

PART I

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**PART I
HOME RULE CHARTER ***

Preamble

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PREAMBLE

We, the citizens of Ballinger, Texas, in order to establish a Home Rule Municipal Government, provide for the future progress of our city and obtain more fully the benefits of local self-government, do hereby adopt this Home Rule Charter in accordance with the statutes of the State of Texas.

* **Editor's note** - The city's Home Rule Charter was adopted at an election held on April 2, 1963, and set out herein for the convenience of the user of this Code of Ordinances. The original arrangement and article and section numbers have been retains. The editor has used a uniform system of capitalization. Future amendments to this Charter will be set out herein as enacted and indicated by history notes following the amended sections.

State law reference - Adoption, amendment, etc., of home rule charters, Vernon's Ann. Civ. St. art. 1165 et esq.

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ARTICLE 1. INCORPORATION, FORM OF GOVERNMENT AND BOUNDARIES

Section 1.01. Incorporation.

The inhabitants of the City of Ballinger in Runnels County, Texas, within the corporate limits as now established or as hereafter established in the manner prescribed by this charter, shall be and continue to be a municipal corporation, and the inhabitants thereof shall be a body politic and corporate in perpetuity under the name of the "City of Ballinger," possessing all powers property and interests which it possessed immediately prior to the time this charter takes effect or may hereafter acquire, and having the duties, obligations and liabilities incumbent upon or hereafter incurred by the city as a municipal corporation.

Section 1.02. Form of government

Pursuant to its provisions and subject only to the limitations imposed by the state constitution and this charter, all powers of the city shall be vested in an elected council hereinafter referred to as "the council," which shall enact local legislation, adopt budgets, determine policies and appoint the city administrator, the chief of police, and such other officials as it may deem necessary. All powers of the city shall be exercised in the manner prescribed by this charter, or if the manner be not prescribed, then in such manner as may be prescribed by ordinance.

Section 1.03. Boundaries.

The boundaries of the City of Ballinger shall be the same as have heretofore been established and are described by metes and bounds in Volume Eight, Page Ninety-Seven, Minutes of the City Commission of the City of Ballinger. All boundaries shall be recorded in a separate book kept for that purpose.

Section 1.04. Extension and contraction of city limits.

The boundaries of the City of Ballinger may be enlarged and extended by the annexation of additional territory, irrespective of size, and may be contracted where there exists any territory not suitable or necessary for city purposes, in the manner herein provided:

(a) The city council, by a vote of not fewer than four-fifths of its membership, shall have the power by ordinance to provide for the alteration, extension and contraction, or either of them, of the boundary limits of said city; and by ordinance to provide for the annexation of territory lying adjacent to the city, with or without the consent of the

inhabitants of the territory annexed. Upon the introduction of any such ordinance to the city council for anyone or more of the foregoing purposes, such ordinance shall be published one time in the official newspaper of the City of Ballinger. Amendments may later be incorporated into the proposed ordinance by a vote of not fewer than four-fifths of the membership of the city council and by publication one time in the official newspaper of the City of Ballinger. The proposed ordinance, or any amendment thereof, shall not thereafter be finally acted upon until at least thirty days after the publication thereof; and upon final passage of any such ordinance, or any amendment thereto, the boundary limits of the City of Ballinger shall thereafter be a fixed thereby. The enacting clause of all such ordinances shall be: "The Council of the City of Ballinger hereby ordains".

(b) The city council may, by a majority vote of its membership, order an election, or elections, for the purpose of altering, extending and contracting, or either of them, of the boundary limits of said city, or for the purpose of annexing of territory adjacent to the city, with or without the consent of the inhabitants of the territory annexed. The order providing for such election, or elections, shall contain all the same provisions as would be required in an ordinance. The order may provide that the residents of the City of Ballinger who are qualified to vote for members of the state legislature shall be qualified to vote at such election, or elections; or the order may provide that the residents of the City of Ballinger and the residents of the territory sought to be included by alteration and extension or annexation, as the case may be, who are qualified to vote for members of the state legislature shall be qualified to vote at such election, or elections. Such election, or elections, shall be held as provided for any other general election required to be held by the city for any purpose.

