CITY OF LEON VALLEY

Home Rule Charter Commission Meeting
Leon Valley City Council Chambers
6400 El Verde Road, Leon Valley, Texas 78238
Wednesday, December 17, 2014

AGENDA

1. **6:00 p.m.** Call to order and announcement of a quorum.
2. Adopting the minutes of the December 3, 2014 Home Rule Charter Commission Meeting.
3. Discuss, consider and approve Article III - Mayor and City Council.
4. Discuss, consider and possible action on Article VI - Initiative, Referendum and Recall.
5. Discuss, consider and possible action on Article VII - General Provisions.
6. Discuss, consider and possible action on Article VIII – Transitional Provisions
7. Adjournment.

Attendance by Other Elected or Appointed Officials:

It is anticipated that members of City Council and other City boards, commissions and/or committees may attend the meeting in numbers that may constitute a quorum. Notice is hereby given that the meeting, to the extent required by law, is also noticed as a meeting of any other boards, commissions and/or committees of the City, whose members may be in attendance in numbers constituting a quorum. These members of City Council and other City boards, commissions, and/or committees may not deliberate or take action on items listed on the agenda. [Attorney General Opinion – No. GA-0957 (2012)].

I hereby certify that the above NOTICE OF PUBLIC MEETING AND AGENDA OF THE LEON HOME RULE CHARTER COMMISSION were posted on the Bulletin Board at City Hall, 6400 El Verde Road, Leon Valley, Texas, on December 10, 2014 at 1:42 p.m. and remained posted until after the meetings hereby posted concluded. This notice was likewise posted on the City website at www.leonvalleytexas.gov. This building is wheelchair accessible. Any request for sign interpretive or other services must be made 48 hours ahead of the meeting. To make arrangements call (210) 684-1391, Ext. 216.

SAUNDRA PASSAILAIGUE, TRMC
City Secretary

Item 2

CITY OF LEON VALLEY

Home Rule Charter Commission Meeting

Leon Valley City Council Chambers
6400 El Verde Road, Leon Valley, Texas 78238
Wednesday, December 3, 2014

MINUTES

The Home Rule Charter Commission of the City of Leon Valley, Texas met on the 3rd day of December 2014 at 6:00 p.m. at the Leon Valley City Council Chambers located at 6400 El Verde Road, Leon Valley, Texas for the purpose of the following business:

Call to order and announcement of a quorum.

Chairman Arthur "Art" Reyna called the meeting to order at 6:02 p.m. and determined that a quorum was present.

The minutes reflect that the following Members of the Home Rule Charter Commission were present: Chairman Arthur "Art" Reyna, Vice Chairman Jack Dean, Rudy Garcia, David Jordan, Mike McCarley, Liz Maloy, Victor Rodriguez, Darby Riley, Manuel Rubio and Al Uvietta. Not in attendance and excused was Kathy Hill.

City Attorney Charles Zech, City Manager Manuel Longoria, Jr., Human Resources Director & Commission Staff Liaison Crystal Caldera, and Economic Development Director Claudia Mora were also present.

Adopting the minutes of the November 19, 2014 Home Rule Charter Commission Meeting.

Chairman Reyna asked the Commission if they had any changes to the minutes. Commission Member Liz Maloy made a motion to adopt the minutes as written for November 19, 2014. Commission Member Al Uvietta seconded the motion. The motion passed unanimously.

Discussion, consider and possible action on Article III Mayor and City Council.

City Attorney Zech stated the only item outstanding in Article III was Section 3.02 part B which states the following:

*"No **[current or]** future elected official shall serve more than three (3) consecutive terms of office and no more than five (5), terms during a lifetime. For purposes of this subsection an official shall have been considered to have served a term upon taking the oath of office, regardless of whether the official serves the complete term. Any official who has served three (3) consecutive terms shall be prohibited from serving another term for a period of one year and eleven months from the date of the expiration of the third consecutive term."*

There was a lengthy discussion on including "past, current and future" elected officials in the section above. Commission Member Rudy Garcia made a motion to include past, current and future elected officials to section 3.02 part B. There was a roll call vote as follows: Victor Rodriguez "Aye", David Jordan "Nay", Rudy Garcia "Aye", Al Uvietta "Aye" Chairman Arthur "Art" Reyna, "Aye", Vice Chairman Jack Dean "Aye", Mike McCarley "Aye", Liz Maloy "Aye", Darby Riley "Nay", and Manuel Rubio "Aye". The motion passed; two opposed, eight in favor.

Discuss, consider and possible action on Article VI Initiative, Referendum and Recall

City Attorney Zech reviewed some of the changes he made based on the suggestions from the Commission which included the following:

- A petition committee with a minimum of five members
- 15 percent of registered voters necessary to set forth a referendum
- 15 percent of registered voters necessary to set forth an initiative
- 20 percent of registered voters necessary to set forth a recall
- The City Secretary would send the certificate to the designated address as specified by the petition committee

Commission Member Darby Riley requested that clarification be made in Article VI to allow any registered voter to circulate a petition. The Commission agreed and City Attorney Zech acknowledged he would make the change.

Discussion, consider and possible action on Article V Administrative Organization

City Attorney Zech presented a sample of Article V Administrative Organization, stating that he was not trying to lead the Commission in any direction, but provide a foundation for the Commission to work with.

Commission Member Darby Riley raised concern with having a vote of two-thirds of City Council to appoint or remove the City Manager. He felt that it should only require a majority of City Council. Commission Member Al Uvietta stressed the importance of the appointment and/or removing of a City Manager and felt that a two-thirds vote was more appropriate.

Commission Member Al Uvietta made a motion to have a vote of two-thirds of City Council to appoint or remove the City Manager. Vice Chairman Jack Dean seconded the motion. A roll call vote was taken and was as followed: Liz Maloy “Nay”, Darby Riley “Nay”, Manuel Rubio “Aye”, Chairman Reyna “Aye”, Vice Chairman Dean “Aye”, Al Uvietta “Aye”, Rudy Garcia “Aye”, David Jordan “Aye”, Victor Rodriguez “Aye”, Mike McCarley “Aye”. The motion passed; two opposed, eight in favor.

Commission Member Liz Maloy opened the discussion on a residency requirement for the City Manager. There was some discussion and the majority of the Commission agreed not to have a residency requirement for the City manager and to leave Article V. Administrative Organization Section 5.01 City Manager as presented by City Attorney Zech, which states the following:

“The City Council shall appoint a City Manager who shall be the chief administrative and executive officer of the City and shall be responsible to the City Council for the administration of all the affairs of the City. The City Manager shall be chosen by the City Council solely on the basis of the City Manager’s executive and administrative training, experience and ability.”

