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# Chapter CHA

## Home Rule Charter

**Editor's note**—Printed herein is the charter of the City of Liberty, Texas, which was adopted at an election held on May 6, 1958. Apart from minor nonsubstantive changes in style and formatting, the charter is reproduced as it appeared in the 1988 Code of Ordinances. Capitalization, punctuation and grammar have been retained. Obviously misspelled words have been corrected without notation. Material enclosed in brackets has been added for clarification. Amendments to the charter are indicated by a history note following the amended section. The absence of a history note indicates the material is unchanged from the original charter.

### PREAMBLE

We, the citizens of Liberty, Texas, in order to establish a home rule municipal government, 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; and do hereby declare the residents of the City of Liberty in Liberty 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 Liberty” with such powers, rights and duties as are herein provided.

## ARTICLE 1

### FORM OF GOVERNMENT AND BOUNDARIES

#### § 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 execute the laws and administer 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 the state.

#### § 1.02 Boundaries.

The boundaries of the City of Liberty shall be the same as have been heretofore established and now exist and those boundaries established and changed hereafter in all annexation ordinances and proceedings of the City of Liberty, Texas, filed in the Office of the City Secretary of Liberty, Texas.

(Ordinance 2018-12, prop. A, adopted 5/8/18)

#### § 1.03 Change of boundaries and residents' rights.

The boundaries of the city may be altered by extension or contraction through annexation or disannexation of territory by one or more of the following methods:

- a. Annexation. The city council shall have the power to annex territory to the city in any manner and by any procedure that may now or hereafter be provided by Texas state law.
- b. Disannexation of territory.

Territory in the city may be detached from the corporate limits pursuant only to Texas state law and city charter. However, any detached territory shall remain liable for its prorated share of indebtedness incurred while such territory was a part of the city, and the city shall continue to levy and collect taxes within the territory until such indebtedness is discharged.

Municipal services shall be extended to annexed territory in accordance with Texas state law and city ordinances.

(Ordinance 910, sec. 1, adopted 5/11/99; Ordinance 1001, sec. 1, adopted 6/13/06; Ordinance 2010-15 adopted 6/8/10; Ordinance 2020-35, prop. A, adopted 11/10/20)

#### **§ 1.04 Contraction of boundaries.**

- (a) Whenever there exists within the corporate limits of the City of Liberty 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 a 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.
- (b) The city council shall disannex an annexed area when it determines the substantive and procedural requirements of Section 43, Subchapter G of V.T.C.A., Local Government Code are fulfilled.

(Ordinance 910, sec. 1, adopted 5/11/99)

## **ARTICLE 2 POWERS OF THE CITY**

#### **§ 2.01 General.**

The City of Liberty shall have all powers possible for a home rule city to have under the constitution and laws of the State of Texas as fully and completely as though they were specifically enumerated in this charter.

(Ordinance 910, sec. 1, adopted 5/11/99)

#### **§ 2.02 Construction.**

The power of the City of Liberty under this charter shall be construed liberally in favor of the city, and the specific mention of particular powers in this charter shall not be construed as limiting in any way the general power granted here.

(Ordinance 910, sec. 1, adopted 5/11/99)

#### **§ 2.03 Eminent domain.**

The city shall have the full power and right to exercise the power of eminent domain when necessary or desirable to carry out any of the powers conferred upon it by this charter or by the constitution and laws of the State of Texas. The city may exercise the power of eminent domain in any manner authorized or permitted by the constitution and laws of this state. The power of eminent domain hereby conferred shall

include the right of the city to take the fee in land so condemned and such power and authority shall include the right to condemn public property for such purposes. The city shall have such power over property whether it be located either in or out of the corporate limits of the city. The city shall have and possess the power of condemnation for any municipal or public purposes even though not specifically enumerated in this charter.

## ARTICLE 3 THE CITY COUNCIL

### **§ 3.01 Number, selection and terms.**

The legislative and governing body of the city shall consist of a mayor and six (6) councilmen and shall be known as the “council of the City of Liberty, Texas.”

- (a) The mayor and other members of the city council shall be elected from the city at large.
- (b) 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 and by the governor for purposes of military law, but shall have no regular administrative duties. The mayor shall be entitled to vote on all matters under consideration by the city council.
- (c) In each even numbered year three (3) councilmen and a mayor shall be elected, and in each odd numbered year three (3) councilmen shall be elected.
- (d) The mayor and each councilman shall hold office for a period of two (2) years and until his successor shall be elected and qualified. All elections shall be held in the manner provided in Article 5 of this charter.

### **§ 3.02 Qualifications.**

Each member of the city council shall be a permanent resident citizen of the City of Liberty; shall not have due and owing any delinquent property taxes to the City of Liberty; shall have resided in the State of Texas for a period of twelve (12) months; and shall have been such resident citizen of the City of Liberty for a period of not less than twelve months immediately preceding his election, provided however, that any person with the above qualifications, except as to residence, who shall have been a permanent resident, for a period of not less than twelve (12) months immediately preceding his election, of any of the territory not formerly within the corporate limits of said city, but which is annexed under the provisions of section 1.03 of this charter, shall be eligible for said office. A person also must meet the following requirements to be eligible to be a candidate for or elected or appointed to, or to remain in the office of mayor or councilperson: be a United States citizen; be a qualified voter; not have been determined mentally incompetent by a final judgment of a court of proper jurisdiction; not have been finally convicted of a felony from which the person has not been pardoned or otherwise released from resulting disabilities; or convicted in a felony or in a crime involving moral turpitude from which the person has not been pardoned or otherwise released from resulting disabilities. A member of the city council who ceases to be eligible to serve on the council shall automatically forfeit his office.

(Ordinance 910, sec. 1, adopted 5/11/99; Ordinance 945 adopted 12/10/02; Ordinance 2008-05, sec. 1, adopted 5/13/08; Ordinance 2020-35, prop. B, adopted 11/10/20)

### **§ 3.03 Council to be judge of election and qualifications.**

The city council shall be the judge of the election and qualifications of its own members and other elected officials of the city.

### **§ 3.04 Mayor pro tem.**

The city council, at its first meeting after election of councilmen, shall elect one (1) of its members mayor

pro tem, and he shall perform all duties of the mayor in the absence or disability of the mayor.

(Ordinance 910, sec. 1, adopted 5/11/99)

### **§ 3.05 Resignations and vacancies.**

The resignation of any member of council, including the mayor must be in writing, signed and delivered to the presiding officer. The city council may not refuse to accept a resignation. If a resignation is submitted, whether to be effective immediately or at a future date, a vacancy occurs on the date the resignation is accepted by the city council or on the eighth day after the date of its receipt by the council, whichever is earlier.

All public officers shall continue to perform the duties of their offices until their successors shall be duly qualified (i.e., sworn in). Until the vacancy is filled by a successor, the public officer continues to serve and have the duties and powers of office and continues to be subject to the nepotism provisions. A holdover public official may not vote on the appointment of his or her successor. A person elected or appointed to serve as a council member, or mayor, must remain a resident of the city throughout the term of office.

A vacancy on the city council may be created by the mayor's or a city council member's resignation, removal, incapacity, or death. If a vacancy occurs on the city council, the remaining city council members and mayor may fill the vacancy by appointment until the next regularly scheduled city council election or may order a special election to fill the vacancy. Said special election shall be held on the next available uniform election date. If more than one year remains in the term of the position vacated, the vacancy shall be filled not later than the 180th day after the date the vacancy occurs. To be eligible to be appointed to the city council, a person must meet the qualifications for a councilmember set forth in this charter.

A special election to fill a vacancy shall be conducted in the same manner as the city's general election and in accordance with all Texas state laws related to municipal elections. An election to fill a vacancy shall be to fill the unexpired term only.

The same rules outlined above shall apply to filling a vacancy in the mayor's position.

