

## **EXHIBIT A**

### **PROPOSITION A**

#### **HOME RULE CHARTER FOR THE CITY OF LEWISVILLE, TEXAS**

##### **PREAMBLE**

We, the citizens of Lewisville, 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, and provide for the public welfare, 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 Lewisville, in Denton/Dallas Counties, 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 Lewisville," with such powers, rights, privileges, authorities, duties, and immunities, as are herein provided.

##### **ARTICLE 1. FORM OF GOVERNMENT AND BOUNDARIES**

###### **Section 1.01. Form of government.**

The municipal government provided by this charter, shall be known as the "Council-Manager Government." Pursuant to its provisions, and subject only to the limitations imposed by the state constitution, the statutes of this state, and by this charter, all powers of the city shall be vested in an elective council, hereinafter referred to as the "city council," which shall enact local legislation, adopt budgets, determine policies, and appoint the city manager, who in turn, shall be held responsible to the city council for the execution of the laws and the administration of the government of the city. All powers of the city shall be exercised in the manner prescribed by this charter, or if the manner be not prescribed, then in such manner as may be prescribed by ordinance, the state constitution, or by the statutes of the State of Texas.

###### **Section 1.02. The boundaries.**

The inhabitants of the City of Lewisville, Denton/Dallas Counties, Texas, residing within its corporate limits, as heretofore or hereafter established, are hereby constituted and shall continue to be a municipal body politic and corporate, in perpetuity, under the name of the "City of Lewisville," with such powers, privileges, rights, duties, authorities, and immunities, as are herein provided.

###### **Section 1.03. Extension of boundaries.**

The boundaries of the City of Lewisville may be enlarged and extended by the annexation of additional territory, irrespective of size and configuration, by the method hereinafter set forth:

- a. The city council shall have the power by ordinance to fix the boundary limits of the City of Lewisville, Texas, and to provide for the alteration and the extension of said boundary limits, and the annexation of additional territory lying adjacent to the city, with or without the consent of the territory and inhabitants annexed. The city council of the City of

Lewisville, Texas, shall provide for such notices and publications of such notices as is required by the laws of the State of Texas; and upon the final passage of any such ordinance, the boundary limits of the City of Lewisville, Texas, shall thereafter be fixed as provided in such ordinance.

- b. When any additional territory has been so annexed, same shall be a part of the City of Lewisville, Texas, and the property situated therein shall bear its pro rata part of the taxes levied by the city, and the inhabitants thereof shall be entitled to all the rights and privileges of the other citizens of said city, and shall be bound by the acts, ordinances, resolutions, and regulations of the city.

#### **Section 1.04. Contraction of boundaries.**

Whenever, in the opinion of the city council, there exists within the corporate limits of the City of Lewisville 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.

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

#### **Section 2.01. General.**

- a. The City of Lewisville may use a corporate seal; may sue and be sued; may contract and be contracted with; may implead and be impleaded in all courts in all matters whatsoever; may cooperate with the government of the State of Texas, or any agency thereof, the federal government; or any agency thereof, or any political subdivision of the State of Texas; and shall have all the powers granted to cities by the constitution and laws of the State of Texas, together with all the implied powers necessary to carry into execution all the powers granted.
- b. The city may own or acquire property within or without its boundaries for any municipal purpose in fee simple or in any lesser interest or estate, by purchase, gift, devise, lease or condemnation; ~~and~~ may sell, lease, hold, manage, control, and police any property now owned by it or which it may hereafter acquire; ~~and~~ shall have the right to lease or let its property whether inside or outside of the city limits, subject to the limitations hereinafter set out; ~~and~~ may construct, own, lease, operate, and regulate public utilities; may assess, levy, and collect taxes for general and special purposes on all lawful subjects of taxation; may borrow money on the faith and credit of the city by the issuance and sale of bonds, warrants, or notes of the city; may appropriate the money of the city for all lawful purposes; may regulate and control the use,

for whatever purpose, of the streets and other public places; may make and enforce all police, health, sanitary, and other regulations; and may pass such ordinances as may be expedient for the protection and maintenance of good government, peace and welfare of the city, for the performance of the functions thereof, for the order and security of its residents; and may provide suitable penalties for the violations of any ordinance enacted by the City of Lewisville; and, except as prohibited by the constitution and laws of this state, or as restricted by this charter, the city may exercise, and shall have, all municipal powers, functions, rights, privileges, authorities, and immunities, of every name and nature whatsoever.

## **Section 2.02. General powers adopted.**

The enumeration of the particular powers of this charter shall not be held or deemed to be exclusive, but in addition to the powers enumerated herein or implied hereby or appropriate to the exercise of such powers, the city shall have and may exercise all powers of local self-government and all other powers which, under the constitution and laws of the State of Texas, it would be competent for this charter specifically to enumerate. The City of Lewisville shall have and may exercise all the powers enumerated in Article 1175, Chapter 13, Title 28, of the Revised Civil Statutes of the State of Texas of 1925, as now, or hereafter amended.

## **Section 2.03. Eminent domain.**

The city shall have the full power, authority 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 private property for such purposes. The city shall have and possess the right and power of condemnation for any and all municipal or public purposes, even though not specifically enumerated in this charter.

# **ARTICLE 3. THE CITY COUNCIL**

## **Section 3.01. Number, selection, and term.**

The legislative and governing body of the city shall consist of a mayor, and six (6) councilmembers, and shall be known and referred to as the "City Council of the City of Lewisville, Texas." All references made in this charter to "the city council" shall mean the duly elected mayor and six (6) councilmembers. The exercise of any power granted to the city council shall require an affirmative vote of at least four (4) councilmembers, with the mayor having no vote except as provided in section 3.01b. of this charter.

- a. The city shall be divided into six districts of relatively equal total population to be numbered 1 through 6, with each council district corresponding to the council place of the same number. Persons serving in a council place shall reside in the district corresponding to that council place. The initial division of the city into council districts shall be made on the basis of population reported in the 2020 federal decennial census, with subsequent revisions of district lines to reflect population changes as shown by the most recent federal

decennial census. The mayor and the other members of the city council shall be elected from the city at large.