Chairman Arthur “Art” Reyna requested that “licensed attorney” be added to Article V. Administrative Organization Section 5.02 part C Municipal Court ; Judges. The Commission was in agreement.

The Commission there was consensus with the remainder of the Article V. Administrative Organization.

Discussion, consider and possible action on Article VII General Provision

This was postponed until the next meeting.

Adjournment

Chairman Arthur “Art” Reyna announced the meeting adjourned at 8:43 p.m.

APPROVED: _____
Arthur “Art” Reyna
Chairperson

ATTESTED: _____
Crystal Caldera
Staff Liaison

Item 3

III. THE CITY COUNCIL AND MAYOR

Section 3.01 General Powers and Duties

Comment [CZ1]: Approved

All powers of the City shall be vested in the City Council, except as otherwise provided by law or this Charter and the City Council shall provide for the exercise thereof and for the performance of all duties and obligations imposed on the City by law.

Section 3.02 Number, Selection, and Term

A. The membership of City Council (members of City Council) shall be composed of the Mayor and six (6) Council Members. The Mayor and Council Members shall be elected from the City at large by place for three (3) year terms.

B. No past, current, or future elected official shall serve more than three (3) consecutive terms of office and no more than five (5), terms during a lifetime. For purposes of this subsection an official shall have been considered to have served a term upon taking the oath of office, regardless of whether the official serves the complete term. Any official who has served three (3) consecutive terms shall be prohibited from serving another term for a period of one year and eleven months from the date of the expiration of the third consecutive term.

Section 3.03 Qualifications

Comment [CZ2]: Approved

The Mayor and each Council Member shall meet the following:

A. Be a qualified voter in the City and State at the time of taking office;

B. Be a resident of the City;

C. Have resided continuously in the corporate limits of the City for 12 months immediately preceding the date of the election;

D. Not be in violation of any provision in this Charter;

E. Be 21 years of age or older on the first day of the term to be filled at the election;

F. Satisfy any other eligibility requirements prescribed by law for the office for which they are a candidate.

Section 3.04 Judge of Qualifications

Comment [CZ3]: Approved

The City Council is the final judge of all elections and the qualifications of its members and of any other elected officials of the City.

Section 3.05 Compensation

Comment [CZ4]: Approved 10.08.2014

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A. City Council shall not receive any compensation unless determined by vote as provided for herein.

1. Compensation of the City Council, and any subsequent increases, shall be determined and approved by City Council upon a two-thirds vote of the City Council.

2. The increase in compensation shall take effect for the Mayor and each Council Member at the beginning of the next term of office for each respective office.

B. The City Council may be reimbursed for expenses incurred in performance of official duty. The policy regulating payment of expenses incurred in performance of official duty shall be determined by the City Council.

Section 3.06 Mayor

Comment [CZ5]: Approved 10.08.2014

A. The Mayor shall be the presiding officer of the City Council and shall be recognized as the head of the City government for all ceremonial purposes, for emergency management purposes, and by the governor for purposes of military law.

B. The Mayor may debate and discuss any matters before the City Council and shall vote on all issues with the City Council.

Section 3.07 Mayor Pro-Tem

Comment [CZ6]: Approved 09.17.2014

A. The Mayor Pro-Tem shall be a Council Member elected by the City Council at the first regular City Council meeting following each regular City election.

B. The Mayor Pro-Tem shall act as Mayor during the absence or disability of the Mayor.

Section 3.08 Vacancies; Forfeiture of Office; Filling of Vacancies

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

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

1. Fails to maintain at any time during the term of office any qualification for the office prescribed by this Charter or by law;

2. Is convicted of a misdemeanor involving moral turpitude, a violation of any state laws regulating conflicts of interest of municipal officers, a felony, or is assessed a deferred adjudication or probation for a felony or any state laws regulating conflicts of interest of municipal officers;

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3. Failure to regularly attend City Council meetings without an approved absence obtained by a majority vote by City Council either before or after the absence. There shall be a presumption of failure to regularly attend when three (3) regular meetings are missed during a term year without obtaining an approved absence from City Council.

C. If a member of City Council violates any provision of this section and does not immediately resign, the City Council may conduct an investigation and hearing pursuant to Section 3.12 of this Charter to determine if the office holder is in violation of this section. The hearing shall be held within 60 days of the City Council, as a body, learning of the alleged forfeiture.

D. All vacancies with unexpired terms of 12 months or more shall be filled by special election pursuant to State law. All vacancies with unexpired terms of 12 months or less may be filled, at the discretion of City Council, by appointment of the City Council upon a majority vote, may be left vacant for the remainder of the unexpired term or filled by a special election pursuant to state law.

Comment [CZ7]: Approved 08.15.2014

Section 3.09 Prohibitions

A. No member of City Council shall accept or admit liability or pay any claim for damages asserted against the City. City Council shall not accept or admit liability without first obtaining a written opinion from the City Attorney regarding the City's liability therein and only then upon a majority vote of the City Council.

B. No member of City Council shall be employed in or appointed to the positions of City Manager, City Attorney, or Department Head until three (3) years after the expiration of the term for which he/she was elected to the City Council and for any other compensated City position until one (1) year after the expiration of the term for which he/she was elected to the City Council. This subsection shall not apply to a volunteer who receives a stipend that is the same as the stipend received by other similarly situated volunteers.

C. Except for the purpose of inquiries and investigations, unless otherwise provided in this Charter, the City Council as whole and its individual members shall deal with City officers and employees who are subject to the direction and supervision of the City Manager solely through the City Manager, and neither the City Council nor its individual members shall give orders to any such officer or employee, either publicly or privately.

D. Neither the City Council nor any of its members shall dictate to the City Manager the appointment of any person to office or employment. No City Council shall interfere with the City Manager in the performance of the duties of that office or prevent the City Manager from exercising the City Manager's own judgment in the appointment of officers and employees whose employment, appointment, and supervision are reserved by this Charter for the City Manager. Except for the purpose of inquiry and investigations, the City Council and its members shall deal with the City Staff solely through the City Manager, and neither the City Council, as a body or any individual member, nor any individual not having administrative or

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executive functions under this Charter shall give orders to any of the subordinates of the City Manager, either publicly or privately.

E. It shall be unlawful for the Mayor or a Council Member to release any attorney-client privileged communication. The City Council as the governing body of the City solely holds and is entitled to the attorney client-privilege and it may only be waived by an affirmative vote of two-thirds of the City Council.

Comment [CZ8]: Approved 10.08.2014

Section 3.10 Meetings and Procedures

Comment [CZ9]: Approved 10.15.2014

A. **Agendas.** A member of City Council may place an item on an agenda by agreement of two additional members of City Council. The member of City Council desiring to place an item on an agenda shall submit in writing the request to place the item on an agenda to the City Secretary who shall inquire with members of City Council as to their agreement. The item shall be placed on the next City Council meeting occurring on or after the 8th calendar day after obtaining the agreement of the second member of City Council.

