

**CITY OF SEABROOK  
ORDINANCE NO. 2020-19**

**ORDERING A SPECIAL CITY CHARTER AMENDMENT ELECTION  
TO BE HELD ON NOVEMBER 3, 2020**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SEABROOK, CALLING AND ESTABLISHING PROCEDURES FOR A SPECIAL ELECTION, TO BE HELD ON NOVEMBER 3, 2020, TO CONSIDER NINETEEN (19) CHARTER AMENDMENTS RECOMMENDED BY THE SEABROOK CHARTER REVIEW COMMISSION AND DETERMINED FOR SUBMISSION BY CITY COUNCIL; MAKING PROVISION FOR THE CONDUCT OF A JOINT ELECTION; AND RESOVLING OTHER MATTERS AND MAKING OTHER PROVISIONS INCIDENT AND RELATED TO THIS ELECTION**

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**WHEREAS**, on March 18, 2020, Texas Governor Greg Abbott issued a proclamation Section 41.0052(a) and (b) of the Texas Election Code to allow political subdivisions that would otherwise hold elections on May 2, 2020, to move their general and special elections for 2020 only to the next uniform election date, occurring on November 3, 2020, without otherwise adjusting the term of office, and suspending Sections 31.093 and 42.0621(c) of the Texas Election Code to the extent necessary to require all county election officers, if requested by an affected political subdivision, to enter into a contract to furnish election services with any political subdivision who postponed their election to November 3, 2020; and

**WHEREAS**, on March 24, 2020, the Seabrook City Council approved and adopted Ordinance 2020-13, authorizing the postponement of the Special Election ordered to be held on May 2, 2020 to the uniform election date of November 3, 2020, to consider nineteen (19) Charter Amendments recommended by the Seabrook Charter Review Commission and determined for submission by City Council; and

**WHEREAS**, in accordance with the laws of the State of Texas, on the 3rd day of November, 2020, a Special Election shall be held to vote for or against nineteen (19) charter amendment propositions recommended by the Seabrook Charter Review Commission (“Commission”) in its final report submitted at the October 1, 2019 City Council meeting; and

**WHEREAS**, the Seabrook City Council has reviewed the recommendations of the Commission and has determined that the nineteen (19) charter propositions, as referenced in the attached Exhibit A, incorporated by reference herein, should be submitted to the voters of the City of Seabrook in accordance with Texas Local Government Code, Section 9.004; and

**WHEREAS**, the Texas Election Code and the Seabrook City Charter establish the procedures and time period for Special Elections; and

**WHEREAS**, the Seabrook City Council wishes to proceed with the ordering of the Special Election and the City Council has determined that holding such election is in the public interest; and

**WHEREAS**, the Council hereby finds and determines that it is in the best interests of the City to enter into one or more election agreements or contracts with the County and the Participants to conduct the Election in accordance with the laws of the State of Texas (the “*State*”) and applicable federal laws, and the City will contract with the Election Administrator (the “*Administrator*”) of Harris County, Texas (the *County*) to conduct all aspects of the Election; and

**WHEREAS**, the Election will be held jointly with other political subdivisions (such other political subdivisions, collectively, the “*Participants*”) for whom the County is also conducting their elections, as provided pursuant to the provisions of one or more joint election agreements or contracts among the City, the County, and the Participants, entered into in accordance with the provisions of Section 271.002, as amended, Texas Election Code, or other applicable law, pursuant to which the County will conduct all aspects of the Election on the City’s behalf; and

**WHEREAS**, the laws of the State of Texas further provide that the Election Code (Code) of the State of Texas is applicable to all municipal elections and, in order to comply with said Code, an ordinance should be passed establishing the procedures to be followed and in designating the voting places for the November 3, 2020 Special Election; and

**WHEREAS**, the Council hereby finds and determines that the actions hereinbefore described are in the best interests of the qualified voters of the City; and

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SEABROOK, TEXAS THAT:**

**SECTION 1. DATE, TIME, AND PLACE OF ELECTION ESTABLISHED**

The City of Seabrook Special Charter Amendment Election shall be held in the CITY OF SEABROOK, TEXAS on the 3rd day of November, 2020 (“*Election Day*”), which is a uniform election date under the Texas Election Code, as amended, and is not less than seventy-eight (78) days nor more than ninety (90) days from the date of the adoption of this ordinance (the “*Ordinance*”), for the purpose of submitting the propositions referenced in Exhibit A to this Ordinance, incorporated by reference herein, to the qualified voters of the City as they will appear, which the City Council determines constitute a fair portrayal of the chief features of the proposed charter amendments, in words of plain meaning, so that it can be understood by persons entitled to vote, directing them to the charter amendment so that they can discern its identity and distinguish it from other propositions on the ballot pursuant to Texas Election Code § 52.072.

