

CITY OF MOUNT PLEASANT
CITY CHARTER
(Amendment 2002)

Article I. Name and Boundaries

Section 1. Corporate name.

The inhabitants of the City of Mount Pleasant, Texas, within the corporate limits as now established or as hereinafter established in the manner provided by this Charter shall continue to be a municipal body politic and corporate in perpetuity, under the name of the “City of Mount Pleasant.”

Section 2. Boundaries.

The boundaries of the city are those that have previously been legally established. These boundaries may be changed through annexation or deannexation, as described in Article II of this charter.

Article II. General Powers

Section 1. Powers of the city.

The city shall have all the powers granted to municipal corporations and 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. The city may acquire property within or without its corporation limits for any city purpose in fee simple or any lesser interest or estate, by purchase, gift, devise, lease or condemnation, and may sell, lease, mortgage, hold, manage and control such property as its interest may require; and, except as prohibited by the constitution of this state or restricted by this charter, the city shall and may exercise all municipal functions, rights, privileges and immunities of every name and nature whatsoever. The enumeration of particular powers by this charter shall not be deemed to be exclusive, and in addition to the powers enumerated therein or implied thereby, or appropriate to the exercise of such powers, it is intended that the City of Mount Pleasant shall have, and may exercise, all powers of local self-government, and all powers enumerated in the Texas Local Government Code and laws of the State of Texas, and amendments thereto

and hereafter enacted, or any other powers which, under the constitution of the State of Texas, it would be competent for this charter specifically to enumerate.

Section 2. Special provision for damage suits.

Before the city shall be liable to damage claim or suit for injury of one's person or property, the person who is injured or whose property is damaged or someone in his behalf shall give the mayor or city secretary notice in writing within six months of the alleged injury or damage, stating specifically in such notice when and how the injury or damage was sustained, and setting forth the extent of the injury or damage as accurately as possible. No action at law for damages shall be brought against the city for injury to one's person or property prior to the expiration of six months notice hereinabove described has been filed with the mayor or city secretary.

Section 3. Eminent domain.

The city shall have the full right, power and authority 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 United States and Texas constitutions, Texas Property Code or laws of the State of Texas. The power of eminent domain hereby conferred shall include the right to condemn public property for allowable public purposes. The city shall have and possess this power of condemnations for any municipal or public purpose authorized by state law by providing adequate or just compensation to the landowner.

Section 4. Street powers.

The City of Mount Pleasant as authorized by the Texas Transportation Code, shall have the power to lay out, establish, open, alter, widen, lower, extend, grade, abandon, discontinue, abolish, close, care for, pave, supervise, maintain and improve streets, alleys, sidewalks, squares, parks, public places and bridges and regulate the use thereof and require the removal from streets, sidewalks, alleys, and other public property or places all obstructions and all fruit stands, show cases and encroachments of every nature or character upon any of said streets and sidewalks, and to vacate or close private ways.

Section 5. Street improvement.

The City of Mount Pleasant shall have exclusive dominion, control and jurisdiction in, upon and over the public streets, avenues, alleys and highways of the city, and may provide for the improvement thereof by paving, repaving, raising, grading, draining, or otherwise. The provisions of the Texas Transportation Code and other state laws, together with any such amendments as hereinafter may be made, are expressly adopted and made a part of this charter.

Section 6. Annexation.

The city council shall have the power by an ordinance duly adopted by said council to fix or define the boundary limits of the City of Mount Pleasant in accordance with Chapter 43 of the Texas Local Government Code; and to provide for the alteration and extension of the boundary limits of Mount Pleasant, and the annexation of additional territory lying adjacent to the City of Mount Pleasant. During the annexation process, the council shall provide an opportunity for all interested persons to be heard at public hearing(s) in accordance with Chapter 43 of the Texas Local Government Code. Upon the final passage of any such ordinance, the boundary limits of the City of Mount Pleasant shall thereafter be fixed as provided in such ordinance and when any additional territory has been so annexed, same shall be a part of the City of Mount Pleasant 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 all the citizens and shall be bound and governed by the acts, ordinances, resolutions and regulations of the city.

Section 7. Sanitary sewer system.

The city shall have the power to provide for a sanitary sewer system and to require property owners to connect their premises with such sewer system; to provide for fixing penalties for failure to make sanitary sewer connections; to provide rules and regulations for the collection of charges for the use of the sanitary sewer system.

Section 8. Garbage disposal.

