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RECEIVED

By Opinion Committee at 2:01 pm, Apr 06, 2022

April 6, 2022

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Via email opinion.committee@oag.texas.gov

Office of the Attorney General
Attention Opinion Committee
P.O. Box 12548
Austin, Texas 78711-2548

RE: City Council Member also a member of City Police Reserve Force

Dear General Paxton:

Pursuant to Texas Government Code, Section 402.043, the Brazoria County District Attorney's Office respectfully submits this request for an Attorney General's opinion. This office has received a question from the City Manager for the City of Freeport regarding a possible conflict pertaining to a councilmember that is also a police reserve officer for the City.

QUESTION:

On June 15, 2020, Troy Brimage was appointed as a Police Reserve Force for the City of Freeport Police Department by Resolution 2020-2634 pursuant to Sections 31.15-31.20 of the Freeport Code of Ordinances. In May, 2021, Troy Brimage was elected as a City of Freeport councilmember representing Ward D. The question has been raised regarding can Mr. Brimage, a city council member, continue to be on the City's Reserve Police Force?

POLICE RESERVE FORCE:

Section 341.012 of the Texas Local Government Code allows the governing body of a municipality to establish a police reserve force. *See* Tex. Loc. Gov't Code Ann. §341.012. The governing body shall establish qualifications and standards of training for members of the reserve force and may limit the size. *Id.* §341.012(b), (c). However, the police chief appoints the members and they serve at the chief's discretion. *Id.* §341.012(d). An appointment to the reserve force must be approved by the governing body before the person appointed may carry a weapon or otherwise act as a peace officer. *Id.* §341.012(g). On approval of the appointment of a member who is a peace officer as described by Article 2.12, Code of Criminal Procedure, the chief of police may authorize the person appointed to carry a weapon or act as a peace officer at all times, regardless of whether the person is engaged in the actual discharge of official duties, or

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may limit the authority of the person to carry a weapon or act as a peace officer to only those times during which the person is engaged in the actual discharge of official duties. *Id.* §341.012(h).

CITY CHARTER

The City of Freeport ("City") is a home rule city and a council-manager government. *See* Freeport, Tex., Freeport City Code, ch. 1, § 1.01 (1960). Attachment 1 contains the relevant sections of the City's Code of Ordinances. The City Council determines policy and appoints and removes the City Manager. *Id.* ch. 3, § 3.07 (2012). The City Manager appoints and removes any employee. *Id.* ch. 4, § 4.01(c) (2014). The Police Chief is appointed and removed by the City Manager but only after approval by City Council. *Id.* ch. 4, § 4.02(a) (2012).

The City's Chief of Police is the chief administrative officer of the Police Department. *Id.* The Police Chief, with the approval of the City Manager, appoints and removes the Police Department employees. *Id.* The City has adopted the Code of Criminal Procedure Art. 2.12 definition of Peace Officer. *Id.* ch. 31, § 31.01 (1993). Pursuant to Article 2.12 of the Code of Criminal Procedure, the following are peace officers: (3) marshals or police officers of an incorporated city, town, or village, and those reserve municipal police officers who hold a permanent peace officer license issued under Chapter 1701, Occupations Code. *See* Tex. Code Crim. Proc. Ann. Art. 2.12(3). Pursuant to Texas Occupations Code Section 1701.001 a "Peace officer" is a person elected, employed, or appointed as a peace officer under Article 2.12, Code of Criminal Procedure, or other law; a "reserve law enforcement officer" is a person designated as a reserve law enforcement officer under Section ... 341.012, Local Government Code...; and an "Officer" is a peace officer or reserve law enforcement officer. *See Id.* § 17.001(3), (4), (6).

The City Charter follows Section 341.012 of the Texas Local Government Code relating to the use of a Police Reserve Force. *See* Freeport, Tex., Freeport City Code, ch. 31, §§ 31.15-31.20 (1993). Section 31.17 of the City's Code requires that the Chief of Police appoint the Police Reserve Force. *Id.* § 31.17; *See also* Tex. Loc. Gov't Code Ann. § 341.012(d). However, no person appointed to the Reserve Force may carry a weapon or otherwise act as a peace officer unless that person has been approved by the affirmative vote of the majority of the members of the City Council present and voting at a regular or special meeting. *Id.*; *See also* Tex. Loc. Gov't Code Ann. § 341.012(g). The Police Chief may remove a member of the Police Reserve Force at any time. *Id.*; *See also* Tex. Loc. Gov't Code Ann. § 341.012(d).