At a meeting of City Council a member of City Council may place an item on an agenda by making a motion to place the item on a future agenda and receiving a second. No discussion shall occur at the meeting regarding the placement of the item on a future agenda.

The City Manager may place any item on any City Council agenda.

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

Section 3.11 Ordinances

Comment [CZ10]: Approved 11.05.2014

A. **Passage.** Except as may otherwise be prescribed in this Charter or other law, all ordinances shall be read in open meeting of the City Council on two (2) separate days provided that all readings of any ordinance may be by descriptive caption only. Any ordinance necessary to protect the public's peace, health, safety and general welfare, may be passed as an emergency and become effective at once upon one (1) reading of the City Council, upon the approval of a majority vote of the City Council members that it is an emergency at said reading and the finding of an emergency shall be stated within the ordinance.

B. **Enacting Clauses; Signature and Authentication.** The enacting clause of all ordinances shall be "BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LEON VALLEY, TEXAS;" and every ordinance shall be signed by the Mayor or the Mayor pro-tem and authenticated by seal and signature of the City Secretary.

C. **Publication.**

The caption or title and penalties of every ordinance imposing any penalty, fine, or forfeiture shall, as soon as practical after passage thereof, be published one (1)

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time in the official newspaper(s) of the City of Leon Valley. An ordinance required to be published under this section shall take effect the day after publication unless otherwise provided in the ordinance

D. **Codification of Ordinances.**

1. The City Council shall have the power to cause the ordinances of the City to be corrected, amended, revised, codified and printed in code form as often as the City Council deems advisable, and such printed code, when adopted by the Council, shall have full force and effect without the necessity of publishing the same or any part thereof in a newspaper.

2. All printed ordinances or codes of ordinances shall be admitted as evidence in all courts without proof, and shall have the same force and effect as did the original ordinance.

Section 3.12 Council Investigations; Hearings; Process

Comment [CZ11]: Approved 11.05.2014

A. *General.* In addition to any other specific authority of investigation and hearing provided for in this Charter, the City Council shall have the power to inquire into the official conduct of any department, agency, appointed boards, office, officers, employees or appointed board members of the City. For the purpose of investigations and hearings, the City Council shall have the power to administer oaths, subpoena witnesses, compel the production of books, papers, and other evidence material to the inquiry. The City Council shall provide, by ordinance, penalties for contempt in failing or refusing to obey any such subpoena or to produce any such books, papers or other evidence. The City Council shall have the power to punish any such contempt in the manner provided by such ordinance.

B. Hearings Process for Forfeitures of Office and Prohibitions.

1. All hearings held under this subsection shall be conducted in open session, except that the City Council may conduct a closed session to get advice from its attorney pursuant to the Texas Open Meetings Act;

2. The office holder subject to any investigation and/or hearing under this section shall be entitled to written notice of the allegations of forfeiture and/or the alleged violation of this Charter as applicable;

3. A special meeting shall be called to hold the hearing;

4. A member of City Council who initiated or is the subject of the investigation or hearing shall not sit at the dais and shall not participate in deliberation or vote;

5. City Council shall adopt by ordinance rules of procedures to be followed;

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6. The City Council shall state the nature of the hearing and the allegations to be considered, shall be provided the results of any investigation and a presentation of the evidence against the office holder including, but not limited to testimony from individuals;

7. The individual who is subject to the hearing shall be provided an opportunity to respond to the allegations and present any relevant evidence including, but not limited to, testimony from individuals;

8. City Council may ask questions of any individual;

9. No public comment shall be allowed unless agreed to by a majority vote of the members of City Council present. Rules for public comment shall be set by City Council;

10. In the case of a violation of Section 3.08 of this Charter City Council shall vote on the forfeiture and on the affirmative vote of two-thirds of City Council declare the office of said office holder to be forfeited and vacant;

11. In the case of a violation of Section 3.09 of this Charter City Council may on the affirmative vote of a majority of the City Council take any action it determines to be appropriate including, but not limited to, directing further investigation, requesting further information, vote to enforce a penalty pursuant to section _____ of this Charter, vote to bring an action in municipal court, take a vote of censure; or, upon the affirmative vote of two-thirds of City Council, declare the office of said office holder to be forfeited and vacant.

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Item 4

VI. INITIATIVE, REFERENDUM AND RECALL

Section 6.01 General Authority

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

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

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

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

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

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

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

D. Each signer of such petition shall personally sign their name thereto in ink or indelible pencil and shall write after their name their place of residence, giving the name of the street and the number, and shall also write thereon the day, the month and the year their signature was affixed. Petitions shall only be circulated by a registered voter of the City and the signatures on petitions shall be verified by oath in the following form to be affixed on the bottom of each page of the petitions:

STATE OF TEXAS

COUNTY OF BEXAR

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

Signature _____

Sworn and subscribed before me this _____day of _____ 20__.

_____

NOTARY PUBLIC, STATE OF TEXAS

My commission expires:_____

Section 6.03 Initiative, Referendum and Recall Petition Process; Certificate of City Secretary; Supplementation; Presentation to Council; Council Review

A. Certificate of City Secretary. Within thirty (30) calendar days after a petition for initiative or referendum and forty-five (45) calendar days after a petition for recall (the "Original Petition") is filed, the City Secretary shall complete a certificate as to its sufficiency or insufficiency as mandated herein, specifying, if it is insufficient, the particulars wherein it is defective and shall within said period send a copy of the certificate to the petitioners' committee by certified mail return receipt requested or by hand delivery with signed proof of delivery to the designated address.

B. A petition certified insufficient for lack of the required number of valid signatures may be supplemented once if the petitioners' committee files a notice of intention to supplement with the City Secretary within 3 working days after receiving the copy of the Certificate of the City Secretary. The supplementary petition shall be filed within the time specified in Subsection 6.03 C. Such supplementary petition shall comply with the requirements of Subsections 6.02 B and D, and within ten (10) working days after the supplementary petition is filed, the secretary shall complete a certificate as to the sufficiency of the petition as supplemented and send a copy of such certificate to the petitioners' committee by registered mail as in the case of an original petition.

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

D. Presentation to Council. The City Secretary shall, at the next regular Council meeting in compliance with the Texas Open Meetings Act after completion of certification of the petition or supplementary petition, present such certificate to the Council and the certificate shall then be a final determination as to the sufficiency of the petition.

