

# City of Mont Belvieu



## Home Rule Charter

Adopted November 13, 2013

# Mont Belvieu Home Rule Charter

## Table of Contents

- I. Form of Government and Powers
- II. Boundaries
- III. The City Council and Mayor
- IV. Elections
- V. Administrative Organization
- VI. Initiative, Referendum, and Recall
- VII. General Provisions
- VIII. Transitional Provisions

## **I. FORM OF GOVERNMENT AND POWERS**

### **Section 1.01 Establishment**

- A. The City of Mont Belvieu shall have a “Council-Manager” form of government.
- B. All powers of the City shall be vested in the Council, hereinafter referred to as the "City Council," which shall enact local legislation, adopt budgets, determine policies and appoint the City Manager. The City Manager shall answer to the City Council for the execution of the laws and the administration of the government of the City.

### **Section 1.02 General Powers**

- A. Mont Belvieu shall have the power of local self government to the fullest extent permitted by law.
- B. The City shall have all the powers granted to cities by the Constitution and Laws of the State of Texas or other law together with all of the implied powers necessary to carry into execution those powers and those express and implied powers necessary for the government, interests, health, welfare and good order of the City and its inhabitants.
- C. All powers shall be exercised and enforced in the manner prescribed by the laws of the State of Texas, in this Charter and action of City Council.

### **Section 1.03 Intergovernmental Relations**

The City of Mont Belvieu may exercise any of its powers or perform any of its functions, and may participate in the financing thereof, jointly or in cooperation, by contract or otherwise with the Government of Texas or any agency thereof, or with the Federal Government or any agency thereof, or with the government of any county, city or political subdivision to accomplish any lawful municipal purpose.

## **II. BOUNDARIES**

### **Section 2.01 Boundaries**

The boundaries of the City of Mont Belvieu shall be the same as existed prior to the adoption and ratification of this Charter and as are more fully set out and described by the official city map of the City of Mont Belvieu.

### **Section 2.02 Extension of Boundaries - Annexation**

The City Council shall have the full power to annex territory, to extend and enlarge the city boundaries and exchange areas with other municipalities.

### **Section 2.3 Contraction of Boundaries - Disannexation**

Any area of the City may be disannexed pursuant to any procedure allowed under state law and whenever, in the opinion of the City Council, there exists within the corporate limits of the City a territory not suitable or necessary for City purposes, the City Council may discontinue said territory as part of the City by ordinance after conducting a public hearing on the matter.

### **III. THE CITY COUNCIL AND MAYOR**

#### **Section 3.01 General Powers and Duties**

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

#### **Section 3.02 Number, Selection, and Term**

The membership of City Council (members of City Council) shall be composed of the Mayor and six (6) Council Members. The Mayor and Council Members shall be elected from the City at large for three (3) year terms. Each Council Member shall occupy a place on the Council, such places being numbered 1 through 6. Each year two Council places shall be elected for their respective terms except as set forth in the transitional provisions hereinafter set forth.

#### **Section 3.03 Qualifications**

The Mayor and each Council Member shall meet the following:

- A. Be a qualified voter in the City and State at the time of taking office;
- B. Be a resident of the City;
- C. Have resided continuously in the corporate limits of the City for 12 months immediately preceding the date of the election;
- D. Not be in violation of any provision in this Charter;
- E. Be 21 years of age or older on the first day of the term to be filled at the election;
- F. Satisfy any other eligibility requirements prescribed by law for the office for which they are a candidate.

#### **Section 3.04 Judge of Qualifications**

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

#### **Section 3.05 Compensation**

- A. City Council shall not receive any compensation unless determined by vote as provided for herein.
  - 1. Compensation of the City Council, and any subsequent increases, shall be determined and approved by a vote of the citizens at a regular election.

2. No increase in such compensation shall take effect until the next fiscal year following the election.

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

### **Section 3.06 Mayor**

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

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

C. The Mayor shall, when authorized as necessary by the City Council, sign all official documents.

D. The Mayor shall appoint, with the advice and consent of the City Council, the members of citizen advisory boards and commissions, whose conditions of membership shall have been set previously by ordinance.