COMMON-LAW DOCTRINE OF INCOMPATIBILITY:

The common-law doctrine of incompatibility prohibits dual public service in certain instances. It has three components: (1) self-appointment; (2) self-employment; and (3) conflicting loyalties.

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Tex. Att’y Gen. Op. No. GA-0307 (2005) at 3. Self-appointment incompatibility prevents one person from holding two offices, one of which appoints the other. *See Ehlinger v. Clark*, 8 S.W.2d 666, 674 (Tex. 1928) (“[C]ourts have with great unanimity throughout the country declared that all officers who have the appointing power are disqualified from appointment to the offices to which they may appoint.”). Similarly, self-employment incompatibility prohibits one person from holding an office and an employment that the office supervises. *See id.*; Tex. Att’y Gen. Op. No. GA-0766 (2010) at 1. “Self-employment” incompatibility is a corollary to the “self-appointment” doctrine. It was first applied in Attorney General Opinion LA-114, which concluded that a public school teacher was ineligible to serve as a member of the board of trustees of the district in which she was employed as a teacher. *See Tex. Att’y Gen. LA-114* (1975) at 8. Conflicting-loyalties incompatibility prohibits an individual from simultaneously holding two positions that would prevent him or her from exercising independent and disinterested judgment in either or both positions.” Tex. Att’y Gen. Op. No. GA-0169 (2004) at 2. However, both positions must be “offices” in order for conflicting-loyalties incompatibility to be applicable. *See Tex. Att’y Gen. Op. No. JM-1266* (1990) at 4.

In Attorney General Opinion JC-0371 (2001), the Attorney General opined that:

one of the most important tests as to whether offices are incompatible is found in the principle that the *incompatibility is recognized whenever one is subordinate to the other in some of its important and principal duties, or is subject to supervision by the other, or where a contrarity and antagonism would result in the attempt by one person to discharge the duties of both.* Under this principle two offices are incompatible where the incumbent of one has the power to remove the incumbent of the other, though the contingency on which the power may be exercised is remote, and *it also exists where the incumbent of one office has the power of appointment as to the other office, or to audit the accounts of another, or to exercise supervision over another.*

Tex. Atty. Gen. Op. JC-0371 (2001) at 2 (emphasis in original).

On December 2, 1985, your office issued an opinion addressing the same issue as the City of Freeport is inquiring about. It was determined that the common law doctrine of incompatibility prohibited an alderman on the city council of a general law city from serving as a member of the city’s police reserve. *See Tex. Att’y Gen. Op. No. JM-386* (1985) at 3. It was determined that the city council had considerable supervisory power over the police reserve and made the force accountable to the city council. *id.*

In this case, the City Council appoints and removes the City Manager. *See Freeport, Tex., Freeport City Code, ch. 3, § 3.07* (2012). The City Manager appoints and removes the Chief of Police, but only after approval by City Council. *Id. ch. 4, § 4.02(a)* (2012). The Chief of Police

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appoints the Police Reserve Force. *Id.* ch. 4, § 4.02(a) (2012). But, no individual member of the Police Reserve Force may carry a weapon or otherwise act as a police officer until the appointment has been approved by the City Council *Id.* § 31.17. However, the Police Chief is the only person allowed to remove a member of the Police Reserve Force at any time. *Id.* ch. 31, §31.17.

So, is the City Council's supervision and other authority over the City Manager and Police Chief enough to confirm that the holding of a city councilmember position and being a police reserve force member meets the common-law doctrine of incompatibility?

Thank you for your attention to this matter and addressing this issue.

Sincerely,



TOM SELLECK

Enclosures:

cc: Tim Kelty
Freeport City Manager

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ATTACHMENT

1

HOME RULE CHARTER

Section

Article 1.