- b. The mayor shall preside at meetings of the city council; and shall be recognized as 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. He may participate in the discussion of all matters coming before the council. He shall not be entitled to vote as a member thereof; on legislative or other matters, except in case of a tie, when he shall have the right to cast the deciding vote.
- c. At the regular city council election in 2002, council places 3, 4, and 5 shall be filled by filling one place for a three-year term and two places for two-year terms. The place to be filled for the three-year term shall be selected by lot. At the regular city council election in 2003, council places 1, 2, and the mayor shall be filled by electing one place for a two-year term and the mayor and one place for three-year terms. The place to be filled for the two-year term shall be selected by lot. At the regular city council election in 2004, and in all subsequent city council elections, all council places and the mayor shall be filled for three-year terms. Provided, however, city council place 6 shall become effective and be filled at the first regularly scheduled city council election that occurs at least four months after the annexation that triggered the creation of city council place 6. The initial election for city council place 6 and all subsequent elections for place 6 shall be for three-year terms. All persons elected shall hold office until one's successor is elected and qualified. All elections shall be held in the manner provided in article 5 of this charter.

### **Section 3.02. Qualifications.**

The mayor and each member of the city council, in addition to having such other qualifications as prescribed by law, shall be a qualified voter of the city; shall have resided for at least one (1) year immediately preceding his election within the corporate limits of the City of Lewisville, or shall have been a resident for at least one (1) year immediately preceding his election of any territory not formerly within the corporate limits of said city, but which has been annexed to the city under the provisions of section 1.03 of this charter. Members of the city council additionally shall have resided continuously in their council district for six months prior to the regular filing deadline for a place on the ballot, or in the case of an annexation or redistricting, have resided continuously for six months in a location that is in the council district on the date of the regular filing deadline for a place on the ballot. Additionally, the mayor and each member of the city council shall not be in arrears in the payment of any taxes or other liabilities due to the city; and shall not hold any other office or employment under the city government while he is a member of said council.

The office of mayor or a councilman shall become vacant upon his death, resignation, or removal from office in any manner authorized by law or by this charter. The city council shall also have the power and authority to declare, and may at its next regular meeting declare a vacancy to exist in the office of mayor or any councilman if such mayor or councilman:

- a. Lacks at any time during his term of office any qualifications for the office prescribed by this charter or by law; or
- b. Violates any expressed prohibition of this charter; or

- c. Is convicted of a crime involving moral turpitude or a felony; or
- d. Fails to attend three (3) consecutive regular meetings of the council without being excused by the council.

If such vacancy occurs, said vacancy shall be filled as set forth in section 3.06 of this charter.

### **Section 3.03. Council to be judge of election, qualification.**

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

### **Section 3.04. Compensation.**

The mayor and members of the city council of Lewisville shall each receive compensation in the sum of \$50.00 for each meeting of the city council which they attend; they shall also be entitled to reimbursement of and for necessary expenses incurred in the performance of their official duties; when approved by the council.

### **Section 3.05. Mayor pro\_-tem and deputy mayor pro\_-tem.**

The city council, at its first meeting after the annual election of councilmen, shall elect one of its number as mayor pro\_-tem and one of its number as deputy mayor pro\_-tem. The mayor pro\_-tem shall perform all the duties of the mayor, in the absence or disability of the mayor; ~~and the~~ The deputy mayor pro\_-tem shall perform all the duties of the mayor, in the absence or disability of the mayor and mayor pro\_-tem.

### **Section 3.06. Vacancies.**

All vacancies shall be determined and filled in accordance with the constitution and laws of the State of Texas, as they now exist or may hereafter be amended. Any vacancy occurring for which the unexpired term is twelve (12) months or less shall be filled within thirty days of the occurrence of the vacancy by appointment of a majority vote of the remaining councilmen mentioned under section 3.01 above. Any vacancy for which the unexpired term is for more than twelve (12) months must be filled by a majority of the qualified voters voting in a special election called for such purpose in accordance with the Texas State Constitution. All vacancies filled by appointment or election shall be for the remainder of the unexpired term of the office so filled.

### **Section 3.07. 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, and among the other powers that may be exercised by the city council, the following are hereby enumerated for greater certainty:

- a. Appoint and remove a city manager as hereinafter provided.
- b. Reserved.
- c. Adopt the budget of the city.

- d. Authorize the issuance and sale 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. To name and designate an "official newspaper" for the City of Lewisville, Texas.
- 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 a building code, including electrical and plumbing codes, of and for the city; and to require building permits.
- h. Adopt and modify the official map of the city. (The official map is, and shall be maintained by the city secretary; in the city hall in Lewisville, Texas.)
- i. Adopt, modify, and carry out plans proposed by the city planning commission; for the clearance of slum districts and rehabilitation of blighted areas.
- j. Adopt, modify, and carry out plans proposed by the city planning commission for the replanning, improvement, and redevelopment of any area or district which may have been destroyed, in whole; or in part, by disaster.
- k. Regulate, license, and fix the charges or fares made by any person, firm, or corporation owning, operating, or controlling any vehicle of any character used for the carrying of passengers for hire or the transportation of freight for hire on the public streets and alleys of the city.
- l. Provide for the establishment and designation of fire limits; ~~and~~ prescribe the kind and character of buildings, ~~or~~ structures, or improvements to be erected therein; ~~and~~ provide for the erection of fireproof buildings within said limits; ~~and~~ provide for the condemnation of dangerous structures, ~~or~~ buildings or dilapidated buildings, or buildings calculated to increase the fire hazard; and prescribe the manner of their removal or destruction; within said limits.
- m. Fix the salaries and compensation of the city officers and employees; to set up qualifications, rules, and standards of and for employees of the city.
- n. Provide for a sanitary sewer and water system, ~~and~~ require property owners to connect their premises with sewer system, and provide for penalties for failure to make sanitary sewer connections.
- o. Provide for sanitary garbage disposal, ~~and~~ set fees and charges therefor, and provide penalties for failure to pay such fees and charges. To define nuisances; ~~and~~, to prohibit same; and provide penalties for violations.
- p. Provide for all necessary public utilities, ~~and~~ set fees and charges therefor, and provide penalties for misuses of same.
- q. Exercise exclusive dominion, control, and jurisdiction, (including the right to close and abandon streets and alleys), in, upon, over, and under; the public streets, avenues,

sidewalks, alleys, highways, boulevards, and public grounds of the city; and, provide for the improvement of same, as provided in Article 1105b, Chapter 9, Title 28, of the Revised Civil Statutes of the State of Texas of 1925, as now, or hereafter amended.

- r. Compromise and settle any and all claims, demands, and lawsuits, of every kind and character, in favor of, or against, the City of Lewisville.
- s. To require bonds, both special and general, of all contractors and others constructing or building for the city, and set up standards, rules, and regulations therefor.
- t. To pass ordinances defining and prohibiting misdemeanors and vagrancy; and, provide penalties for violations.
- u. To provide and/or arrange for any and all "civil defense measures" and "public shelter measures" for the City of Lewisville, Texas, and for the citizens thereof, deemed necessary for public welfare.
- v. To exercise, or delegate to the mayor, extraordinary and total executive powers, (on a temporary basis), during the existence and duration of any major public disaster, for the public welfare.

