxes, or an ordinance repealing an ordinance appropriating money, levying taxes, or an ordinance involving zoning or annexation. Any initiated ordinance may be submitted to the Council by a petition signed by registered qualified voters of the City of Glenn Heights equal in number to at least twenty five (25%) percent of the number of registered voters in the City.

#### **Section 4.02 Power of Referendum.**

The citizens reserve the power to approve or reject at the polls any legislation enacted by a Council which is subject to the initiative process under this Charter, except an ordinance which is enacted for the immediate preservation of the public peace, health or safety which contains a statement of its urgency. Prior to the effective date of any ordinance which is subject to referendum, a petition signed by registered qualified voters of the City, equal in number to at least twenty five (25%) percent of the registered voters in the City, may be filed with the City Secretary requesting that such ordinance be either repealed or submitted to a vote of the people. When such a petition has been certified as sufficient by the City Secretary, the ordinance specified in the petition shall not go into effect, or further action thereunder shall be suspended if it shall have gone into effect, until and unless it is approved by the voters as herein provided.

#### **Section 4.03 Form of Petition.**

Initiative petition papers shall contain the full text of the proposed legislation in the form of an ordinance, including a descriptive caption. The signatures to the initiative or referendum need not be all appended to one paper, but each signer shall sign his/her name in ink or indelible pencil, shall add his/her signature and his/her place of residence by street and number and his/her voter registration number. One of the signers of each separate paper petition shall make an affidavit that he/she, and he/she only, personally circulated such petition and that each signature appended thereto was made in his/her presence and is the genuine signature of the person whose name it purports to be, and further that no signature shall have been placed thereon more than one-hundred eighty (180) days prior to the filing of such petition.

#### **Section 4.04 Filing, Examination and Certification of Petition.**

Within ten (10) business days after an initiative or referendum petition is filed, the City Secretary shall determine whether the same is signed by the requisite number of registered voters. The City Secretary shall declare void any petition paper which does not have an affidavit attached thereto as required by Section 4.03 of this Article. In examining the petitions, the City Secretary shall write the letters "D.V." in red ink opposite the names of signers found not registered to vote.

After completing examination of the petition, the City Secretary shall certify the results thereof to the Council at its next regular meeting, stating the number of persons found on the petition who are registered to vote and the number of persons found on the petition who are not registered to vote. If the certificate of the City Secretary shall show an initiative or referendum petition to be insufficient the City Secretary shall notify the person filing the petition, and it may be amended within ten (10) business days from the date of such notice by filing a supplementary petition upon additional papers signed and filed as provided for in the original petition. Within ten (10) business days after such amendment is filed, the City Secretary shall examine the amended petition and certify as to its sufficiency. If the amended petition is found to be insufficient, the City Secretary shall return the petition to the person filing same, without prejudice to the filing of a new petition for the same purpose: provided however, that upon finding the amended petition to be insufficient, no new petition covering the same subject matter shall be filed until six (6) months shall have elapsed from the date of filing of the original petition.

#### **Section 4.05 Council Consideration and Submission to Voters.**

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

- (a) Pass the initiated ordinance without amendment within thirty (30) days after the date of the certification to the Council;
- (b) Submit said initiated ordinance without amendment to a vote of the registered voters of the City at a regular or special election to be held within ninety (90) days after the date of the certification to the Council; or
- (c) At such election, submit the initiated ordinance without amendment and an alternative ordinance proposed by the Council to a vote of the qualified voters of the City. The ballot shall state the captions of the initiated ordinance and the alternative ordinance, clearly designating them "Ordinance No. 1" and "Ordinance No. 2", respectively, and shall set forth below the captions on separate lines the words "For Ordinance No. 1," "For Ordinance No. 2," and "Against Both Ordinances." Each voter shall vote "For" only one ordinance, or "Against Both Ordinances," and a vote for one ordinance shall be counted as a vote against the other ordinance.

#### **Section 4.06 Ballot Form and Results of Election.**

The ballot used in voting upon an initiated or referred ordinance shall state the caption of the ordinance and below the caption shall set forth on separate lines the words: "For the Ordinance" and "Against the Ordinance."

An initiated ordinance and an alternative ordinance proposed by the Council which are submitted at the same election shall be appropriately identified as the initiated or referred ordinance and as the ordinance proposed by the Council.

Any number of ordinances may be voted upon at the same election in accordance with the provisions of this Article. An ordinance submitted and receiving an affirmative majority of the votes cast, shall there upon be effective as an ordinance of the City. An ordinance so adopted may be repealed or amended at any time after the expiration of two (2) years by a four-fifths (4/5) vote of the Council. A referred ordinance which is not approved by a majority of the votes cast shall be deemed thereupon repealed.

**Section 4.07 Power of Recall.**

The citizens of the City reserve the power to recall any member of the Council for acts of misfeasance, malfeasance, incompetence, or official misconduct and may exercise such power by filing with the City Secretary a petition, signed by registered qualified voters of the City equal in number to at least thirty (30%) percent of the number of votes cast at the last regular municipal election of the City, or by 150 registered qualified voters, whichever is greater, demanding the removal of a member of the City Council. The petition shall be signed and verified in the manner required, by the form prescribed below. Such petition shall contain a statement of the specific acts of misfeasance, malfeasance, incompetence, and/or official misconduct for which the removal is sought, and one of the signers of each petition paper shall make an affidavit as prescribed below. “Malfeasance” is a wrongful act that a person has no legal right to do. “Misfeasance” is the improper doing of an act that a person might lawfully do. “Incompetence” means gross ignorance of official duties, gross carelessness in the discharge of official duties, or inability or unfitness to promptly and properly discharge official duties because of a serious mental or physical defect that did not exist at the time of the Council Member’s election. “Official misconduct” means intentional unlawful behavior relating to official duties of a Council Member, including the intentional or corrupt failure, refusal, or neglect of a Council Member to perform a duty imposed upon the Council Member by law. The following form of petition and acknowledgement is herein prescribed:

“By our signatures affixed hereto, we hereby affirm that we seek the recall of \_\_\_\_\_ who holds the elected office of \_\_\_\_\_, for the following specific grounds of misfeasance, malfeasance, incompetence, and/or official misconduct as prescribed in Article 4, Section 4.07 of the Charter of the City of Glenn Heights:

“And we further affirm that the information given below is true and correct:

Voter Registration Number    Printed Name    Address    Signature    Date Signed  
STATE OF TEXAS  
COUNTIES OF DALLAS AND ELLIS

“BEFORE ME, the undersigned authority, personally appeared \_\_\_\_\_, who, after being duly sworn by me stated, upon his/her oath, that he/she circulated the above Petition; that he/she was personally present when each of the above signatures were affixed thereto; and that each person whose signature is affixed thereto, affirmed to him/her that the information provided by them was true and correct.

SWORN TO AND SUBSCRIBED BEFORE ME this the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Notary Public, State of Texas

My Commission Expires: \_\_\_\_\_

**Section 4.08 Recall Election.**

Within fifteen (15) days after the date of the filing of the papers constituting the recall petition, the person performing the duties of City Secretary shall verify the signatures on the petition and then present such petition to the Council.

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

If the officer whose removal is sought does not resign, then it shall become the duty of the Council to order an election and fix a date for holding such recall election. The date of such election shall be held at the earliest date as permitted by state law.

**Section 4.09 Recall Ballot.**

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

- (a) With respect to each person whose removal is sought the question shall be submitted  
Shall (Name) be removed from the office of City Council.
- (b) Immediately below each such question there shall be printed the two following propositions, one above the other, in the order indicated:

“For the recall of (Name)”

“Against the recall of (Name)”

**Section 4.10 Results of a Recall Election.**

If a majority of the votes cast at a recall election shall be against removal of the individual named on the ballot, he/she shall continue in office. If a majority of the votes cast at such election be for the removal of the individual named on the ballot, the Council shall immediately declare his/her office vacant and such vacancy shall [be] filled in accordance with the provisions of the Charter for the filling of vacancies. An individual thus removed shall not be a candidate to succeed himself in an election called to fill the vacancy thereby created.

**Section 4.11 Limitations on Recall.**

No recall petition shall be filed against any officer of the City within six (6) months after his/her election, or within one (1) year after an election for such officer's recall.

**Section 4.12 Failure of the Council to Call an Election.**

In case all the requirements of this Charter shall have been met and the Council shall fail or refuse to receive the recall petition or order such recall election, or discharge any other duties imposed upon said Council by the provisions of the Charter with reference to such recall, then the County Judge of Dallas County, Texas shall discharge any such duties herein provided to be discharged by the person performing the duties of the City Secretary or by the Council, or in the event the County Judge shall fail to discharge such duty, an action for Writ of Mandamus to compel the discharge of such duty may be brought in any district court of Dallas or Ellis Counties, Texas.

**Section 4.13 Fraud in the Petition Process.**

In the event that, with regard to any petition for initiative, referendum, or recall filed with the City Secretary, the City Council is presented with credible evidence that signatures on such petition were secured or added by means of fraud or other false inducement, the Council may, by majority vote, order the investigation of such evidence by the police department or other law enforcement agency and may delay ordering an election until such investigation is complete provided, however, that it shall be grounds for removal from office for any member of the council to vote for such an investigation solely for the purpose of delay. In the event such investigation reveals the substantial likelihood of fraud or other false inducement, the Council may decline to order an election and may refer such matter to the appropriate state or county official for prosecution. In the event such investigation reveals no substantial likelihood of fraud or other false inducement, the Council shall order an election for the next available uniform election date.

## ARTICLE 5

### Administrative Organization

#### Section 5.01 The City Manager.

The Council shall appoint a City Manager for an indefinite term, who shall be the chief administrative officer of the City. He/She shall be chosen by the Council solely on the basis of his/her executive and administrative training, experience, ability and character, and without regard to political consideration. The City Manager shall reside within a reasonable response time as determined by the City Council. No member of the Council shall, during the term for which elected, be chosen as City Manager. The City Manager shall receive such compensation as may fixed by the Council.

#### Section 5.02 Powers and Duties of the City Manager.

The City Manager shall be responsible to the Council for the proper administration of all the affairs of the City. The powers herein conferred upon the City Manager shall include, but shall not be limited to the following:

- (a) Appoint and, when necessary for the welfare of the City, remove any officer or employee of the City, except as otherwise provided by this Charter and except as he/she may authorize the head of a department to appoint and remove subordinates in such department.
- (b) Serve as Budget Officer for the City, prepare and submit to the Council an annual budget, and be responsible for its administration after adoption.
- (c) Prepare and submit to the Council as of the end of the fiscal year a complete report on the finances and administrative activities of the preceding year.
- (c) Keep the Council advised of the financial condition and future needs of the City and make such recommendations as may seem to him/her desirable.
- (d) Perform such other duties as may be prescribed by this Charter or required of him/her by the Council, not inconsistent with this Charter.
- (e) Attend all meetings of the Council, and he/she shall be notified of all meetings of the Council.

#### Section 5.03 Removal of City Manager.

The council may remove the City Manager, upon the affirmative vote of a majority of the entire Council. If removed after serving six (6) months, he/she may demand written charges and the right to he/she heard thereon at a public meeting of the Council prior to the date on which his/her

final removal shall take effect; but pending such hearing the Council may suspend him/her from office. The action of the Council in suspending or removing the City Manager shall be final, it being the intention of the Charter to vest all authority and fix all responsibility for such suspension or removal in the Council.