Form of Government and Boundaries

- 1.01 Form of government
- 1.02 Boundaries
- 1.03 Annexation for all purposes
- 1.04 Contraction of boundaries

Article 2.

Power of the City

- 2.01 General
- 2.02 General powers adopted
- 2.03 Eminent domain

Article 3.

The Governing Body

- 3.01 Number, selection, and term
- 3.02 Qualifications
- 3.03 Council to be judge of election and qualification
- 3.04 Compensation
- 3.05 Mayor Pro Tem
- 3.06 Vacancies
- 3.07 Powers of the City Council
- 3.08 City Council not to interfere in appointments
- 3.09 Meetings of the City Council
- 3.10 Rules of procedure
- 3.11 Procedure for passing of ordinances
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Article 4.

Administrative Services

- 4.01 City Manager
- 4.02 Department of Police
- 4.03 City Secretary
- 4.04 Director of Finance
- 4.04A Multiple Duties
- 4.05 Municipal Court
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- 10.07 Consent of property owners
- 10.08 Extensions
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- 10.10 Accounts of municipally-owned utilities
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Article 11.

General Provisions

- 11.01 Publicity of records
- 11.011 Selection of newspapers for publications
- 11.02 Personal interest
- 11.03 Drilling operations
- 11.04 Nepotism
- 11.05 Provisions relating to assignment, execution and garnishment
- 11.06 City not required to give security or executive bond
- 11.07 Special provisions covering damage suits
- 11.08 Separability clause
- 11.09 Effect of this charter on existing law
- 11.10 Interim municipal government
- 11.11 Applicability of general laws
- 11.12 Amending the charter
- 11.13 Charter review commission
- 11.14 Submission of charter to voters
- 11.15 Gender neutral provision

Editor's note:

The city's Home Rule Charter was adopted by the voters of the city at a special election held on June 18, 1960, and adopted June 20, 1960.

PREAMBLE

We, the citizens of Freeport, Texas, in order to provide for the future progress of our City and obtain more fully the benefits of local self-government, do hereby adopt this Home Rule Charter in accordance with the statutes of the State of Texas; do hereby declare the residents of the City of Freeport in Brazoria County, Texas, living within the legally established boundaries of the said City, to be a political subdivision of the State of Texas incorporated forever under the name and style of the "City of Freeport" with such powers, rights, and duties as are herein provided.

ARTICLE 1. FORM OF GOVERNMENT AND BOUNDARIES

SECTION 1.01. FORM OF GOVERNMENT.

The municipal government provided by this Charter shall be known as the "Council-Manager Government." Pursuant to its provisions and subject only to the limitations imposed by the State Constitution, the statutes of this State and by this Charter, all powers

of the City shall be vested in an elective Council, hereinafter referred to as the "City Council," which shall enact local legislation, adopt budgets, determine policies and appoint the City Manager, who in turn shall be held responsible to the City Council for the execution of the laws and the administration of the government of the City. All powers of the City shall be exercised in the manner prescribed by this Charter, or if the manner be not prescribed, then in such manner as may be prescribed by ordinance, the State Constitution or the statutes of this State.

SECTION 1.02. BOUNDARIES.

The boundaries of the City of Freeport shall be the same as have heretofore been established and as they existed on the 25th day of April, 1960, which boundaries are more fully set out on an official map, and described by metes and bounds in a document titled "Boundaries of the Corporate Limits of the City of Freeport, Brazoria County, Texas," being Ordinance No. 1022, filed in the City Hall of the City of Freeport, Texas.

SECTION 1.03. ANNEXATION FOR ALL PURPOSES.

The Council shall have the power by ordinance to fix the boundary limits of the City of Freeport; and to provide for the alteration and extension of said boundary limits, and the annexation of additional territory lying adjacent to the City, with or without the consent of the territory and the inhabitants annexed, any such annexation being in accordance with the provisions of the Municipal Annexation Act codified as Chapter 43 of the Local Government Code. Upon the passage of any ordinance annexing property to the City, the boundary limits of the City shall thereafter be fixed in such ordinance; and when any additional territory has been so annexed, same shall be a part of the City of Freeport, and the property situated therein shall be entitled to all the rights and privileges of all the citizens, and shall be bound by the acts, ordinances, resolutions and regulations of the City. (Res. No. 1065, Prop. I, 4-4-77; Election of 4-3-82; Amendment adopted by electorate 5-2-98)

SECTION 1.04. CONTRACTION OF BOUNDARIES.

