

**Division 12. Electric Utility Board\***

**Sec. 2.03.411 Definition**

For the purposes of this division, “the board” shall mean the electric utility board of the City of Lubbock. (1983 Code, sec. 2-478; Ordinance 2004-O0021, sec. 1, adopted 2/19/2004; Ordinance 2004-O0140, sec. 1, adopted 12/16/2004)

**Sec. 2.03.412 Established, purpose**

Pursuant to [chapter 1, article XII, section 1, of the Lubbock City Charter](#), the City of Lubbock’s municipally owned electric utility, known as Lubbock Power & Light, shall be governed and managed by a board appointed by the city council, such board to be known as the electric utility board. The city’s electric utility shall have as its primary purpose the provision of dependable and reliable electric service at reasonable and competitive rates to the citizens of Lubbock while being financially self-sustaining. (1983 Code, sec. 2-479; Ordinance 2004-O0021, sec. 1, adopted 2/19/2004; Ordinance 2004-O0140, sec. 1, adopted 12/16/2004)

**Sec. 2.03.413 Members, qualifications**

(a) The number of board members and their terms are governed by chapter 1, article XII, section 1 of the Lubbock City Charter and shall be considered officers of the City of Lubbock. No board member shall serve more than four consecutive terms. However, for each board member appointed whose original term was for one year or less, such original term shall not apply towards the four-term term-limitation outlined herein. The city council shall consider extensive business and/or financial experience as a qualification for serving on the board as well as whether or not the individual is a customer of the city's electric utility provided that service with the city's electric utility is available. The mayor or the mayor's appointee shall serve as an ex-officio, nonvoting member of the board.

(b) The board members shall serve without compensation. The board may reimburse board members for expenses incurred in performing their duties as board members.

(c) The board members shall not be indebted to the city or the city’s electric utility, and shall not be interested in the profits or emoluments of any contract, job, work or service for the city or the city’s electric utility. The board members shall not have a substantial interest in any public utility operating within the City of Lubbock and shall fully disclose any potential or actual conflict of interest to the city council. Substantial interest shall mean substantial interest as defined by the laws of the State of Texas regulating conflicts of interest of officers of municipalities.

(1983 Code, sec. 2-480; Ordinance 2004-O0021, sec. 1, adopted 2/19/2004; Ordinance 2004-O0140, sec. 1, adopted 12/16/2004; Ordinance 2006-O0135, sec. 1, adopted 1/12/2007; Ordinance 2019-O0168, sec.1, adopted 12/3/2019)

### **Sec. 2.03.414 Powers reserved to city council**

Pursuant to and subject to [chapter 1, article XII, section 1, of the Lubbock City Charter](#), the following powers, as they relate to the city's electric utility, are for the sole and exclusive use and authority of the city council:

- (1) Establishing, changing, altering or otherwise setting the electric rates of the city's electric utility, including all components thereof;
- (2) Approving the budget of the city's electric utility;
- (3) Exercising powers of eminent domain for the benefit of the city's electric utility;
- (4) Issuing bonds or otherwise creating any indebtedness in the name of the city for the benefit of the city's electric utility that is secured by the general tax revenue of the city, the net revenue of the city's electric utility or the pledging of the assets of the city's electric utility; and
- (5) Requiring the city's electric utility to pay an annual fee to the city equivalent to any fee outlined in [section 2.03.417](#) herein.

(1983 Code, sec. 2-481; Ordinance 2004-O0021, sec. 1, adopted 2/19/2004; Ordinance 2004-O0140, sec. 1, adopted 12/16/2004)

### **Sec. 2.03.415 Authority, duties and responsibilities**

(a) The board shall approve an annual budget and electric rate schedule for the city's electric utility, submit the budget and electric rate schedule to the city council for approval by filing the same with the city secretary, and be responsible for the proper implementation of each following adoption. The board may, as required from time to time, submit to the city council for its approval amendments to the budget and/or electric rate schedule.

(b) The board shall authorize and oversee an audit of the city's electric utility system and shall report any and all findings of such audit to the city council. The board may authorize such audit to be performed by an external auditor. The external auditors must be a certified public accounting (CPA) firm that has the experience and depth of staff to audit the city's electric utility in accordance with generally accepted auditing standards and contractual requirements. The audited financial numbers must be completed and reported to the city's accounting department in sufficient time for the comprehensive annual financial report to be presented to the city council per the audit schedule. The auditors are accountable to the board and will have access to direct communication with the board if staff is unresponsive to auditor recommendations or if the auditors consider such communication necessary to fulfill their legal and professional responsibilities.

(c) To the extent authorized by law and subject to the [city's charter](#) and Code of Ordinances, the board shall have all authority necessary to govern, manage, administer and operate the city's electric utility including the authority to contract for accounting, financial, human resource, legal

and other services separate and apart from those services currently being provided by the city. Furthermore, this authority includes, without limitation, the right of the board to enter into contracts in the name of the city relating solely to the operation and management of the city's electric utility including the right of the board to establish any and all policies relating to the administration and implementation of contracts related solely to the city's electric utility. If the board contracts for legal services separate and apart from the city attorney's office, the legal counsel for the board shall also report to and be responsible to the city council of the city.

(d) No person related within the second degree by affinity, or within the third degree of consanguinity, to any member of the board, the city council or the city manager shall be appointed as director of the city's electric utility.

(e) To the extent authorized by law and subject to the city's charter and Code of Ordinances, the board shall be responsible for recommending individuals to the city council for their consideration in appointing individuals to the board.