#### **Section 5.04 Investigation by the City Council.**

The City Council shall have power to inquire into the conduct of any office, department, agency, officer or employee of the City and to make investigations as to municipal affairs, and for that purpose may subpoena witnesses, administer oaths and compel the production of books, papers and other evidence. Failure to obey such subpoena or produce books, papers or other evidence, as ordered under the provisions of this section shall constitute a misdemeanor and shall be punishable by fine not to exceed One Thousand (\$1,000.00) Dollars.

#### **Section 5.05 Council Not to Interfere in City Manager's Appointments, or Removal.**

Neither the Council nor any of its members shall direct or request the appointment of any person to or his/her removal from office by the City Manager or by any of his/her subordinates. However, the Council may consult and advise the City Manager, make inquiry regarding the appointments or removals and may express their opinion in regard thereto. In regard to administrative and executive duties under the City Manager, the Council and its members shall deal solely through the City Manager and neither the Council nor any member thereof shall give orders to any subordinate of the City Manager, either privately or publicly. Willful violation of the foregoing provisions of the Charter by any member of the Council shall constitute official misconduct and shall authorize the Council by a vote of a majority of its membership to expel such offending member from the Council if found guilty after a public hearing and thereby create a vacancy in the place held by such member.

#### **Section 5.06 Absence of the City Manager.**

The City Manager, by letter filed with the City Secretary, may designate a qualified administrative officer of the City to perform his/her duties during his/her temporary absence or disability. In the event of failure of the City Manager to make such designation, the Council may by resolution appoint an officer of the City to perform the duties of the City Manager until he/she shall return or his/her disability shall cease.

#### **Section 5.07 Administrative Departments.**

There shall be such administrative departments as are established by this Charter and such other administrative departments as may be deemed necessary by the Council and as are established by ordinance, all of which shall be under the control and direction of the City Manager. The Council may abolish or combine one or more departments created by it and may assign or transfer duties of any departments of the City from one department to another by ordinance.

### **Section 5.08 Directors of Departments.**

At the head of each department there shall be a director who shall be appointed and who may be removed by the City Manager. Such directors shall have supervision and control over their respective departments and may serve as chiefs of divisions within their respective departments. Two or more departments may be headed by the same individual and the City Manager may head one or more departments.

### **Section 5.09 Fire Department.**

The City shall take all necessary measures to protect the City and the property of its citizens from destruction by fire or conflagration; and shall have the authority to establish and maintain a fire department within the City at such time as state statutes may require, and to cooperate with any person, other governmental body, association or corporation in the operation of the fire department, under such terms as the City Council may prescribe.

Authority is also granted to support and assist in the maintenance of a volunteer fire department.

### **Section 5.10 Police Department.**

The City of Glenn Heights shall establish a Police Department and Reserve Force to protect and serve the citizens within the City and to cooperate with any person, governmental body, association or corporation in the operation of the Police Department, under such terms as the City Council may prescribe. Duties will be, but not limited to: maintaining public order, enforcement of regulations, traffic control, police patrol, investigations, crime prevention, accident investigation, and training.

### **Section 5.11 City Secretary.**

The City Manager shall appoint and remove the City Secretary and such Assistant City Secretaries as the City Council shall deem advisable. The duties of the City Secretary, or an Assistant City Secretary shall be as required by law and as established by the Job Description as adopted with the City's Pay Classification Plan.

## **ARTICLE 6**

### **Municipal Court**

#### **Section 6.01 Municipal Court.**

There shall be a court known as the Municipal Court of the City of Glenn Heights, with such jurisdiction, powers, and duties as are given and prescribed by the laws of the State of Texas.

#### **Section 6.02 Judge of the Municipal Court.**

The Municipal Court shall be presided over by a Magistrate who shall be known as the City Judge. The City Judge shall be appointed by the Council upon recommendation of the City Manager, and shall serve at the pleasure of the City Manager. The City Judge shall receive such compensation as may be set by the Council. The City Council by ordinance may provide for the appointment of one (1) or more Alternate City Judges to serve if the City Judge is temporarily unable to act or is unavailable. In the event the City Judge is unable to act for any reason or in the event of a vacancy, the Alternate City Judge shall act in the place of the City Judge until such vacancy shall be filled.

#### **Section 6.03 Clerk of the Municipal Court.**

There shall be a clerk of the Municipal Court who shall be appointed by, and who shall serve at the pleasure of the City Manager. The Clerk shall have power to administer oaths and affidavits, make certificates, affix the seal of the court thereto, and otherwise perform any and all acts necessary in issuing process of such Court, and conducting the business thereof.

There shall be such deputy clerks of the Municipal Court as may be authorized and appointed by the City Manager, who shall have authority to act for and on behalf of the Clerk of the Municipal Court.

#### **Section 6.04 Procedure in the Municipal Court.**

All complaints, prosecutions, the service 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 Title 2 of the Code of Criminal Procedure of the State of Texas applicable to Municipal Courts.

## **ARTICLE 7**

### **Finance**

#### **Section 7.01 Fiscal Year.**

The fiscal year of the City of Glenn Heights shall begin on October 1st of each calendar year and will end on September 30th of the following calendar year. The fiscal year will also be established as the accounting and budget year. All funds collected by the City during any fiscal year including both current and delinquent revenue shall belong to such fiscal year and, except funds derived to pay interest and create a sinking fund on the bonded indebtedness of the City, may be applied to the payment of the expenses incurred during such fiscal year. Any revenues uncollected at the end of any fiscal year, and any unencumbered funds actually on hand, shall become resources of the next fiscal year.

#### **Section 7.02 Preparation and Submission of Budget.**

The City Manager, prior to August 1st of each year, shall prepare and submit the budget, covering the next fiscal year, to the Council, which shall contain the following information. In preparing the budget, each employee, officer, board and department shall assist the City Manager by furnishing all necessary information.