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

provided, however, the City Council shall not appoint more than one council member in any twelve-month period, and in the event of the occurrence of a vacancy in the City Council within a twelve-month period in which a vacancy in the City Council has been filled by the said City Council, or in the event that more than one vacancy shall occur at the same time; then in such event a special election shall be held within forty (40) days from the date the last vacancy occurred, for the purpose of electing the successor or successors. In the event that the Mayor and Mayor Pro Tem should resign at the same time, the remaining members of the City Council, or any of them, shall have the right and power to issue legal notice of such election to be so held, and to elect and appoint election officials. Should all positions on the City Council become vacant at one time, then in such event, the County Judge of Brazoria County, Texas, is hereby empowered and directed to issue notice of such special election for and on behalf of said City, and to appoint qualified persons as election officials.

SECTION 3.07. POWERS OF THE CITY COUNCIL.

The determination of all matters of policy and the exercise of all powers of local self-government shall be vested in the City Council. By way of illustration, but not limitation, the following enumerated powers are among these powers that may be exercised by the City Council:

(a) Power to remove from office in City Government, any officer or member of any board or commission but shall not have the authority to remove any employee from the employment of the City Government, except the City Manager;

(b) Power to establish, consolidate, or abolish administrative department, but shall not distribute the work of divisions;

(c) Adopt the budget of the City;

(d) Authorize the issuance of bonds by a bond ordinance in accordance with the general laws of the State of Texas;

(e) Inquire into the conduct of any office, department or agency of the City and make investigations as to municipal affairs;

(f) Provide for such additional boards and commissions, not otherwise provided for in this Charter, as may be deemed necessary, and appoint the members of all such boards and commissions. Such boards and commissions shall have all powers and duties now or hereafter conferred and created by this Charter, by City ordinance or by law;

(g) Adopt and modify the zoning plan and the building code of the City;

(h) Adopt and modify the official maps of the City;

(i) Adopt, modify and carry out plans proposed by the Planning Commission for the clearance of slum districts and rehabilitation of blighted areas;

(j) Adopt, modify and carry out plans proposed by the Planning Commission for the replanning, improvement and redevelopment of any area or district which may have been destroyed in whole or in part by disaster;

(k) Grant franchises, regulate, license and fix the charges or fares made by any person, firm or corporation owning, operating or controlling any vehicle of any character used for the carrying of passengers for hire, or the transportation of freight for hire, on the public streets and alleys of the City;

(l) Provide for the establishment and designation of fire limits and prescribe the kind and character of buildings or structures or improvements to be erected therein, and provide for the erection of fireproof buildings within said limits, and provide for the condemnation of dangerous structures or buildings or dilapidated buildings, or buildings calculated to increase the fire hazard and prescribe the manner of their removal or destruction within said limits;

(m) Fix the salaries and compensation of the employees of the City and of all officers of the City other than that of the Mayor and other members of the City Council;

(n) Provide for a sanitary sewer and water system and require property owners to connect their premises with sewer system, and provide for penalties for failure to make sanitary sewer connections;

(o) Provide for sanitary garbage disposal, and set fees and charges therefor, and provide penalties for failure to pay such fees and charges;

(p) Exercise exclusive dominion, control and jurisdiction, including the right to close and abandon streets and alleys in, upon, over and under the public streets, avenues, sidewalks, alleys, highways, boulevards and public grounds of the City and provide for the improvement of same as provided in Article 1105b, Chapter 9, Title 28, of the Revised Civil Statutes of the State of Texas of 1925, as now or hereafter amended;

(q) Exercise those powers enumerated in Acts of the 43rd Legislature of the State of Texas, 1933, p. 774, Chapter 231, commonly known as Article 1187a, Revised Civil Statutes of Texas, 1925, as the same exist or may be hereafter amended;

(r) Provide for and establish hospitalization insurance for employees;

(s) Participate in National or State Social Security programs;

(t) Compromise and settle any and all claims and lawsuits of every kind and character in favor of or against the City of Freeport;

(u) And such other and further powers as have been or may from time to time hereafter be delegated to Home Rule cities by the Legislature of the State of Texas, including the powers incident to the exercise thereof.