On Election Day, the polls shall be open from 7:00 a.m. to 7:00 p.m.

The pursuant to Texas Election Code § 43.004(b) the City hereby delegates to the Administrator (or her designee) the power to establish election precincts and polling places for the purpose of holding the Election, which shall designate as the polling places for the election the regular county polling places in the county election precincts that contain territory from the City.

## **SECTION 2. VOTER REGISTRATION**

The deadline for submitting an application to register to vote in the November 3, 2020 Special Election is October 5, 2020.

## **SECTION 3. ELECTION JUDGES AND CLERKS**

The City hereby delegates to the Administrator (or her designee) the power to approve the appointment of the Presiding Judges, Alternate Presiding Judges, Election Clerks, and all other election officials for the Election, together with any other necessary changes to election practices and procedures, as agreed upon by the Administrator, the City, and the Participants, pursuant to the provisions of one or more joint election agreements or contracts among the City, the County, and the Participants, entered into in accordance with the provisions of Section 271.002, as amended, Texas Election Code, or other applicable law.

The Presiding Judge shall appoint not less than two (2) resident qualified voters of the County to act as clerks in order to properly conduct the Election. To the extent required by the Texas Election Code, as amended, or other applicable law, the appointment of these clerks must include a person fluent in the Spanish, Chinese, and Vietnamese languages to serve as a clerk to render oral aid in the Spanish, Chinese, and Vietnamese languages to any voter desiring such aid at the polls on Election Day. If the Presiding Judge appointed actually serves, the Alternate Presiding Judge shall serve as one of the clerks. In the absence of the Presiding Judge, the Alternate Presiding Judge shall perform the duties of the Presiding Judge of the election precinct.

## **SECTION 4. EARLY VOTING**

Seabrook City Hall, 1700 1<sup>st</sup> Street, Seabrook, TX will no longer be established as the main early voting location.

The main early voting location by personal appearance shall be established and maintained in accordance with the Texas Election Code. The individual named as the Early Voting Clerk pursuant to the provisions of one or more joint election agreements or contracts is hereby appointed as the Early Voting Clerk to conduct such early voting in the Election. The Early Voting Clerk shall appoint the Deputy Early Voting Clerks. This main early voting location shall remain open to permit early voting on the days and at the times as provided and authorized by the Administrator under the provisions of one or more joint election agreements or contracts. Early voting shall commence on Tuesday, October 13, 2020, and continue through Friday, October 30, 2020, as provided by the provisions of the Texas Election Code, as amended, and by Proclamation issued on July 27, 2020 by Texas Governor Greg Abbott.

Additionally, permanent branch offices for early voting by personal appearance shall be established and maintained in accordance with the Texas Election Code. The locations, dates, and hours of operation for early voting at these offices (being the permanent branch offices) shall be determined by the Administrator and published.

Early Voting Applications may be submitted:

By Regular Mail to:  
Chris Hollins  
Harris County Clerk  
Attn: Elections Division  
P.O. Box 1148  
Houston, TX 77251-1148.

By Common or Contract Carrier to:  
Chris Hollins  
Harris County Clerk  
1001 Preston, 4<sup>th</sup> Flr. Rm. 440  
Houston, TX 77002

All Annual Ballot By Mail Applications (ABBM)s submitted for the May 2, 2020 Special Election by voters that are voting by mail due to being over the age of 65 or due to disability will still be valid for the November 3, 2020 Special Election.

All ABBMs submitted by voters based on expected absence from the county for the May 2, 2020 Special Election will not be valid for November 3, 2020 Special Election.

An Early Voting Ballot Board is hereby established for the purpose of processing early voting results under the provisions of one or more joint election agreements or contracts.

