



## CHARTER REVIEW PROVISIONS

ELECTION May 6, 2017

### Charter Review Commission:

**Jerry Adkins; Chairman**  
**Adrian Arizmendi**  
**Barbara Hester**  
**Billy Koenning**  
**Pete Knodel**

Below please find the proposed Charter Amendments to be voted on by citizens on the May 6<sup>th</sup> election. The **BLACK** wording indicated the current wording in the Charter. The **GREEN** indicates the exact proposed wording changes to the Charter. The **RED** wording is the actual wording (ballot measure) on the ballot. The **BLUE** wording explains the reasoning for the change. We would like to thank the members of the Charter Review Commission for their efforts in making the recommended changes.

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### #1. Section 8.05 - Seizure and sale of personal property

#### CURRENT WORDING IN THE CHARTER

The tax assessor and collector shall, by virtue of the tax rolls of the city, have power and authority to seize and levy upon all personal property, and to sell the same, to satisfy all delinquent taxes, together with all penalty, interest and cost due, on said personal property, to said city. When he seizes personal property for such purposes he shall keep the same at the expense of the owner until the sale is made, and shall give notice of the time and the place of sale of the same, by posting a written notice at the city hall door and one at another public place within the city at least ten (10) days before the date of the sale thereof. He shall sell the same to the highest bidder for cash for all taxes, interest, cost and expense of caring for said property, and shall make proper entry in the book of sales of the amount realized for the sale thereof. All such sales shall be made at the front door of the city hall. A sale of personal property for delinquent taxes shall convey with it an absolute title, and the owner shall have no right to redeem the same.

#### Proposed Wording in the Charter:

The designated tax assessor and collector shall, by virtue of the tax rolls of the city, have power and authority to seize and levy upon all personal property, and to sell the same, to satisfy all delinquent taxes, together with all penalty, interest and cost due, on said personal property, for said city. When the designated tax assessor seizes personal property for such purposes, the designated tax assessor shall keep the same at the expense of the owner until the sale is made, and shall give notice of the time and the place of sale of the same, by posting notice as required by law. A sale of personal property for delinquent taxes shall convey with it an absolute title, and the owner shall have no right to redeem the same.

#### Wording on the Ballot:

Shall Section 8.05 be amended to clarify the use by the Brazoria County Tax Office and the Brazoria County Appraisal District in the assessing and collection of taxes for the City?

#### Explanation of Change:

*This section of the city charter addresses the seizure and sale of property for delinquent taxes. The City of Clute contracts with the Brazoria County Appraisal District to assess value to property within the city, and also with the Brazoria County Tax Office for the collection of taxes, assessing of penalties and interest for delinquent taxes, and when necessary the seizure and sales of properties for satisfying of taxes due. This amendment is necessary to clarify use of these organizations for the collection of taxes, in lieu of collection directly by the City, which was the method used in the past. All legal postings and notifications come from the designee of the Tax Office instead of the City, therefore requiring the amendment.*

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## **#2. Section 1.02 – Boundaries.**

### **CURRENT WORDING IN THE CHARTER**

The boundaries and limits of said City of Clute shall be as follows, to wit:

Beginning at the southwest corner of tract no. 177, division no. 14, Brazos Coast Investment Co. subdivision, A. Calvit league, abstract no. 49, Brazoria County, Texas;

Thence west along the south lines of tracts no. 285, 295, 299, 572, 570, and 385 of said Brazos Coast Investment Co. subdivision no. 14 to the southeast corner of tract no. 442 of said Brazos Coast Investment Co. subdivision no. 14;

Thence north along the east line of said tract no. 442 to the northeast corner of said tract no. 442;

Thence west along the north line of tracts no. 442 and 453 to the common league line between said A. Calvit league, abstract no. 49 and the S. F. Austin 5 leagues, abstract no. 19, Brazoria County, Texas;

Thence north along the said common league line to the northwest corner of said A. Calvit league, abstract no. 49, on the south line of the Jared E. Groce 5 league grant, abstract no. 66, Brazoria County, Texas;

Thence north 25 degrees east along the west line of the Mattie E. Shanks 74.8 acre tract to the most northerly corner of said 74.8 acre Mattie E. Shanks tract;

Thence in a northwesterly direction along the common line between the Bryan subdivision of 23.5 acres and the northeast line of the 20 acre S. A. Woodruff tract all out of the said Jared E. Groce league, abstract no. 66, Brazoria County, Texas, a distance of 1,252 feet more or less to the most northerly corner of said S. A. Woodruff 20 acre tract;