(Ordinance 910, sec. 1, adopted 5/11/99; Ordinance 2008-05, sec. 1, adopted 5/13/08; Ordinance 2020-35, prop. C, adopted 11/10/20)

### **§ 3.06 Powers of the city council.**

All powers of the city and the determination of all matters of policy shall be vested in the city council. Without limitation of the foregoing, the council shall have power to:

- (a) Remove from any office or position of employment in the city government any officer, employee, or member of any board or commission, provided that said officer, employee, or board member was appointed to the position directly by the City Council.
- (b) Establish, consolidate or abolish departments.
- (c) Adopt the budget of the city.
- (d) Authorize the issuance of bonds by a bond ordinance.
- (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 building codes of the city.
- (h) Adopt and modify the map of the city.
- (i) Adopt, modify and carry out plans proposed by the city planning and zoning commission and city staff related to properties and improvements in non-compliance with city ordinances within the city's jurisdiction.
- (j) Adopt, modify and carry out plans proposed by the city planning and zoning 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) Regulate, license and fix the charges on [or] fare 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 the 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) Approve salary ranges for city officers and employees.
- (n) Provide for a sanitary sewer and water system and require property owners, when readily available, to make connections of such sewers with their premises and to provide for fixing a lien against any property owner's premises who fails or refuses to make sanitary sewer connections and to charge the cost against said owner and make it a personal liability. To provide for fixing penalties for a 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) The City of Liberty shall have the power to lay out, establish, open, alter, widen, lower, extend, grade, abandon, discontinue, abolish, close, sell, convey, care for, pave, supervise, maintain and improve streets, alleys, sidewalks, parks, squares, public places and bridges; and regulate the use thereof and require the removal from streets, sidewalks, alleys and other public property or places of all obstructions and encroachments of every nature or character thereon.
- (q) The city shall have exclusive dominion, control and jurisdiction in, upon, and over and under the public streets, avenues, alleys, highways, and public ways of the city, and may provide for the improvement thereof by paving, repaving, raising, draining, or otherwise. The provisions, without limitations, of Chapter 106, page 489, Fortieth Legislature, First Called Session, Acts 1927, and/or the provisions, without limitations, of Chapter 14 of the Acts of the Thirty-First Legislature, Second Called Session, page 402, known as the Street Improvement Law, enacted in 1909, together with all amendments now existing or hereafter enacted, are expressly adopted. Such exclusive dominion, control and jurisdiction in, upon, over and under the public streets, avenues, alleys, highways and public ways of the city shall also include, but not be limited to, the power to regulate, locate, relocate, remove, or prohibit the location of all utility pipes, conduits, lines, poles, wires or other property of any public utility.
- (r) Require the filling up, drainage, and regulating of any lot or lots, grounds, yards, or any other places in

the city which shall be unwholesome, or have stagnant water therein, or from any other cause be in such condition as to be liable to produce disease; to cause all premises to be inspected and to impose fines on the owners of houses under which stagnant water may be found, or upon whose premises such stagnant water may be found, and to pass such ordinances as they may deem necessary for the purposes aforesaid and for making, filling up, altering or repairing of all sinks, and privies, and directing the mode and material for constructing them in the future, and for cleaning and disinfecting the same; and for cleansing of any house, building, establishment, lot, yard or ground from filth, carrion or other impure or unwholesome matter of any kind; to require the owner of any lot or lots within the City of Liberty to keep the same free from weeds, rubbish, brush and any and all other objectionable, unsightly or unsanitary matter of whatever nature, and if such owner fails or refuses to do so, then the city may, in accordance with Texas state law, do such work or may cause the same to be done and may pay therefor and charge the expenses incurred in doing or having such work done or improvements made, to the owner of such property as herein provided; and to punish any owner or occupant violating the provisions of any ordinance so passed, as aforesaid; and the city council shall also, in addition to the foregoing remedy, have the power to cause any of the improvements above mentioned to be done at the expense of the city, on account of the owners, and cause the expense thereof to be assessed on the real estate, or lot or lots upon which such expense is incurred. On filing with the county clerk of Liberty County, Texas, a statement by the mayor or city code enforcement officer of such expenses, the city shall have a privileged lien thereon, second only to tax liens and liens for street improvements to secure the expenditures so made, and ten (10) percent interest on the amount from the date of such payment. For any such expenditures, and interest, as aforesaid, suit may be instituted and recovery and foreclosure had in the name of the City of Liberty; and the statement so made, as aforesaid, or a certified copy thereof, shall be prima facie proof of the amount expended in any such work or improvements.

- (s) Define all nuisances and prohibit the same within the city; to police all parks or grounds, speedways, or boulevards owned by the city and lying outside of the city, to prohibit the pollution of any stream, drain or tributaries thereof, which may constitute the source of water supply of the city and to provide for policing the same as well as to provide for the protection of any watersheds and the policing of same; to inspect dairies, slaughter pens and slaughterhouses inside or outside the city limits, from which meat or milk is furnished to the inhabitants of the city.
- (t) Compromise and settle any and all claims and law suits of every kind and character in favor of or against the City of Liberty.

(Ordinance 910, sec. 1, adopted 5/11/99; Ordinance 2010-15 adopted 6/8/10; Ordinance 2020-35, props. D–K, adopted 11/10/20)

### **§ 3.07 City council not to interfere in appointments.**

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.

(Ordinance 910, sec. 1, adopted 5/11/99)

### **§ 3.08 Meetings and agenda items of the city council.**

The city council shall hold at least one (1) regular meeting in each month at a time to be fixed by ordinance, and may hold as many additional meetings during the month as may be necessary for the transaction of the business of the city and its citizens. The mayor, city manager, or any two (2) members of the city council may call special meetings of the city council at any time. All meetings shall be held upon such notice given pursuant to and shall be conducted in compliance with the Texas Open Meetings Act, now or hereafter amended. The city council will from time to time at discretion of the city council establish policies approved

by majority vote for calling meetings and setting agendas of the city council.

(Ordinance 910, sec. 1, adopted 5/11/99; Ordinance 2010-15 adopted 6/8/10; Ordinance 2020-35, prop. L, adopted 11/10/20)

### **§ 3.09 Rules of procedure.**

The city council shall determine its own rules of procedure and shall compel the attendance of its members. A simple majority of the qualified members of the city council shall constitute a quorum to do business and the affirmative vote of the majority of those present shall be necessary to adopt any ordinance or resolution. Minutes of the proceedings of all meetings of the city council shall be kept, to which any citizen may have access at all reasonable times, and which shall constitute one (1) of the archives of the city. The vote upon the passage of all ordinances and resolutions shall be taken by the “ayes” and “nays” and entered upon the minutes, and every ordinance or resolution upon its final passage, shall be recorded and shall be authenticated by the signature of the presiding officer and the person performing the duties of the city secretary. It shall not be necessary to copy ordinances in the minutes, but only the number and caption of all ordinances passed shall be copied in the minutes.

(Ordinance 910, sec. 1, adopted 5/11/99; Ordinance 2008-05, sec. 1, adopted 5/13/08; Ordinance 2020-35, prop. M, adopted 11/10/20)

### **§ 3.10 Procedure for passage of ordinances.**

Ordinances and resolutions shall be introduced in the city council only in written or printed form. Ordinances making appropriations shall be confined to the subject of appropriations. The enacting clause of all ordinances shall be: “Be it ordained by the council of the City of Liberty, Texas.” All ordinances which levy a fine or penalty shall be published in full in two (2) successive issues of the official newspaper of the City of Liberty, or a descriptive caption or title stating in summary the general purpose of the ordinance and the penalty for violation thereof shall be published in two (2) successive issues of the official newspaper of the City of Liberty before the same shall become effective.

(Ordinance 910, sec. 1, adopted 5/11/99; Ordinance 2020-35, prop. N, adopted 11/10/20)

### **§ 3.11 Official bonds for city employees.**

The city manager and the city secretary and such other city officers and employees as the city council shall require, before entering upon the duties of their office, [shall] enter into a good and sufficient fidelity bond in a sum to be determined by the city council, payable to the City of Liberty and conditioned upon the faithful discharge of the duties of such person, and upon the faithful accounting for all monies, credits, and things of value coming into the hands of such persons, and such bonds shall be signed as surety by some company authorized to do business under the laws of the State of Texas, and the premium on such bonds shall be paid by the City of Liberty, and such bonds must be acceptable to the city council.