### **Section 3.08. 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 members thereof, shall give orders to any subordinate of the city manager, either publicly or privately.

### **Section 3.09. Meetings of the city council.**

The city council shall hold at least two regular meetings in each month at a time to be fixed by it for such regular meetings; 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. All meetings of the city council shall be public; and shall be held at the city hall, except that the city council may designate another place for such meetings. Special meetings shall be called by the city secretary upon request of the mayor, city manager, or a majority of the members of the council.

All meetings shall be held in compliance with open meetings laws of the State of Texas, ~~and~~ ~~no~~ No closed or executive meetings shall be held unless the city council has first been convened in an open meeting or session for which lawful notice has been given, and during which open meeting or session the presiding officer has publicly announced that a closed or executive meeting or session will be held and identified the section or sections under the open meetings laws of the State of Texas authorizing the holding of such closed or executive session. No final action or vote with regard to any matter considered in the closed meeting shall be made except in a meeting which is open to the public and where the general subject matter for consideration appears on the agenda of such public meeting.

### **Section 3.10. Rules of procedure.**

The city council shall determine its own rules of procedure and may compel the attendance of its members. Five (5) qualified members of the city council, including the mayor, ~~or mayor pro-tem~~ or deputy mayor pro-tem, shall constitute a quorum ~~to do business, and the affirmative vote of a majority of those present shall be necessary to adopt any ordinance, resolution or exercise any power authorized by this charter.~~ 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 of the archives of the city. The vote upon the passage of all ordinances, ~~and resolutions,~~ or other action shall be taken by the "ayes" and "nays" and entered upon the minutes, and every ordinance, resolution, or other action, upon its final passage, shall be recorded in a book kept for that purpose under full caption, and shall be authenticated by the signature of the presiding officer and the person performing the duties of the city secretary.

### **Section 3.11. Procedure for passage of ordinances.**

- a. The city council shall legislate by ordinance, and the enacting clause of every ordinance shall be, "Be it Ordained by the City Council of the City of Lewisville, Texas:". The city attorney shall approve all ordinances adopted by the council, as to the legality thereof, or shall file with the city secretary his written legal objections thereto. Evidence of approval of an ordinance by the city attorney may be by notation on the ordinance itself, or by separate paper or instrument. Every ordinance enacted by the council shall be signed by the mayor, mayor pro-tem, or by two councilmen, and shall be filed with and recorded by the city secretary. Except as otherwise herein specifically provided, the descriptive caption of all ordinances shall be read in open meeting of the council on three (3) several days. All ordinances shall take effect immediately upon final passage thereof. However, the requirements for reading ordinances on three (3) several days may be dispensed with, where an ordinance relating to the immediate preservation of the public peace, health, safety, or public welfare is adopted by the favorable vote of 5/6 of the six (6) councilmen mentioned under section 3.01 above, qualified and serving, and contains a statement of the nature of the emergency.
- b. Except as otherwise provided by law or this charter, the city secretary shall give notice of the enactment of every ordinance imposing any penalty, fine, or forfeiture for any violation of any of its provisions, and of every other ordinance required by law or this charter to be published, by causing the said ordinance, or its caption and penalty, to be published at least one (1) time within ten (10) days after final passage thereof in the official newspaper of the city. The affidavit of such publication by the publisher of such newspaper taken before any officer authorized to administer oaths and filed with the city secretary, shall be conclusive proof of the legal publication and promulgation of such ordinance, in all courts. Such ordinance shall take effect ten (10) days after the date of such publication and promulgation of such ordinance passed as an emergency measure under the preceding paragraph of this article shall take effect immediately on its publication. Every ordinance shall be authenticated by the signature of the mayor and city secretary, and shall be systematically recorded and indexed in an ordinance book in a manner approved by the council. It shall only be necessary to record the caption or title of ordinances in the minutes or journal of council meetings.



- c. The city council shall have power to cause the ordinances of the city to be corrected, amended, revised, codified, and printed in code form, as often as the council deems advisable, ~~and, s~~ Such printed code, when adopted by the council, shall be in full force and effect without the necessity of publishing the same, or any part thereof, in a newspaper. Such printed code shall be admitted in evidence in all courts and places without further proof.

### **Section 3.12. Official bonds for city employees.**

The city manager, ~~and~~ the city secretary, and such other city officers and employees as the city council may require shall, before entering upon the duties of their office, enter into a good and sufficient fidelity bond in a sum to be determined by the city council payable to the City of Lewisville, and conditioned upon the faithful discharge of the duties of such persons, 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, t~~ The premium of such bonds shall be paid by the City of Lewisville; ~~and,~~ such bonds must be acceptable to the city council. Such bond shall be maintained in full force and effect at all times during such person's tenure of office.

### **Section 3.13. Investigation by the city council.**

The city council shall have power to inquire into the conduct of any office, department, agency, officer or employee of the city and to make investigations as to municipal affairs, and for that purpose may subpoena witnesses, administer oaths, and compel the production of books, papers, and other evidence. Failure to obey such subpoena, or to produce books, papers, or other evidence as ordered under the provisions of this section shall constitute a misdemeanor; and shall be punishable by a fine not to exceed two hundred dollars (\$200.00).

### **Section 3.14. Audit and examination of city books and accounts.**

The city council shall cause an independent annual audit to be made of the books and accounts of each and every department of the city and may provide for more frequent audits as it deems necessary. Such audit shall be made by a certified public accountant or firm of accountants, who shall be selected by the city council, and who shall have no interest, direct or indirect, in financial affairs of the city government or in any of its officers. The council may designate such accountant or firm annually or for a period not exceeding two (2) years, provided that the designation for any particular year shall be made not later than thirty (30) days before the end of such fiscal year. Nothing herein shall prevent the city council from redesignating the same accountant or firm which has previously been designated to prepare an audit. If the State of Texas makes such an audit, the council may accept it as satisfying the requirement of this section. Such accountant, so selected, shall not maintain or keep any of the city's accounts or records. Such audit shall include a recapitulation of all internal audits made during the course of each fiscal year, 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.