### **Section 3.07 Mayor Pro-Tem**

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

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

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

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

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

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

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

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

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

D. All vacancies shall be filled pursuant to state law.

### **Section 3.09 Prohibitions**

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

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

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

D. It shall be unlawful for the City Council or any of its members to dictate to the City Manager the appointment of any person to office or employment. The City Council or its members will not interfere in any manner with the City Manager in the performance of the duties of that office or prevent the City Manager from exercising the City Manager's own judgment in the appointment of officers and employees whose employment, appointment, and supervision are reserved by this Charter for the City Manager. Except for the purpose of inquiry and investigations, the City Council and its members shall deal with the City Staff solely through the City Manager, and neither the City Council, as a body or any individual member, nor any individual not having administrative or executive functions under this Charter shall give orders to any of the subordinates of the City Manager, either publicly or privately.

### **Section 3.10 Meetings and Procedures**

A. **Agendas.** A member of City Council may place an item on an agenda by agreement of two additional members of City Council. The member of City Council desiring to place an item on an agenda shall submit in writing the request to place the item on an agenda to the City Secretary who shall inquire with members of City Council as to their agreement. The item shall be placed on the next City Council meeting occurring on or after the 5<sup>th</sup> calendar day after obtaining the agreement of the second member of City Council.

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

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

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

### **Section 3.11 Ordinances**

A. **Passage.** Except as may otherwise be prescribed in this Charter or other law, all ordinances adopted by the City Council shall take effect at the time indicated therein.

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

C. **Publication.**

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

D. **Codification of Ordinances.**

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

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

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

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

B. Hearings Process for Forfeitures of Office and Prohibitions.

1. All hearings held under this subsection shall be conducted in open session, except that the City Council may conduct a closed session to get advice from its attorney pursuant to the Texas Open Meetings Act;
2. The officer holder subject to any investigation and/or hearing under this section shall be entitled to written notice of the allegations of forfeiture and/or the alleged violation of this Charter as applicable;
3. A special meeting shall be called to hold the hearing;
4. A member of City Council who initiated or is the subject of the investigation or hearing shall not sit at the dais and shall not participate in deliberation or vote;
5. City Council shall adopt by ordinance rules of procedures to be followed;
6. The City Council shall state the nature of the hearing and the allegations to be considered, shall be provided the results of any investigation and a presentation of the evidence against the office holder including, but not limited to testimony from individuals;
7. The individual who is subject to the hearing shall be provided an opportunity to respond to the allegations and present any relevant evidence including, but not limited to, testimony from individuals;
8. City Council may ask questions of any individual;

9. No public comment shall be allowed unless agreed to by a majority vote of the members of City Council present. Rules for public comment shall be set by City Council;
10. In the case of a violation of Section 3.08 of this Charter City Council shall vote on the forfeiture and on the affirmative vote of two-thirds of City Council declare the office of said office holder to be forfeited and vacant;
11. In the case of a violation of Section 3.09 of this Charter City Council may on the affirmative vote of a majority of the City Council take any action it determines to be appropriate including, but not limited to, directing further investigation, requesting further information, vote to enforce a penalty pursuant to section 7.18 B. of this Charter, vote to bring an action in municipal court, take a vote of censure; or, upon the affirmative vote of two-thirds of City Council, declare the office of said office holder to be forfeited and vacant; and
12. In the case of a violation of Section 7.01 or 7.02 of this Charter by a member of City Council or a City Official, City Council may, on the affirmative vote of a majority of the City Council, take any action it determines to be appropriate including, but not limited to, directing further investigation, requesting further information, vote to enforce a penalty pursuant to section 7.18 B. of this Charter, vote to bring an action in municipal court, take a vote of censure; or, upon the affirmative vote of two-thirds of City Council, declare the office of said office holder to be forfeited and vacant.