## **SECTION 5. VOTING EQUIPMENT AND MACHINES**

Electronic voting machines may be used in holding and conducting the Election on Election Day; provided, however, in the event the use of such electronic voting machines is not practicable, the Election may be conducted on Election Day by the use of paper ballots (except as otherwise provided in this section). Electronic voting machines or paper ballots may be used for early voting by personal appearance (except as otherwise provided in this section). Pursuant to Section 61.012, as amended, Texas Election Code, the Administrator shall provide at least one accessible voting system for persons with disabilities in each polling place used in the Election under the provisions of one or more joint election agreements or contracts. Such voting system shall comply with State and federal laws establishing the requirement for voting systems that permit voters with physical disabilities to cast a secret ballot. Paper ballots, touch screen voting machines, and/or such other legally-permissible voting methods may be used for early voting and Election day voting by personal appearance. Certain early voting may be conducted by mail as provided by law.

The City shall also utilize a Central Counting Station (the *Station*) as provided by Section 127.001, et seq., as amended, Texas Election Code, as amended. The Administrator, or his designee, is hereby appointed as the Manager and Presiding Judge of the Station and may appoint Station clerks and establish a written plan for the orderly operation of the Station in accordance with the provisions of the Texas Election Code, as amended. The Council hereby appoints the Administrator, or his designee, as the Tabulation Supervisor and the Administrator,

or his designee, as the Programmer for the Station. Lastly, the Administrator will publish notice and conduct testing on the automatic tabulation equipment relating to the Station and conduct instruction for the officials and clerks for the Station in accordance with the provisions of the Texas Election Code, as amended.

## **SECTION 6. BALLOT, PROPOSITIONS, NOTICES, AND OTHER ELECTION MATERIALS**

The official ballot shall be prepared in accordance with the Texas Election Code, as amended, so as to permit voters to vote “FOR” or “AGAINST” the aforesaid propositions which shall appear on the ballot substantially as referenced in the attached Exhibit A, incorporated by reference herein, and be submitted to the voters of the City of Seabrook in accordance with Texas Local Government Code, Section 9.004.

All resident qualified voters of the City shall be permitted to vote at the Election, and on Election Day, such voters shall vote at the designated polling places. The Election shall be held and conducted in accordance with the provisions of the Texas Election Code, as amended, and as may be required by any other law. All materials and proceedings relating to the Election shall be printed in both English, Spanish, Chinese, and Vietnamese.

The Mayor shall give notice of the Special Election in accordance with the terms and provisions of the Election Code and the Seabrook Charter and the Mayor shall issue all necessary orders and writs for said election and returns of said election. A substantial copy of this Ordinance shall serve as a proper notice of the Election. It is further found and determined that in accordance with the order of this governing body the City Secretary posted written notice of the date, place and subject of this meeting on the bulletin board located in the City Hall, a place convenient and readily accessible to the general public, and such notice having been so posted and remaining posted continuously for at least seventy-two (72) hours preceding the scheduled time of such meeting. The full text of the proposed charter amendments, with an estimate of anticipated fiscal impact, shall be included in such notice.

## **SECTION 7. CANVASS**

City Council, as the canvassing authority of the Special Election, shall canvass the returns at its scheduled regular meeting to be held on November 17, 2020 or as otherwise provided by law. At the completion of the canvass, the Mayor shall deliver the returns and tally lists used in the canvass to the City Secretary; and the City Secretary shall preserve them for a period in accordance with law.

## **SECTION 8. JOINT ELECTION AGREEMENT**

The Council authorizes the City Manager, or his designee, to negotiate and enter into one or more joint election agreements or contracts with the County, through its Administrator, and the Participants in accordance with the provisions of the Texas Election Code, as amended, and as necessary or desired, to make such technical modifications to this Ordinance that are necessary for compliance with applicable State or federal law or to carry out the intent of the Council, as evidenced herein.

## **SECTION 9. LEGAL REQUIREMENTS**

The recitals contained in the preamble hereof are hereby found to be true, and such recitals are hereby made a part of this Ordinance for all purposes and are adopted as a part of the judgment and findings of the Council.

All ordinances and resolutions, or parts thereof, which are in conflict or inconsistent with any provision of this Ordinance are hereby repealed to the extent of such conflict, and the provisions of this Ordinance shall be and remain controlling as to the matters ordained herein.