## **ARTICLE 4. ADMINISTRATIVE SERVICES**

### **Section 4.01. City manager.**

- a. *Appointment and qualifications.* The city council shall appoint a city manager who shall be the chief administrative and executive officer of the city; and shall be responsible to the city council for the administration of all the affairs of the city. He shall be chosen by the city council solely on the basis of his executive and administrative training, experience, and ability; and need not, when appointed, be a resident of the City of Lewisville. No member of the city council shall, during the time for which he is selected, 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 of such suspension or removal; in the city council. In the case of the absence or 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 compensation as may be fixed by the council.
- c. *Duties of the city manager.*
  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.

### **Section 4.02. Department of police.**

There shall be established and maintained a department of police; to preserve order within the city, ~~and to secure the residents of said city from violence, and to secure 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 for an indefinite term. The chief of police shall be fully responsible to the city manager for the administration of his department; and for the carrying out and enforcement of the

resolutions and ordinances of the city council. He may be removed from office by said city manager.

- b. *Special police.* No person, except as authorized by general law, by this charter, or by the ordinances passed pursuant hereto, shall act as a special police or special detective.

#### **Section 4.03. City secretary.**

The city council shall appoint the city secretary. The 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 in a book kept and indexed for the purpose, all ordinances, and resolutions, and shall perform such other duties as the city council shall assign to him, and those elsewhere provided in this charter.

#### **Section 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 may hereafter, be prescribed by laws of the State of Texas relative to municipal or recorder's courts.
- b. The judge of said court shall be appointed by the city council of the City of Lewisville, and shall receive such salary as may be fixed by the city council.
- c. The city secretary or an assistant city secretary may be the ex-officio clerk of said court.
- d. The clerk of said court and his deputies shall have the power to administer oaths and affidavits, make certificates, affix the seal of said court thereto, and generally do and perform any and all acts usual, and necessary to be performed, by the clerks of courts, in issuing process of said courts, and conducting the business thereof.
- e. The city council shall appoint one or more alternate judges who shall receive such salary as may be fixed by the city council. In case of the disability or absence of the judge of the municipal court, the alternate judge shall have authority to act as judge of said court.
- f. The appointment of the judge and any alternate judge may be terminated at any time by a majority of the city council.

#### **Section 4.05. City attorney.**

The city council shall appoint a competent, ~~and~~ duly qualified, and licensed attorney, practicing law in the State of Texas, who shall be the attorney for the city (and may also be referred to as 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 attorney for the city, or such other attorneys recommended 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. The city council may retain special counsel at any time it deems same appropriate and necessary.

#### **Section 4.06. Local health department.**

The city council shall establish a local health department in accordance with Chapter 121, Texas Health and Safety Code, V.T.C.A. as it now exists or may hereafter be amended.

#### **Section 4.07. ~~Other departments.~~ Reserved.**

~~The city council may abolish or consolidate such offices and departments as it may deem to be to the best interest of the city, and may divide and subdivide the administration of any such departments as it may deem advisable; may create new departments, and may discontinue any offices or departments at its discretion, except those specifically established by this charter.~~

### **ARTICLE 5. NOMINATIONS AND ELECTIONS**

#### **Section 5.01. Elections.**

The regular city election shall be held annually on the first Saturday in May, unless the Texas Election Code requires that this election be held on some other date, at which time officers will be elected to fill those offices, the terms of which expire in that year. The city council shall fix the hours and place for holding such election. The city council may, by resolution, order a special election, fix the time and places for holding same, and provide all means for holding such special election. Notice of the election shall be published as required by the Texas Election Code. In the order, ordinances, or resolution of the city council calling any election, at which more than one (1) councilman shall be elected, the city council shall, in calling such election, provide for a separate place on the ballot for each vacancy to be filled at such election, designating such places as Place No. One, Place No. Two, etc., and in case an unexpired term is to be filled at such election, the place for the unexpired term shall be so designated.

#### **Section 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, and for the prevention of fraud in such elections. Municipal elections shall be conducted by appointed election officials in accordance with any regulations made by the council or the laws of the State of Texas.

#### **Section 5.03. Filing for office.**

Any person having the qualifications set forth for councilman under section 3.02 of this charter shall have the right to file an application to have his name placed on the official ballot as a candidate for any elective office, and such application in writing, signed by such candidate and accompanied by his loyalty affidavit, as prescribed by the Texas Election Code shall entitle such applicant to a place on the official ballot. Each such person filing his application to have his name placed on the official ballot shall, in his application, specify the place for which he desires to become a candidate.

#### **Section 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 a drawing of lots, conducted by the city council. All official ballots shall be printed at least twenty (20) days prior to the date of any general or special election, and early voting shall be governed by the general election laws of the State of Texas.

#### **Section 5.05. Election by majority.**

At any regular or special municipal election, the candidates in each place on the ballot who receive the majority of votes cast in such election shall be declared elected. Should no candidate receive a majority of votes for an office, the council shall immediately order a special election to be held on a date permitted by the provisions of the Texas Election Code. At this special election, only the names of the two candidates receiving the highest number of votes at the regular election for the office shall be submitted to the voters, and the candidate receiving the majority of votes in such special election shall be declared duly elected.

#### **Section 5.06. Laws governing city elections.**

- a. All city elections shall be governed by the constitution of the State of Texas, laws of the State of Texas applying to home rule city municipal elections, this charter, ordinances, and resolutions of the city, in the order named.
- b. All citizens qualified by the constitution and laws of the State of Texas to vote in the city, who satisfy the requirements for registration prescribed by law, and who shall be residents of the incorporated city limits of the City of Lewisville, shall be qualified voters of the city within the meaning of this charter.

#### **Section 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. The election judges shall conduct the elections, determine, record, and report the results as provided by the general election laws of Texas. Within five (5) days or as soon as practical after an election, the city council shall meet, open the returns, canvass, and officially declare the result of the election as to candidates and questions, and issue certificates of election to candidates elected, as hereinbefore provided.

#### **Section 5.08. Oath of office.**

Every officer of the city shall, before entering upon the duties of his office, take and subscribe to the following oath of affirmation to be filed and kept in the office of the city secretary.

"I, \_\_\_\_\_, do solemnly swear (or affirm), that I will faithfully execute the duties of the office \_\_\_\_\_, of the City of Lewisville, State of Texas, and will to the best of my ability preserve, protect and defend the Constitution and Laws of the United States and of this State and the Charter and Ordinances of this city; and I furthermore solemnly swear (or affirm), that I have not directly or indirectly paid, offered, or promised to pay, contributed, nor promised to

contribute any money or valuable thing, or promised any public office or employment as a reward for the giving or withholding a vote at the election at which I was elected, or if the office is one of appointment, to secure my appointment. So help me God."