Thence in a northeasterly direction along the common line between the northwest line of said Bryan subdivision and the southeast line of the Margaret K. McBride 30 acre tract to the most northerly corner of said Bryan subdivision, said point also being the most easterly corner of said Margaret K. McBride 30 acre tract on the west right-of-way line of County Road No. 288;

Thence in a northwesterly direction along the northeast line of said Margaret K. McBride 30 acre tract on the west right-of-way line of County Road No. 288 to an intersection with the north line of said Margaret K. McBride 30 acre tract;

Thence east across County Road No. 288 and the H. and B.V.R.R. rights-of-way to the most westerly corner of the Peter Iglinsky 14.56 acre tract and continuing east along the north line of said Peter Iglinsky 14.56 acre tract to Oyster Creek;

Thence down Oyster Creek with its meanders to the most northerly corner of Riley's Oyster Creek subdivision no. 1 out of the George H. Riley 100 acre tract out of said Jared E. Groce 5 league grant, abstract no. 66, Brazoria County, Texas;

Thence south along the east line of said Riley's Oyster Creek subdivision no. 1 and continuing along the east line of Riley's Oyster Creek subdivisions no. 2, 3, and 4 to the most southerly corner of said Riley's Oyster Creek subdivision no. 4 at a distance of 2,822 feet more or less;

Thence in a northwesterly direction along the southwest line of said Riley's Oyster Creek subdivision no. 4 to the most northerly corner of block no. 2 of Davidson's first addition out of said Jared E. Groce league, said point also being on the southeast right-of-way line of Live Oak Street;

Thence in a southwesterly direction along the said southeast right-of-way line of said Live Oak Street to an intersection with the south right-of-way line of Pecan Street of said Davidson's first addition;

Thence west along said south right-of-way line of said Pecan Street across State Highway No. 288 to the west right-of-way line of said State Highway No. 288;

Thence in a southeasterly direction along the said west line of said State Highway No. 288 to a point on said west right-of-way line of State Highway No. 288, said point being west from the intersection of the east right-of-way line of said State Highway No. 288 and the southwest line of the 22.1 acre Wm. Bastian tract out of said Jared E. Groce league;

Thence east across said State Highway No. 288 to the said intersection between the east right-of-way line of said State Highway No. 288 and the said southwest line of the said 22.1 acre Wm. Bastian tract;

Thence in a southeasterly direction along said southwest line of said 22.1 acre Wm. Bastian tract to the common league line between said Jared E. Groce 5 league grant, abstract no. 66, Brazoria County, Texas, and the A. Calvit league, abstract no. 49, Brazoria County, Texas;

Thence east along the said common league line between said J. E. Groce and A. Calvit leagues to a point on the north line of tract no. 371 out of Brazos Coast Investment Co. subdivision no. 13, A. Calvit league, abstract no. 49, Brazoria County, Texas, said point also being east 440.56 feet from the northwest corner of said tract no. 371;

Thence south across said tract no. 371 to the south line of said tract no. 371, which is also the north line of tract no. 360 of said Brazos Coast Investment Co. subdivision no. 13, A. Calvit league, abstract no. 49, Brazoria County, Texas;

Thence west along the said north line of said tract no. 360 to the northwest corner of said tract no. 360;

Thence south along the east line of tracts no. 361, 362, 363, 364, and 365 to the southeast corner of tract no. 365, all out of said Brazos Coast Investment Co. subdivision no. 13, A. Calvit league, abstract no. 49, Brazoria County, Texas;

Thence west along the south line of said tract no. 365 to an intersection with the northeast right-of-way line of the H. and B.V.R.R.;

Thence in a southwesterly direction across said H. and B.V.R.R. right-of-way to the northeast corner of tract no. 597 out of said Brazos Coast Investment Co. subdivision no. 14;

Thence south along the east line of said tract no. 597 to the southeast corner of said tract no. 597;

Thence east 183.61 feet to an interior corner of tract no. 598 out of said Brazos Coast Investment Co. subdivision no. 14;

Thence south along the west lines of tracts no. 598, 599, 561, and 177 of said Brazos Coast Investment Co. subdivision no. 14 to the place of beginning.

**Proposed Wording in the Charter:**

The boundaries of the city shall be the same as established June 2, 1952, and those boundaries established and changed hereafter in all annexation and disannexation proceedings of the city, filed in the office of the City Clerk, City of Clute, Brazoria County, Texas.