The city council shall have the right by ordinance to adopt and prescribe rules and regulations for the handling and disposition of all garbage, refuse, trash, and rubbish with in the City of Mount Pleasant; and shall further have the right to fix charges and compensation to be charged by the city for the removal of trash and rubbish, providing rules and regulations for the collection thereof.

Section 9. Sanitary enforcement.

The city council shall have the right to provide for the inspection and regulation of the sanitary condition of all premises and vacant lots within the city limits, for the removal of garbage, refuse, and unsanitary vegetation; it shall have the right to fix charges for such removal, providing regulations for the collection of such charges, and providing for establishing a lien against any property for any expense incurred by the city in enforcing this provision; and further to provide for the making and enforcing of all proper and reasonable regulations for the health and sanitation of the city and its inhabitants.

Article III. Taxation

Section 1. Powers of taxation.

The council shall have the power to levy, for general purposes, all types of taxes as provided and permitted by state law, including but not limited to motel/hotel occupancy taxes, occupational taxes, sales and use taxes and ad valorem taxes on real, personal and mixed property within the city, not exempt from taxation by state law.

Section 2. Limitation on ad valorem tax rate.

The ad valorem tax rate shall not exceed one dollar and fifty-eight cents (\$1.58) on one hundred dollars (\$100) of assessed valuation.

Section 3. Tax lien and liability.

A special lien is hereby created on all real, personal mixed property located in the city, in favor of the city, for all unpaid taxes. The priority of said lien shall be determined in accordance with state law.

Article IV. Municipal Bonds

Section 1. Powers to issue and Interest and Sinking, Fund.

In keeping with the Constitution of the State of Texas and not contrary thereto, the city shall have the power to borrow money on the credit of the city for any public purpose or for any permanent improvement 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 evidence 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.

All monies arising from the collection of taxes levied for the repayment of general obligation bonded indebtedness, shall be maintained in a separate fund to be designated as the “Interest and Sinking Fund” and a separate account kept of the funds applicable to each bond issuance.

Bonds and warrants of the city shall be issued in the manner provided by the laws of the State of Texas.

Section 2. Shall specify purpose.

All bonds shall specify for what purpose they were issued and shall be invalid, if sold for less than their par value and accrued interest; and when any bonds are issued by the city, a fund shall be provided to pay the interest and create a sinking fund to redeem said bonds, which fund shall not be diverted or drawn upon for any other purpose; and the person acting as city treasurer shall honor no drafts upon said fund, except to pay interest upon or to redeem the bonds, for which it was provided.

Section 3. Maximum period of years.

Said bonds shall be issued for a period of time not to exceed forty (40) years, shall be signed by the mayor, countersigned by the person acting in the capacity of city secretary, and shall be payable at such places and times as may be fixed by the ordinance of the governing authority. All bonds shall be submitted to the attorney general of the state, for his approval, and the comptroller, for registration, as provided by the state law; provided that any such bonds, after approval, may be issued by the city, serially or otherwise, as may be deemed advisable by the governing authority.

Section 4. Submitted to vote.

Before the issuance of any bonds, the same shall be submitted to a vote of the qualified voters of the city, and should a majority of the votes cast at such election be in favor of issuing the bonds, the same shall be issued as provided herein, but should said election fail to carry, bonds shall not be issued. The election provided for above shall be conducted as other elections, under the state law.

Section 5. Reserved.

Section 6. Revenue bonds.

The city council shall have the power to build and purchase, to mortgage and encumber their light systems, water systems, sewer systems or sanitary disposal equipment and appliances, or natural gas systems, parks and/or swimming pools, either or all, and the franchise and income thereof and everything pertaining thereto acquired or to be acquired, and to evidence the obligation therefor by the issuance of revenue bonds as contemplated and provided in state law.

Article V. The Budget

Section 1. Fiscal year.

The fiscal year of the city shall begin on the first day of October and shall end on the last day of September of the next succeeding calendar year. Such fiscal year shall constitute the budget and accounting year. As used in this charter, the term “budget year” shall mean the fiscal year for which any particular budget is adopted and which it is administered.

Section 2. Preparation and submission of budget.

The city manager at least sixty (60) days prior to the beginning of each budget year shall submit to the council a proposed budget and an explanatory budget message in the form and with the contents provided herein by sections 12 and 13. For such purposes at such date as he shall determine, he, or an officer designated by him, shall obtain from the head of each office, department or agency, estimates of revenue and expenditures of that office, department or agency, detailed by organization units and character and objects of expenditure, and such other supporting data as he may request. In preparing the budget, the city manager shall review the estimates, and may revise the estimates as he may deem advisable.