## **ARTICLE 6. RECALL OF OFFICERS**

### **Section 6.01. Scope of recall.**

Any elected city official, whether elected to office by the qualified voters of the city or appointed 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.

### **Section 6.02. Petitions for recall.**

Before the question of recall of such officers 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 five percent (5%) of those who were qualified voters on the date of the last regular municipal election. Each signer of such recall petition shall personally sign his name thereto in ink or indelible pencil, and shall write after his name 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.

### **Section 6.03. Form of recall petition.**

The recall petition mentioned above must be addressed to the city council of the City of Lewisville, must distinctly and specifically point out the ground or grounds upon which the petition for removal is predicated, and, if there be more than one ground, such as for 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:

"STATE OF TEXAS

COUNTY OF DENTON

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

Sworn and subscribed to before me this \_\_\_\_ day of \_\_\_\_\_, 19\_\_.

	Notary Public in and for Denton County, Texas."
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#### **Section 6.04. Various papers constituting petition.**

The petition may consist of one 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 or more petitioners, and the several parts of 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 Lewisville address.

#### **Section 6.05. Presentation of petition to city council.**

Within fifteen (15) 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 of the City of Lewisville.

#### **Section 6.06. Public hearing to be held.**

The officer whose removal is sought may, within five (5) 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.

#### **Section 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 not less than forty-five (45) nor more than fifty-five (55) days from the date such petition was presented to the city council, or from the date of the public hearing, if one was held, or such other date as required by the current Texas Election Code.

#### **Section 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 question there shall be printed the following words, one above the other, in the order indicated:

"YES"

"NO"

### **Section 6.09. Result of recall election.**

If a majority of the votes cast at a recall election shall be "NO;" (that is, against the recall of the 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 "YES" (that is, 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).

### **Section 6.10. Recall, restrictions thereon.**

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

### **Section 6.11. Failure of city council to call an 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 the county judge of Denton County, Texas, shall discharge any of such duties herein provided to be discharged by the person performing the duties of city secretary, or by the city council.

## **ARTICLE 7. LEGISLATION BY THE PEOPLE, INITIATIVE, AND REFERENDUM**

### **Section 7.01. General power.**

The qualified voters of the City of Lewisville shall also have the power of direct legislation by initiative and referendum.

### **Section 7.02. Initiative.**

The people of the City of Lewisville reserve the power of direct legislation by initiative, and in exercise of such power may propose any ordinance except: (1) ordinances appropriating money or levying taxes, and (2) ordinances repealing ordinances appropriating money or levying taxes, not in conflict with this charter, the state constitution, or state laws. Any initiated ordinance may, subject to the above, be submitted by the qualified voters of the City of Lewisville, 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 equal in number to at least five (5) percent of those who were qualified voters on the date of the last regular municipal election of the city, 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 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. Within fifteen (15) days after filing of such petition, the person performing the duties of city secretary shall present said petition and proposed ordinance or resolution 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, within ten (10) days after the receipt thereof, 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 at the next available election date in accordance with the Texas Election Code at which the qualified voters of the City of Lewisville shall vote on the questions of adopting or rejecting the proposed legislation. No initiative petition shall be filed within three (3) months after an election on the same ordinance.

### **Section 7.03. Referendum.**

Qualified voters of the City of Lewisville may require that any ordinance or resolution, with the exception of ordinances or resolutions authorizing the issuance of bonds or warrants, levying taxes, or adopting a budget or making appropriations for the operation of the city, 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 petitions initiating legislation as provided in section 7.02 of this charter and shall be submitted to the person performing the duties of city secretary. Immediately upon the filing of such petition, the person performing the duties of city secretary shall present said 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.

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

The city council may, upon its own motion, and by a majority vote of its members, submit to popular vote at any election, for adoption or rejection, of 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, at its discretion, call a special election for this purpose.

### **Section 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."

#### **Section 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 the 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.

#### **Section 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.

#### **Section 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.

#### **Section 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.

#### **Section 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, consistent herewith.

#### **Section 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 actually accrued thereunder.

### **ARTICLE 8. MUNICIPAL PLANNING AND ZONING**

#### **Section 8.01. Platting of property.**

- a. Hereafter, every owner of any tract of land situated within the corporate limits of the City of Lewisville, Texas, who may divide the same in two or more parts for the purpose of laying out any subdivision or any addition to the city, shall comply with the provisions of Section 212.004 et seq. of the Local Government Code of the State of Texas, as it now exists or may hereafter be

amended, and said Section 212.004 et seq., as it now exists or may hereafter be amended, is hereby adopted and incorporated herein for all purposes.

- b. The provisions of section 8.01a. above shall apply similarly to the owner of any tract of land situated with a maximum distance of two (2) miles beyond the corporate limits of the City of Lewisville [see V.T.C.A., Local Government Code § 42.021(3)].

### **Section 8.02. Development of property.**

The city council shall cooperate with persons interested in the development of property within, or beyond, the city limits. No expenditure of public funds, however, shall be authorized for the development of privately owned subdivisions, situated within or beyond the corporate limits of the city, except, (where feasible for the city) for the extension of utilities or services to such areas.

### **Section 8.03. Planning commission.**

The city council shall have the power and authority to appoint a city planning commission, in accordance with the general laws of the State of Texas, as provided for in Articles 1011a through 1011L of the Revised Civil Statutes of the State of Texas (T.28, Ch. 4) as now, or hereafter amended, ~~and, to~~ The city council and City of Lewisville shall have all of the rights, privileges, powers, and authority given, permitted, and granted, under the laws of the State of Texas, relative to zoning and planning in, for, and of, municipalities, and their environs. Such commission may also be designated and referred to as the "city zoning commission" or as the "city planning and zoning commission." The present city zoning commission of the City of Lewisville may continue to serve, (or, may be specially designated by the city council, as the city planning commission or city planning and zoning commission, and shall in such event, thereafter, serve under such new title).

### **Section 8.04. Planning commission membership.**

The city council shall appoint a city planning commission of seven (7) members who shall be residents of the city and own real property therein who shall serve without compensation. Members shall be appointed at the first regular meeting of the city council in July for a two (2) year term with four (4) members to be appointed in each even numbered year and three (3) members to be appointed in each odd-numbered year on a continuing basis. Membership shall be accompanied by active participation in the activities of the commission, and when any member is absent for three (3) consecutive regular meetings, such absence shall be referred to the city council for review. Vacancies occurring in the commission shall be filled within thirty (30) days by the city council for the remainder of any unexpired term.