(Res. No. 1129, Props 2, 3, 4-7-79; Amendment adopted by electorate 5-12-12)

SECTION 3.08. CITY COUNCIL NOT TO INTERFERE IN APPOINTMENT.

Neither the City Council nor any of its members shall direct the appointment of any person to office by the City Manager or by any of his subordinates. Except for the purpose of inquiry, the City Council and its members shall deal with the administrative services solely through the City Manager and neither the City Council nor any member thereof shall give orders to any subordinate of the City Manager, either publicly or privately.

SECTION 3.09. MEETINGS OF THE CITY COUNCIL.

The council shall have two (2) regular meetings per month, the date, place and beginning time of which shall be established by ordinance. The city secretary, under the direction of the mayor or city manager, shall be responsible for complying with the notice provisions of the Open Meetings Act for all regular meetings. A regular meeting may be cancelled or the location thereof changed by the mayor. Provided, however, no regular meeting may be held outside the corporate limits of the city. An emergency meeting or special meeting may be

(Amendment adopted by electorate 5-24-04)

SECTION 3.14. AUDIT AND EXAMINATION OF CITY BOOKS AND ACCOUNTS.

City Council shall, as soon as feasible, after the close of the fiscal year, select a Certified Public Accountant for the purpose of performing a complete audit of all books, records and accounting systems being used by the City. It shall be the duty of such Certified Public Accountant to perform two (2) spot, partial audits during the fiscal year, all work to commence on an unannounced basis by such accountant. His report shall include a recapitulation of all audits made during the year and all audit reports shall be filed with the City Council, shall be available for public inspection, and shall be a part of the archives of this City. Such accountant, so selected, shall not maintain or keep any of the City's accounts or records.

(Res. No. 803, § 3, 4-7-69)

SECTION 3.15. PUBLICATION OF FINANCIAL STATEMENT.

As soon as possible after the close of each quarter of the fiscal year, the City Manager shall cause a financial statement for such quarter to be prepared and made available for inspection by the public in the office of the City Secretary and maintain such report on the City's website for the next succeeding quarter of the fiscal year.

(Amendment adopted by electorate 5-7-94; Amendment adopted by electorate 5-10-14)

ARTICLE 4. ADMINISTRATIVE SERVICES

SECTION 4.01. CITY MANAGER.

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

(b) Term and Salary: The City Manager shall not be appointed for a definite term but may be removed at the will and pleasure of the City Council by a vote of the majority of the entire Council. The action of the City Council in suspending or removing the City Manager shall be final, it being the intention of this Charter to vest all authority and fix all responsibility of such suspension or removal in the City Council. If the City Manager should be suspended, or if the office of City Manager is vacant by reason of the death, resignation or removal of the City Manager, the City Council shall appoint some qualified person to perform the duties of such office as Acting City Manager until such suspension is lifted or a permanent City Manager is appointed and qualifies. The City Manager and any Acting City Manager shall receive such compensation as may be fixed by the City Council.

(c) Duties of the City Manager:

(1) Appoint, and when necessary for the welfare of the City, remove any employee of the City, except as otherwise provided by this Charter;

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

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

(4) Keep the City Council advised of the financial condition and future needs of the City and make such recommendations as may seem desirable;

(5) Perform such duties as may be prescribed by this Charter or may be required of him by the City Council, not inconsistent with this Charter.

(d) Absence or disability of the City Manager. If the City Manager is unable to perform the duties of such office as a result of absence or disability, or if such office becomes vacant and the City Council has not yet appointed an Acting City Manager, the Mayor may designate in writing, to be filed with the City Secretary, a qualified employee of the City to perform the duties of the City Manager during such absence or disability or, in the case of such office becoming vacant, until an Acting City Manager has been appointed by the City Council. Provided, however, any such designation shall expire on the day following the next regular meeting of the City Council unless confirmed by the City Council at such meeting.