- (a) The City Manager's budget message shall outline the proposed financial policies for the next year with explanations of any change from previous years in expenditures and any major changes of policy and complete statement regarding the financial conditions of the City.
- (b) An estimate of all revenue from taxes and other sources, including the present tax structure rates and property evaluation for the ensuing year.
- (c) A carefully itemized list of proposed expenses by office department, agency, employee and project for the budget year as compared to actual expenses of the last fiscal year, and the present year-to-date.
- (d) A description of all outstanding bond indebtedness, showing amount, purchaser, date of issue, rate of interest, and maturity date, as well as any other indebtedness which the City had incurred and which has not been paid.
- (e) A statement proposing any capital expenditures deemed necessary for undertaking during the next budget year and recommended provisions for financing.

#### **Section 7.03 Budget a Public Record.**

The budget and all supporting schedules shall [be] filed with the City Secretary when submitted to the Council and shall be open to public inspection by anyone interested.

#### **Section 7.04 Public Hearing on Budget.**

At the Council meeting at which time the budget is submitted, the Council shall name the date and place of a public hearing and shall cause to be published in the official newspaper of the City the time and place, which will be not less than seven (7) days nor more than fifteen (15) days after the date of the notice. At this hearing, interested citizens may express their opinions concerning items of expenditure, giving their reasons for wishing to increase or decrease any items of expense.

#### **Section 7.05 Proceeding on Adoption of Budget.**

After public hearing the Council shall analyze the budget, making any additions or deletions which they feel appropriate, and shall, prior to the beginning of the next fiscal year, adopt the budget by a favorable majority vote of all members of the Council.

#### **Section 7.06 Budget, Appropriation and Amount to Be Raised by Taxation.**

On final adoption, the budget shall be in effect for the budget year. Final adoption of the budget by the Council shall constitute the official appropriation as proposed expenditures for the current year and shall constitute the basis of the official levy of the property tax as the amount of tax to be assessed and collected for the corresponding tax year. Estimated expenditures will in no case exceed proposed revenue plus cash on hand. Unused appropriations may be transferred to any line item budgeted for the same general purpose.

#### **Section 7.07 Unallocated Reserve Fund.**

The City Manager may recommend for action by the Council, an unallocated reserve fund to be used for unexpected items of expense which were not contained as original items of expenditures.

#### **Section 7.08 Administration of Budget.**

No obligation shall be incurred against the City except for appropriations duly made in the budget. Furthermore, no payment shall be made nor obligations incurred against the City until the City Manager or his/her designee first verifies that there is or will be sufficient funds or monies available to cover the claim or meet the obligation when it becomes due and payable. There shall be no transfer of funds or monies from one fund to another fund to cover a claim or meet an obligation when it becomes due and payable without prior Council approval.

#### **Section 7.09 Financial Reports.**

The City Manager shall submit to the Council each month a report of the financial condition of the City by budget item, budget estimate compared to expenditures for the preceding month and for the fiscal year-to-date. The financial records of the City will be maintained on an modified accrual basis to support this type of financial management. The City Manager shall make

available to the City Council monthly a cash disbursements journal of the City of all funds and accounts.

**Section 7.10 Amending the Budget.**

When conditions arise which could not reasonably have been foreseen in the normal process of planning the budget, the Council may amend or change the budget for any municipal or public purpose; however, the total expenditures from all City funds for the fiscal year may not be increased except by a vote of five (5) members of the City Council following a posted public hearing at which members of the public may provide input on such proposed amendment. In the event that a proposed budget amendment is in order to meet a grave public necessity, the City Council may, by a vote of five (5) of its members, waive the requirement for the public hearing. Amendments shall be by ordinance, and shall become an attachment to the original budget.

**Section 7.11 Certification: Copies Made Available.**

A copy of the budget, as finally adopted, shall be filed with the City Secretary. The final budget shall be printed, or otherwise reproduced and sufficient copies shall be made available for the use of all offices agencies and for the use of interested persons and civic organizations.

**Section 7.12 Defect Shall Not Invalidate the Tax Levy.**

Errors or defects in the form or preparation of the budget or the failure to perform any procedural requirements shall not nullify the tax levy or the tax rate.

**Section 7.13 Independent Audit.**

At the close of each fiscal year, and at such other times as it may be deemed necessary, the Council shall direct that an independent audit be made of all accounts of the City by a Certified Public Accountant. The Certified Public Accountant shall have no personal interest, directly or indirectly, in the financial affairs of the City or any of its officers. Upon completion of the audit, the results thereof shall be placed on file in the City Secretary's office for public record.

**Section 7.14 Purchase Procedure.**

All sales of City property, purchases made, and contracts executed by the City shall be made in accordance with the requirements of the Constitution and laws of the State of Texas, including all laws related to the purchasing and contracting authority of municipalities, bids for public works contracts, high technology procurements, and professional services procurements.

## **ARTICLE 8**

### **Bonds, Warrants, and Other Evidence of Indebtedness**

#### **Section 8.01 Powers to Issue.**

In keeping with the Constitution of the State of Texas and not contrary thereto, the City of Glenn Heights shall have the power to borrow money on the credit of the City for any public purpose not now or hereafter prohibited by the Constitution and laws of the State of Texas, and shall have the right to issue all tax bonds, revenue bonds, funding and City refunding bonds, time warrants and other evidence of indebtedness as now authorized or as may hereafter be authorized to be issued by cities and towns by the laws of the State of Texas.

No bonds, warrants or certificates of indebtedness shall be made and the City shall not become obligated for same, to be used for the operation of the regular administrative and operating budgets of the City of Glenn Heights.

#### **Section 8.02 Manner of Issuance.**

Bonds and warrants of the City of Glenn Heights shall be issued in the manner provided by the general laws of the State of Texas.

#### **Section 8.03 Sale of Bonds.**

No bonds issued by the City of Glenn Heights shall be invalid because they are sold for less than par value and accrued interest. The Council shall have the right to reject any or all bids. In the event the City shall have received authorization for the issue of bonds but shall not have issued said bonds within ten (10) years from the date of voter authorization, such authorization shall become null and void.