(Ordinance 910, sec. 1, adopted 5/11/99; Ordinance 2008-05, sec. 1, adopted 5/13/08)

### **§ 3.12 Investigation by the city council.**

The city council shall have the powers to inquire into the conduct of any office, department, agency, officer or employee of the city and to make investigation as to municipal affairs, and for that purpose may subpoena witnesses, administer oaths and compel the production of books, papers, and other evidence. Failure to obey such subpoena or to produce books, papers or other evidence, as ordered under the provisions of this section, shall constitute a misdemeanor and shall be punishable by fine in an amount not less than one dollar (\$1.00).

(Ordinance 910, sec. 1, adopted 5/11/99)

### **§ 3.13 Audit and examination with reporting of city books and accounts.**

The city council shall cause a continuous audit to be made of the books and accounts of each and every

department of the city. At the close of each fiscal year a complete audit shall be made by a certified public accountant, who shall be selected by the city council, and all audit reports shall be filed with the city council, shall be available for public inspection, and shall be made a part of the archives of the city within a reasonable time. Such accounts [accountants] so selected shall not maintain or keep any of the city's accounts or records.

The City Manager shall be responsible for providing accurate accounting reports compiled by acceptable accounting principles each month of the fiscal year for review by the city council and all such financial reports shall be filed timely with the city council, shall be available for public inspection, and shall be made a part of the archives of the city.

(Ordinance 910, sec. 1, adopted 5/11/99; Ordinance 2010-15 adopted 6/8/10)

## ARTICLE 4 ADMINISTRATIVE SERVICES

### § 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 Liberty. No member of the city council shall, during the time for which he is elected and for one (1) 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 for such suspension or removal in the city council. The city manager may designate some qualified employee to perform the duties of the office during the city manager's absence. In case of the disability of the city manager, the city council may designate some qualified person to perform the duties of the office during such absence or disability. The city manager shall receive such compensation as may be fixed by the council.
- (c) *Powers and duties of the city manager.* [The city manager shall:]
  - (1) Appoint and 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.

(Ordinance 910, sec. 1, adopted 5/11/99)

### § 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 said department and shall perform such 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, as provided in V.T.C.A., Local Government Code section 141.004. The chief of police shall be responsible to the city manager for the administration of his department and the carrying out of the directives of the city council. He 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 the charter or the ordinances passed pursuant thereto shall act as special police or special detective.

(Ordinance 910, sec. 1, adopted 5/11/99)

#### § 4.03 **City secretary.**

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

(Ordinance 2020-35, prop. P, adopted 11/10/20)

#### § 4.04 **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 may be prescribed by the laws of the State of Texas relative to municipal or recorder’s court, and such other duties as may be prescribed by the city council.
- (b) The judge of said court shall be a qualified voter of the City of Liberty, shall be appointed by the city council, shall hold his office at the pleasure of the city council, and shall receive such salary as may be fixed by the city council.
- (c) 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.
- (d) In case of the disability or absence of the judge of the municipal court, the city council shall appoint an interim judge of the municipal court.

(Ordinance 910, sec. 1, adopted 5/11/99; Ordinance 2010-15 adopted 6/8/10; Ordinance 2020-35, prop. Q, adopted 11/10/20)

#### § 4.05 **City attorney.**

The city council shall appoint a competent and duly licensed attorney practicing law in Liberty County, Texas, who shall be the city attorney. He shall receive for his services such compensation as may be fixed by the city council, and shall hold his office at the pleasure of the city council. The city attorney, or such other attorneys selected by him with the approval of the city council, shall represent the city in all litigation. He shall be the legal advisor of, and attorney and counsel for, the city and all officers and departments thereof.

(Resolution adopted 4/4/83)

§ 4.06 (Reserved)

**Editor's note**—Former section 4.06 pertaining to the public health authority and deriving from Ordinance 910 adopted 5/11/99, was deleted in its entirety by Ordinance 2018-12, prop. B, adopted 5/8/18.

§ 4.07 (Reserved)

**Editor's note**—Former section 4.07 pertaining to other departments, was deleted in its entirety by Ordinance 2020-35, prop. R, adopted 11/10/20.

## ARTICLE 5 NOMINATIONS AND ELECTIONS

§ 5.01 **Elections generally.**

The general city election shall be held annually on a date set by ordinance which shall be a date authorized by Texas state law, at which time officers will be elected to fill those offices which become vacant that year. The city council shall fix the hours and place of holding such election. The city council may order a special election, fix the time and place for holding same and provide all means for holding such special election.

(Ordinance 910, sec. 1, adopted 5/11/99; Ordinance 2020-35, prop. S, adopted 11/10/20)

§ 5.02 **Regulation of elections.**

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

§ 5.03 **Filing for office.**

Any qualified person who desires to become a candidate for election to a place on the city council shall file, with the city secretary no sooner than and not later than the dates prescribed by law, an application signed by such candidate for the candidate's name to appear on the ballot.

(Ordinance 910, sec. 1, adopted 5/11/99; Ordinance 1001, sec. 1, adopted 6/13/06)

§ 5.04 **The official ballot.**

The names of all candidates for office, except such as may have withdrawn, died or become ineligible, shall be printed on the official ballots without party designations in the order determined in accordance with Texas state law. All official ballots shall be printed at least twenty (20) days prior to the date of any general or special election, and absentee voting shall be governed by the general election laws of the State of Texas.

(Ordinance 2020-35, prop. T, adopted 11/10/20)

§ 5.05 **Election by plurality.**

At any general or special municipal election, the candidates for the offices, up to the number to be elected to any one (1) office, who shall have received the greater number of votes cast in such election shall be declared elected. In the event a tie vote makes it impossible to determine the winning candidate, the council shall proceed in accordance with Texas state law.

(Ordinance 2020-35, prop. U, adopted 11/10/20)

§ 5.06 **Laws governing city elections.**

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

**§ 5.07 Conducting and canvassing elections.**

The election judges and other necessary election officials for conducting all such elections shall be appointed by the city council, except for said times when the City Council chooses to contract with another governmental subdivision to conduct the election. The City shall conduct the elections and report the results as provided by the general election laws of the State of Texas. The returns of every municipal election shall be delivered forthwith to the City Secretary. The Council shall canvass the returns and declare the official results of the election as prescribed by state law.

(Ordinance 2018-12, prop. C, adopted 5/8/18)

**§ 5.08 Oath of office.**

Every officer of the city shall, before entering upon the duties of his office, take and subscribe to the oath or affirmation of office as prescribed by Texas state law.

(Ordinance 2020-35, prop. V, adopted 11/10/20)

## **ARTICLE 6 RECALL OF OFFICERS**

**§ 6.01 Scope of recall.**

Any elected city official, whether elected to office by the qualified voters of the city or elected by the city council to fill a vacancy, shall be subject to recall and removal from office by the qualified voters of the city on grounds of incompetency, misconduct or malfeasance in office.

**§ 6.02 Petitions for recall.**

Before the question of recall of such officer shall be submitted to the qualified voters of the city, a petition demanding such question to be so submitted shall first be filed with the person performing the duties of city secretary; which said petition shall be signed by qualified voters of the city equal in number to at least thirty (30) percent of the number of votes cast at the last regular municipal election of the city, but in no event less than one hundred fifty (150) such petitioners. Each signer of such recall petition shall personally sign his name thereto in ink or indelible pencil, and shall write after his name his voter registration number, his place of residence, giving name of street and number, or place of residence, and shall also write thereon the day, the month and year his signature was affixed.