Section 3. Public record.

The budget and budget message and all supporting schedules shall be a public record in the office of the city secretary open to public inspection. The council shall cause sufficient copies of the budget and budget message to be prepared for distribution to interested persons.

Section 4. Notice of public hearing.

At the meeting of the council at which the budget and budget message are submitted, the council shall determine the place and time of the public hearing on the budget and shall cause to be published a notice of the place and time in accordance with state law but not less than ten (10) days after date of publication, at which the date the council will hold a public hearing.

Section 5. Public hearing.

At the time and place so advertised or at any time and place at which such public hearings shall from time to time be adjourned, the council shall hold a public hearing on the budget as submitted, at which all interested persons shall be given an opportunity to be heard, for or against the estimates or any items thereof.

Section 6. Adoption.

The budget shall be adopted by the favorable votes of at least a majority of all members of the council.

Section 7. Failure to adopt.

The budget shall be finally adopted not later than the twenty-seventh (27th) day of the last month of the fiscal year. Should the council take no final action on or prior to such day, the current fiscal year budget shall be deemed to have been finally adopted by the council.

Section 8. Effective date of budget.

Upon final adoption, the budget shall be in effect for the budget year. A copy of the budget as finally adopted, shall be filed with the city secretary and the county clerk of Titus County. The final budget shall be printed and sufficient copies shall be made available for the use of all offices, departments and agencies, and for the use of interested persons and civic organizations.

Section 9. 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 10. 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.

Section 11. Budget message.

The budget message submitted to the council shall be explanatory of the budget, shall contain an outline of the proposed financial policies of the city for the budget year and shall describe in connection therewith the important features of the budget plan. It shall set forth the reasons for salient changes from previous years in expenditure and revenue items and shall explain any major changes in financial policy.

Section 12. Supporting schedules to budget message.

Attached to the budget message will be such supporting schedules, exhibits, and other explanatory materials in respect to both current operations and capital outlays as shall be useful to the council.

Section 13. Budget.

- (a) The budget message shall contain a complete financial plan for the fiscal year.
- (b) The total estimated expenditures of the various funds shall not exceed the total estimated resources of each fund (prospective income plus cash on hand).

Section 14. Accounting procedure.

An accounting procedure shall be devised and maintained for the city adequate to record in detail all transactions affecting the acquisition, custodianship, and disposition of anything of value, including cash receipts, credit transactions and disbursements; and the recorded facts shall be presented periodically to officials and to the public in such summaries and analytical schedules in detailed support thereof as shall be necessary to show the full effects of

such transactions for each fiscal year upon the finances of the city and in relation to each office, department or agency of the city government including distinct summaries and schedules for each public utility owned and operated.

Section 15. Audit.

The city council shall cause a continuous audit of the books of account and of all records and transactions of the administration of affairs of the city, such audit to be made annually embracing each fiscal year and shall be made by a public accountant licensed by the State of Texas. The duty of the accountant shall include the certification of all statements required by section 14 herein; such statements shall include a general balance sheet showing summaries of income and expenditures and also comparisons, in proper classifications, with the last previous audit.

Section 16. Depository.

In accordance with state law, the city council shall designate a bank in the City of Mount Pleasant as the city depository which shall be selected for a period not to exceed five (5) years and which shall be acceptable to the city council. The city council shall have the right to reject any or all bids offered as city depository. The bank selected as such depository shall give adequate bond.

Section 17. Borrowing in anticipation of property taxes.

In any budget year in anticipation of the collection of the property tax for such year, whether levied or to be levied in such year, the council may by resolution authorize the borrowing of money by the issuance of negotiable notes of the city, each of which shall be designated "Tax anticipation notes for the year," (stating the budget year). Such notes shall mature and be payable not later than the end of the fiscal year in which the original notes shall have been issued.

Section 18. Borrowing in anticipation of other revenue.

In any budget year in anticipation of the collection or receipt of other revenues of that budget year the council may by resolution authorize the borrowing of money by the issuance of negotiable notes of the city, each of which shall be designated "Special revenue note for the year," (stating the budget year). Such notes may be renewed from time to time, but all such notes, together with the renewals, shall mature and be payable not later than the end of the fiscal year in which the original note shall have been issued.