#### **Section 8.04 Interest and Sinking Funds.**

It shall be the duty of the Council to levy an annual tax sufficient to pay the interest on and approve the necessary sinking fund required by law on all outstanding general obligation bonds of the City. The interest and sinking fund shall be deposited in a separate account and in shall not be diverted to or used for any other purpose than to pay the interest and principal on all such bonds issued by the City of Glenn Heights. The sinking fund maintained for the redemption of any debt may be invested in any interest bearing bonds of the United States Government, and/or secured bonds of the State of Texas as may be provided by the laws of this State. City monies may also be deposited in any state or nationally chartered bank in interest bearing accounts.

#### **Section 8.05 Revenue.**

The City shall have power to borrow money for the purpose of construction, purchasing, improving, extending, or repairing of public utilities, recreational facilities or any other function not now or hereafter prohibited by the general laws of the State, and issue revenue bonds to

evidence the obligation created thereby. Such bonds shall be a charge upon and payable solely from the properties, or interest therein acquired and the income therefrom, and shall never be a debt of the City.

Revenue bonds issued by the City may, within discretion of the City Council, be submitted for approval by a majority of qualified voters, voting at an election held for such purpose. The Council shall have authority to provide for the terms and force of any purchase agreement, contract, mortgage, bond or document desired or necessary for the issuance of revenue bonds, and the acquisition and operation of any property or interest.

#### **Section 8.06 Execution and Registration of Bonds.**

All bonds, warrants and certificates of indebtedness shall be signed by the Mayor, countersigned by the City Secretary, and sealed with the seal of the City in the manner provided by general law, and shall be payable at such times and place or places as may be fixed, not more than forty (40) years from their date. It shall be the duty of the Mayor, when such bonds are issued, to forward the same to the Attorney General of the State of Texas for approval and for registration by the Comptroller of Public Accounts.

#### **Section 8.07 Bond Register.**

The Director of Finance or other officer of the City designated by the City Council shall keep, or cause to be kept, for and on behalf of the City a complete bond registry and books, showing all bonds, warrants and certificates of indebtedness issued, the date and amount thereof, the rate of interest, maturity, etc., of all bonds or other indebtedness surrendered and other transactions of the Council having reference to the refunding of the indebtedness of said City.

## **ARTICLE 9**

### **Taxation**

#### **Section 9.01 Powers of Taxation.**

The Council shall have power to levy, for general purposes, an ad valorem tax on real, personal, and mixed property within the territory of the City of Glenn Heights, not exempt from taxation by the Constitution and laws of the State of Texas, based upon its true value as provided by law to the extent of the constitutional limit permitted by the State of Texas to cities of over 5,000 population.

The Council may levy taxes on all property, privileges and franchises of every kind and description within the city limits or having its situs therein on January first, of each year, and from any other local source, and provide for rendition thereof, the place, time, and manner of payment thereof; with penalties, as the Council may deem best, not in violation

#### **Section 9.02 Assessment of Property for Tax Purposes.**

Every person, partnership, association or corporation holding, owning, or controlling property within the limits of the City shall on January 1st of each year be assessed as prescribed by the Dallas County Central Appraisal District and the Texas State Property Tax Codes.

#### **Section 9.03 Exempt Property.**

The City hereby exempts such personal property from taxation as may be provided for by the State Constitution and laws of the State of Texas, and may grant any exemption allowed by the Texas State Property Tax Code.

#### **Section 9.04 Payment of Taxes.**

The taxes herein and hereby authorized to be levied shall become due and payable October 1st of the year assessed, and same shall be payable in cash at the office of the Collector of Taxes or such other officer as the City may, by ordinance, prescribe.

#### **Section 9.05 Delinquent Taxes.**

Taxes shall be deemed and become delinquent if not paid prior to February 1st the year following assessment, and such delinquent taxes shall be subject to six (6%) percent penalty.

In addition to the penalty therein prescribed, such delinquent taxes shall bear interest at the rate of one (1%) percent per month for each month of delinquency up to a maximum penalty interest rate of twelve (12%) percent per annum from the original delinquent date. In addition to the penalty interest herein prescribed, such delinquent taxpayer shall be subject to the payment of all costs and expenses incurred in the advertisement of such delinquent property and the collection of such taxes through any method provided by this Charter and/or the laws of the State of Texas.

Such penalties and interest shall be an obligation of the taxpayer and shall be secured by the same lien and collected in the same manner as other taxes.

**Section 9.06 Tax Lien and Liability.**

A special lien is hereby created on all real personal, and mixed property, located in the City of Glenn Heights, in favor of the City of Glenn Heights for all taxes, ad valorem, occupational or otherwise. Said lien shall exist from January 1st in each year until the taxes are paid. Such lien shall be prior to all other claims, and no gift, sale, assignment or transfer of any kind, or judicial writ of any kind, can ever defeat such lien, but the Assessor and Collector of Taxes can pursue such property, and whenever found out may, by judicial writ, seize and sell enough thereof to satisfy such taxes.

All persons or corporations owning real, personal, or mixed property on the first day of January of each year shall be liable for all municipal taxes levied thereon for such year.

**Section 9.07 Appeal of Appraised Value.**

The City Council or the property owner shall have the right as prescribed by Law to contest the appraised values on all parcels before the Appraisal Review Board.

**Section 9.08 Tax Remission, Discount and Compromise, Correction of Error.**

Except as herein provided, neither the Council or any other official of the City shall extend the time for payment of taxes nor remit, discount or compromise any tax due the City, nor waive the penalty and interest that may be due thereon to any person, firms or corporations owing taxes to the City for such year or years, unless a clerical error or omission by a city employee is made. However, this provision shall not prevent the compromise of any tax suit, or the correction of any errors in assessment or preparation of tax rolls or preparation of a tax statement. Such compromise shall first have the approval of the Council.