(Ordinance 910, sec. 1, adopted 5/11/99)

**§ 6.03 Form of recall petition.**

The recall petition mentioned above must be addressed to the city council of the City of Liberty, must distinctly and specifically point out the ground or grounds upon which such petition for removal is predicated, and, if there be more than one (1) ground, such as for the incompetency, misconduct or malfeasance in office, shall specifically state each ground with such certainty as to give the officer sought to be removed, notice of the matters and things with which he is charged. The signature shall be verified by oath in the following form:

“THE STATE OF  
TEXAS

COUNTY OF  
LIBERTY

I, \_\_\_\_\_, being  
first duly sworn, on

oath depose and say that I am one (1) of the signers of the above petition; and that the statements made therein are true, and that each signature appearing thereto was made in my presence on the day and date it purports to have been made, and I solemnly swear that the same is the genuine signature of the person whose name it purports to be.

Sworn and subscribed  
to before me this

\_\_\_\_\_ day  
of \_\_\_\_\_,  
20\_\_\_\_.

\_\_\_\_\_  
\_\_\_\_\_

Notary Public in and  
for the State of Texas.”

(Ordinance 2010-15 adopted 6/8/10; Ordinance 2020-35, prop. W, adopted 11/10/20)

**§ 6.04 Various papers constituting petition.**

The petition may consist of one (1) or more copies, or subscription lists circulated separately, and the signatures thereto may be upon the paper or papers containing the form of petition, or upon other papers attached thereto. Verifications provided for in the next preceding section of this article may be made by one (1) or more petitioners, and the several parts or copies of the petition may be filed separately and by different persons; but no signatures to such petition shall remain effective or be counted which were placed thereon more than forty-five (45) days prior to the filing of such petition or petitions with the person performing the duties of city secretary. All papers comprising a recall petition shall be filed with the person performing the duties of city secretary on the same day, and the said secretary shall immediately notify, in writing, the officer so sought to be removed, by mailing such notice to his Liberty address.

**§ 6.05 Presentation of petition to city council.**

At the next regularly scheduled council meeting which is not less than ten (10) working days after the date of the filing of the papers constituting the recall petition, the person performing the duties of the city secretary, shall present such petition to the city council.

(Ordinance 910, sec. 1, adopted 5/11/99; Ordinance 2020-35, prop. X, adopted 11/10/20)

**§ 6.06 Public hearing to be held.**

The officer whose removal is sought may, within ten (10) working days after such recall petition has been presented to the city council, request that a public hearing be held to permit him to present facts pertinent to the charges specified in the recall petition. In this event, the city council shall order such public hearing to be

held not less than five (5) days nor more than fifteen (15) days after receiving such request for a public hearing.

(Ordinance 910, sec. 1, adopted 5/11/99)

**§ 6.07 Election to be called.**

If the officer whose removal is sought does not resign, then it shall become the duty of the city council to order an election and fix a date for holding such recall election, the date of which election shall be held as required by Texas state law.

(Ordinance 2020-35, prop. Y, adopted 11/10/20)

**§ 6.08 Ballots in recall election.**

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

- (a) With respect to each person whose removal is sought, the question shall be submitted: “Shall (name of person) be removed from the office of (name of office) by recall?”
- (b) Immediately below each such question there shall be printed the two (2) following propositions, one (1) above the other, in the order indicated:

“FOR the recall of (name of person).”

“AGAINST the recall of (name of person).”

**§ 6.09 Result of recall election.**

If a majority of the votes cast at a recall election shall be against the recall of the person named on the ballot, he shall continue in office for the remainder of his unexpired term, subject to recall as before. If a majority of the votes cast at such an election be for the recall of the person named on the ballot, he shall, regardless of any technical defects in the recall petition, be deemed removed from office and the vacancy shall be filled as vacancies in the city council are filled, as provided in section 3.06 of this charter.

**§ 6.10 Recall, restrictions thereon.**

No recall petition shall be filed against any officer of the City of Liberty within three (3) months after his election, nor within three (3) months after an election for such officer’s recall.

**§ 6.11 Failure of city council to call election.**

In case all of the requirements of this charter shall have been met and the city council shall fail or refuse to receive the recall petition, or order such recall election, or discharge any other duties imposed upon said city council by the provisions of this charter with reference to such recall, then a citizen may file a mandamus with a court of proper jurisdiction for a writ of mandamus to force the city to call the election.

(Ordinance 910, sec. 1, adopted 5/11/99)

## ARTICLE 7

# LEGISLATION BY THE PEOPLE–INITIATIVE AND REFERENDUM

**§ 7.01 General power.**

The qualified voters of the City of Liberty, in addition to the method of legislation hereinbefore provided, shall have the power of direct legislation by the initiative and referendum.

#### **§ 7.02 Initiative.**

Qualified voters of the City of Liberty may initiate legislation by submitting a petition addressed to the city council which requests the submission of a proposed ordinance or resolution to a vote of the qualified voters of the city. Said petition must be signed by qualified voters of the city equal in number to twenty (20) percent of the number of votes cast at the last general municipal election of the city, or one hundred fifty (150), whichever is greater, and each copy of the petition shall have attached to it a copy of the proposed legislation. The petition shall be signed in the same manner as recall petitions are signed, as provided in section 6.02 of this charter, and shall be verified by oath in the manner and form provided for recall petitions in section 6.03 of this charter. The petition may consist of one (1) or more copies as permitted for recall petitions in section 6.04 of this charter. Such petition shall be filed with the person performing the duties of city secretary. At the next regularly scheduled council meeting which is not less than ten (10) working days after the date of the filing of the papers constituting the initiative petition, the person performing the duties of the city secretary shall present such petition to the city council. Upon presentation to it of the petition and draft of the proposed ordinance or resolution, it shall become the duty of the city council, at the next regularly scheduled council meeting, to pass and adopt such ordinance or resolution without alteration as to meaning or effect in the opinion of the persons filing the petition, or to call a special election, to be held on the first possible uniform election date, at which the qualified voters of the City of Liberty shall vote on the question of adopting or rejecting the proposed legislation. However, if any other municipal election is to be held within sixty (60) days after the filing of the petition, the question may be voted on at such election.

(Ordinance 910, sec. 1, adopted 5/11/99; Ordinance 2020-35, prop. Z, adopted 11/10/20)

#### **§ 7.03 Referendum.**

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

(Ordinance 910, sec. 1, adopted 5/11/99; Ordinance 2020-35, prop. AA, adopted 11/10/20)

#### **§ 7.04 Voluntary submission of legislation by the council.**

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

#### **§ 7.05 Form of ballots.**

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

“FOR the ORDINANCE,” and

“AGAINST the ORDINANCE,” or

“FOR the RESOLUTION,” and

“AGAINST the RESOLUTION.”

**§ 7.06 Publication of proposed and referred ordinances.**

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

**§ 7.07 Adoption of ordinances.**

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

**§ 7.08 Inconsistent ordinances.**

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

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

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

**§ 7.10 Further regulations by city council.**

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

**§ 7.11 Franchise ordinances.**

Nothing contained in this article shall be construed to be in conflict with any of the provisions of Article 10 of this charter, pertaining to ordinances granting franchises when valuable rights shall have accrued thereunder.

## ARTICLE 8 MUNICIPAL PLANNING AND ZONING

**§ 8.01 Platting of property.**

- (a) Hereafter, every owner of any tract of land situated within the corporate limits of the City of Liberty, who may divide the same in two (2) or more parts for the purpose of laying out any subdivision or any addition to the city, shall comply with the provisions of V.T.C.A., Local Government Code section 212.001 et seq., as now or hereafter amended, and is hereby adopted and incorporated herein for all purposes.
- (b) The provisions of section **8.01(a)** above shall apply similarly to the owner of any tract of land situated within the extraterritorial jurisdiction of the City of Liberty.

(Ordinance 910, sec. 1, adopted 5/11/99)

**§ 8.02 Department of city planning and zoning.**

- (a) Director of city planning and zoning. The department of city planning and zoning shall be under the control and direction of the city manager or his designee. He shall have such assistance as may be provided by ordinance. The city council shall have the power to enact any ordinances necessary to

enable the department to perform the duties assigned to it and to effectuate the aim and purposes of this article.