Section 19. Sale of notes.

The notes issued pursuant to the two preceding sections may be sold at not less than par and accrued interest in private sale without previous advertisement, but such sale shall be authorized by the council.

Article VI. Officers

Section 1. Municipal government.

The municipal government of the City of Mount Pleasant shall consist of the city council, which shall be composed of five (5) council members and a mayor of the city.

Section 2. Terms of office.

The mayor and each council member shall serve a term of two (2) years and until his or her successor is elected and qualified. No person will serve more than three consecutive elected terms as either a Council member or as Mayor. A member who has served the maximum number of consecutive terms may serve additional terms subject to the same limitations after a break in service of two years or more. For the purpose of this section, the office of Mayor shall be considered a separate office from other Council places and a Council member who has served the maximum number of consecutive terms may serve as Mayor for three consecutive terms without being required to take a break in service.

Section 3. Vacancies.

Vacancies of more than six (6) months in the office of mayor or council shall be filled by a special election for the remainder of the unexpired term as provided by this charter or Texas law. For vacancies of mayor or council of less than six (6) months, the vacancy shall be filled by council appointment for the remainder of the unexpired term.

Section 4. Qualifications.

The mayor and each council member shall be residents of the City of Mount Pleasant for at least six (6) months as required by the Texas Election Code and have the qualifications of electors therein. **The City Council may adopt an ordinance requiring documentation for candidates and officeholders to prove they meet residency requirement.** The mayor, council members, and officers and employees shall not hold any other public office of emolument in violation

of Texas Constitution; and shall not be interested in the benefits of emoluments of any contract, job, work or service for the city, or interested in the sale to the city of any supplies, equipment, material or articles purchased. Any officer or employee of the city, who shall cease to possess any of the qualifications herein required, shall forfeit his office or position.

Section 5. Elections.

The regular election for the choice of mayor and members of the council shall be held on the first Saturday in May of each year unless amended by the Texas Election Code.

Section 6. Regulation of elections.

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

Section 7. How to get name on ballot.

Any qualified elector of the city, desiring to have his name placed upon the official ballot for any election, may do so by presenting a written request for that purpose, signed by himself and filing the same with the city secretary in accordance with the Texas Election Code.

Section 8. Council ballots.

The full names of all candidates for mayor or the council as hereinbefore provided, except such as may be withdrawn, died or become ineligible, shall be printed on the official ballots without party designations. If two candidates with the same surnames or with names so similar as to be likely to cause confusion, the address of their places of residence shall be placed with their names on the ballot. The order of the names on the ballot shall be determined by lot.

Section 9. Election of mayor and councilmen.

The mayor shall be elected to office from the city at large. The other members of the council shall be elected to office at large, but by specific place which shall be designated as Place One (1), Two (2), Three (3), Four (4) and Five (5). The mayor and council places one (1) and two (2) shall be elected in odd-numbered years and council places three (3), four (4) and five (5) shall be elected in even-numbered years.

In elections of the mayor and council members, the candidate receiving a majority of all votes cast for the office shall be elected. If no candidate in such an election receives a majority, per the Election Code, City shall call for a runoff election to be held as provided by law. The two (2) candidates receiving the highest number of votes shall have their names placed on the ballot to be prepared by the city secretary, in the order of their standing in the computation of votes. In the event of a tie between two candidates, they shall cast lots to determine their places on the ballot. In the event of a tie in a runoff election, the runoff candidates shall cast lots to determine the winner.

Section 10. Laws governing city elections.

All city elections shall be governed, except as otherwise provided by the charter and the Texas Election Code.

Section 11. Canvassing election.

Returns of the elections, general and special, shall be made by the election officers to the city council in accordance with Texas Election Code and the council shall canvass and declare the results of such election.

Section 12. Salary of elective officers.

The monthly salary of the mayor shall not exceed fifty dollars (\$50.00) and the monthly salary of each council member shall not exceed twenty-five dollars (\$25.00).

Section 13. Appointive officers.

The following officers shall be appointed by the city council to serve until removed by a majority vote of the city council: the city attorney and the municipal court judge. Deputies or assistants to these officers may be appointed by the city council as may be deemed necessary. City Manager shall be appointed by City Council in accordance with Article XI of this Charter.

Section 14. Compensation of appointive officers.

Appointive officers shall receive such compensation as may be provided for them by the city council.

Section 15. Duties of mayor.