(1983 Code, sec. 2-482; Ordinance 2004-O0140, sec. 1, adopted 12/16/2004; Ordinance 2004-O0021, sec. 1, adopted 2/19/2004; Ordinance 2006-O0135, sec. 2, adopted 1/12/2007; Ordinance 2012-O0026, sec. 1 (ex. A), adopted 4/10/2012; Ordinance 2019-O0168, sec. 2, adopted 12/3/2019)

### **Sec. 2.03.416 Director of electric utilities**

(a) The director of electric utilities shall be the chief administrative officer of the city's electric utility and shall report to the board for the proper administration, management and operation of the city's electric utility as directed and authorized by the board, the [city charter](#) and/or the city's ordinances and resolutions. The director shall be responsible for preparing the annual budget and fee schedule for the city's electric utility and shall present the budget and fee schedule to the board for their approval prior to the board submitting such budget and fee schedule to the city council.

(b) The director of electric utilities shall not have a substantial interest in any public electric utility operating within the City of Lubbock and shall fully disclose in writing any interest, including any potential or actual conflict of interest, to the board. For purposes of this section only, "substantial interest" shall not include any pension, retirement income or retirement benefits received by the director of electric utilities.

(c) A director of electric utilities who ceases to possess any of the qualifications outlined in this section shall forfeit his position, and any contract in which the director shall or may become interested may be declared void by the board. Failure by the director of electric utilities to disclose the interest outlined in subsection (b) above shall be a class C misdemeanor, and, on conviction thereof, such employment shall be forfeited.

(1983 Code, sec. 2-483; Ordinance 2004-O0021, sec. 1, adopted 2/19/2004; Ordinance 2004-O0140, sec. 1, adopted 12/16/2004)

### **Sec. 2.03.417 Disbursement of funds from the general reserve**

(a) Prior to paying any fee equivalent to a franchise fee, making any payment in lieu of taxes (PILOT), and prior to disbursing any funds from appropriable net assets (the “general reserve”) of the city’s electric utility, the board shall first fully meet all bond reserve or fund obligations defined in any bond covenant for the city’s electric utility.

(b) After providing for sufficient funds to meet the obligations contained in subsection (a) above, by the end of the fiscal year the board shall ensure that the general reserve is equal to three (3) months gross revenue generated from all retail electric sales (the “GRR”) as determined by taking the average monthly GRR from the previous fiscal year as shown in the latest comprehensive annual financial report (CAFR). The term “GRR” as used herein shall include all receipts from the sale of retail electric lighting and power in LP&L’s certificated territory.

(c) The board may use the general reserve for rate stabilization, unforeseen emergency situations, and for meeting the electric utility demand of any rapid or unforeseen increase in residential and/or commercial development.

(d) LP&L shall transfer to the city a fee equivalent to a franchise fee in the amount of five percent (5%) of the GRR and a PILOT in the amount of one percent (1%) of the GRR.

The transfers shall be made on the 15th day of each month and shall be based on the GRR of LP&L during the preceding calendar month.

For budgeting purposes, on or before May 1st of each year, the board shall report to the city council their estimate of the general reserve, the GRR and the resulting franchise fee and PILOT.

(e) Subject to the approval of the board, any remaining general reserve may be refunded to the ratepayers of the city’s electric utility within six (6) months following the fiscal year in which the general reserve balance exceeds three (3) months of GRR.

(f) The general reserve shall be based on funds not otherwise committed, and generally defined as “current assets” less “current liabilities” as those terms are defined in subsections (1) and (2) below:

(1) Current assets, as classified in the latest CAFR of the city’s electric utility fund, excluding cash committed to capital projects and other non-cash assets.

(2) Current liabilities, as classified in the latest CAFR of the city’s electric utility fund, excluding non-cash liabilities and customer deposits. Current liabilities will also exclude accrued interest payable, leases payable (as these current liabilities will be paid from revenues generated in the subsequent fiscal year).

(1983 Code, sec. 2-484; Ordinance 2004-O0021, sec. 1, adopted 2/19/2004; Ordinance 2004-O0118, sec. 1, adopted 10/29/2004; Ordinance 2004-O0140, sec. 1, adopted 12/16/2004;

Ordinance 2006-O0135, sec. 3, adopted 1/12/2007; Ordinance 2008-O0096, sec. 1, adopted 11/20/2008; Ordinance 2012-O0026, sec. 1 (ex. A), adopted 4/10/2012)

### **Sec. 2.03.418 Amendments**

(a) To the extent authorized by law and subject to the [city's charter](#) and Code of Ordinances, the board shall be responsible for recommending any amendments to this division.

(b) The city council shall not amend, alter, delete or change any provision contained in this division without first conducting a public hearing following proper notice as described below.

(c) Prior to conducting a public hearing as described above, the city council shall provide notice of such hearing. The notice must state clearly the time and place of the hearing and must clearly state the proposed amendment, alteration or change. The notice must be published at least thirty days before the date for public hearing and at least once a week for three consecutive weeks. The last day of publication must not be less than one week or more than two weeks before the date of the hearing. The notice must be published in a newspaper of general circulation and that is published at least six days a week in the City of Lubbock.

(1983 Code, sec. 2-485; Ordinance 2004-O0021, sec. 1, adopted 2/19/2004; Ordinance 2004-O0140, sec. 1, adopted 12/16/2004; Ordinance 2006-O0135, sec. 4, adopted 1/12/2007)