## **ARTICLE 10**

### **Planning**

#### **Section 10.01 The Planning and Zoning Commission.**

There shall be established a Planning and Zoning Commission which shall consist of seven (7) citizens from the City of Glenn Heights. The members of said Commission shall be appointed by the City Council for a term of three (3) years. The initial appointment of the Planning and Zoning Commission members by the Council shall designate which members shall serve three (3) years, which members shall serve two (2) years and which members shall serve one (1) year, and on each succeeding year thereafter, the Council shall select replacements for the Planning and Zoning Commission members whose terms have expired. The Commission shall elect a Chairman and Vice Chairman from among its members. The Commission shall meet not less than once each month. Vacancies and unexpired terms shall be appointed by the Council for the remainder of the term. A majority of the members shall constitute a quorum, and the affirmative vote of four (4) members shall be necessary for the passage of any recommendation to the City Council. Members of the Commission may be removed by the Council after public hearing.

The Commission shall keep minutes of its proceedings which shall be of public record. The Commission shall serve without compensation.

Commission members and officers holding such office on the effective date of the Charter shall continue in office until the expiration of their term of membership or office and shall thereafter be appointed as provided in this Section.

#### **Section 10.02 Planning and Zoning Commission Powers and Duties.**

The Planning and Zoning Commission shall recommend to the City Council approval or disapproval of proposed changes in the Zoning Ordinance, Master Plan, Master Thoroughfare Plan and shall review and recommend approval or disapproval of all subdivision plats.

The Commission shall be responsible to and act as an advisory body to the Council and shall have and perform such additional duties as may be prescribed by ordinance.

#### **Section 10.03 The Master Plan.**

A Master Plan for the physical development of the City of Glenn Heights shall be adopted by the City Council and it shall contain recommendations for growth, development and beautification of the City.

The City Council shall have the authority to amend the Master Plan in whole or in part after one public hearing on the proposed action.

**Section 10.04 Legal Effect of the Master Plan.**

Upon the adoption of a Master Plan by the City Council, no subdivision street, park or any public way, ground or space, public building or structure, or public utility whether publicly or privately owned, which is in conflict with the Master Plan shall be constructed or authorized by the City until and unless the location and extent thereof shall have been submitted to and approved by the City Council. The widening, narrowing, relocating, vacating or change in the use of any street, alley or public way, or ground or the sale of any public building or real property, shall be submitted for approval by the City Council.

## **ARTICLE 11**

### **Franchises and Public Utilities**

#### **Section 11.01 Powers of the City.**

In addition to the City's power to buy, 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, the City shall have further power as may now or hereafter be granted under the Constitution and laws of the State of Texas.

#### **Section 11.02 Inalienability of Control of Public Property.**

The right of control and use of the public streets, highways, sidewalks, alleys, parks, public squares and public places of the City is hereby declared to be inalienable by the City, except by ordinances not in conflict with the provisions of this Charter. No act or omission by the Council or any officer or agent of the City shall be construed to grant, renew, extend or amend, expressly or by estoppel or implication any right, franchise or easement affecting said public streets, highways, sidewalks, alleys, parks, public squares, public places and other real property, except as provided in this Charter.

#### **Section 11.03 Ordinance Granting Franchises.**

All ordinances granting, amending, renewing, or extending franchises for public utilities shall be read at two separate regular meetings of the Council and shall not be finally passed until thirty (30) days after the first reading and no such ordinance shall take effect until thirty (30) days after its final passage; and pending such time, the full text of such ordinance shall be published once each week for four (4) consecutive weeks in the official newspaper of the City of Glenn Heights and the expense of such publication shall be borne by the proponent of the franchise. The granting of franchises by the City Council shall be governed by the following regulations:

- (a) No exclusive franchise or privilege shall ever be granted;
- (b) No determinate or fixed term franchise shall ever be granted for longer term than twenty (20) years;
- (c) Within five (5) years prior to the date of expiration of any fixed term franchise, the City Council may grant a new franchise to commence upon the expiration date of the franchise in question, or grant a new franchise if the existing franchise is released;
- (d) All holders of franchises for public services from the City, their successors or assigns, as compensation for the right or privilege of such franchise enjoyed, shall pay to the City a percentage of the gross receipts of the business activities by the franchise holder rendered in the City. Such sum shall be exclusive of, and in addition to, all special assessments and taxes of whatever nature, including ad valorem taxes upon the value of the franchise and

other property of the franchise holder. The sum due hereunder shall be due and payable in accordance with the specific ordinance.

For purposes of this section of the Charter, an agreement for the collection, transportation, disposal, recycling, or other management of solid waste shall not be considered to be a franchise or privilege.

**Section 11.04 Transfer of Franchise.**

No franchise shall be transferable except to persons, firms, or corporations taking all or substantially all of the holder's business in the City of Glenn Heights and except with the approval of the Council expressed by ordinance. All liabilities to the City of Glenn Heights shall be paid in full at the time of the transfer.

**Section 11.05 Franchise Value Not to be Allowed.**

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

**Section 11.06 Regulation of Rates.**

The Council shall have full power after notices and hearing to regulate by ordinance the rates, charges and fares of every franchise holder operating in the City, to the fullest extent authorized by law, provided that no such ordinance shall be passed as an emergency measure. Every franchise holder who shall request an increase in rate, charges, or fares, shall have, at the hearing of the Council called to consider such request, the burden of establishing by clear, competent and convincing evidence, the value of its investment property allocable to service in the City, and the amount and character of its expenses and revenues connected with the rendering of such service.

**Section 11.07 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.

**Section 11.08 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 hereinbefore made. The right to use and maintain any extensions shall terminate with the original grant. 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.

### **Section 11.09 Temporary Permits.**

Permits unconditionally revocable at the will of the governing body for minor or temporary privileges in the streets, public ways, and public places of the City may be granted and revoked by ordinances from time to time, and such permits shall not be deemed franchises as the term is used in this Charter.