(e) Within six (6) months of his or her appointment, the City Manager shall establish and thereafter maintain a place of residence within the city for the duration of his or her employment by the city in such capacity. Provided, however, this requirement shall not apply to the person serving as the City Manager on the date it becomes a part of the Home Rule Charter.

(Amendment adopted by electorate 5-4-02; Amendment adopted by electorate 5-10-14)

SECTION 4.02. DEPARTMENT OF POLICE.

There shall be established and maintained a Department of Police to preserve order within the City and to secure the residents of said City from violence and the property therein from injury or loss.

(a) Chief of Police. The chief of police shall be the chief administrative officer of the department of police. He shall, with the approval of the City Manager, appoint and remove the employees of such department and shall perform such other duties as may be required of him by the city council. The chief of police shall be appointed by the city manager, with the approval of the city council, for an indefinite term. The chief of police shall be responsible to the city manager for the administration of the police department and the carrying out of the directives of the city council. The chief of police may be removed from office by the city manager with the approval of the city council.

(b) Special Police. No persons except as otherwise provided by general law or this Charter or the ordinances passed pursuant thereto shall act as special police or special detective.

(Amendment adopted by electorate 5-7-94)

(c) The Chief of Police shall appoint one of the members of the Police Department to act as warrant officer. The warrant officer shall execute warrants and other process issued by the Judge or Clerk of the Municipal Court, attend and act as bailiff at all sessions of the Municipal Court, act as security officer for all Municipal Court personnel and perform such

other and further duties as may be requested of him by the Municipal Court Judge or assigned by the Chief of Police, with priority being given by the warrant officer to discharging the duties of warrant officer as specified herein.

(Amendment adopted by electorate 5-12-12)

SECTION 4.03. CITY SECRETARY.

The City Manager shall appoint a competent person as City Secretary and such assistants as the City Council shall deem advisable. The City Secretary, or an Assistant City Secretary, shall give notice of Council meetings, shall keep the minutes of the proceedings of such meetings, and shall authenticate by his signature and record in full in a book kept and indexed for the purpose, all ordinances and resolutions, and shall perform such other duties the City Manager shall assign to him, and those elsewhere provided for in this Charter and the laws of the State of Texas.

SECTION 4.04. DIRECTOR OF FINANCE.

The City Manager shall appoint a competent person as Director of Finance and such assistants as the City Council shall deem advisable. The Director of Finance shall perform the duties delegated to him by the City Manager and those which may be imposed upon municipal treasurers or finance directors by the laws of the State of Texas.

(Res. No. 1065, Prop. 2, 4-4-77; Amendment adopted by electorate 5-10-08)

SECTION 4.04A. MULTIPLE DUTIES.

The duties of the City Manager, City Secretary, Tax Assessor and Collector and Director of Finance may be performed by the same individual for not more than six (6) consecutive months.

(Res. No. 1065, Prop. 2, 4-4-77; Amendment adopted by electorate 5-10-08; Amendment adopted by electorate 5-15-18)

SECTION 4.05. MUNICIPAL COURT.

(a) There shall be established and maintained a court designated as a "Municipal Court" for the trial of misdemeanor offenses, with all such powers and duties as are now or hereafter prescribed by the laws of the State of Texas relative to such court.

(b) The Judge of said Court shall be a qualified voter of Brazoria County, Texas appointed by the City Council, shall hold such office at the pleasure of the City Council, and shall receive such salary as may be fixed by the City Council.

(Amendment adopted by electorate 5-8-10)

(c) The City Manager shall appoint and when necessary for the welfare of the City, remove the Municipal Court Clerk and any Deputy Municipal Court Clerks but the number of deputies and the salary of the clerk and all deputies shall be fixed by the City Council.

(d) The Clerk of said Court and his deputies shall have the power to administer oaths and affidavits, make certificates, affix the seal of said Court thereto, and generally do and perform any and all acts usual and necessary by the Clerk of Courts in issuing process of said Courts and conducting the business thereof.