## **ARTICLE 9. MUNICIPAL FINANCE**

### **Section 9.01. Fiscal year.**

The fiscal year of the City of Lewisville 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.

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

The city manager shall submit to the council a proposed budget, which 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 the tax rate.
- e. Tax levies and tax collections by years for at least five (5) years.
- f. General fund resources in detail.
- 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 summary No. h. above.
- j. A revenue and expense statement for all types of bonds.
- k. A description of all bond issues outstanding, showing rate of interest, date of issue, maturity date, amount authorized, amount issued, and amount outstanding.
- l. A schedule of requirements for the principal and interest of each issue of bonds.

### **Section 9.03. Anticipated revenues compared with other years in budget.**

In preparing the budget, the city manager shall place in parallel columns; opposite the several items of revenue: The actual amount of each item for the last completed fiscal year; the estimated amount for the current fiscal year; and, the proposed amount for the ensuing fiscal year.

### **Section 9.04. Proposed expenditures compared with other years.**

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

### **Section 9.05. 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 public record. The city manager shall provide copies for distribution to all interested persons.

**Section 9.06. Reserved.**

**Section 9.07. Reserved.**

**Section 9.08. 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 revenues to at least equal such proposed expenditures.

**Section 9.09. Vote required for adoption.**

The budget shall be adopted by the favorable vote of a majority of the members of the whole city council.

**Section 9.10. Date of final adoption.**

The budget shall be finally adopted prior to the beginning of the fiscal year; and, should the city council fail to so adopt a budget, the then existing budget together with its tax levying ordinance and its appropriation ordinance, shall be deemed adopted for the ensuing fiscal year.

**Section 9.11. Effective date of budget; certification.**

Upon final adoption, the budget shall be in effect for the fiscal year. The budget, as finally adopted, shall be filed with the person performing the duties of city secretary and the county clerk of Denton County. The final budget shall be made available for the use of all offices, departments, and agencies, and for the use of interested persons and civic organizations. The budget shall be available on the city's website or comparable electronic outlet.

**Section 9.12. 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.

**Section 9.13. 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.

**Section 9.14. Contingent appropriation.**

Provision shall be made in the annual budget and in the appropriation ordinance for a contingent appropriation in an amount not more than three (3) percent of the total budget, to be used in case of unforeseen items of expenditure. Such contingent appropriation 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.

**Section 9.15. 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 national committee on governmental accounting or some other nationally accepted classification.

**Section 9.16. Other necessary 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.

**Section 9.17. Reserved.**

**Section 9.18. 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 also have the power to levy occupation taxes on such occupations as consistent with the general laws of the State of Texas.

**Sections 9.19—9.23. Deleted.**

**Section 9.24. Taxes; when due and payable.**

All taxes due the City of Lewisville ~~shall be payable at the office of the city assessor-collector, and~~ may be paid at any time after the tax rolls for the year have been completed and approved, which shall not be later than October 1st. Taxes shall be paid before February 1st, and all such taxes not paid prior to such date shall be deemed delinquent and shall be subject to such penalty, interest, and other collection costs as provided by the Texas Tax Code, Section 33.01 et seq., as it now exists or may hereafter be amended.

**Section 9.25. Tax liens.**

A lien is hereby created on all property, personal and real, in favor of the City of Lewisville, for all taxes, ad valorem, occupation, or otherwise. Said lien shall exist from January 1st in each year, until the taxes are paid. Such lien shall be prior to all other claims; and no gift, sale, assignment or transfer of any kind, or judicial writ of any kind, can ever defeat such lien, but, the city ~~assessor-collector~~ 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 Lewisville 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

Lewisville is hereby made liable for all of said taxes, whether the same be due upon personal or real property, or upon both.

#### **Section 9.26. Issuance of bonds.**

- a. In keeping with the constitution of the State of Texas and not contrary thereto, the City of Lewisville shall have the right, authority, and power to borrow money on the credit of the city for any public purpose not now or hereafter prohibited by the constitution and laws of the State of Texas, and shall have the right to issue all tax bonds, revenue bonds, funding and refunding bonds, time warrants, and other evidences of indebtedness as now authorized, or as may hereafter be authorized, to be issued by cities and towns; by the laws of the State of Texas.
- b. Revenue bonds: The city shall have the right, authority, and 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, same 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 voters 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.

#### **Section 9.27. City treasurer.**

The city manager shall appoint a competent person as city treasurer and such assistants as the city council shall deem advisable. The city treasurer shall perform the duties delegated to him by the city manager and those which may be imposed upon him by the laws of the State of Texas. The duties of city secretary and city treasurer may be performed by the same individual.

### **ARTICLE 10. FRANCHISES AND PUBLIC UTILITIES**

#### **Section 10.01. Powers of the city.**

In addition to the city's power, right, and authority; to buy, construct, lease, maintain, operate, and regulate public utilities, and to manufacture, distribute, and sell the output of such utilities' operations, the city shall have all further rights, authorities, and powers as may now; or hereafter; be granted under the constitution and laws of the State of Texas. The city also shall have the power to the full extent not otherwise prohibited by the Constitution of the State of Texas to acquire by condemnation or otherwise any properties or rights (of any nature, whether real or personal, tangible or intangible, including, without limitation, real property and interests therein, works, improvements, facilities plants, equipment, appliances, approvals, permits, licenses, franchises, leases, options, contract rights, certificates of convenience and necessity, and any and all other property or rights of any kind or nature whatsoever), systems, or business, in whole or in part, of any utility or other entity as necessary, appropriate or convenient to enable the city to provide utility service of any character within the city limits or in other areas permitted by law. The city council, by ordinance,

may adopt all rules and regulations, both procedural and substantive, considered necessary, convenient, or appropriate to enable the city to acquire, by condemnation or otherwise, any such property, system, or business and to provide for the due process of law in connection therewith.

#### **Section 10.02. Franchise; power of city council.**

The city council shall have power by ordinance to grant, amend, renew, and extend; all franchises of all public utilities of every character operating within the City of Lewisville. 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~~ 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 made available for inspection in the ~~City~~ City Secretary's office, the main library and through such other means of publication as may be directed by the city council. No public utility franchise shall be granted for a term of more than twenty (20) years; nor shall same be transferable, except with the approval of the city council, expressed by ordinance.

#### **Section 10.03. Franchise value not to be allowed.**

No value shall be assigned to any franchise granted by the City of Lewisville 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.