Section 6.04 Requirements specific to Petitions for Recall

Before the question of a recall shall be submitted to the Registered voters of the City a petition, containing at least twenty percent (20%) of the number of voters registered to vote at the last general City election, demanding such question to be so submitted shall first be filed with the Office of the City Secretary pursuant to this Article. The petition shall be addressed to the City Council of the City and shall state distinctly and specifically the alleged action(s) and the factual circumstance(s) surrounding such action(s) taken by the individual that warrant the reason for the recall as to give the individual sought to be removed notice of the matter(s) and thing(s) with which the individual's recall is predicated. If there be more than one (1) reason, said petition shall distinctly and specifically state each reason upon which such petition for removal is predicated and shall distinctly and specifically state the alleged action(s) and the factual circumstance(s) surrounding such action(s) taken by the individual that warrant the recall as to give the individual sought to be removed notice of the matter(s) and thing(s) on which the recall is predicated.

Section 6.05 Public Hearing to be Held on Recall Petition

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

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

Section 6.06 Calling of Recall Election

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

Section 6.07 Ballots in Recall Election

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

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

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

"Yes"

"No"

Section 6.08 Result of Recall Election

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

Section 6.09 Recall Restrictions

No petition shall be filed for the recall of an individual within three-hundred and sixty-five (365) days of the date of the individual's election to City Council or within one-hundred and eighty (180) days before the end of the individual's term on City Council.

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

A. A petition for initiative must contain the number of valid signatures totaling at least fifteen percent (15%) of the total number of registered voters registered to vote at the last general City election and shall otherwise comply with the requirements for petitions in this Article. Each copy of the petition shall have attached to it a copy of the full text of the proposed legislation in the form of an ordinance including a descriptive caption. Each page of the petition shall have, at the top of the page, the full substantive text of the proposed ordinance.

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B. Upon presentation to the City Council, it shall become the duty of the City Council, within forty-five (45) calendar days after the date the petition is finally determined sufficient, to pass and adopt such ordinance without alteration as to meaning or effect, or to call for an election, to be held on the soonest date allowed under the Texas Election Code, at which the Registered voters of the City shall vote on the question of adopting or rejecting the proposed ordinance.

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

D. No ordinance on the same subject as an initiated ordinance which has been defeated at any election may be initiated by the voters within two (2) years from the date of such election.

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

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

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

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

D. A petition for referendum on the same subject matter may only be submitted once every three (3) years.

Section 6.12 Initiative and Referendum; Form of Ballots

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

"For the Ordinance"

or

"Against the Ordinance"

Section 6.13 Ordinances Passed by Popular Vote, Repeal or Amendment

No ordinance which may have been passed by the City Council upon a petition or adopted by popular vote under the provisions of this Article may be repealed or amended by the City Council for a period of three (3) years from the date said ordinance became effective and then only upon by an affirmative vote of two-thirds (2/3's) of the City Council.

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Item 5

VII. GENERAL PROVISIONS

SECTION 7.01 Conflict of Interest Prohibition

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

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

SECTION 7.02 General Prohibitions

A. **Activities Prohibited:**

1. No person shall be appointed to or removed from or in any way favored or discriminated against with respect to any City position or appointive City administrative office because of race, national origin, sex, political or religious opinions or affiliations.

2. No person who seeks appointment or promotion with respect to any City position or appointive City administrative office shall directly or indirectly give, render or pay any money, service or other valuable thing to any person for or in connection with his test, appointment, proposed appointment, promotion or 11/25/2014proposed promotion.

3. No employee of the city shall continue in such position after becoming a candidate for City Council.

SECTION 7.03 Regulation of Alcohol

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

SECTION 7.04 Disaster Clause

In case of disaster when a legal quorum of the City Council cannot otherwise be assembled due to multiple deaths or injuries, the surviving persons of the City Council, or highest surviving City official, if no elected official remains, shall, within twenty-four (24) hours of such disaster, request the highest surviving officers of the Bexar County Commissioners Court to appoint a number of residents of Leon Valley equal to the number necessary to make a quorum to act during the emergency as the City Council. The newly appointed City Council shall call a City election within fifteen (15) days of their appointment, or as provided in the Texas Election Code, for election of the vacant offices, if for good reasons it is known a quorum of the present City

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Council will never again meet. If it is determined that a quorum of the present City Council will meet again, the appointed Council Members shall serve in their position until such time as the present Council Members may begin serving.

SECTION 7.05 Charter Review Committee

(1) The City Council shall appoint a Charter Review Committee in the third (3rd) year after this Charter is adopted and every sixth (6th) year thereafter. The Charter Review Committee shall consist of ten (10) citizens of the City who shall:

a. Inquire into the operation of the City government under the Charter and determine whether any provision requires revision. To this end public hearings may be held. The Committee may request the attendance of any officer or employee of the City the production of any City records that may be needed;

b. Propose any recommendations it deems desirable to insure compliance with the Charter; and

c. Report its findings and present its recommendations to the City Council in the form of a report; and

d. File a copy of its report with the office of the City Secretary where it shall be a public record.

(2) The term of office of the Charter Review Committee shall be for not more than nine (9) months.

(3) Upon finalization of the Charter Review Committee's report the City Council shall receive the report and have published in the official newspaper of the City public notice that a copy of the report is available in office of the City Secretary.

(4) City Council shall consider any recommendations made and may order any recommendations be submitted to the voters of the City in the manner provided by state law.

(5) Nothing in this section prohibits the City Council from forming a Charter Review Committee at any time or from submitting any amendments to the Charter to election on its own initiative at any time in compliance with state law.

SECTION 7.06 Amendment

Amendments to this Charter may be framed, proposed, and adopted in any manner provided for herein and the laws of the State of Texas.

EXAMPLE

SECTION 7.07 Notice of Claim

The City shall not be held liable on account of any claim for the death of any person or injuries to any person or damage to any property unless the person making such complaint or claiming such damages shall, within one hundred-twenty (120) days after the time at which it is claimed such damages were inflicted upon such person or property, file with the City a written statement, under oath, stating the nature and character of such damages or injuries, the extent of the same, the place where same happened, the circumstances under which same happened and the condition causing same, with a detailed statement of each item of damages and the amount thereof, giving a list of any witnesses known by affiant to have seen the accident.

SECTION 7.08 Power to Settle Claims

The City Council shall have the power to compromise and settle any and all claims and lawsuits of every kind and character, in favor of, or against, the City, including suits by the City to recover delinquent taxes after consulting with the City Attorney.