The mayor shall preside at meetings of the council, but shall not vote except to break a tie, and shall be recognized as head of the city government for all purposes. At its first regular meeting after the city election each year, the council shall elect a mayor pro-tem who shall act as mayor in the absence or disability of the mayor. While acting in such capacity, the mayor pro-tem shall not vote except to break a tie. In the event of a vacancy in the office of mayor, the mayor pro-tem shall become mayor until the next mayoral election, whether a regular election or a special election, at which election a mayor shall be elected to fill the unexpired term, if any.

Section 16. Duties and powers of the 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 council, the following are hereby enumerated for greater certainty:

- (1) Appoint and remove all officers, except as otherwise provided in this charter.
- (2) Establish all administrative departments, whether specifically provided for herein or not as deemed necessary.
- (3) Adopt the budget of the city.
- (4) Authorize the issuance of bonds by ordinance.
- (5) Inquire into the conduct of any office, department or agency of the city and make investigations as to municipal affairs.
- (6) Appoint the members of a planning and zoning commission.
- (7) Adopt plats.
- (8) Adopt, modify and carry out plans proposed by the planning and zoning commission for the replanning, improvement and redevelopment of neighborhoods and for the replanning, reconstruction or redevelopment of any area or district.

- (9) 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 carrying of passengers for hire on the public streets and alleys of the city.
- (10) Provide for the establishment and designations 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 certain limits; provide for the condemnation of dangerous buildings calculated to increase the fire hazard, and the manner of their removal or destruction.
- (11) Any act authorized by state law on behalf of the city.

Section 17. Appointment and duties of the city attorney.

The city attorney shall be appointed by the city council. The city attorney shall be the chief legal advisor of the council and the officers of the city in matters relating to their official powers and duties. He shall represent the city in all legal proceedings, unless otherwise directed by the council. It shall be his duty to perform all services incident to his position as may be required by law, this charter or ordinance. He shall serve for such term as may be provided by the council.

Section 18. Duties of other appointive officers.

The duties of all other appointive officers shall include all services incident to their positions as may be required by law, this charter, ordinance, resolution, or order of the city council.

Section 19. Fees and costs.

All fees and costs received by any officer or employee shall belong to the city government and shall be paid into the city treasury.

Article VII. Legislative Procedure

Section 1. Meeting of the council.

After the election of the mayor and/or council members in each general election, and after the canvas of such election, the city council shall meet, at which time all elected officers shall qualify and assume the duties of their office;

thereafter the council shall meet at such times as may be prescribed by ordinance or resolution, but it shall meet at least once each month. All meetings of the City Council shall be in compliance with the Texas Open Meetings law.

Section 2. Procedure.

The mayor or any three (3) council members may call special meetings of the city council at any time deemed advisable, after due notice to all members, including the mayor. The council shall determine its own rules and order of business and shall keep minutes of its proceedings, and any citizen shall have access to the minutes and records thereof at all reasonable times in accordance with the Texas Public Information Act. The mayor or mayor pro-tem and any three (3) members of the council shall constitute a quorum for the transaction of business, and the affirmative vote of three members of the council shall be sufficient and necessary to adopt or repeal any ordinance or resolution. The vote upon the passage of all ordinances and resolutions shall be taken by ayes and nays, and the vote of each council member present shall be entered into the minutes of the meeting. Every ordinance or resolution passed by the city council shall be signed by the mayor or in his or her absence by the mayor pro-tem, and such ordinance or resolution shall be attested by the person acting as city secretary, and the seal of the city impressed thereon within ten (10) days after its passage, but such ordinance or resolution shall not be invalidated merely because the signature of either of such officers shall be lacking or the failure to impress the city seal on the same.

Section 3. Publication of ordinances.

- (a) Every ordinance required by this charter to be published, or imposing any penalty, fine, imprisonment or forfeiture, shall, after the passage thereof, be published once in some newspaper published in the City of Mount Pleasant, and no ordinance shall become effective until after the date of such publication.
- (b) In lieu of the publication required in sub-paragraph (a) of this section, the council may, in its discretion, provide for the publication of a descriptive caption or title, stating in summary the purpose of the ordinances and the penalty for violation thereof.
- (c) All such ordinances, where printed and published by authority of the city council shall be admitted and received in all courts without further proof.

Section 4. Recording and codification of ordinances.