- (b) On or after May 1 of each year council shall appoint resident qualified voters of the City of Liberty who shall constitute the city planning and zoning commission for three-year terms, and until their respective successors shall have been appointed and qualified, as follows: two (2) regular members first year; two (2) regular members the following year; and one (1) regular member plus two (2) alternates the following year. Individuals may only serve three consecutive terms on the planning and zoning commission. Individuals may serve more than (3) three terms if said terms are non-consecutive. Said commissioners shall serve without pay and shall adopt such rules and regulations as they deem best governing their actions, proceedings and deliberations and time and place of meeting. Any member of the city planning and zoning commission may be removed by the city council for any cause deemed sufficient for his removal in the interest of public service; but only after a public hearing before the city council of charges publicly made, if demanded by such member within ten (10) days. The purpose and object of said planning and zoning commission is to act as an advisory board to the city council relating to all nature of public improvements, civic improvements, city planning, opening, widening and changing of streets, routing of public utilities, controlling and regulating traffic upon the public streets and ways of the City of Liberty, and such other matters relating to city improvements as the city planning and zoning commission and the city council of the City of Liberty may deem beneficial to the City of Liberty.
- (c) A majority of said commissioners shall constitute a quorum. If a vacancy occurs upon the said city planning and zoning commission, caused by death, resignation, removal from the city, or otherwise, the city council shall appoint a member to fill such vacancy for the unexpired term. All of the provisions of V.T.C.A., Local Government Code sections 211.001 et seq., 241.001 et seq., as now or hereafter amended, are hereby adopted and made a part of this article and shall be controlling on the city planning and zoning commission. The city planning and zoning commission shall also act and be the zoning commission of the city under the state zoning law as it now exists or as it may hereafter be amended. The department of city planning and zoning shall have the power to make amend, extend, or add to the master plan for the physical development of the city. It shall serve as a general guide of the making of public improvements and development of land for urban use. In the preparation of this plan or guide, the department shall consult and coordinate its planning with whatever other departments of the city that may be affected thereby. When such plan or guide has been prepared by the department, the same shall be submitted to the city council through the city manager for approval, rejection or revision after a public hearing. After adoption of such guide, or any part thereof, the city manager in recommending any public improvement covered or affected by this guide, shall advise the council as to whether or not the proposed improvement is in conformity with such guide or plan of development, and if not, he will advise the council the extent of, and reasons for, his variance. The city shall have the power through the city planning and zoning commission to require the owners of land who desire to subdivide, plat or replat land for urban development, to provide for setback building lines, to dedicate streets and alleys of adequate width in conformity with the extension and widening of existing streets and alleys in the vicinity, and to coordinate street layouts and street planning with municipalities, whether they adjoin or not, and with county, state and federal designated highways so that a coordinated street and traffic plan may be established and continued for the best interest of the general public. In connection with zoning and platting, the city planning and zoning commission shall have the power to consider the character of development or land use contemplated by the proposed platting and zoning and require off-street parking, streets and alleys of adequate width to be provided for that purpose.
- (d) Alternate members of the city planning and zoning commission. In addition to the membership provided by Texas state law to serve on the city planning and zoning commission, the city council may, if it so desires, appoint two (2) additional members who shall be designated as alternate members who shall serve on said board at the designation of the director of planning in case any regular members of the city planning and zoning commission are either absent or unable to serve in any particular case for any



reason. Regardless of whether the city council appoints such alternate members, a majority of three (3) members shall constitute a quorum. These alternate members when appointed shall serve for the same period as the regular members and any vacancies shall be filled in the same manner.

(Ordinance 910, sec. 1, adopted 5/11/99; Ordinance 945, sec. 1, adopted 12/10/02, Ordinance 1001, sec. 1, adopted 6/13/06; Ordinance 2018-12, prop. D, adopted 5/8/18; Ordinance 2020-35, prop. BB, adopted 11/10/20)

#### **§ 8.03 Advice and recommendations on certain public improvements.**

The city council may refer to and the city planning and zoning commission shall have the power to pass upon all street improvements, opening, widening, of streets and buildings of public nature covered by the master plan, and give advice and recommendations to the city council upon any such proposals, provided, however, that the city council thereafter adopt the recommendations, revise or reject them.

#### **§ 8.04 Zoning ordinances; power to pass.**

For the purpose of promoting the public health[,] safety, order[,] convenience[,] prosperity and general welfare, the City of Liberty, acting through the city council or under its direction, shall have the power to divide the City of Liberty into zones or districts for the purpose of regulating and controlling the size, height, bulk and use of buildings within such zones or districts and may exercise any other powers necessary fully to effectuate and accomplish the purpose of the powers herein conferred, that the further power is conferred upon the City of Liberty to establish building lines within such zones or districts or to establish building lines in residential districts or in other portions of the city, as may be deemed advisable by the said council, and to make different regulations for different districts, as may be deemed advisable. All of the powers granted by V.T.C.A., Local Government Code section 213.001 et seq., authorizing cities and incorporated villages to pass zoning regulations, together with amendments thereto as passed by the Legislature, are hereby adopted. All of the powers granted by V.T.C.A., Local Government Code section 213.001 et seq., as the same is now or may be hereinafter amended, authorizing certain cities to establish building lines on streets, are hereby adopted and incorporated in this charter.

(Ordinance 910, sec. 1, adopted 5/11/99)

## **ARTICLE 9 MUNICIPAL FINANCE**

#### **§ 9.01 Fiscal year.**

The fiscal year of the City of Liberty shall begin on the first day of October and shall end on the last day of September of each calendar year. Such fiscal year shall also constitute the budget and accounting year.

#### **§ 9.02 Preparation and submission of budget.**

The city manager, between thirty (30) and sixty (60) days prior to the beginning of each fiscal year, shall submit to the council a proposed budget, which budget shall provide a complete financial plan for the fiscal year, and shall contain the following:

- (a) A budget message, explanatory of the budget, which message shall contain an outline of the proposed financial policies of the city for the fiscal year, shall set forth the reasons for salient changes from the previous fiscal year in expenditure and revenue items, and shall explain any major changes in financial policy.
- (b) A consolidated statement of anticipated receipts and proposed expenditures for all funds.
- (c) An analysis of property valuations.
- (d) An analysis of tax rate.

- (e) Tax levies and tax collections by years for at least the five (5) years immediately preceding.
- (f) Cash on hand to the credit of each fund.
- (g) Special fund resources in detail.
- (h) Summary of proposed expenditures by function, department, and activity.
- (i) Detailed estimates of expenditures shown separately for each activity to support the summaries. (No. (h) above.) Such estimates of expenditures are to include an itemization of positions showing the number of persons having each title and range of pay for positions.
- (j) A description of all bond issues outstanding, showing rate of interest, date of issue, maturity date, amount authorized, amount issued and amount outstanding.
- (k) A schedule of requirements for the principal and interest of each issue of bonds.
- (l) The appropriation ordinance.
- (m) The tax levying ordinance.
- (n) Anticipated revenues and proposed expenditures compared with other years.

The city manager in the preparation of the budget shall show in parallel columns opposite the various properly classified items of revenues and expenditures, the actual amount of such items for the last completed fiscal year, the estimated amount for the current fiscal year, and the proposed amount for the ensuing fiscal year.

(Ordinance 910, sec. 1, adopted 5/11/99; Ordinance 2020-35, prop. CC, adopted 11/10/20)

#### **§ 9.03 Budget a public record.**

The budget and all supporting schedules shall be filed with the person performing the duties of city secretary, submitted to the city council and shall be a public record. The city manager shall provide copies for distribution to all interested persons.

#### **§ 9.04 Notice of public hearing on budget.**

The City Council shall follow Texas law regarding notice and hearing requirements for setting its budget.