SECTION 7.09 Service of Process Against the City

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

SECTION 7.10 Judicial Notice

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

SECTION 7.11 Property Not Exempt From Special Assessments

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

SECTION 7.12 City Council May Require Bonds

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

EXAMPLE

Section 7.13 Construction of Charter

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

Section 7.14 Penalty Clause

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

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

EXAMPLE

Local Government Code Chapter 171

LOCAL GOVERNMENT CODE

TITLE 5. MATTERS AFFECTING PUBLIC OFFICERS AND EMPLOYEES

SUBTITLE C. MATTERS AFFECTING PUBLIC OFFICERS AND EMPLOYEES OF MORE THAN ONE TYPE OF LOCAL GOVERNMENT

CHAPTER 171. REGULATION OF CONFLICTS OF INTEREST OF OFFICERS OF MUNICIPALITIES, COUNTIES, AND CERTAIN OTHER LOCAL GOVERNMENTS

Sec. 171.001. DEFINITIONS. In this chapter:

(1) "Local public official" means a member of the governing body or another officer, whether elected, appointed, paid, or unpaid, of any district (including a school district), county, municipality, precinct, central appraisal district, transit authority or district, or other local governmental entity who exercises responsibilities beyond those that are advisory in nature.

(2) "Business entity" means a sole proprietorship, partnership, firm, corporation, holding company, joint-stock company, receivership, trust, or any other entity recognized by law.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 171.002. SUBSTANTIAL INTEREST IN BUSINESS ENTITY. (a) For purposes of this chapter, a person has a substantial interest in a business entity if:

(1) the person owns 10 percent or more of the voting stock or shares of the business entity or owns either 10 percent or more or $15,000 or more of the fair market value of the business entity; or

(2) funds received by the person from the business entity exceed 10 percent of the person's gross income for the previous year.

(b) A person has a substantial interest in real property if the interest is an equitable or legal ownership with a fair market value of $2,500 or more.

(c) A local public official is considered to have a substantial interest under this section if a person related to the official in the first degree by consanguinity or affinity, as determined under Chapter 573, Government Code, has a substantial interest under this section.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by

Acts 1989, 71st Leg., ch. 1, Sec. 40(a), eff. Aug. 28, 1989; Acts 1991, 72nd Leg., ch. 561, Sec. 37, eff. Aug. 26, 1991; Acts 1995, 74th Leg., ch. 76, Sec. 5.95(27), eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 849, Sec. 1, eff. Sept. 1, 1997.

Sec. 171.0025. APPLICATION OF CHAPTER TO MEMBER OF HIGHER EDUCATION AUTHORITY. This chapter does not apply to a board member of a higher education authority created under Chapter 53, Education Code, unless a vote, act, or other participation by the board member in the affairs of the higher education authority would provide a financial benefit to a financial institution, school, college, or university that is:

(1) a source of income to the board member; or

(2) a business entity in which the board member has an interest distinguishable from a financial benefit available to any other similar financial institution or other school, college, or university whose students are eligible for a student loan available under Chapter 53, Education Code.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 41(a), eff. Aug. 28, 1989.

Sec. 171.003. PROHIBITED ACTS; PENALTY. (a) A local public official commits an offense if the official knowingly:

(1) violates Section 171.004;

(2) acts as surety for a business entity that has work, business, or a contract with the governmental entity; or

(3) acts as surety on any official bond required of an officer of the governmental entity.

(b) An offense under this section is a Class A misdemeanor.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1, Sec. 40(a), eff. Aug. 28, 1989.

Sec. 171.004. AFFIDAVIT AND ABSTENTION FROM VOTING REQUIRED. (a) If a local public official has a substantial interest in a business entity or in real property, the official shall file, before a vote or decision on any matter involving the business entity or the real property, an affidavit stating the nature and extent of the interest and shall abstain from further participation in the matter if:

(1) in the case of a substantial interest in a business entity

the action on the matter will have a special economic effect on the business entity that is distinguishable from the effect on the public; or

(2) in the case of a substantial interest in real property, it is reasonably foreseeable that an action on the matter will have a special economic effect on the value of the property, distinguishable from its effect on the public.

(b) The affidavit must be filed with the official record keeper of the governmental entity.

(c) If a local public official is required to file and does file an affidavit under Subsection (a), the official is not required to abstain from further participation in the matter requiring the affidavit if a majority of the members of the governmental entity of which the official is a member is composed of persons who are likewise required to file and who do file affidavits of similar interests on the same official action.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1, Sec. 40(a), eff. Aug. 28, 1989.

Sec. 171.005. VOTING ON BUDGET. (a) The governing body of a governmental entity shall take a separate vote on any budget item specifically dedicated to a contract with a business entity in which a member of the governing body has a substantial interest.

(b) Except as provided by Section 171.004(c), the affected member may not participate in that separate vote. The member may vote on a final budget if:

(1) the member has complied with this chapter; and

(2) the matter in which the member is concerned has been resolved.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Renumbered from Sec. 171.006 and amended by Acts 1989, 71st Leg., ch. 1, Sec. 40(a), eff. Aug. 28, 1989.

Sec. 171.006. EFFECT OF VIOLATION OF CHAPTER. The finding by a court of a violation under this chapter does not render an action of the governing body voidable unless the measure that was the subject of an action involving a conflict of interest would not have passed the governing body without the vote of the person who violated the chapter.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Renumbered from Sec. 171.008 by Acts 1989, 71st Leg., ch. 1, Sec. 40(a), eff. Aug. 28, 1989.

Sec. 171.007. COMMON LAW PREEMPTED; CUMULATIVE OF MUNICIPAL PROVISIONS. (a) This chapter preempts the common law of conflict of interests as applied to local public officials.

(b) This chapter is cumulative of municipal charter provisions and municipal ordinances defining and prohibiting conflicts of interests.

Amended by Acts 1989, 71st Leg., ch. 1, Sec. 40(a), eff. Aug. 28, 1989.

Sec. 171.009. SERVICE ON BOARD OF CORPORATION FOR NO COMPENSATION. It shall be lawful for a local public official to serve as a member of the board of directors of private, nonprofit corporations when such officials receive no compensation or other remuneration from the nonprofit corporation or other nonprofit entity.

Added by Acts 1989, 71st Leg., ch. 475, Sec. 2, eff. Aug. 28, 1989.

Sec. 171.010. PRACTICE OF LAW. (a) For purposes of this chapter, a county judge or county commissioner engaged in the private practice of law has a substantial interest in a business entity if the official has entered a court appearance or signed court pleadings in a matter relating to that business entity.

(b) A county judge or county commissioner that has a substantial interest in a business entity as described by Subsection (a) must comply with this chapter.

(c) A judge of a constitutional county court may not enter a court appearance or sign court pleadings as an attorney in any matter before:

(1) the court over which the judge presides; or

(2) any court in this state over which the judge's court exercises appellate jurisdiction.

(d) Upon compliance with this chapter, a county judge or commissioner may practice law in the courts located in the county where the county judge or commissioner serves.