## **IV. ELECTIONS**

### **Section 4.01 Elections**

- A. The regular City election shall be held annually on the uniform election date in May, or at such other times as may be specified by State Law, at which time officers will be elected to fill those offices which become vacant that year.
- B. The City Council shall fix the place for holding such election.
- C. The City Council may, by ordinance or resolution, order a special election, fix the date and place for holding same, and provide all means for holding such special election.
- D. Notice of elections shall be published in a newspaper of general circulation of the City of Mont Belvieu, such publication to follow the requirements of the Election Code and any applicable law.
- E. Early voting shall be governed by the general election laws of the State of Texas.

### **Section 4.02 Regulation of Elections**

- A. All elections shall be held in accordance with the laws of the State of Texas regulating the holding of municipal elections and in accordance with the ordinances adopted by the City Council for the conduct of elections.
- B. The City Council shall appoint the election judges and other election officials.

### **Section 4.03 Filing for Office**

- A. Any person having the qualifications set forth under Section 3.03 of this Charter shall have the right to file an application to have their name placed on the official ballot as a candidate for any elective office.
  - 1. Any such application shall be in writing, signed by such candidate, and filed with the City Secretary in accordance with the Texas Election Code and this Charter.
  - 2. An application filed in accordance herewith shall entitle such applicant to a place on the official ballot.
- B. A candidate of City Council shall specify the place number or position the candidate is seeking.

**Section 4.04 Official Ballot**

A. The names of all candidates for office, except such as may have withdrawn, died or become ineligible, shall be placed on official ballots without party designations specifying the council place for which each is seeking election.

**Section 4.05 Run-Off Election**

In the event no candidate for an elective office receives a majority of the votes cast for that place in the general or special election or there is a tie, a run-off election shall be held between the two (2) candidates who received the greater number of votes.

**Section 4.06 Taking of Office**

Each newly elected person to the City Council shall be inducted into office at the first regular City Council meeting following the canvass of the votes.

## V. ADMINISTRATIVE ORGANIZATION

### Section 5.01 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. The City Manager shall be chosen by the City Council solely on the basis of the City Manager's executive and administrative training, experience and ability.

B. **Term and Compensation.** The City Manager shall be appointed for an indefinite term upon the affirmative vote of two-thirds (2/3's) of the City Council, and may be removed at the discretion of the City Council by an affirmative vote of two-thirds (2/3's) of the City 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. The City Manager shall receive compensation as may be fixed by the City Council.

C. **Powers and Duties.** The City Manager shall have the following powers and duties:

1. The City Manager shall appoint and, when the City Manager deems it necessary for the good of the City, may suspend or remove any City employee except as otherwise provided by law, this Charter, or personnel rules adopted pursuant to this Charter. The City Manager may authorize any employee who is subject to the City Manager's direction and supervision to exercise these powers with respect to subordinates in that officer's department, office or agency.
2. The City Manager shall direct and supervise the administration of all departments, officers, and agencies of the City, except as otherwise provided by this Charter or by law.
3. The City Manager shall attend all City Council meetings, except when excused by the Mayor or Mayor Pro-Tem, and shall have the right to take part in discussion but may not vote.
4. The City Manager shall see that all laws, provisions of this Charter and acts of the City Council, subject to enforcement by the City Manager or by those subject to the City Manager's direction and supervision, are faithfully executed.
5. The City Manager shall make such reports as the City Council may require concerning the operations of the City departments, offices and agencies subject to the City Manager's direction and supervision.
6. The City Manager shall keep the City Council fully advised as to the financial condition and future needs of the City and make such recommendations

to the City Council concerning the affairs of the City as the City Manager deems desirable.

7. The City Manager shall have the authority to execute on behalf of the City, standard form documents, including but not limited to deeds, releases of liens, rental agreements, easements, right-of-way agreements, joint use agreements, and other similar documents, under the following conditions:

a. The execution of the document is necessary to carry out a public works project; utilize, maintain or improve a City facility, street, right-of-way, easement, park or other City property, or to implement other City policies; provided that such project, program or policy has been approved by the City Council;

b. That all blanks are filled in on any document correctly and that such document is consistent with the objectives approved by the City Council; and

c. That the form of such document shall be approved by the City Attorney.