(Ordinance 2018-12, prop. E, adopted 5/8/18)

#### **§ 9.05 Public hearing on budget.**

At the time and place set forth in the notice required by section **9.04**, or at any time and place to which such public hearing shall from time to time be adjourned, the city council shall hold a public hearing on the budget submitted and all interested persons shall be given an opportunity to be heard for or against any item or the amount of any item therein contained.

#### **§ 9.06 Proceedings on budget after public hearing.**

After the conclusion of such public hearing, the city council may insert new items or may increase or decrease the items of the budget, except items in proposed expenditures fixed by law, but where it shall increase the total proposed expenditures, it shall also provide for an increase in the total anticipated revenue to at least equal such proposed expenditures.

#### **§ 9.07 Vote required for adoption of budget.**

The budget shall be adopted by a majority vote of the city council as prescribed by Texas state law.

(Ordinance 2020-35, prop. DD, adopted 11/10/20)

**§ 9.08 Date of final adoption of budget.**

The budget shall be finally adopted in accordance with the timelines as prescribed by Texas state law.

(Ordinance 2020-35, prop. EE, adopted 11/10/20)

**§ 9.09 Effective date of budget; certification; copies made available.**

Upon final adoption, the budget shall be in effect for the fiscal year. A copy of the budget, as finally adopted, shall be filed with the person performing the duties of city secretary, the county clerk of Liberty County and the state comptroller of public accounts at Austin. The final budget shall be printed, mimeographed or otherwise reproduced and copies shall be made available for the use of all offices, departments, and agencies and for the use of interested persons and civic organizations.

**§ 9.10 Budget establishes appropriations.**

From the effective date of the budget, the several amounts stated therein as proposed expenditures shall be and become appropriated to the several objects and purposes therein named.

**§ 9.11 Budget establishes amount to be raised by property tax.**

From the effective date of the budget, the amount stated therein as the amount to be raised by property tax shall constitute a determination of the amount of the levy for the purposes of the city in the corresponding tax year; provided, however, that in no event shall such levy exceed the legal limit provided by the laws and constitution of the State of Texas.

**§ 9.12 Contingent appropriation.**

Provision shall be made in the annual budget and in the appropriation ordinance for the contingent appropriation in an amount not more than ten (10) per centum of the total budget, too be used in case of unforeseen items of expenditure. Such contingent appropriations shall be under the control of the city manager and distributed by him, after approval of the city council. Expenditures from this appropriation shall be made only in case of established emergencies and a detailed account of such expenditures shall be recorded and reported.

(Ordinance 2010-15 adopted 6/8/10)

**§ 9.13 Estimated expenditures shall not exceed estimated resources.**

The total estimated expenditures of the general fund and debt service fund shall not exceed the total estimated resources of each fund (prospective income plus cash on hand). The classification of revenue and expenditure accounts shall conform as nearly as local conditions will permit to the uniform classification as promulgated by the Governmental Accounting Standards Board or some other nationally accepted classification.

(Ordinance 910, sec. 1, adopted 5/11/99)

**§ 9.14 Emergency appropriations.**

The city budget may be amended, and appropriations altered in accordance therewith in cases of public necessity, the actual fact of which shall have been declared by the city council.

**§ 9.15 (Reserved)**

**Editor's note**—Former section 9.15 pertaining to the department of taxation and deriving from Resolution adopted 8/10/91, sec. 1, was deleted in its entirety by Ordinance 2020-35, prop. FF, adopted 11/10/20.

**§ 9.16 Power to tax.**

The city council shall have the power under the provisions of the state law to levy, assess and collect an annual tax upon real and personal property within the city to the maximum provided by the constitution and general laws of the State of Texas. The city council shall prescribe by ordinance the methods, procedures, rules and regulations by which its power to tax may be implemented and by which any taxes thereby imposed may be enforced and collected.

(Ordinance 910, sec. 1, adopted 5/11/99)

**§ 9.17 Property subject to tax; methods of assessment.**

All property, real, personal or mixed, lying and being within the corporate limits of the City of Liberty on the first day of January, not expressly exempt by law, shall be subject to annual taxation at its fair market value according to the requirements, procedures and provisions of the V.T.C.A., Tax Code.

(Ordinance 910, sec. 1, adopted 5/11/99)

**§ 9.18 Taxes; when due and payable.**

All taxes due the City of Liberty shall be payable at the office of the assessor-collector and may be paid at any time after the tax rolls for the year have been completed and approved, which shall be not later than October 1st. Taxes shall be paid on or before the due date set by Texas law, and all such taxes not paid prior to such date shall be deemed delinquent and shall be subject to such penalty and interest as provided by Texas state law.

(Ordinance 910, sec. 1, adopted 5/11/99; Ordinance 2018-12, prop. F, adopted 5/8/18; Ordinance 2020-35, prop. GG, adopted 11/10/20)

**§ 9.19 Seizure and sale of personal property.**

The assessor-collector of taxes shall, by virtue of his tax rolls, have power and authority to seize and levy upon all personal property and sell the same to satisfy all taxes, together with all penalty, interest and costs due on said personal property by said delinquent tax to the city, in accordance with Texas state law.

(Ordinance 910, sec. 1, adopted 5/11/99; Ordinance 2020-35, prop. HH, adopted 11/10/20)

**§ 9.20 Tax liens.**

A lien is hereby created on all property, personal and real, in favor of the City of Liberty, for all taxes, ad valorem, occupation or otherwise. Said lien shall exist from January first in each year until all the taxes are paid. Such lien shall be prior to all other claims, and no gift, sale, assignment or transfer of any kind, or judicial writ of any kind, can ever defeat such lien, but the assessor and collector of taxes can pursue such property, and whenever found out may seize and sell enough thereof to satisfy such taxes. All persons or corporations owning or holding personal property or real estate in the City of Liberty on the first day of January of each year shall be liable for all municipal taxes levied thereon for such year. The personal property of all persons owing any taxes to the City of Liberty is hereby made liable for all of said taxes, whether the same be due upon personal or real property, or upon both.

(Ordinance 910, sec. 1, adopted 5/11/99)

## **ARTICLE 10**

### **FRANCHISES AND PUBLIC UTILITIES**

**§ 10.01 Powers of city.**

In addition to the city's power to buy, own, construct, lease, maintain, operate and regulate public utilities and manufacture, distribute and sell the output of such utility operations, the city shall have further powers as

may now or hereafter be granted under the constitution and laws of the State of Texas.

**§ 10.02 Franchises; power of city council.**

The city council shall have power by ordinance to grant, amend, renew and extend, all franchise of all public utilities of every character operating within the City of Liberty. All ordinances granting, amending, renewing, or extending franchises for public utilities shall be read at two (2) separate regular meetings of the city council and shall not be finally passed until thirty (30) days after the first reading; and no such ordinance shall take effect until thirty (30) days after its final passage; and pending such time, the full text of such ordinance shall be published once each week for four (4) consecutive weeks in the official newspaper of the City of Liberty, and the expense of such publication shall be borne by the proponent of the franchise. No public utility franchise shall be transferable except with the approval of the city council expressly by ordinance; provided, however, that no franchise shall be granted for an indeterminate term, and that no franchise shall be granted for a term of more than twenty-five (25) years.