Added by Acts 2003, 78th Leg., ch. 227, Sec. 21, eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 1206, Sec. 3, eff. June 20, 2003.

Examples

ARTICLE XII. - GENERAL PROVISIONS

Section 12.01 - Personal financial interest.

No officer of the city shall have any financial interest in any contract with the city or sale to the city of any land, or rights of interest in any land, materials, supplies or service as provided by State Law and any Attorney General Opinion.

No employee of the city shall have any financial interest in any contract with the city or sale to the city of any land, or rights of interest in any land, materials, supplies or service as provided by State Law, any Attorney General Opinion, or as provided by any ordinance properly adopted by City Council.

(Ref. of 5-2-98; Res. No. 1850, § 2, 5-28-13)

Section 12.02 - Prohibitions.

(a) *Activities prohibited:*

(1) No person shall be appointed to or removed from or in any way favored or discriminated against with respect to any city position or appointive city administrative office because of race, age, national origin, sex, sexual orientation, political or religious opinions or affiliations.

(2) No person shall willfully make any false statement, certificate, mark, rating or report in regard to any test, certification or appointment under the personnel provisions of this charter or the rules and regulations made thereunder, or in any manner commit or attempt to commit any fraud preventing the impartial execution of such provision, rules and regulations.

(3) No person who seeks appointment or promotion with respect to any city position or appointive city administrative office shall directly or indirectly give, render or pay any money, service or other valuable thing to any person for or in connection with his test, appointment, proposed appointment, promotion or proposed promotion.

(b) *Penalties:* Any person who singularly or with others willfully violates any of the provisions of paragraphs one (1) through (3), or any other provision of this charter, shall receive a hearing by the City council and if found guilty of any such violation shall immediately forfeit their office or positions.

(Ref. of 5-5-90; Ref. of 5-2-98; Ref. of 5-9-09)

Section 12.03 - Notice of claim.

The City shall not be held liable on account of any claim for the death of any person or injuries to any person or damage to any property unless the person making such complaint or claiming such damages shall, within one hundred-twenty (120) days after the time at which it is claimed such damages were inflicted upon such person or property, file with the City a written statement, under oath, stating the nature and character of such damages or injuries, the extent of the same, the place where same happened, the circumstances under which same happened and the condition causing same, with a detailed statement of each item of damages and the amount thereof, giving a list of any witnesses known by affiant to have seen the accident.

(Ref. of 5-5-90; Ref. of 5-2-98; Ref. of 5-9-09)

Section 12.04 - City development-five year plan.

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

(b) A city development five year plan will be developed annually, presented to the city council for review and approval prior to the beginning of the fiscal year and implemented with the commencement of the new fiscal year.

(Ref. of 5-2-98; Ref. of 5-13-06)

Section 12.05 - Regulation of alcohol.

The sale of liquor is prohibited in all residential sections or areas of the City, as designated by any zoning ordinance or other duly enacted ordinance of the City. The City Council may enact any and all other regulations regarding the sale, consumption, distribution, etc. of alcoholic beverages, as permitted by law.

(Ref. of 5-9-09; Ref. of 5-14-11)

Editor's note—

Measure No. 8 of the referendum of May 9, 2009, did not specify manner of inclusion; hence, inclusion as section 12.05 is at the discretion of the editor.

Section 12.06 - Disaster clause.

In case of disaster when a legal quorum of the elected City Council cannot otherwise be assembled due to multiple deaths or injuries, the surviving persons of the City Council, or highest surviving City official, if no elected official remains, must, within twenty-four (24) hours of such disaster, request the highest surviving officers of the Bexar County Commissioners Court to appoint a commission to act during the emergency as the City Council. The newly appointed City Council shall call a City election within fifteen (15) days of their appointment, or as provided in the Texas Election Code, for election of a required quorum, if for good reasons it is known a quorum of the present City Council will never again meet. If it is determined that a quorum of the present City Council will meet again, the appointed Council Members shall serve in their position until such time as the present Council Members may begin serving.

(Ref. of 5-14-11)

ARTICLE XI. - GENERAL PROVISIONS

Sec. 11.01. - Assignment, execution and garnishment.

The property, real and personal, belonging to the city shall not be liable for sale or appropriation under any writ of execution. The funds belonging to the city, in the hands of any person, firm, or corporation, shall not be liable to garnishment, attachment, or sequestration; nor shall the city be liable to garnishment on account of any debt it may owe or funds or property it may have on hand or owing to any person. Neither the city nor any of its officers or agents shall be required to answer any such writ of garnishment on any account whatever. The city shall not be obligated to recognize any assignment of wages or funds by its employees, agents or contractors.

Sec. 11.02. - Security or bond not required.

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

Sec. 11.03. - Effect of Charter on existing law.

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

Sec. 11.04. - Construction of Charter.

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

Sec. 11.05. - Judicial notice.

This Charter shall be deemed a public act, may be read in evidence without pleading or proof, and judicial notice shall be taken thereof in all courts and places.

Sec. 11.06. - Separability clause.

If any section, subsection, paragraph, sentence or clause of this Charter is held to be invalid or unconstitutional by a court of competent jurisdiction, the same shall not invalidate or impair the validity, force, or effect of any other section, subsection, paragraph, sentence or clause of this Charter.

Sec. 11.07. - Rearrangement and renumbering.

The council shall have the power, by ordinance, to renumber and rearrange all articles, sections, and paragraphs of this 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.

Sec. 11.08. - Interim municipal government.

From and after the date of the adoption of this Charter and until the completion of the first city election thereunder and until the qualifications of the mayor and councilmembers therein elected, the mayor and councilmembers in office on the date of the adoption of this Charter, shall continue in office and shall exercise all of the powers conferred upon the city by this Charter.

Sec. 11.09. - Reserved.

Editor's note—

The election of May 1, 1999, Amendment No. 7, deleted section 11.09 in its entirety. Former section 11.09 pertained to contracts concerning public improvements and derived from Ord. No. O-86-10, § 3(9) and from Ord. No. 1-30-1986/4-5-1986.)

Sec. 11.10. - Nepotism.

A. No city official shall appoint, vote for the appointment of, or confirm the appointment of any person to a position in violation of state law.

B. The city manager shall not appoint or confirm the appointment of any person who is related to the city manager within the second degree by affinity or within the third degree by consanguinity to a position that is to be paid for, directly or indirectly, from the funds or fees of office of the City of Missouri City, Texas; provided, that nothing herein contained, nor in any ordinance of the city, shall prevent the appointment or confirmation of an appointment of any person who shall have been continuously employed in any such position immediately before the appointment of the city manager for a period of at least thirty days.