#### **Section 10.04. Right of regulation.**

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

- a. To repeal the 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 Lewisville, and the 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 Lewisville.
- e. To impose such reasonable regulations and restrictions as may be deemed desirable or conducive to the safety, welfare, and accommodation of the public.
- f. To require such compensation and rental as may be permitted by the laws of the State of Texas.



#### **Section 10.05. Grant not to be exclusive.**

No grant, contract, or franchise, to construct, maintain, or operate a public utility, for or in Lewisville, Texas, and no renewal or extension of such grant, contract, or franchise, shall be exclusive.

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

The consent of abutting and adjacent property owners shall not be required for the construction, extension, maintenance, or operation of any public utility; ~~but, a~~ 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.

#### **Section 10.07. Extensions.**

All extensions of public utilities within the city limits shall become a part of the aggregate property of the public utility, shall be operated as such, and shall be subject to all the obligations and reserved rights contained in this charter and in any original grant 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.

#### **Section 10.08. Other conditions.**

All franchises heretofore granted are recognized as contracts between the City of Lewisville 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 Lewisville 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.

#### **Section 10.09. Accounts of municipally owned utilities.**

Accounts shall be kept for each public utility owned or operated by the city, in such manner as to show the true and complete financial results of such city ownership and operation, including all assets and all liabilities, appropriately subdivided by classes, depreciation reserve, other reserves, and surplus; ~~also~~ revenues, operating expenses including depreciation, interest payments, rental, and other disposition of annual income. The accounts shall show actual capital cost to the city of each public utility owned, also the cost of all extensions, additions, and improvements and the source of 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 city government department. The city council shall cause an annual report to be made by a certified public accountant; and shall publish such report; showing the financial results of such city ownership and operation, giving the information specified in this section and such other data as the city council shall deem expedient.

#### **Section 10.10. Sales of electricity, water, and sewer services.**

- a. The city council shall have the right, power, and authority to sell and distribute electricity and water, and to sell and provide for sewer services, and any other utilities, to any person, firm, or corporation outside the limits of the City of Lewisville, and to permit them to connect with said system 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 be reasonable when considered in the light of all circumstances, to be determined by the city council.
- b. The city council shall have the right, power, and authority to prescribe the kind of materials used within or beyond the limits of the City of Lewisville; where it furnishes the service, ~~and~~ to inspect the same and require them to keep in good order and condition at all times, ~~and~~ to make such rules and regulation as shall be necessary and proper, and to prescribe penalties for noncompliance with same.

#### **Section 10.11. Regulation of rates and service.**

The city council shall have the absolute right, authority, and power, after due notice and hearing, to regulate by ordinance, the rates and services of every public utility operating in the City of Lewisville; and shall have the power to employ, at the expense of the grantee, expert assistance and advice in determining a reasonable rate and equitable profit to the grantee. The city council shall also have the right, authority, and power to require at any time or times, detailed reports and financial statements on the operations of any such public utility, which reports and statements shall be in such form, and contain such information, as the council shall prescribe.

### **ARTICLE 11. GENERAL PROVISIONS**

#### **Section 11.01. Publicity of records.**

All records and accounts of every office, department, or agency of the city shall be open to inspection in accordance with the Open Records Act, Article 6252-17a of Vernon's Annotated Texas Statutes as it now exists or may hereafter be amended.

#### **Section 11.02. Personal interest.**

No officer or employee of the City of Lewisville shall violate any provision of Chapter 171 of the Texas Local Government Code as it now exists or may hereafter be amended.

#### **Section 11.03. Nepotism.**

No public official of the city shall appoint or vote for the appointment to any board, commission, corporation, authority, office, position, or employment of any individual related to such

public official within the prohibited degrees of consanguinity or affinity as set forth in Chapter 573, Texas Government Code, as it now exists or may hereafter be amended.

#### **Section 11.04. Provisions relating to assignment, execution, and garnishments.**

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

#### **Section 11.05. City not required to give security or execute bonds.**

It shall not be necessary in any action, suit, or proceeding in which the City of Lewisville 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.

#### **Section 11.06. Special provisions covering damage suits, etc.**

- a. The City of Lewisville, Texas, shall never be liable for any personal injury, whether resulting in death or not, unless the person injured, or someone in his behalf, or, in the event the injury results in death, the person or persons who may have a cause of action under the law by reason of such death injury, shall file a notice in writing with the city manager or city secretary within one hundred eighty (180) days after the occurrence of such injury, stating specifically in such notice, when, where, and how the exact injury occurred, and the full extent thereof, together with the amount of damage claimed or asserted. The City of Lewisville, Texas, shall never be liable for claim for damage or injury to personal property unless the person whose personal property has been injured or damaged, or someone in his behalf, shall file a claim in writing with the city manager or the city secretary within one hundred eighty (180) days after said damage or injury has occurred, stating specifically when, where, and how the injury or damage occurred, and the full extent thereof, and the amount of damage sustained.
- b. The City of Lewisville, Texas, shall never be liable for any claim for damage or injury to real property caused by the negligent act or omission of its officers, servants, agents, or employees, unless the person whose real property has been injured or damaged, or someone in his behalf, shall file a claim in writing with the city manager or city secretary within one hundred eighty (180) days after said damage or injury has occurred, stating specifically when, where, and how the injury or damage occurred, and the amount of damage claimed. The City of Lewisville, Texas, shall never be liable on account of any damage or injury to person or to personal property arising from or occasioned by any defect in any public street, highway, alley, grounds, or public work of the City of Lewisville, Texas, unless the specific defect causing the damage or injury shall have been actually known to the city manager at least twenty-four (24) hours prior to the occurrence of the injury or damage, and proper diligence has not been exercised to

rectify the defect. The notice herein required to be given to the city manager or the city secretary of the specific defect causing the damage or injury shall apply where the defect arose from any omission of the city itself, through its agents, servants, or employees, or acts of third parties.

- c. No provision of this section shall ever be so construed as to expand the ordinary liability of the city; and provided, that nothing herein contained shall be construed to mean that the City of Lewisville, Texas, 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.

#### **Section 11.07. Rearrangement and renumbering.**

The city council shall have the power, by ordinance, to renumber and rearrange all articles, sections, and paragraphs of this charter, or any amendments thereto, as it shall deem appropriate; (but without changing the meaning or effect of any part hereof); and, upon the passage of any such ordinance, a copy thereof, certified by the city secretary, shall be forwarded to the secretary of state of the State of Texas; for filing.

#### **Section 11.08. Judicial notice.**

This charter shall be deemed a public act; and shall have the force and effect of a general law, may be read in evidence without pleading or proof, and judicial notice shall be taken thereof in all courts and places; without further proof.