- (a) Every ordinance or resolution, upon its becoming effective, shall be recorded and shall be authenticated by the signature of the mayor and the person exercising the duties of the city secretary.
- (b) The council may cause a new Code of Ordinances to be prepared as early as practicable, and enacted to give effect to this charter; and to repeal or revise such ordinances as may be obsolete or in conflict with this charter.
- (c) The Council may adopt any code or codification of ordinances for the purpose of general distribution of said ordinance by means of being made available online.

Section 5. Ordinances and enacting clause.

In addition to such acts of the council as are required by statute or by this charter to be passed by ordinance, every act of the council establishing a fine or other penalties or for the contracting of indebtedness shall be by ordinance. The enacting clause of all ordinances shall be “BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MOUNT PLEASANT.”

Section 6. Investigation by the council.

The council shall have the power to inquire into the conduct of any office, department, agency, or officer of the city and to make investigation as to municipal affairs, and for that purpose subpoena witnesses, administer oaths and compel the production of books, papers and other evidence. Failure to obey such subpoena or to produce, papers or other evidence as ordered under the provisions of this section shall be a violation and shall be punishable consistent with a Class C misdemeanor.

Article VIII. Franchise and Public Utilities

Section 1. Powers of the city.

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

The city shall have the right and power to levy and collect annually a franchise tax against any public corporation using and occupying the public streets and grounds of the city, separately from the tangible property of such corporations, and to levy annually upon the property and shares of corporations, companies, and corporate institutions as the same are now, or may be, assessed hereafter by the state laws, and shall have full power to enforce the collection of such taxes.

The city shall have the power to regulate, control, and prohibit the use of streets, alleys, sidewalks, and public grounds of the city by said public service corporation and may fix and impose reasonable annual tax or taxes which may be levied by cities under the laws of the State of Texas; and may also fix, regulate and graduate the taxes so imposed by levying a greater or a lesser tax depending upon the locations of poles or other obstructions.

Section 2. Franchises; power of 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 Mount Pleasant, and for such purposes is granted full power unless such power is limited by state law. All ordinances granting, amending, renewing, or extending franchises for public utilities shall be read at two (2) regular meetings of the council. Subsequent to the first reading of such ordinance but prior to the second reading, the caption of such ordinance shall be published in the official newspaper of the city and the expense of such publication shall be borne by the proponent of the franchise. No public utility franchise shall be transferable except with the approval of the council expressed by ordinance.

Section 3. Term and plan of purchase.

Any public utility franchise may be terminated by ordinance at any time after the expiration of five (5) years after the beginning of operation of such utility, provided that the city council shall have, by ordinance, determined to acquire by condemnation or otherwise the properties of such utility necessarily used in or conveniently useful for the operation thereof within the city limits and provided further that in no event shall the city so acquire such properties without the issue having been first submitted to the qualified voters of the city and a majority of such voters having voted in favor of so acquiring such properties by the city.

Section 4. Right regulation.

All grants, renewals, extensions, or amendments of public utility franchises, whether it be so provided in the ordinance or not, shall be subject to the right of the city.

- (a) To repeal the same by ordinance at any time for failure to begin construction or operation within the time prescribed or otherwise to comply with the terms of the franchise, such power to be exercised only after due notice and hearing.
- (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) To prescribe the form of accounts kept by each such utility; provided, that if the utility shall keep its accounts in accordance with a uniform system of accounts for said utility prescribed by the National Association of Railroad and Public Utility Commissioners or a Federal Power Commission or the Federal Communications Commission, their successor, or successors, this shall be deemed sufficient compliance with this paragraph.
- (e) To at any time examine and audit the accounts and other reports, including reports on local operations by each public utility.
- (f) To impose such reasonable regulations and restrictions as may be deemed desirable or conducive to the safety, welfare, and accommodation of the public.
- (g) To at any time require such compensation and rental as may be permitted by the laws of the State of Texas.

Section 5. 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 nothing in this charter or any franchise granted thereunder shall ever be construed to deprive any property owner of any right of action for damage or injury to his property as now or hereafter may be provided by law.

Section 6. Extension.

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

grant and shall be terminable as provided in section 4. 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 7. Other conditions.

All franchises, contracts, and agreements heretofore granted are recognized as contracts between the City of Mount Pleasant and the grantee, and the contractual rights as contained in any such franchises shall not be impaired by the provisions of this charter, except that the power of the City of Mount Pleasant to exercise the right of eminent domain in the acquisition of any 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 council or the electors of the city in imposing terms and conditions as may be reasonable in connection with any franchise grant. Any franchise grant hereinafter granted, shall not exceed a term of twenty-five (25) years from the date thereof.