C. If the mayor or any other member of the city council or the city manager violates any provision of the immediately foregoing paragraphs, then ipso facto such violation shall render vacant the office held by the person so violating it as he having violated an express prohibition of this Charter as prescribed in section 3.06(B)(2).

(Ord. No. O-13-08, § 2, 2-18-2013/5-11-2013)

State law reference— Nepotism, V.T.C.A., Government Code § 573.001 et seq.

Sec. 11.11. - Grammatical classification.

The use of any gender herein shall be applicable to all genders. The present or past tense shall include the future. The singular and plural number shall each include the other, unless otherwise expressly provided.

Sec. 11.12. - Amending the Charter.

Amendments to this Charter may be framed and submitted to the voters of the city in the manner provided by chapter 13 of title 28 of the revised Civil Statutes of Texas, 1925, as same now reads or as may be hereafter amended [V.T.C.A., Local Government Code § 9.001 et seq.].

Sec. 11.13. - Charter review commission.

The council shall appoint a charter review commission at least every four (4) years. The council shall appoint the first charter review commission after the adoption of this provision no later than July, 1981. All charter review commissions shall be appointed in July and each shall consist of five (5) citizens of the City of Missouri City.

A. *Duties of the commission:*
   1. Inquire into the operation of the city government under the Charter provisions and determine whether any such provisions require revision. To this end public hearings may be held, and the commission shall have the power to compel the attendance of any officer or employee of the city and require the submission of any of the city records which it may deem necessary to the conduct of such hearing.
   2. Propose any recommendations it may deem desirable to insure compliance with the provisions of the Charter by the several departments of the city government.
   3. Propose, if it deems desirable, amendments to this Charter to improve the effective application of the Charter to current conditions.
   4. Report its finding and present its proposed amendments, if any, to the council.

B. *Action by council:* The council shall receive and have published in the designated official public newspaper of the city a summary of any report presented by the Charter review commission; shall consider any recommendations made, and if any amendments be presented as part of such report, may order such amendment or amendments to be submitted to the voters of the city in the manner provided by law.

C. *Term of office:* The term of office of such Charter review commission shall be six (6) months; and at the completion of such term a report shall be presented to the council, and all records of the proceedings of such commission shall be filed with the city secretary and shall become a public record.

(Ord. No. O-78-12, § 3(12), 5-1-1978/4-1-1978; Ord. No. O-92-14, § 1, 3-1-1992/5-2-1992)

Sec. 11.14. - Submission of Charter to voters.

Pursuant to article 1167, V.A.C.S. [V.T.C.A., Local Government Code § 9.003], the Charter commission finds and determines that it is impracticable to segregate each subject or section contained in this Charter so that the voter may vote "Yes" or "No" on the same. This Charter was drafted and framed in such a manner that the articles and sections of the Charter are so interrelated and dependent, one upon the other, to the extent that the Charter would not function properly if it were not adopted in its entirety. Therefore, the Charter commission directs that said Charter be voted upon as a whole and that it

shall be submitted to the qualified voters of the City of Missouri City at an election to be held for that purpose on the twenty-third day of November, 1974, which time is fixed by the Charter commission at a time not less than forty (40) nor more than ninety (90) days after the completion of the work of the Charter commission. Not less than thirty (30) days prior to the aforesaid date of election, the city council shall cause the city secretary to mail a copy of this proposed Charter to each qualified voter of the City of Missouri City as appears from the tax collectors' rolls for the year ending January thirty-first, preceding said election. If a majority of the qualified voters voting in such election shall vote in favor of the adoption of this Charter, it shall become the Charter of the City of Missouri City, after the returns have been canvassed by the mayor and city council and an official order has been entered upon the records of the city by the mayor and council thereby declaring the adoption of this Charter. A copy of the adopted Charter, authenticated and certified by the signature of the mayor and the seal of the city, shall be forwarded to the secretary of state of the State of Texas.

ARTICLE XII. - GENERAL PROVISIONS

Sec. 12.01. - Availability of Records.

The public records of the City shall be available to the public subject to the procedures and exceptions of the Texas Open Records Act. The City Council may provide, by ordinance, regulations and procedures for the implementation and enforcement of said Act.

(Amdt. 35, Ord. No. 2005-45, § I, 5-7-05, approved 5-16-05)

Editor's note—

Amendment 35 of Ord. No. 2005-45, § I, adopted May 7, 2005 and approved May 16, 2005, amended § 12.01 in its entirety to read as herein set out. Formerly, § 12.01 pertained to the publicity of records and derived from original codification.

Sec. 12.02. - Personal Interest.

All members of the City Council, and all officers and employees of the City, shall be subject to and shall comply with the provisions of general state law regarding personal, financial or conflicting interests in transactions with the City, including but not limited to Chapter 171 of the Texas Local Government Code. The City Council shall provide, by ordinance, regulations and procedures for the implementation and enforcement of said Chapter.

(Amdt. 36, Ord. No. 2005-45, § I, 5-7-05, approved 5-16-05)

Editor's note—

Amendment 36 of Ord. No. 2005-45, § I, adopted May 7, 2005 and approved May 16, 2005, amended § 12.02 in its entirety to read as herein set out. Formerly, § 12.02 pertained to personal finance interest and derived from original codification.

Sec. 12.03. - Prohibitions.

(a) *Activities prohibited.*

(1) In appointments to and removal from any City office or employment, persons shall not be favored or discriminated against because of race, sex, political or religious opinions, or religious affiliations.

(2) No person who seeks appointment or promotion with respect to any City position or appointive City administrative office shall directly or indirectly give, render or pay any money, service or other valuable thing to any person for or in connection with his test, appointment, proposed appointment, promotion or proposed promotion.

(3) No City official or employee, elected or appointed, shall orally, by letter, or otherwise solicit or assist in soliciting any assessment, subscription, or contribution for any political party or political purpose whatever from any subordinate city official or employee holding any compensated City position.

(4) No person who holds any compensated City position shall solicit or receive any contribution to the campaign funds of any candidate for municipal office or take any part in the management, affairs, or political campaign of any municipal candidate.

(5) Neither the Mayor nor any other member of the City Council, nor any elective or appointive officer of the City, shall be directly or indirectly in the employ of any person, company or corporation, holding or seeking to hold any franchise from the City of New Braunfels, or shall receive directly or indirectly any wage, commission, fee, gift, favor or payment from such franchise holder, and any violation of this section shall ipso facto render vacant the office held by the person violating it.