### **Section 11.10 Other Conditions.**

All franchises heretofore granted are recognized as contracts between the City of Glenn Heights and the grantee, and 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 Glenn Heights to exercise the right of eminent domain in the acquisition of any utility property is in all things reserved, and except the general powers 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 shall be reserved. Every 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.

### **Section 11.11 Franchise Records.**

Within six months after this Charter takes effect, every owner of a 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 Glenn Heights. The City shall compile and maintain a public record of franchises.

### **Section 11.12 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 divided into different classes, 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 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 Council shall deem expedient.

## **ARTICLE 12**

### **Boards and Commissions**

#### **Section 12.01 Boards and Commissions.**

The City Council shall have authority to establish by ordinance such boards and commissions as it may deem necessary for the conduct of City business and management of municipal affairs including appointments of city hall officers to such boards and commissions except as otherwise provided in the Charter. The authority, functions and responsibilities of such the boards and commissions shall be such as is spelled out in the ordinance establishing them. All existing boards and commissions heretofore established shall be continued in accordance with the ordinance or other acts under which they have been created, or until the City Council shall by ordinance abolish, modify or alter the ordinances or acts under which they exist. Notwithstanding any other provision of this Charter, the elected City Council shall have paramount authority over all matters affecting the budgets, appropriation of funds, expenditures, purchases and sale of properties and procedures for accounting therefor, consistent with the express provisions of this Charter and applicable provisions of the State constitution and laws of this State.

## **ARTICLE 13**

### **General Provisions**

#### **Section 13.01 Public Records of the City.**

Every ordinance or resolution, upon its becoming effective, shall be recorded in a book kept for that purpose and shall be authenticated by the signature of the Mayor or Mayor [Protem] and attested by the City Secretary as herein provided, which book and a duplicate copy thereof shall be kept in a fireproof City depository. All public records of every office, department, or agency of the City shall be open to, inspection by any citizen at all reasonable times, provided that police records and vital statistics records, and any other records closed to the public by law, shall not be considered public records for the purposes of this Section.

#### **Section 13.02 Personal Interest in City Contracts.**

No officer or employee of the City of Glenn Heights shall have a financial interest, direct or indirect, in any contract with the City, or be financially interested directly, or indirectly in the sale to the City of any land, materials, supplies, or services, except on behalf of the City as an officer or employee. Any knowing and willful violation of this Section shall constitute malfeasance in office and any officer or employee guilty thereof shall be removed from his/her office or position. Any violation of this Section with the knowledge, expressed or implied, of the person or corporation contracting with the governing body of the City shall render the contract involved void.

#### **Section 13.03 Nepotism.**

No person related within the second degree by affinity, or the third degree consanguinity to the Mayor, any member of the City Council, or the City Manager shall be appointed to any paid office, position, clerkship, or other service of the City. This prohibition shall not apply, however, to any person who shall have been employed by the City prior to and at the time of the election of the Councilmembers, or appointment of the City Manager, so related to him/her.

#### **Section 13.04 Officers Not to be interested in Franchises: Forfeiture.**

No officer or employee of the City of Glenn Heights shall accept, directly or indirectly, any gift, favor, privilege or employment from any public utility corporation enjoying a grant of any franchise privilege or easement from said City, during the term of office of such officer or during the employment of such employee of the City, except as may be authorized by law or ordinance. Any employee or officer of the City who shall violate the provisions of this Section shall be guilty of a misdemeanor and shall be punished by such fine as may be prescribed by ordinance for this offense, and may be forthwith, removed from office.

### **Section 13.05 Mechanic, Material or Labor Claim.**

All subcontractors, materialmen, mechanics and laborers upon any public works of the City of Glenn Heights are hereby required to notify the City of all claims they may have against the contractor on account of such work, subject to proof of payments by the said contractor, and where such notice has been given, the City shall retain an amount from any funds due the contractors, sufficient to satisfy such claims; provided that such notice must be given at any time after such indebtedness becomes due and before the City's final settlement with the contractor and provided further, that no contractor or subcontractor shall issue any checks on or on account of, any public works of said City.

### **Section 13.06 Notice of Claim.**

The City of Glenn Heights shall not be held responsible on account of any claim for damages to any person unless the person making such complaint or claiming such damages shall, within ninety (90) days after the time at which it is claimed such damages were inflicted upon such person, file with the City Secretary, a true statement under oath, as to the nature and character of such damages or injuries, the extent of the same, and the place where same happened, the circumstances under which same happened, the conditions causing same, with a detailed statement of each item of damages and the amount thereof, and if it be for personal injuries, giving a list of the witnesses, if any known to affiants, who witnessed such accident.

### **Section 13.07 Assignment, Execution and Garnishment.**

The property, real and personal, belonging to said City shall not be liable to be sold or appropriated under any writ of execution or cost bill, nor shall the funds belonging to said City, in the hands of any person, be liable to garnishment on account of any debt the City may owe or funds the City may have on hand due any person, nor any of its officers or agents shall be required to answer any writ of garnishment on any account whatsoever, nor shall said City be liable to the assignee of any wages of any officer, agent or employee of said City, whether earned or unearned, upon any claim or account whatsoever, and any such attempted assignment shall be absolutely void as to the City.

### **Section 13.08 Bond of Contractors.**

The governing body of the City of Glenn Heights shall require sufficient payment and performance bonds of all contractors, with a good corporate surety thereon, acceptable to the governing body of the City of Glenn Heights.

### **Section 13.09 Condemnation of Dangerous Structures.**

Whenever, in the opinion of the governing body of the City of Glenn Heights, or appropriate city official, any building, fence, shed, awning, cave, excavation, structure, object or thing of any kind or part thereof may fall or collapse and injure persons or property, the City may order the owner or agent of the same or occupant of the premises to take such corrective measures as the governing body may direct, and may punish by fine all persons failing to do so. Upon his failure

to comply, the governing body shall have the additional power to remove the same on account of the owner of the property and assess the expenses thereof, including condemnation proceedings, as a special tax against the land or improvements, and the same may be collected as other special taxes provided for in this Charter, or by suit in any court of competent jurisdiction.