Section 8. Franchise records.

The city shall compile and maintain a public record of all public utility franchises.

Section 9. 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 finance results of such city ownership and operation, including all assets, appropriately subdivided into different classes, all liabilities subdivided by classes, depreciation reserve, other reserves, and surplus; also revenues, operating expenses including depreciation, interest payments, rental, and other disposition of annual income. The accounts shall show the actual capital cost to the city of each public utility owned, also the cost of all extensions, additions and improvements, and the source of the funds expended for such capital purposes. They shall show as nearly as possible the cost of any service furnished to, or rendered by any such utility to any other city or governmental

department. The council shall annually cause to be made and published, a report showing the financial results of such city ownership and operation, giving the information specified in this section or such data as the council shall deem expedient.

Section 10. Regulations of rates and service.

The city council shall have full power, after due notice and hearing, to regulate by ordinance the rates and service of every public utility operating in the City of Mount Pleasant.

Article IX. Municipal Court

Section 1. Municipal court created.

There is hereby created in the City of Mount Pleasant, a court to be known as the municipal court, with such jurisdiction, powers and duties as are prescribed by the laws of the state.

Section 2. Judge of the municipal court.

Such court shall be presided over by a judge. Such judge shall be appointed by the city council, following the municipal election in odd-numbered years and shall serve a two-year term. The judge shall receive such compensation as shall be determined by the council. In the absence of the judge, the city council shall appoint a duly qualified person to serve in an interim capacity.

Section 3. Clerk of the municipal court.

There shall be a clerk of the municipal court who shall be appointed by the city manager. The clerk shall have the power to administer oaths and affidavits, make certificates, affix the seal of the court thereto, and otherwise perform any and all acts necessary to the operation of such court and conducting the business thereof.

Deputy clerks of the municipal court are to be appointed by the city manager and shall have the authority to act for and on behalf of the clerk of the municipal court.

Article X. General Provisions

Section 1. Publicity of records.

In accordance with the Texas Public Information Act, all records and accounts of every office, department or agency of the city, shall be open to inspection by any citizen, any representative of a citizen's organization, or any representative of the press at all reasonable times and under reasonable regulations by the council.

Section 2. Oath of office.

Every officer of the city shall, before entering upon the duties of his office, take and subscribe the following oath or 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 _____, of the City of Mount Pleasant, 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 the state and the charter and ordinances of this city; and 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 of 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.”

Section 3. Zoning Ordinance.

For the purpose of promoting the health, safety, morals or general welfare of the city and protecting and preserving places and areas of historical, cultural, or architectural importance and significance, the council may by ordinance and according to state law, regulate the location, height, bulk and size of buildings and other structures, the size of yards, courts and other open spaces, the density of population and the uses of buildings, structures and land for trade, industry, business, residence or other purposes.

Section 4. Provision relating to assignment, execution and garnishment.

The property, real and personal, belonging to the city shall not be liable to be sold or appropriated under any writ of execution or cost bill. The funds belonging to the city, in the hands of any person, firm or corporation, shall not be liable to garnishment, attachment, or sequestration; nor shall the city be liable to garnishment on account of any debt

it may owe or funds or property it may have on hand or owing to any person. Neither the city nor any of its officers or agents shall be required to answer any such writ or garnishment on any account whatsoever. The city shall not be obligated to recognize any assignment of wages of funds by its employees, agents or contractors.

Section 5. 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 Mount Pleasant 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, and said city shall be just as liable as if security or bond had been duly executed.

Section 6. Effect of this charter on existing law.

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

Section 7. Rearrangement and renumbering of charter, elimination of gender-specific references and elimination of specific references to provisions in state codes.

The council shall have the power by ordinance to renumber and rearrange all articles, sections and paragraphs of this Charter, or any amendments thereto. The council shall have the further power by ordinance to eliminate gender-specific references within the various provisions of this charter and to substitute gender-neutral terms, as it shall deem appropriate. The council shall have the further power to eliminate specific references to provisions in state codes. Upon the passage of any such ordinances, a copy thereof, certified by the city secretary, shall be forwarded to the Secretary of State of the State of Texas for filing.

Section 8. Amending the charter.