**Wording on the Ballot:**

Shall Section 1.02 be amended to reflect that the boundaries of the City are those established on June 2, 1952, and thereafter changed by annexation and disannexation proceedings according to the records maintained City Clerk?

**Explanation of Change:**

To simplify the boundaries of the City within the Charter to include the original incorporation of the City of Clute, the merging with Lake Barbara, and any subsequent annexations that have occurred. All information related to city boundaries will be maintained within the City Clerk's office and available on the City Website.

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### **#3. NEW PROVISION Section 5.02 add Item (31) - Enumerated powers and duties.**

**Proposed New Wording in the Charter:**

(31) Establish by resolution an Ethics Policy for all appointed or elected officials, boards and commissions, as well as employees when representing the City or doing business as the City in any capacity, to be reviewed and approved annually.

**Wording on the Ballot:**

Shall Section 5.02 be amended by adding new Item (31) authorizing the City Council to establish by ordinance, to be readopted annually, an ethics policy for all elected officials, members of all boards and commissions and employees when representing or doing business for the city in any capacity?

**Explanation of the Addition:**

To provide within the Charter a requirement of the City Council to establish by resolution an Ethics Policy that governs actions taken by all public servants including Council, all appointed or elected officials, members of boards and commissions, as well as employees when representing the City or doing business as the City in any capacity. This policy would need to be reviewed and approved annually to keep the need for ethical behavior at the forefront of everyone mentioned above.

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### **#4. NEW PROVISION add Section 5.04 – Enumerated powers and duties.**

**Proposed New Wording in the Charter:**

If any member of City Council is absent from three (3) consecutive regularly scheduled meetings, the office of that member shall be declared vacant at the next regular meeting, with replacement occurring as set forth in Section 5.02 (28) of the Clute City Charter, unless such absence be unavoidable, the reason therefor presented in writing and be considered sufficient by a majority of the other members of the council, and such reason and action be included in the minutes of said council meeting.

**Wording on the Ballot:**

Shall a new Section 5.04 be added to provide for the removal of any member of the City Council who is absent from three (3) consecutive regularly scheduled meetings without a written explanation found at the next succeeding regularly scheduled meeting to be sufficient by the other members of the City Council?

**Explanation of the Addition:**

To establish a requirement of Council related to attending City Council meetings as is required by ordinance of all other Boards and Commissions within the City.

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## #5. Section 15.19 – Review of the termination of city employees.

### **CURRENT WORDING IN THE CHARTER**

If, any discharged employee of the city desires a review of such termination, the employee shall present a written petition for review to the city clerk within ten (10) days of the date of such termination, setting forth all grounds upon which the employee believes that such termination was in error. The city clerk shall notify the mayor and all members of the city council of the filing of such petition by sending a copy of such petition. The city clerk, at the request of at least three (3) members of the city council, shall place the review of such termination on the agenda for the next regular or, at the mayor's option, an earlier special city council meeting. The terminated employee shall be notified prior thereto within five (5) business day of the date and time of such review, if any, and shall have the opportunity to present evidence and argument in person or through legal counsel. Such review shall be conducted privately in accordance with the Open Meetings Law of the state [V.T.C.A., Government Code ch. 551] unless prior thereto the terminated employee files with the city clerk a written request that it be open to the public. At the conclusion of such review, the city council shall by majority vote of its members present and voting either affirm such termination or reverse such action and reinstate the terminated employee, in which event any other disciplinary measure permitted by the applicable employee policy manual may be imposed by the city council.

### **Proposed Wording in the Charter:**

If, any discharged employee of the city desires a review of such termination, the employee shall present a written petition for review to the city clerk within ten (10) days of the date of such termination, setting forth all grounds upon which the employee believes that such termination was in error. The city clerk shall notify the mayor and all members of the city council of the filing of such petition by sending a copy of such petition to each member. Each member shall then notify the city clerk within five (5) business day in writing their request or lack thereof to hear said petition. The city clerk, at the request of the mayor or at least three (3) members of the city council, shall place the review of such termination on the agenda for the next regular or, at the mayor's option, an earlier special city council meeting. The terminated employee shall be notified prior thereto within five (5) business day of the date and time of such review, if any, and shall have the opportunity to present evidence and argument in person or through legal counsel. Such review shall be conducted privately in accordance with the Open Meetings Law of the state [V.T.C.A., Government Code Ch. 551] unless prior thereto the terminated employee files with the city clerk a written request that it be open to the public. At the conclusion of such review, the city council shall by majority vote of its members present and voting either affirm such termination or reverse such action and reinstate the terminated employee, in which event any other disciplinary measure permitted by the applicable employee policy manual may be imposed by the city council.