This Ordinance shall be construed and enforced in accordance with the laws of the State of Texas and the United States of America.

If any provision of this Ordinance or the application thereof to any person or circumstance shall be held to be invalid, the remainder of this Ordinance and the application of such provision to other persons and circumstances shall nevertheless be valid, and this Council hereby declares that this Ordinance would have been enacted without such invalid provision.

It is officially found, determined, and declared that the meeting at which this Ordinance was adopted was open to the public and public notice of the time, place, and subject matter of the public business to be considered at such meeting, including this Ordinance, was given, all as required by Chapter 551, as amended, Texas Government Code.

Pursuant to the provisions of Section 2.11(b)(c) for the Seabrook Charter, this Ordinance shall be effective immediately upon adoption.

***THIS SPACE INTENTIONALLY LEFT BLANK***

**AND IT IS SO ORDERED.**

**PASSED, APPROVED AND ADOPTED ON FIRST AND FINAL READING THIS  
THE 4th DAY OF AUGUST 2020.**

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Thomas G. Kolupski  
Mayor

ATTEST:

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Robin Lenio, TRMC  
City Secretary

APPROVED AS TO FORM:

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Steven L. Weathered  
City Attorney

## **EXHIBIT A**

### **CHARTER AMENDMENT BALLOT PROPOSITION A**

*Shall Article II, Section 2.02 “Qualifications” be amended to increase the minimum years of age to qualify to be a Councilmember from 18 to 21 as provided by Texas Election Code 141.003? This amendment has no expected budget impact.*

### **CHARTER AMENDMENT BALLOT PROPOSITION B**

*Shall Article II, Section 2.04 “Mayor and Mayor Pro Tem” be amended to add clarifying language that the Mayor is a member of City Council for purposes of establishing a required quorum of City Council? This amendment is to address recent inquiry made by the Attorney General of whether the Mayor was included for purposes of calculation of quorum requirements. This amendment has no expected budget impact.*

### **CHARTER AMENDMENT BALLOT PROPOSITION C**

*Shall Article II, Section 2.04 “Mayor and Mayor Pro Tem” be amended to delete unnecessary surplus language describing documents that the Mayor shall sign and simply provide that the Mayor when authorized by City Council, shall sign all official documents? This amendment has no expected budget impact.*

### **CHARTER AMENDMENT BALLOT PROPOSITION D**

*Shall Article II, Section 2.10 “Rules of Procedure” be amended for efficiency, to remove the requirements of a roll call vote, unless required by law, so as to conform to current practice of City Council where the votes are counted immediately at time of reading, confirmed and included in the public minutes by the City Secretary?” This amendment has no expected budget impact.*

### **CHARTER AMENDMENT BALLOT PROPOSITION E**

*Shall Article II, Section 2.11 “Passage of Ordinances in General” be amended to remove the delaying requirement, that 2 or more Councilmembers may request the entire ordinance be read in its entirety, despite the fact that the proposed ordinance has been made available to the public prior to the meeting, all councilmembers have been provided a copy, and the ordinance may comprise an extreme number of pages which would take an extensive amount of time to read? This amendment has no expected budget impact.*

### **CHARTER AMENDMENT BALLOT PROPOSITION F**

*Shall Article VI, “Planning and Zoning”, Section 6.04 “Powers and Duties” be amended to remove the requirement that the Planning and Zoning Commission meet monthly, irrespective of whether there are any pending cases or zoning requests before it for that month? This amendment may have negligible budget impact associated with cost saved for unnecessary meetings such as building costs, and staff expense/overtime.*

**CHARTER AMENDMENT BALLOT PROPOSITION G**

*Shall Article VI, "Planning and Zoning", Section 6.06 "Development of Property" be removed in its entirety to avoid ambiguity created by its current language, that might be interpreted as prohibiting the City from taking advantage of statutes available to home rule cities for development of the City? Budget impact cannot be quantified due to variables.*

**CHARTER AMENDMENT BALLOT PROPOSITION H**

*Shall Article VII, "Nominations and Elections", Section 7.01, "Nominations and Elections" be amended to remove any reference to a specific municipal election date, to ensure that the Seabrook City Charter adheres to the dates specified by Texas Election Code for elections, should the State Legislature continue to amend the available uniform election date(s)? This amendment has no expected budget impact.*