8. The City Manager shall perform such other duties as are specified in this Charter or may be required by the City Council.

D. **Review.** The City Council shall perform a review of the City Manager's performance at least annually, but no more than twice in any fiscal year.

E. **Acting City Manager.** By letter filed with the City Secretary the City Manager shall designate, subject to approval of the City Council, a qualified employee to exercise the powers and perform the duties of City Manager during the City Manager's temporary absence or disability. The City Council may revoke such designation at any time and appoint another individual to serve until the City Manager shall return or his disability shall cease.

## **Section 5.02 Other Departments, Offices, and Agencies**

### **A. General Provisions.**

1. **Creation of Departments.** The City Council may continue or establish City departments, offices or agencies in addition to those created by this Charter and may prescribe the functions of all departments, offices and agencies, except that no function assigned by this Charter to a particular department, office or agency may be discontinued or, unless this Charter specifically so provides, assigned to another department.

2. **Direction by City Manager.** All departments, offices and agencies under the direction and supervision of the City Manager shall be administered by an

employee appointed by and subject to the direction and supervision of the City Manager.

B. **City Attorney.** The City Council shall appoint a licensed attorney of the State of Texas to be the City Attorney. The City Attorney shall receive for services such compensation as may be fixed by the City Council for regular and special duties and shall hold office at the pleasure of the City Council. The City Attorney or such other attorney's selected by the City Attorney with the approval of the City Council shall represent the City in all legal matters.

C. **Municipal Court; Judge(s).** The City Council shall establish a municipal court and shall appoint a presiding judge(s) and any such other associate judge(s) as are deemed necessary and fix the compensation therefore. The judge(s) of the municipal court shall serve at the will and pleasure of the City Council, unless otherwise provided by law.

D. **City Secretary.** The City Manager shall appoint, and may remove without cause, a City Secretary whose duties and obligations shall be determined and supervised by the City Manager.

### **Section 5.03 Personnel Rules**

The City Manager shall be responsible for the preparation of personnel rules, which rules shall be submitted by the City Manager to the City Council. The City Council may accept and adopt such rules as proposed or may adopt them with amendments.

## **VI. INITIATIVE, REFERENDUM AND RECALL**

### **Section 6.01 General Authority**

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

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

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

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

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

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

C. Petitions shall be returned to the Office of the City Secretary for filing within sixty (60) days after filing of the affidavit of petitioners committee and no signature on said petition shall have been affixed prior to the filing of the affidavit of petitioners committee.

D. Each signer of such recall petition shall personally sign their name thereto in ink or indelible pencil and shall write after their name their place of residence, giving the name of the street and the number, and shall also write thereon the day, the month and the year their signature was affixed. The signatures on petitions shall be verified by oath in the following form:

**STATE OF TEXAS**

**COUNTY OF [petition circulator’s county of residence]**

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

Signature \_\_\_\_\_

Sworn and subscribed before me this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_.

\_\_\_\_\_

NOTARY PUBLIC, STATE OF TEXAS

My commission expires: \_\_\_\_\_

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

A. **Certificate of City Secretary.** Within thirty (30) working days after the petition (the “Original Petition”) is filed, the City Secretary shall complete a certificate as to its sufficiency or insufficiency as mandated herein, specifying, if it is insufficient, the particulars wherein it is defective and shall within that thirty (30) working day period send a copy of the certificate to the petitioners' committee by certified mail return receipt requested or by hand delivery to a committee member.

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

C. Upon the submission of the Original Petition to the City Secretary the 60 day time line for submission as provided for in Section 6.02 C shall be tolled. The petitioners committee shall submit the supplementary petition to the City Secretary within the remaining tolled 60 day deadline, said remaining time to be calculated from receipt of the certificate of insufficiency by

the petitioner's committee or committee member as applicable. No signature on said supplementary petition shall have been affixed prior to the receipt by the petitioners committee of the certificate of insufficiency.