### **Wording on the Ballot:**

Shall Section 15.19 be amended to establish a five (5) business day time frame for the mayor or at least three (3) members of the City Council to allow a review of the termination of a discharged employee?

### **Explanation of Changes:**

*This establishes a five (5) business day time frame for the mayor or at least three (3) members of City Council to respond to the City Clerk in writing to have the review of termination of a city employee placed on an upcoming agenda for review. If the mayor or at least three (3) members do not request said placement, the review by Council will not be placed on an upcoming agenda.*

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## #6. Section 5.02 Item (7) – Enumerated powers and duties.

### **CURRENT WORDING IN THE CHARTER**

(7) Remove the officers of the city, including the mayor and its membership in a manner prescribed by law or by the provisions of this Charter.

### **Proposed Wording in the Charter:**

(7) Remove elected or appointed officers of the city, in a manner prescribed by law or by the provisions of this Charter.

### **Wording on the Ballot:**

Shall a new Item (7) be added to Section 5.02 authorizing the removal by the City Council of elected or appointed officers of the city in the manner provided by law or the provisions of the charter?

### **Explanation of Change:**

*To clarify the powers of the City Council to remove any officer of the City either elected or appointed through the process established by the Charter.*

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## #7. Section 5.02 Item (11) – Enumerated powers and duties. (City Council)

### CURRENT WORDING IN THE CHARTER

(11) To employ such administrative officials or employees as are necessary for the proper administration of municipal government and shall have the power to remove or discharge such administrative official or employee for just cause; or shall have the power to delegate the powers herein to the department heads or head, or to the city secretary.

### Proposed for the Charter:

**ELIMINATE #11 COMPLETELY**

### Wording on the Ballot:

**Should Item (11) of Section 5.02 authorizing the City Council to employ and remove or discharge administrative officials or employees, or delegate the same to designated persons, be repealed?**

### Explanation of Deletion:

*To make all personnel matters for all employees of the City the responsibility of the Chief Administrative Officer (the City Manager).*

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## #8a. Section 5.02 Item (1) - Enumerated powers and duties.

### CURRENT WORDING IN THE CHARTER

(1) Appoint and remove the city manager and the chief of police.

### Proposed Wording in the Charter:

(1) Appoint and remove the city manager.

### Explanation of Change:

*This removes the Police Chief reporting directly to City Council and makes the City Manager the sole chief administrative officer of the City, which would include the authority of the City Manager for day to day administrative review and oversight of the Police Department and the Chief. It would create one chief administrator responsible for the operations of all departments of the city, functioning under the review and supervision of the City Council. The majority of all cities within the state function in this capacity.*

## #8b. Section 7.02 Item (b) – Department of police.

### CURRENT WORDING IN THE CHARTER

(b) Chief of police. The chief of police shall be the chief administrative officer of the department of police. He shall be appointed by and hold office at the pleasure of the city council and may be removed by the city council at will. The action of the city council in removing the chief of police shall be final. The conviction of the chief of police of any felony shall automatically remove him from such office and shall disqualify him from further service for the city.

### Proposed Wording in the Charter:

(b) Chief of Police. The chief of police shall be a director of the City and of the police department, and shall be appointed, and may be removed, by the city manager.

### Wording on the Ballot is for both Sections of the Charter:

**Should Item (1) of Section 5.02 be amended to provide that the City Council shall appoint and remove the city manager but not the chief of police and Item (b) of Section 7.02 be amended to provide for the appointment and supervision of the Chief of Police by the City Manager?**

### Explanation of Change: TWO SECTION CHANGES REQUIRED AND MERGED INTO ONE AMENDMENT TO BE VOTED ON.

*This removes the Police Chief reporting directly to City Council and makes the City Manager the sole chief administrative officer of the City, which would include authority over the Police Chief and add day to day administrative review and oversight of the police function to the City Manager. It would create one chief administrator responsible for the operations of all departments of the city, functioning under the review and supervision of the City Council. The majority of all cities within the state function in this capacity.*

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## #9. Section 7.01 Item (8) – City Manager

### CURRENT WORDING IN THE CHARTER

(c) Powers and duties:

- (8) Subject to the approval of the city council, to develop and issue a comprehensive manual of policies containing rules and regulations for the governance of all officers of the city appointed by him and all employees of the city except those in the department of police, including therein disciplinary measures to be taken in the event of the infraction of any such rules and regulations.