(Ordinance 910, sec. 1, adopted 5/11/99)

**§ 10.03 Franchise value not to be allowed.**

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

**§ 10.04 Right of regulation.**

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

- (a) To repeal the same ordinance at any time upon the failure of the grantee to comply with any provision of the ordinance, the franchise, the charter of the City of Liberty, any applicable statute of the State of Texas or the rule of any applicable governmental body;
- (b) To require proper and adequate extension of plant and service, and the maintenance of the plant and fixtures at the highest reasonable standard of efficiency;
- (c) To establish reasonable standards of service and quality of products and prevent unjust discrimination in service or rates;
- (d) At any time to examine and audit the accounts and other records of any such utility and to require annual and other reports, including reports on operations within the City of Liberty;
- (e) To impose such reasonable regulations and restrictions as may be deemed desirable or conducive to safety, welfare, and accommodation of the public;
- (f) To require and collect any compensation and rental not now or hereafter prohibited by the laws of this state;
- (g) To require every franchise holder to furnish to the city, without cost to the city, full information regarding the location, character, extent and conditions of all facilities of such franchise holder in, over and under the streets, alleys, and other public property of the city; and to regulate and control the location, relocation, and removal of such facilities;
- (h) To collect from every public utility operating in the city its fair and just proportion of the expense of excavating, grading, paving, repaving, constructing, reconstructing, draining, repairing, maintaining, lighting, sweeping, and sprinkling such portions of the alleys, bridges, culverts, viaducts, and other public places and ways of the city as may be occupied or used in whole or in part by such utilities; or to compel such public utility to perform, at its own expense, its just share of such excavating, grading,

paving, repaving, constructing, reconstructing, draining, repairing, maintaining, lighting, sweeping and sprinkling;

- (i) To require such franchise holders who request an increase in rates, charges or fares, to reimburse the city for reasonable expenses incurred in employing rate consultants to conduct investigations, present evidence and advise the council on such requested increase.

#### **§ 10.05 (Reserved)**

**Editor's note**—Former section 10.05 pertaining to “grant not to be exclusive,” was deleted in its entirety by Ordinance 2020-35, prop. II, adopted 11/10/20.

#### **§ 10.06 Consent of property owners.**

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

#### **§ 10.07 Extension.**

All extensions of public utilities within the city limits shall become a part of the aggregate property of the public utility, shall be operated as such, and shall be subject to all the obligations and reserved rights contained in this charter and in any original grant hereafter made. The right to use and maintain any extension shall terminate with the original grant and shall be terminable as provided in section 10.04 of this charter. In case of an extension of a public utility operated under a franchise hereafter granted, such right shall be terminable at the same time and under the same conditions as the original grant.

#### **§ 10.08 Other conditions.**

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

#### **§ 10.09 Regulation of rates and service.**

The city council shall have the power, after due notice and hearing, to regulate by ordinance the rates and services of every public utility operating in the City of Liberty; and shall have power to employ, at the expense of the grantee, expert assistance and advice in determining a reasonable rate and equitable profit to the grantee.

#### **§ 10.10 Public service corporations to file annual reports.**

It shall be the duty of the city council to pass an ordinance requiring all public service corporations operating within the corporate limits of the city to file a sworn annual report of the receipts from the operation of the said business for the current year, how expended, how much thereof for betterments or improvements, the rate of tolls or charges for services rendered to the public, and any other facts or information that the council may deem pertinent for its use in intelligently passing upon any questions that may arise between the city and the said public service corporations; said reports to be filed with the city secretary, and preserved for the use of the city council. Such reports shall be reviewed annually by the council to determine the propriety of the rates being charged.

(Ordinance 2020-35, prop. OO, adopted 11/10/20)

**§ 10.11 Control of public property.**

The right of control and use of the public streets, highways, sidewalks, alleys, parks, public squares and public places of the city is hereby declared to be inalienable by the city, except by ordinances not in conflict with applicable law and/or the provisions of this charter. No act or omission by the city or an officer or agent of the city shall be construed to grant, renew, extend or amend, expressly or by estoppel or implication.

(Ordinance 1001, sec. 1, adopted 6/13/06)

## **ARTICLE 11**

### **MUNICIPALLY OWNED UTILITIES**

**§ 11.01 Powers of city.**

The city shall have the power to buy, own, construct, maintain and operate utilities and to manufacture and distribute electricity, gas or anything else that may be needed or used by the public, and shall have such further powers that may now or hereafter be granted under the constitution and laws of the State of Texas.

**§ 11.02 Operation and control.**

All municipally owned utilities shall be operated by the city in such a manner as to be self-sustaining insofar as is practical, and shall not be converted into general revenue producing agencies of the city. The city council may transfer funds of municipally owned utilities to the general fund of the city, provided, however, that the amount so transferred shall not exceed annually twenty (20) percent of the gross revenue of said utilities for the previous fiscal year. Such sums so transferred to be in lieu of taxes, street rentals or other contributions to general administrative expenses of the city; provided, however, nothing herein is to apply to the operation of charitable and educational facilities operated by the city. Such transfers shall be made annually and shall be noncumulative.

**§ 11.03 Accounts of municipally owned utilities.**

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

(Ordinance 910, sec. 1, adopted 5/11/99)

**§ 11.04 Sales of water and sewer services.**

- (a) The city council shall have the power and authority to sell and distribute water and provide for sewer services to any person, firm or corporation outside the limits of the City of Liberty, and to permit them to connect with said systems under contract with the city, under such terms and conditions as may appear to be for the best interests of the city; provided the charges fixed for such services outside the city limits shall return a fair and reasonable revenue to the city.
- (b) The city council shall have the power and authority to prescribe the kind of water or sewer pipes within or beyond the limits of the City of Liberty, where it furnishes the service, and to inspect the same and

require them to be kept in good order and condition at all times and to make such rules and regulations as shall be necessary and proper, and prescribe penalties for noncompliance with same.

(Ordinance 2020-35, prop. JJ, adopted 11/10/20)

## ARTICLE 12

### ISSUANCE AND SALE OF BONDS

#### § 12.01 **General obligation bonds.**

The city shall have the power to borrow money on the credit of the city and to issue general obligation bonds for the acquisition of property for permanent public improvements or for any other public purpose not now or hereafter prohibited by the constitution and laws of the State of Texas. Except for the refunding of bonds previously issued any proposition to borrow money and to issue such bonds shall first be approved by a majority of the qualified property taxpaying voters at an election called for the purpose of authorizing the issuance of such indebtedness. The ordinance calling such election and the manner of conducting the election shall conform in all respects to the general laws of the State of Texas.

#### § 12.02 **Revenue bonds.**

The city shall have the power to borrow money for the purpose of constructing, purchasing, improving, extending or repairing of public utilities, recreational facilities or facilities for any other self-liquidating municipal function not now or hereafter prohibited by any general laws of the state, and to issue revenue bonds to evidence the obligation created thereby. Such bonds shall be a charge upon and payable solely from the properties, or interest therein, acquired and the income therefrom, and shall never be a debt of the city. All revenue bonds issued by the city shall first be authorized by a majority of the qualified electors voting at an election held for such purpose. The council shall have authority to provide for the terms and form of any purchase agreement, contract, mortgage, bond or document desired or necessary for the issuance of revenue bonds and the acquisition and operation of any such property or interest.

(Ordinance 2020-35, prop. KK, adopted 11/10/20)

#### § 12.03 **Sinking fund.**

It shall be the duty of the council to levy an annual tax sufficient to pay the interest on and provide the necessary sinking fund required by law on all outstanding general obligation bonds of the city. The interest and sinking fund shall be deposited in a separate account and shall not be diverted to or used for any other purpose than to pay the interest and principal on such bonds. The sinking fund maintained for the redemption of any debt may be invested as provided by general law.

#### § 12.04 **Execution of bonds.**

All bonds, warrants and certificates of indebtedness shall be signed by the mayor, countersigned by the city secretary and sealed with the seal of the city in the manner provided by general law, and shall be payable at such times and place or places as may be fixed, not more than forty (40) years from their date.

(Ordinance 910, sec. 1, adopted 5/11/99; Ordinance 2020-35, prop. OO, adopted 11/10/20)

#### § 12.05 **Bonds transmitted to attorney general.**

It shall be the duty of the mayor, when such bonds are issued, to forward the same to the attorney general of the State of Texas for approval and for registration by the comptroller of public accounts.

#### § 12.06 **Financial record of bonds and certificates of indebtedness.**

The council shall keep, or cause to be kept, for and on behalf of the city a complete financial record of all bonds and certificates of indebtedness issued, the date and amount thereof, the rate of interest, maturity, etc., of all bonds or other indebtedness surrendered and all other transactions of the council having reference to



the refunding of the indebtedness of said city. When bonds or their coupons are paid, their payment or cancellation shall be noted in said financial record. Said record shall be maintained and updated on a contemporaneous basis and shall be audited at the close of each fiscal year as provided for in section **3.13**.