(b) *Penalties.* Any person who by himself or with others violates any of the provisions of paragraphs (1) through (3) of the preceding subsection (a) shall be guilty of a misdemeanor and upon conviction thereof shall be punishable by a fine of not more than one hundred dollars ($100.00). Any person who by himself or with others violates any of the provisions of paragraph (4) of the preceding subsection (a) shall be guilty of an offense and upon conviction thereof shall be punishable by a fine of not more than one hundred dollars ($100.00). Any person convicted under this section shall be ineligible for a period of five (5) years thereafter to hold any City office or position and, if an officer or employee of the City, shall immediately forfeit his office or position.

(Amdt. 37, Ord. No. 2005-45, § I, 5-7-05, approved 5-16-05)

Sec. 12.04. - Nepotism.

All members of the City Council, and all officers and employees of the City, shall be subject to and shall comply with the provisions of general state law regarding nepotism, including but not limited to Chapter 573 of the Texas Government Code. The City Council shall provide, by ordinance, regulations and procedures for the implementation and enforcement of said Chapter.

(Amdt. 38, Ord. No. 2005-45, § I, 5-7-05, approved 5-16-05)

Sec. 12.05. - Provisions relating to assignment, execution and garnishment.

The property, real and personal, belonging to the City shall not be liable to be sold or appropriated under any writ of execution or cost bill. The funds belonging to the City, in the hands of any person, firm or corporation, shall not be liable to garnishment, attachment, or sequestration; nor shall the City be liable to garnishment on account of any debt it may owe or funds or property it may have on hand or owing to any person. Neither the City nor any of its officers or agents shall be required to answer any such writ of garnishment or any account whatever. The City shall not be obligated to recognize any assignment of wages or funds by its employees, agents, or contractors.

Sec. 12.06. - City not required to give security or execute bond.

It shall not be necessary in any action, suit, or proceeding in which the City of New Braunfels is a party, for any bond, undertaking, or security to be demanded or executed by or on behalf of said City in any of the State Courts, but in all such actions, suits, appeals, or proceedings same shall be conducted in the same manner as if such bond, undertaking or security had been given as required by law.

Sec. 12.07. - Special provisions covering damage suits.

Before the City shall be liable to damage claim or suit for personal injury, or damage to property, the person who is injured or whose property is damaged or someone in his behalf shall give notice to the City in the manner and within the time frame prescribed by City ordinance. No action at law for damages shall be brought against the City for personal injury or damage to property unless timely notice has been given to the City prior to the filing of a lawsuit in the manner prescribed by the applicable ordinance. Nothing herein contained shall be construed to mean that the City of New Braunfels waives any rights, privileges, defenses or immunities in tort actions which are provided under the common law, the constitution and the general laws of the State of Texas.

(Amdt. 18, Ord. No. 93-22, approved 5-3-93)

Sec. 12.08. - Welfare and/or pension plan for City employees.

The City Council shall have the power exercisable in its discretion, and subject to such limitations and regulations as it shall deem proper to create, operate, amend, and contract for a welfare and/or pension plan for any or all City employees.

Sec. 12.09. - Separability clause.

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

Sec. 12.10. - Effect of Charter on existing law.

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

Sec. 12.11. - Interim municipal government.

(a) Upon the adoption of this Charter the seven (7) Councilmen elected shall take office on January 1, 1967. Those Councilmen elected to places 1, 2, and 3 will serve as Councilmen through October 31, 1969; those Councilmen elected to places 4 and 5 will serve as Councilmen through October 31, 1968; and those Councilmen elected to places 6 and 7 will serve as Councilmen through October 31, 1967. Thereafter, the City Council shall be elected as provided in Section 3.01 of this Charter.

(b) During such interim, persons who on the date this Charter is adopted are employed or filling appointive positions with the City of New Braunfels which are retained under this Charter, may continue to fill these positions for the term for

which they were employed or appointed.

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

(d) The budget in effect immediately preceding the adoption of this Charter shall remain in effect for the balance of the fiscal year and until such time as a new budget is adopted for the next succeeding year.

Sec. 12.12. - Applicability of general laws.

The Constitution of the State of Texas, the statutes of said State applicable to home ruled municipal corporations, as now or hereafter enacted, this Charter and ordinances enacted pursuant hereto shall, in the order mentioned, be applicable to the City of New Braunfels. The City shall also have the power to exercise any and all powers conferred by the laws of the State of Texas upon any other kind of city, town, or village, not contrary to the provisions of said home-rule statutes, Charter, and ordinances. The exercise of any such powers by the City of New Braunfels shall be optional with it, and it shall not be required to conform to the law governing any other cities, towns, or villages unless and until by ordinance it adopts same.

Sec. 12.13. - Amending the Charter.

This Charter may be amended by any method permitted by general state law regarding the amendment of charters of home rule municipalities, including but not limited to Chapter 9 of the Local Government Code. The City Council may provide, by ordinance, regulations and procedures for the implementation and enforcement of this Charter.

(Amdt. 39, Ord. No. 2005-45, § I, 5-7-05, approved 5-16-05)

Sec. 12.14. - Construction of Charter.

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

Sec. 12.15. - Judicial notice.

This Charter shall be deemed a public act, may be read in evidence without pleading or proof, and judicial notice shall be taken thereof in all courts and places.

Item 6

VIII. TRANSITIONAL PROVISIONS

Section 8.01 Existing Ordinances and Resolutions

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

Section 8.02 Officers and Employees

A. **Rights and Privileges Preserved.** Nothing in this Charter except as otherwise specifically provided shall affect or impair the rights or privileges of persons who are City officers or employees at the time of its adoption.

B. **Continuance of Office or Employment.** Except as specifically provided by this Charter, if at the time this Charter takes full effect, a City administrative officer or employee holds any office or position which is or can be abolished by or under this Charter, he shall continue in such position or office until the taking effect of some specific provision under this Charter directing that he vacate the office or position.

Section 8.03 Pending Matters

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

Section 8.04 Manner of Submission to Electors.

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

Section 8.05 Staggered Elections

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

2016

Mayor shall be elected to a three year term to expire	2019
Place 2 shall be elected to a three year term to expire	2019
Place 4 shall be elected to a three year term to expire	2019

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Place 6 shall elected to a two year term to expire	2018

2017

Place 1 shall be elected to a three year term to expire	2020
Place 3 shall be elected to a three year term to expire	2020
Place 5 shall be elected to a one year term to expire	2018

2018

Place 5 shall be elected to a three year term to expire	2021
Place 6 shall be elected to a three year term to expire	2021

2019

Mayor shall be elected to a three year term to expire	2022
Place 2 shall be elected to a three year term to expire	2022
Place 4 shall be elected to a three year term to expire	2022

2020

Place 1 shall elected to a three year term to expire	2023
Place 3 shall be elected to a three year term to expire	2023

2021

Place 5 shall be elected to a three year term to expire	2024
Place 6 shall be elected to a three year term to expire	2024

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