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

#### **Section 6.04 Requirements specific to Petitions for Recall**

Before the question of a recall shall be submitted to the qualified voters of the City a petition, containing at least thirty percent (30%) of the number of qualified voters registered to vote at the last general City election, demanding such question to be so submitted shall first be filed with the Office of the City Secretary pursuant to this Article. The petition shall be addressed to the City Council of the City and shall state distinctly and specifically the alleged action(s) and the factual circumstance(s) surrounding such action(s) taken by the individual that warrant the reason for the recall as to give the individual sought to be removed notice of the matter(s) and thing(s) with which the individual's recall is predicated. If there be more than one (1) reason, said petition shall distinctly and specifically state each reason upon which such petition for removal is predicated and shall distinctly and specifically state the alleged action(s) and the factual circumstance(s) surrounding such action(s) taken by the individual that warrant the recall as to give the individual sought to be removed notice of the matter(s) and thing(s) on which the recall is predicated.

#### **Section 6.05 Public Hearing to be Held on Recall Petition**

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

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

#### **Section 6.06 Calling of Recall Election**

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

**Section 6.07 Ballots in Recall Election**

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

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

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

"Yes"

"No"

**Section 6.08 Result of Recall Election**

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

**Section 6.09 Recall Restrictions**

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

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

A. A petition for initiative must contain the number of valid signatures totaling at least twenty percent (20%) of the total number of registered voters registered to vote at the last general City election and shall otherwise comply with the requirements for petitions in this Article. Each copy of the petition shall have attached to it a copy of the full text of the proposed ordinance.

B. Upon presentation to the City Council, it shall become the duty of the City Council, within sixty (30) days after the date the petition was finally determined sufficient, to pass and adopt such ordinance without alteration as to meaning or effect, or to call for an election, to be held on the soonest date allowed under the Texas Election Code, at which the qualified voters of the City shall vote on the question of adopting or rejecting the proposed ordinance.

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

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

A. A petition for referendum must contain the number of valid signatures totaling at least twenty percent (20%) of the total number of registered voters registered to vote at the last general City election and shall otherwise comply with the requirements for petitions in this Article.

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

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

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

**Section 6.12 Initiative and Referendum; Form of Ballots**

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

"For the Ordinance"

or

"Against the Ordinance"

**Section 6.13 Ordinances Passed by Popular Vote, Repeal or Amendment**

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

## **VII. GENERAL PROVISIONS**

### **SECTION 7.01 Conflict of Interest Prohibition**

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

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

### **SECTION 7.02 General Prohibitions**

#### **A. Activities Prohibited:**

1. No person shall be appointed to or removed from or in any way favored or discriminated against with respect to any City position or appointive City administrative office because of race, national origin, sex, political or religious opinions or affiliations.
2. No person who seeks appointment or promotion with respect to any City position or appointive City administrative office shall directly or indirectly give, render or pay any money, service or other valuable thing to any person for or in connection with his test, appointment, proposed appointment, promotion or proposed promotion.
3. No employee of the city shall continue in such position after becoming a candidate for City Council.

### **SECTION 7.03 City Comprehensive Year Plan**

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

B. The City Comprehensive Plan shall be reviewed and adopted no less than every two years.

**SECTION 7.04 Regulation of Alcohol**

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

**SECTION 7.05 Official Newspaper**

The City Council shall declare annually an official newspaper of general circulation in the City. All ordinances, notices and other matters required by this Charter, City ordinance, or the Constitution and laws of the State of Texas shall be published in the official newspaper.

**SECTION 7.06 Oaths**

All elected and appointed officers of the City shall take and sign an oath of office based on those prescribed for state elective and appointive offices, respectively, in the Constitution of the State of Texas.