General Provisions

- 31.01 Peace officer defined
- 31.02 Arrest without warrant

Police Reserve Force

- 31.15 Establishment; number of members limited
- 31.16 Qualifications and standards of training; oath of office
- 31.17 Appointment and removal of members
- 31.18 Duties and powers of members
- 31.19 Compensation; injury costs
- 31.20 Badges, emblems, and uniforms

GENERAL PROVISIONS

§ 31.01 PEACE OFFICER DEFINED.

For the purpose of this chapter, PEACE OFFICER shall mean those persons enumerated as such in Tex. Crim. Proc. Code, Art. 2.12.

(Ord. 1734, passed 1-4-93)

§ 31.02 ARREST WITHOUT WARRANT.

(A) A peace officer or any other person may, without a warrant, arrest an offender when the offense is committed in his presence or within his view, if the offense is one classed as a felony or as an offense against public peace.

(B) A peace officer may arrest an offender without a warrant for any offense committed in his presence or within his view.

(Tex. Crim. Proc. Code, Art. 14.01 et seq.)('68 Code, 28-2)

POLICE RESERVE FORCE

§ 31.15 ESTABLISHMENT; NUMBER OF MEMBERS LIMITED.

There is hereby established for the city a Police Reserve Force. Provided, however, the membership of such force shall never exceed 20 members at any one time.

(Ord. 1734, passed 1-4-93)

§ 31.16 QUALIFICATIONS AND STANDARDS OF TRAINING; OATH OF OFFICE.

To be eligible for appointment as a member of the Police Reserve Force of the city, a person shall meet the minimum physical, mental, and moral standards established by the Texas Commission on Law Enforcement Standards and Education and be certified by the Commission to act as a peace officer in the state.

(Ord. 1734, passed 1-4-93)

§ 31.17 APPOINTMENT AND REMOVAL OF MEMBERS.

Members of the Police Reserve Force of the city shall be appointed at the discretion of the Chief of Police, but no person appointed to such force may carry a weapon or otherwise act as a peace officer unless or until the appointment of such person has been approved by the affirmative vote of the majority of the members of the City Council present and voting at a regular or special meeting thereof and until such person has taken the oath of office prescribed in § 5.08 of the Home Rule Charter of the city. Provided, however, any member of the Police Reserve Force of the city may be removed from office at any time by the Chief of Police and shall be removed from office if such member ceases to have the minimum qualifications specified above in § 31.16 of this subchapter.

(Ord. 1734, passed 1-4-93)

§ 31.18 DUTIES AND POWERS OF MEMBERS.

Members of the Police Reserve Force shall serve as peace officers only during the actual discharge of their official duties. Members shall be available for service a minimum of 16 hours per month. Even after the approval by the City Council of the appointment of a person as a member of such force, such person may only carry a weapon when authorized to do so by the Chief of Police and when discharging official duties as a duly constituted peace officer. Members of such force shall serve as peace officers of the city only at the discretion of the Chief of Police and may be called into service only by the Chief of Police when the Chief of Police considers it necessary to have additional officers to preserve the peace and enforce the law. Members of such force shall act as peace officers only in a supplementary capacity to the Chief of Police and the other full time officers of the Police Department of the city. In no case shall a member of the Police Reserve Force assume the full time duties of the Chief of Police or other full-time officer of the Police Department without first complying with all the requirements of the law of the state and the charter and ordinances of the city.

(Ord. 1734, passed 1-4-93)

§ 31.19 COMPENSATION; INJURY COSTS.

Members of the Police Reserve Force of the city shall serve without compensation. Further, at this time the city makes no provision for hospital and medical assistance to a member of such force who sustains injury in the course of performing official duties and any member acting as such is expected to assume the cost of any hospital or medical assistance rendered to such member in the event such member sustains an injury in the course of performing official duties.

(Ord. 1734, passed 1-4-93)

§ 31.20 BADGES, EMBLEMS, AND UNIFORMS.

Each member of the Police Reserve Force shall be expected to obtain at the expense of such member two uniforms of a type to be approved by the Chief of Police. The city shall furnish at its own expense a badge of a type to be approved by the Chief of Police and an emblem to be worn on the uniform of each member indicating the status of such member as a member of such force. Provided, however, in the event a member resigns or is removed from office, the badge of such member shall be returned to the Chief of Police.