### **Section 13.10 Building Permits.**

The City of Glenn Heights shall have the power to prohibit the erection or construction of any building or structure of any kind within the City of Glenn Heights without a permit first having been issued by the City for the construction or erection of such building or structure, and may authorize a fee to be charged for such permit, and in pursuance of said authority may authorize the inspection by the City of all buildings or structures during the progress of their construction and may require that all buildings shall be constructed in conformity with the building code which exists in said City or shall hereafter be passed.

### **Section 13.11 Pool, Ponds, and Lakes.**

The City of Glenn Heights shall have the power to control or prohibit construction of pools, ponds, or lakes, receiving water from a recognizable stream, creek, branch, or natural drainage. The City may control location, construction, height of structure, depth and size of body of water to be impounded. No pool, pond, or lake, receiving water from a recognizable stream, creek, branch, or natural drainage, shall be constructed without first obtaining a permit issued by the City.

### **Section 13.12 Bonds of City Officials, Employee, or Department Director.**

In addition to any bonding provisions herein provided, the Council shall require not less than \$25,000 for the Tax Collector, and may require any city official, department director or city employee before entering upon his/her duties, to execute a good and sufficient bond with a surety company doing business in the State of Texas, and approved by the Council, as surety thereon, said bond to be in such amount as Council may demand payable to the City of Glenn Heights, and conditioned for the faithful performance of the duties of his office [the] premium of such bond to be paid by the City.

### **Section 13.13 Amendment of the Charter.**

This Charter may be amended no more than once every two (2) years as provided by the laws of the State of Texas.

### **Section 13.14 Severability Clause.**

If any Section or part of a Section of this Charter is held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity shall not invalidate or impair the validity, force or effect of any other Section or part of a Section of this Charter.

**Section 13.15 Construction of the Charter.**

In the wording of the Charter, the use of the singular number shall include the plural, and the plural shall include the singular. Words used in the masculine gender shall include the feminine also unless by reasonable construction, it appears that such was not the intention of this Charter.

**Section 13.16 Construction of Power.**

This Charter shall not be construed as a mere grant of enumerated powers, but shall be construed as a general grant of power and as a limitation of power on the government of the City of Glenn Heights in the same manner on as the Constitution of Texas is construed as a limitation on the powers by of the Legislature. Except where expressly prohibited by this Charter, each and every power under Article 11, Section 5 of the Constitution of Texas, which it would be competent for the citizens of the City of Glenn Heights to grant expressly to the City, shall be construed to be granted to the City by the Charter.

**Section 13.17 Churches and School Property Not Exempt From Special.**

No property of any kind, church, school, or otherwise, in the City shall be exempt from any of the special taxes and assessments authorized by it this Charter for local improvements unless the exemption is required by a state law.

**Section 13.18 Damages.**

No member of the City Council shall be individually liable or accountable in damages as a result of any actions taken by the member in performance of official duties.

**Section 13.19 Rearrangement and Renumbering.**

The Council shall have the power, by ordinance, to renumber and rearrange all Articles, Sections, and paragraphs of the Charter or any amendments thereto, as it shall deem appropriate, and upon the passage of any such ordinance, a copy thereof certified by the City Secretary, shall be forwarded to the Secretary of State for filing.

**Section 13.20 Effective Date of Charter.**

This Charter, if adopted, shall become effective from and after the votes cast at the election at which it is submitted to the voters shall have been counted and the result of said election declared and an order or ordinance shall have been entered upon the records of the City Council declaring it adopted. All amendments to this Charter shall become effective from and after the votes cast at the election at which such amendments are submitted to the voters shall have been counted and the result of said election declared and an order or ordinance shall have been entered upon the records of the City Council declaring such amendments to be adopted.

**Section 13.21 Non-substantive Corrections.**

In the event that typographical, grammatical, gender-specific or other non-substantive errors in this Charter are identified, the Council may, by unanimous vote, correct the same, provided that no such correction may alter the substantive meaning of any provision of the Charter.

**Section 13.22 Disaster Response.**

The City Manager shall ensure that a current disaster response plan is maintained by the City that is consistent with state and federal law regarding disaster response. The City Council shall, by ordinance, define an order of succession of authority, also consistent with state and federal law, to address chain of command in the event of disaster and/or the multiple deaths, injuries, or unavailability of City officials.

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| Reports, Financial                        | 7.09                       |
| Revenue Bonds                             | 8.05                       |
| Rules of Procedure for City Council       | 2.10                       |
| <b>S</b>                                  |                            |
| School and Church Property                | 13.17                      |
| Special Election                          | 2.04, 3.07                 |
| Specific powers of the City               | 1.03                       |
| Streets                                   | 1.04 – 1.05                |
| Surety Bonds                              | 13.12                      |
| <b>T</b>                                  |                            |
| Taxes                                     | 9.01 – 9.08                |
| <b>U</b>                                  |                            |
| Utilities and Franchises                  | 11.01 – 11.12              |
| <b>V</b>                                  |                            |
| Vacancies on City Council                 | 2.05                       |
| Volunteer Fire Department                 | 5.09                       |
| Votes Required                            |                            |
| Amend an Initiated or Referred Ordinance  | 4.06                       |
| Regular or Special Elections              | 3.01, 3.07                 |
| Repeal an Initiated or Referred Ordinance | 4.06                       |
| Voting of City Council                    | 2.06 – 2.07, 2.11          |
| <b>W</b>                                  |                            |
| <b>X</b>                                  |                            |
| <b>Y</b>                                  |                            |
| <b>Z</b>                                  |                            |
| Zoning and Planning                       | 10.01 – 10.04              |
| Zoning and Planning Commission            | 10.01                      |