**SECTION 7.07 Disaster Clause**

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

**SECTION 7.08 Charter Review Committee**

- (1) The City Council shall appoint a Charter Review Committee in the third (3<sup>rd</sup>) year after this Charter is adopted and every sixth (6<sup>th</sup>) year thereafter. The Charter Review Commission shall consist of ten (10) citizens of the City who shall:
  - a. Inquire into the operation of the City government under the Charter and determine whether any provision requires revision. To this end public hearings may be held. The Commission may request the attendance of any officer or employee of the City the production of any City records that may be needed;

- b. Propose any recommendations it deems desirable to insure compliance with the Charter; and
  - c. Report its findings and present its recommendations to the City Council in the form of a report; and
  - d. File a copy of its report with the office of the City Secretary where it shall be a public record.
- (2) The term of office of the Charter Review Commission shall be for not more than nine (9) months.
- (3) Upon finalization of the Charter Review Committee’s report the City Council shall receive the report and have published in the official newspaper of the City public notice that a copy of the report is available in office of the City Secretary.
- (4) City Council shall consider any recommendations made and may order any recommendations be submitted to the voters of the City in the manner provided by state law.
- (5) Nothing in this section prohibits the City Council from forming a Charter Review Committee at any time or from submitting any amendments to the Charter to election on its own initiative at any time in compliance with state law.

**SECTION 7.09 Amendment**

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

**SECTION 7.10 Security and Bond**

It shall not be necessary in any action, suit or proceeding in which the City is a party for any bond, undertaking or security to be demanded or executed by or on behalf of the City. All such actions shall be conducted in the same manner as if such bond, undertaking or security had been given as required by law.

**SECTION 7.11 Notice of Claim**

The City shall not be held liable on account of any claim for the death of any person or injuries to any person or damage to any property unless the person making such complaint or claiming such damages shall, within one hundred-twenty (120) days after the time at which it is claimed such damages were inflicted upon such person or property, file with the City a written statement, under oath, stating the nature and character of such damages or injuries, the extent of the same,

the place where same happened, the circumstances under which same happened and the condition causing same, with a detailed statement of each item of damages and the amount thereof, giving a list of any witnesses known by affiant to have seen the accident.

**SECTION 7.12 Power to Settle Claims**

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

**SECTION 7.13 Service of Process Against the City**

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

**SECTION 7.14 Judicial Notice**

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

**SECTION 7.15 Property Not Exempt From Special Assessments**

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

**SECTION 7.16 City Council May Require Bonds**

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

**Section 7.17 Construction of Charter**

The Charter shall not be construed as a mere grant of enumerated powers, but shall be construed as a general grant of power and as a limitation of power on the government of the City of Mont

Belvieu in the same manner as the Constitution of Texas is construed as a limitation on the powers of the Legislature. Except where expressly prohibited by this Charter, each and every power under Article XI, Section 5 of the Constitution of Texas, which it would be competent for the people of the City of Mont Belvieu to expressly grant to the City, shall be construed to be granted to the City by this Charter.

**Section 7.18 Penalty Clause**

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

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

## **VIII. TRANSITIONAL PROVISIONS**

### **Section 8.01 Existing Ordinances and Resolutions**

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

### **Section 8.02 Officers and Employees**

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

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

### **Section 8.03 Pending Matters**

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

### **Section 8.04 Manner of Submission to Electors**

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

### **Section 8.05 Staggered Elections**

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

#### **2014**

Mayor shall be elected to a three year term to expire	2017
Place 1 shall be elected to a three year term to expire	2017
Place 2 shall be elected to a three year term to expire	2017
Place 6 shall elected to a two year term to expire	2016

**2015**

Place 3 shall be elected to a three year term to expire	2018
Place 4 shall be elected to a three year term to expire	2018
Place 5 shall be elected to a one year term to expire	2016

**2016**

Place 5 shall be elected to a three year term to expire	2019
Place 6 shall be elected to a three year term to expire	2019

**2017**

Mayor shall be elected to a three year term to expire	2020
Place 1 shall be elected to a three year term to expire	2020
Place 2 shall be elected to a three year term to expire	2020

**2018**

Place 3 shall elected to a three year term to expire	2021
Place 4 shall be elected to a three year term to expire	2021

**2019**

Place 5 shall be elected to a three year term to expire	2022
Place 6 shall be elected to a three year term to expire	2022