(Ordinance 910, sec. 1, adopted 5/11/99)

**§ 12.07 Misapplication of bond funds.**

Any officer of the city who shall wilfully or knowingly divert or use any funds arising from the issuance of any bonds or any sinking fund for any other purpose, except that for which the funds is created or is herein otherwise authorized, shall be deemed guilty of a misapplication of public funds and be subject to prosecution as provided under the laws of the state for the diversion and conversion of funds belonging to any of the municipalities of the state.

## **ARTICLE 13 GENERAL PROVISIONS**

**§ 13.01 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.

(Ordinance 910, sec. 1, adopted 5/11/99)

**§ 13.02 Personal interest in city contract.**

Any officer of the city shall fully comply with Texas state law regarding his or her personal interest in city contracts.

(Ordinance 910, sec. 1, adopted 5/11/99; Ordinance 945, sec. 1, adopted 12/10/02; Ordinance 2020-35, prop. LL, adopted 11/10/20)

**§ 13.03 Drilling operations.**

The city council may, by ordinance, prohibit the drilling of water wells for commercial, industrial and agricultural purposes, and may provide regulations for the drilling and use of water wells for commercial, industrial, agricultural and domestic purposes.

(Ordinance 2020-35, prop. MM, adopted 11/10/20)

**§ 13.04 Nepotism.**

All officers and employees of the city shall be subject to and shall comply with the provisions of general law regarding nepotism, including, but not limited to, Chapter 573 of the Texas Government Code. All members of the city council shall be subject to and shall comply with such laws when the authority to appoint, employ or name a person any office, position or other service is granted to the city council in this charter.

(Ordinance 910, sec. 1, adopted 5/11/99)

**§ 13.05 Public library.**

The city council shall have the authority to establish and maintain a free public library within the city and to cooperate with any person, firm, association or corporation under such terms as the city council may prescribe for the establishment of such free public library. For budget purposes, the library shall be considered as a department of the city and the appropriations therefor shall comply with all the budgetary requirements as outlined in this charter, and as may be prescribed from time to time by the city council.

**§ 13.06 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 or 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.

**§ 13.07 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 Liberty 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.

**§ 13.08 Special provisions covering damage suits.**

Before the city shall be liable to any person or persons from damages, loss or destruction of property, or from damages arising out of the death of or injury to any person or persons, the city shall be given notice by or on behalf of each claimant for such damage, loss or destruction. Such notice shall be given in the form and content and within the time limitations, prescribed by the Texas Tort Claims Act. The city council may provide by ordinance, regulations and procedures for the implementation and enforcement of said Act. Provided, however, that nothing herein contained shall be construed to mean that the City of Liberty waives any rights, privileges, defenses or immunities in tort actions which are provided under the common law, the constitution and general laws of the State of Texas.

(Ordinance 910, sec. 1, adopted 5/11/99)

**§ 13.09 Construction and separability clause.**

The charter shall be liberally construed to carry out its intents and purposes. If any section or part of section of this charter shall be held invalid by a court of competent jurisdiction, such holding shall not affect the remainder of this charter nor the context in which such section or part of section so held invalid may appear, except to the extent that an entire section or part of section may be inseparably connected in meaning and effect, with the section or part of section to which such holding shall directly apply. Except to the extent that this charter expressly limits a power granted to the city, all such powers shall be construed to permit the exercise of such power to the fullest extent permitted by the laws and constitution of the State of Texas. This charter shall be construed in the manner prescribed for statutes and codes contained in the Texas Code Construction Act.

(Ordinance 910, sec. 1, adopted 5/11/99)

**§ 13.10 Effect of charter on existing law.**

All ordinances, resolutions, rules, and regulations now in force under the city government of Liberty and not in conflict with the provisions of this charter, shall remain in force under this charter until altered, amended or repealed by the council after this charter takes effect; and all rights of the City of Liberty under existing franchises and contracts are preserved in full force and effect to the City of Liberty.

**§ 13.11 Applicability of general laws.**

The constitution of the State of Texas, the statutes of said state applicable to home-rule 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 Liberty, but 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 but the exercise of any such powers by the City of Liberty 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.

(Ordinance 910, sec. 1, adopted 5/11/99)

**§ 13.12 Amending the charter.**

This charter may be amended by any method permitted by general state law regarding the amendment of charter of home rule municipalities, including, but not limited to V.T.C.A., Local Government Code section 9.001 et seq. The city council may provide by ordinance, regulations and procedures for the implementation and enforcement of said sections.

(Ordinance 910, sec. 1, adopted 5/11/99)

**§ 13.13 Charter review commission.**

- (a) The city council shall appoint, at its first regular meeting in January of each tenth year, beginning in the year 2030, a charter review commission of five (5) citizens of the City of Liberty. However, the City Council shall have the right to appoint and convene a special charter review commission at any time if they so choose. Said individuals may only serve for two (2) consecutive terms on the charter review commission. Individuals may serve more than (2) two terms if said terms are non-consecutive.
- (b) Action by city council. The city council shall receive and have published in a newspaper of general circulation in the City of Liberty any report presented by the charter review commission, shall consider any recommendations made, and if any amendment or amendments be presented as a part of such report, may order such amendment or amendments to be submitted to the voters of the city in the manner provided by Texas Local Government Code, Chapter 9, as now or hereafter amended.
- (c) Term of office. The term of office of such charter review commission shall be six (6) months, and if during such term no report is presented to the city council, then all records of the proceedings of such commission shall be filed with the person performing the duties of the city secretary and shall become public record. Upon the written request of a majority of charter review commission members, the city council may extend the commission's term of office for a period not to exceed ninety (90) days.

(Ordinance 910, sec. 1, adopted 5/11/99; Ordinance 1001, sec. 1, adopted 6/13/06; Ordinance 2018-12, prop. G, adopted 5/8/18; Ordinance 2020-35, prop. NN, adopted 11/10/20)

**§ 13.14 Submission of charter to voters.**

The charter commission in preparing this charter finds and decides that it is impracticable 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. For these reasons, the charter commission directs that the said charter be voted upon as a whole and that it shall be submitted to the qualified voters of the City of Liberty at an election to be held for that purpose on the sixth day of May, A.D. 1958. Not less than thirty (30) days prior to such election, the city council shall cause the city secretary to mail a copy of this charter to each qualified voter of the City of Liberty as appears from the latest city tax collector's roll. Within five (5) days after such election, the city council shall canvass the votes and, if the charter is adopted by a majority of the qualified voters in said election, the city council shall enter upon the records of the city an official order declaring the charter adopted and this charter shall take effect immediately, and the city secretary shall file an official copy of the charter with the records of the city. The city secretary shall furnish the mayor a copy of said charter, which copy of the charter so adopted, authenticated and certified by his signature and the seal of the city, shall be forwarded by the mayor to the secretary of state of the State of Texas and shall show the approval of such charter by majority vote of the qualified voters voting at such election.

(Ordinance 910, sec. 1, adopted 5/11/99)

§ 13.15 **Definitions.**

(a) “City” shall mean City of Liberty when used in this charter unless otherwise apparent from the context.

(b) Qualified voter in the City of Liberty means a person:

1. Who is eighteen (18) years of age or older;
2. Who is a United States citizen;
3. Who has not been determined mentally incompetent by a final judgment of a court;
4. Who has not been finally convicted of a felony or, if so convicted, has;
  - (A) Fully discharged the person’s sentence, including any term of incarceration, parole, or supervision, or completed a period of probation ordered by any court; or
  - (B) Been pardoned or otherwise released from the resulting disability to vote;
5. Who is a resident of the City of Liberty for a period of no less than six (6) months; and
6. Whose voter registration is effective.

(c) “He, His, Him” shall include nouns or pronouns of the other gender.

(Ordinance 910, sec. 1, adopted 5/11/99; Ordinance 1001, sec. 1, adopted 6/13/06)