### Proposed Wording in the Charter:

- (8) Subject to the approval of the city council, to develop and issue a comprehensive manual of policies containing rules and regulations for the governance of all employees of the city, including therein disciplinary measures to be taken in the event of the infraction of any such rules and regulations.

### Wording on the Ballot:

Should Item (8) of Section 7.01 be amended to provide the manual of policies containing rules and regulations developed by the City Manager, subject to the approval of the City Council, include all city employees?

### Explanation of Change:

To create one chief administrative officer, the City Manager, responsible for the operations of all departments of the city, including the police department and the municipal court, functioning under the review and supervision of the City Council.

The policies noted above would be inclusive of all employees of the City, eliminating separate rules for each department. The majority of all cities within the state function in this capacity.

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## #10. Section 7.02 Item (c) – Department of police.

### CURRENT WORDING IN THE CHARTER

- (c) Other police officers and employees. The chief of police shall appoint and may remove all other police officers and employees of the department of police but their number and salary shall be fixed by the city council. Subject to the approval of the city council, he shall develop and issue a comprehensive manual of policies containing rules and regulations for the governance of all police officers and other employees of the department of police, including therein disciplinary measures to be taken in the event of the infraction of any such rules and regulations.

### Proposed Wording in the Charter:

- (c) Other police officers and employees. Subject to the approval of the city manager and in compliance with the City Personnel Policy Handbook, the Chief of Police shall develop and issue comprehensive rules, regulations, and policies for the governance of all police officers and other employees of the department of police, including therein disciplinary measures to be taken in the event of the infraction of any such rules and regulations.

### Wording on the Ballot:

Should Item (c) of Section 7.02 be amended to provide that the manual of policies containing rules and regulations for the governance of police officer and other employees of the police department be developed by the chief of police subject to the approval of the city manager?

### Explanation of Change:

The necessary policies (General Orders) created by the Police Department would not conflict with any overall City policies but could be more restrictive, and eliminate separate rules for each department. The majority of all cities within the state function in this capacity.

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## #11. Section 9.03 Items (a) (b) (c) – Clerk of the Municipal Court

### CURRENT WORDING IN THE CHARTER

The judge of the municipal court shall appoint and may remove at his pleasure the municipal court clerk and all deputy municipal court clerks but the number of deputies and the salary of the clerk and all deputies shall be fixed by the city council. The clerk and each deputy shall have the power to administer oaths, execute affidavits, and certificates and affix the seal of the court thereto and otherwise perform any and all acts necessary to issuing the process of the municipal court and conducting its business. Provided, however, the clerk and each deputy shall be subject to the manual of policies issued by the city manager for other employees of the city not subject to the supervision of the chief of police.

### Proposed Wording in the Charter:

- (a) The city manager shall have the authority to appoint or remove, according to the City Charter and rules set forth in the city's personnel policies, the municipal court clerk and all other court personnel of the municipal court. The clerk shall perform duties in accordance with state law, the City Charter, and City Ordinances. During all actions of the court, the clerk and other court personnel shall serve at the direction of the office of the judge of the municipal court.
- (b) The court clerk or the clerk's deputies shall have all duties and authority as provided by V.T.C.A. Government Code, § 29.010(c), as amended, including administering oaths, executing affidavits and certificates, supervising the selection of persons for jury service, and acquiring, maintaining, and affixing the seal of the court thereto, and otherwise performing any and all acts necessary to issuing the process of the municipal court and conducting its business.
- (c) The court clerk and all employees within the municipal court shall be subject to the manual of personnel policies issued by the city manager for all employees of the city.

### Wording on the Ballot:

Should Items (a), (b) and (c) of Section 9.03 be amended to provide the city manager shall appoint and remove the Municipal Court Clerk and other employees of the Municipal Court and they shall all be subject to the manual of policies containing rules and regulations developed by the City Manager for all city employees?

### Explanation of Change:

The Personnel Policy Handbook and all Charter provisions would apply to municipal court employees and change the administrative authority over municipal employees to the City Manager. The majority of all cities within the state function in this capacity.

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