#### **Section 11.09. Construction of charter.**

Any word or phrase in this charter which would appear to be gender specific, including but not limited to words such as "he," "his," "him," and "councilman," shall be read and construed as gender-neutral terms, and each charter provision using such a term shall be equally applicable to both males and females.

#### **Section 11.10. Park board.**

The city council shall be and is, empowered, at its discretion, to appoint not less than five (5) nor more than nine (9) citizens and qualified voters of the City of Lewisville, who shall constitute its park board; and who shall serve at the pleasure of the city council; and for such term as may be lawfully established by ordinance. The park board shall act in an advisory capacity to the city council; and shall perform such duties as the city council may, from time to time, prescribe by ordinance.

#### **Section 11.11. Public library.**

The city council shall have, and is given, 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.

#### **Section 11.12. Accepting gifts, etc.**

No officer or employee of the City of Lewisville shall ever accept, directly or indirectly, any gift, favor, or privilege, from any public utility corporation, or other corporation, person or persons, enjoying a grant, contract, franchise, privilege, or easement, from or with said city, during the term of office of such officer, or during such employment of such employee, except, as may be authorized by law, resolution, or ordinance. Any officer or employee of the city who shall violate the provisions of this section shall be guilty of a misdemeanor, ~~and~~ may be punished by any fine that may be prescribed by ordinance for this offense, ~~and~~ shall, forthwith, be removed from office.

#### **Section 11.13. Power to remit penalties.**

The governing body shall have the right to remit, in whole or in part, any fine or penalty belonging to the city, which may be imposed under any ordinance or resolution passed pursuant to this charter.

#### **Section 11.14. Property not exempt from special assessments.**

No property of any kind, by whomsoever owned or held or by whatsoever institution, agency, political subdivision or organization, owned or held, whether in trust or by nonprofit organization, or corporation, or by "foundation," or otherwise, (except property of the City of Lewisville, Texas), shall be exempt in any way from any of the special taxes, charges, levies, and assessments, authorized or permitted by this charter, for local improvements, for the public welfare.

#### **Section 11.15. No lien on public property; contractors, etc.**

No lien of any kind or character can, and none shall ever exist, or be established, on or against the public buildings, property, public halls, parks, or public works of the City of Lewisville, Texas; ~~and~~, all subcontractors, materialmen, mechanics, artisans, and laborers upon any public works or projects of the City of Lewisville are hereby required to notify the city in writing of all claims against it that they may have, on account of such work; ~~and~~, when such notice has been timely, duly and properly given, the city shall retain an amount from any funds due the contractor, sufficient to satisfy all claims; provided, that such notice may be given at any time after such indebtedness becomes due, and before final settlement; ~~and~~ provided, further, that no contractor or subcontractor shall issue any "time checks" on, or on account of, any public works of said city.

#### **Section 11.16. Disaster clause.**

In case of disaster, when a legal quorum of elected councilmembers cannot otherwise be assembled, due to multiple deaths or injuries, the surviving member or members of the elected council, (or highest surviving city official; if no elected official remains), must, within twenty-four (24) hours after such disaster, request assistance from the governor under the provisions of the Texas Disaster Act, Emergency Interim Public Office Succession Act, or other applicable state law. Within fifteen (15) days after such disaster, the normal rules may be suspended in order to call an election to fill the vacant positions in accordance with the Constitution and laws of the State of Texas.

#### **Section 11.17. Separability clause.**

If any section or part 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.

#### **Section 11.18. Effect of this charter on existing law.**

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

#### **Section 11.19. Reserved.**

#### **Section 11.20. Applicability of general law.**

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 Lewisville. ~~but, if~~ 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, if~~ The exercise of any such powers by the City of Lewisville 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.

#### **Section 11.21. Amending the charter.**

Amendments to this charter may be framed and submitted to the voters of the city in the manner provided by Chapter 13 of Title 28 of the Revised Civil Statutes of Texas, 1925, as now or hereafter amended; but, no more often than once every two years, as provided by the laws of the State of Texas.

#### **Section 11.22. Charter review commission.**

The city council shall appoint at its first regular meeting in July of 2009, and every fifth year thereafter, a charter review commission of five (5) citizens of the City of Lewisville.

##### *a. Duties of the commission:*

1. Inquire into the effectiveness of the city charter and determine whether any charter provisions require revision. To this end, public hearings may be held.
2. Propose, if it deems desirable, amendments to this charter to improve the effective application of said charter to current conditions.

3. Report its findings and present its proposed amendments, if any, to the city council.
- b. *Action by the city council.* The city council shall receive the final report presented by the charter review commission and shall consider any recommended amendments to said charter. The final report shall be made available for inspection in the ~~c~~City ~~s~~Secretary's office, the main library and through such other means of publication as may be directed by the city council.

*Term of office.* The term of office of such charter review commission shall be six (6) months, ~~and, i~~  
~~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 city secretary and shall become a public record.

#### **Section 11.23. Retirement system and social security; group insurance.**

The city council shall have the power to provide for coverage of its appointed officers and employees under the workmen's compensation, retirement, and social security systems provided or permitted by laws of the State of Texas, for such officers and employees of the city, ~~;~~ and for "group insurance coverage" of such officers and employees; the city council having the power to provide for the payment of all or any part of the cost thereof.

#### **Section 11.24. Special powers under Article 1175:19.**

The city council and the City of Lewisville shall specially have all rights, powers, and authority given and granted by and under Section 19, Article 1175 of the Revised Civil Statutes of the State of Texas, and all amendments thereof and thereto, ~~(relative to nuisances within and outside of the city limits, and the prohibition thereof, etc.)~~

#### **Section 11.25. City depository.**

The provisions of the general laws of the State of Texas, governing the selection and designation of a city depository are hereby adopted as the law governing the selection and designation of a depository of and for the City of Lewisville.

#### **Section 11.26. Tax debt arrearages.**

No money shall be paid by the City of Lewisville upon any claim, debt, demand, or account whatsoever, to any person, firm, or corporation, who is in arrears to the City of Lewisville for taxes, or otherwise; ~~and,~~ the city shall be entitled to a counter-claim and offset against any such debt, claim, demand, or account, in the amount of taxes or other debt in arrears, and no assignment or transfer of such debts, claims, demands, or accounts, after the said taxes or other debts are due, shall affect the right, authority, and power of the city to offset the said taxes, or other debts, against the same.

#### **Section 11.27. Reserved.**