Amendments to this charter may be framed and submitted to the voters of the city in the manner prescribed by state law. The council shall, at intervals not to exceed five (5) years, formally consider the need for revisions(s) to the

charter. This review shall be based on a written report from the city manager, with special attention given to conflicts, if any between the charter and state law, and recommending such amendments to the charter as may seem necessary for legal, administrative or other reasons.

Section 9. Separability clause.

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

Article XI. City Manager

Section 1. Appointment.

The city council shall appoint a city manager at the organization meeting of said council or as soon thereafter as practicable, who shall be the administrative head of the municipal government, under the direction and supervision of said council.

Section 2. Residence of city manager.

The city manager need not be a resident of the city at the time of appointment but shall, within six (6) months after such appointment, maintain a residence inside the city while in office.

Section 3. Term of office.

The city manager shall be appointed for an indefinite period and shall be subject to discharge at the will of the city council.

Section 4. Absence or disability of city manager.

During the absence or disability of the city manager, the city council shall designate some properly qualified person to perform the duties of said office.

Section 5. Powers and duties.

The powers and duties of the city manager shall be:

- (a) To devote all his working time and attention to the affairs of the city and be responsible to the city council for the efficient administration of its affairs.
- (b) To see that all laws and ordinances are enforced.
- (c) To appoint and remove all heads of departments, offices and agencies and all subordinate employees of the city, except the city attorney and the judge of the municipal court.
- (d) To exercise supervision and control over all departments, offices, and agencies created by this charter or that may hereafter be created by the city council, except as otherwise provided herein.
- (e) To attend all meetings of the city council with the right to take part in the discussions but having no vote.
- (f) To see that all terms and conditions imposed in favor of the city or its inhabitants on any public utility franchise are faithfully kept and performed; and upon knowledge of any violation thereof, to call the same to the attention of the city council.
- (g) To prepare and submit to the city council, prior to the beginning of each fiscal year, a budget of proposed expenditures for the ensuing year, showing in as much detail as practicable the estimated amounts required, by months, for the efficient operation of each department of the city government and the reasons for such estimated expenditures.
- (h) To make a full written report to the city council as soon after the close of each month's accounts as possible, showing the operation and expenditures of each department of the city government for the preceding month, and a comparison of such monthly expenditures by departments with the monthly allowances made for such departments in the annual budget, and to keep the council advised at all times as to the financial condition and needs of the city.
- (i) To act as purchasing agent for the city and to purchase all merchandise, materials and supplies needed by the city to establish a suitable storehouse where such supplies can be kept, and from which same shall be issued as needed, and to adopt such rules and regulations governing requisitions and the transaction of business between himself as such purchasing agent, and the heads of the departments, officers and employees of the city, as the city council may approve and as may be provided by state law.

- (j) To recommend to the city council the salaries to be paid each appointive officer and subordinate employee of the city, and it shall be the duty of the council to pass ordinances or resolutions, from time to time fixing the rates of compensation.
- (k) To recommend to the city council in writing, from time to time, for adoption, such measures as he may deem necessary or expedient; and
- (l) To do and perform such other duties as may be prescribed by this charter or be required of him by the ordinances and resolutions of the city council.

Section 6. Departments.

There shall be such administrative departments as finance, police, fire, and health. The council by ordinance may create, change and abolish offices, departments or agencies other than the offices, departments and agencies established by this charter. The council may, if it deems advisable, consolidate into one department two or more of the departments hereby established.

Section 7. Surety bond.

All officers through whose office, agency or department city funds are collected, handled, deposited or disbursed, shall make good and sufficient surety bonds in a surety company authorized to do business in Texas, payable to the City of Mount Pleasant, so conditioned that the city shall be protected against all actionable malfeasances or derelictions of official duties; and such bonds shall be in principal sums as may be fixed by the council to fully protect the city.

Section 8. Shall be appointed.

Until a city manager shall be appointed by the city council, the mayor and council shall perform all duties and exercise the powers herein provided for the city manager, as far as may be practicable.

Article XII. Municipal Cemetery

The city council shall have the authority to acquire, establish and own, either by purchase, donation, bequest or otherwise, all property that may be useful and necessary for the purpose of establishing and maintaining such a cemetery. For the purpose of establishing and maintaining such a cemetery, the city council shall have the authority

by ordinance and is hereby authorized to levy annually an ad valorem tax on all real, personal and mixed property within the territorial limits of the city, and upon all franchises to any individual, firm, association or corporation, of not exceeding the total tax of eight cents (\$0.08) on the one hundred dollar (\$100.00) assessed valuation of said property.