**CHARTER AMENDMENT BALLOT PROPOSITION I**

*Shall Article IX, "Courts" be amended in its entirety for corrective reference update that the Seabrook Municipal Court, by adoption on May 5, 2004 of Ordinance 2004-09, is a "Municipal Court of Record" pursuant to Chapter 30 of the Texas Government Code? This amendment has no expected budget impact.*

**CHARTER AMENDMENT BALLOT PROPOSITION J**

**ARTICLE IX. – COURTS**

*Shall Article IX, "Courts", Section 9.02 "Judge of the Municipal Court" and Section 9.03, "Clerk of the Municipal Court", be amended to add the word "Presiding" each time the word "Judge" is used to distinguish the duties and responsibilities of the Presiding Judge from any and all Alternate Judges? This amendment has no expected budget impact.*

**CHARTER AMENDMENT BALLOT PROPOSITION K**

*Shall Article IX, "Courts", Section 9.02 "Judge of the Municipal Court" be amended to remove the Seabrook residency requirement for appointment as a municipal judge, to allow City Council access to more potential candidates for consideration of the position? This amendment has no expected budget impact.*

**CHARTER AMENDMENT BALLOT PROPOSITION L**

*Shall Article IX, "Courts", Section 9.02 "Judge of the Municipal Court" be amended to provide a correction for the term of appointment for the municipal court judge for a 2 or 4-year term, as provided by state law for municipal judges, Section 30.00006(d) Texas Government Code? Currently Charter Section 9.02 provides for a 3-year term. This amendment has no expected budget impact. This amendment has no expected budget impact.*

**CHARTER AMENDMENT BALLOT PROPOSITION M**

*Shall Article X, “Franchises and Public Utilities” Section 10.07 “Regulation of Utilities, Subsection (f) (requiring every franchise holder to allow public utilities to use its poles and other facilities), be removed due to ambiguity and potential conflict with state and federal law? Budget impact cannot be quantified due to variables.*

**CHARTER AMENDMENT BALLOT PROPOSITION N**

*Shall Article XI, “General Provisions” Section 11.01 “Publicity of Records” be amended for correction to conform to state law requiring that records shall be made available pursuant to the Texas Public Information Act, and accordingly are not subject to regulations established by the City Manager? This amendment has no expected budget impact.*

**CHARTER AMENDMENT BALLOT PROPOSITION O**

*Shall Article XI, “General Provisions” Section 11.08 “Fire Department and Fire Marshal be amended to update and substitute the term “fireman” to “firefighter”? This amendment has no expected budget impact.*

**CHARTER AMENDMENT BALLOT PROPOSITION P**

*Shall Article XI, “General Provisions”, Section 11.16 “The Charter Review Commission and Amending the Charter” be amended to more clearly, precisely and uniformly schedule the date for appointment of the Charter Review Commission, by using the date of the last Charter Election, instead of the date when the last Charter Review Commission was appointed, a time which varies? This amendment has no expected budget impact.*

**CHARTER AMENDMENT BALLOT PROPOSITION Q**

*Shall Article XI, “General Provisions”, Section 11.23 “Comprehensive Master Plan Review Commission” be amended to delete the provision that the Master Plan may not be amended unless approved by the Commission, in order to properly reference adherence to statutory authority of Council pursuant to State law Section 211.004-211.007 Texas Local Government Code, providing that the elected City Council exercises authority for zoning regulations, districts and boundaries. This amendment has no expected budget impact.*

**CHARTER AMENDMENT BALLOT PROPOSITION R**

*Shall Article XI, “General Provisions”, Section 11.23 “Comprehensive Master Plan Review Commission” be amended to more clearly, precisely and uniformly schedule the date for appointment of the Master Plan Commission, by using the date of the last Plan Adoption, instead of the date when the last Master Plan Commission was appointed, a time which varies? This amendment has no expected budget impact.*

**CHARTER AMENDMENT BALLOT PROPOSITION S**

*Shall Article XII, "Transitional Provisions", be amended to replace the title of this Article with "Historical Reference" to provide more clarity that this Article is for historical recording when the citizens determined the City of Seabrook to move from a General Law City to a Home Rule City? This amendment has no expected budget impact.*