

## ARTICLE III. THE CITY COUNCIL AND MAYOR

### Section 3.01 General Powers and Duties

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

### Section 3.02 Number, Selection, and Term

The membership of City Council (members of City Council) shall be composed of the Mayor and five (5) Councilmembers. The Mayor and Councilmembers shall be elected from the City at-large, by place, and for a two-year term.

### Section 3.03 Qualifications

The Mayor and each Councilmember shall meet the following minimum requirements:

- A. Be a qualified voter in the City and State at the time of taking office.
- B. Have resided continuously in the corporate limits of the City for twelve (12) months immediately preceding the date of the deadline for filing for office for the current election cycle.
- C. Not be in violation of any provision in this Charter.
- D. Satisfy any other eligibility requirements prescribed by law for the office for which they are a candidate.

### Section 3.04 Judge of Qualifications

The City Council shall be the sole judge of the election and whether the qualifications set herein and by law have been met by its members and of the grounds for forfeiture of their offices.

### Section 3.05 Compensation

- A. The City Council shall not receive any compensation.
- B. The City Council may be reimbursed for expenses incurred in performance of official duties. The policy regulating payment of expenses incurred in performance of official duties shall be determined by the City Council.

### Section 3.06 Mayor

- A. The Mayor shall be the presiding officer of the City Council and shall be recognized as the head of the City government for all ceremonial purposes, for emergency management purposes, and by the governor for purposes of military law.
- B. The Mayor may debate and discuss any matters before the City Council and shall only vote in the event of a tie.

### Section 3.07 Mayor Pro-Tem

- A. The Mayor Pro-Tem shall be a Councilmember elected by the City Council at the first regular City Council meeting following each regular City election.
- B. The Mayor Pro-Tem shall act as Mayor during the absence or disability of the Mayor and when acting as Mayor, retain their right to vote as a Councilmember.

### Section 3.08 Vacancies; Forfeiture of Office; Filling of Vacancies

- A. Vacancies. The Office of a Councilmember or Office of the Mayor shall become vacant upon death, resignation, removal from office by recall, or forfeiture of his/her office.
- B. Forfeiture of Office. A Councilmember or the Mayor shall forfeit his/her office if he/she:
  1. Fails to maintain at any time during the term of office any qualification for the office prescribed by this Charter or by law;
  2. Is convicted of a misdemeanor involving moral turpitude, a violation of any state laws regulating conflicts of interest of municipal officers, a felony, or is assessed a deferred adjudication or probation for a felony or any state laws regulating conflicts of interest of municipal officers;
  3. Fails to regularly attend City Council meetings without an approved absence obtained by the

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Mayor either before or after the absence. There shall be a presumption of failure to regularly attend when three (3) regular meetings are missed during a term year without obtaining an approved absence from the Mayor[;]

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

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

### **Section 3.09 Prohibitions**

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

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

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

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

E. It shall be unlawful for the Mayor or a Councilmember to release any attorney-client privileged communication. The City Council as the governing body of the City solely holds and is entitled to the attorney client-privilege and it may only be waived by an affirmative vote of two-thirds (2/3) of the City Council.

### **Section 3.10 Agendas; Procedures**

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

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

The Mayor or the City Manager may place any item on any City Council agenda.

B. Procedures. City Council shall, except as otherwise provided for in this Charter, create rules of

procedure for all City Council workshops, regular and special meetings and public hearings by ordinance.

### **Section 3.11 Ordinances**

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

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

C. Publication. The caption or title and penalties of every ordinance imposing any penalty, fine, or forfeiture shall, as soon as practical after passage thereof, be published one (1) time in the official newspaper(s) of the City of Leon Valley. An ordinance required to be published under this section shall take effect the day after publication unless otherwise provided in the ordinance.

D. Codification of Ordinances.

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

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

### **Section 3.12 Council Investigations; Hearings; Process**

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

B. Hearings Process for Forfeitures of Office and Prohibitions.

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

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

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

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

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

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

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

8. The City Council may ask questions of any individual;

9. No public comment shall be allowed unless agreed to by a majority vote of the members of City Council present. Rules for public comment shall be set by City Council;
10. In the case of a violation of [Section 3.08](#) of this Charter, City Council shall vote on the forfeiture and on the affirmative vote of two-thirds (2/3) of City Council declare the office of said office holder to be forfeited and vacant;
11. In the case of a violation of [Section 3.09](#) of this Charter, City Council may on the affirmative vote of a majority of the City Council take any action it determines to be appropriate including, but not limited to, directing further investigation, requesting further information, vote to enforce a penalty pursuant to [Section 7.13](#) of this Charter, vote to bring an action in municipal court, take a vote of censure; or, upon the affirmative vote of two-thirds (2/3) of City Council, declare the office of said office holder to be forfeited and vacant.