(c) If for any reason the city council fails to alter, extend or contract, or fails to annex territory lying adjacent to the city, then a petition, signed by qualified voters in number not fewer than ten per cent of the number of votes cast for mayor at the last general election in which a mayor was elected, may be presented to the city council asking the city council to order an election for one or more of the purposes as provided in subdivision (b) hereof, and when such a petition is presented, the city council shall be required to order such an election and cause the same to be held not fewer than twenty nor more than forty days after such petition is presented to the city council.

(d) Where there exists within the corporate limits of the City of Ballinger any territory not suitable or necessary, for city purposes, such territory may be contracted from the city and discontinued as a part of said city, either by ordinance or by election as provided in subdivision (a), (b) or (c) hereof.

(e) When the boundary limits of said city have been altered or extended, or any additional territory has been annexed, by any of the methods herein provided, the same shall thereafter be a part of the City of Ballinger; the property situated therein shall be subject to and shall bear its pro rata part of the taxes levied by the city, and the inhabitants thereof shall be entitled to and shall possess all the rights and privileges of the citizens of the City of Ballinger and shall be under obligations as such citizens; and when any territory may be contracted from the city and discontinued as a part of said city, then such territory and all citizens thereof shall no longer be entitled to the rights and privileges of the citizens of the City of Ballinger and shall not thereafter be under obligations as such citizens.

(f) All alterations, extensions, contractions and annexations as herein provided, shall be defined by sufficient description by field notes and metes and bounds that the same may be located with accuracy upon the ground.

ARTICLE 2. POWERS

Section 2.01. General.

The City of Ballinger may use a corporate seal, may sue and be sued, may contract and be contracted with, may implead and be impleaded in all courts in all matters whatsoever. The City of Ballinger shall have and may exercise all the powers granted to cities by the Constitution or Laws of Texas including specifically those powers made available to cities of more than five thousand inhabitants by what is known as the Home Rule Amendment to the Constitution of Texas (Article XI, Section 5) and the Home Rule Enabling Act (Chapter 13, Title 28 of the Revised Civil Statutes of the State of Texas, 1925), as now or hereafter amended. The city may acquire property within or without its corporate limits for any municipal purposes; may cooperate 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 purpose for the advancement of the health, morals, safety, convenience or welfare of the city or its inhabitants; may sell, lease (including surface and mineral leases), mortgage, hold, manage and control such property as its interests may require, provided the city shall not sell, convey, lease, mortgage or otherwise alienate any public utility without prior approval by the qualified voters of the city, except any real estate pertinent to any public utility may be leased for mineral exploration upon competitive bidding without prior approval by the qualified voters of the city, and provided further that the city shall not sell,

convey, mortgage or otherwise alienate the real estate containing about one section of land acquired for airport purposes, without prior approval by the qualified voters of the city, except leases may be executed for mineral exploration upon competitive bidding without prior approval by the qualified voters of the city, and except the same may be leased for agricultural purposes; and may exercise the power of eminent domain when necessary or desirable to carry out any of the powers conferred upon it by this charter or the Constitution or Laws of Texas. The enumeration of particular powers in this charter shall not be held or deemed to be exclusive, but in addition to the powers enumerated herein, implied thereby or appropriate to the exercise thereof, the city shall have and may exercise all other powers which under the constitution and general laws of this state it would be competent for this charter to specifically enumerate.

Section 2.02. Liabilities, exemptions and limitations.

(a) No property belonging to the city shall be subject to any execution of any kind or nature.

(b) No fund belonging to the city shall be subject to garnishment, attachment or sequestration, and the city shall never be required to answer in any garnishment proceedings.

(c) No assignment of wages or other compensation earned or to be earned by any employee of the city shall be valid and the city shall never be required to recognize any such assignment or to answer in any proceeding thereon.

(d) The City of Ballinger shall never be liable for personal injury or property damages of any kind unless within thirty days after the occurrence thereof a notice in writing by or on behalf of the person injured or claiming damages is delivered to the city administrator stating specifically and accurately in complete detail the time, the place and the manner of occurrence of the exact injury or damages, the full extent thereof, the basis of the claim and the amount of damages claimed or asserted. In case of injuries resulting in death, before the city shall be liable in damages therefor, the person, or persons, claiming such damages shall after the death of the injured person give notice as above required in case of personal injury.

(e) The City of Ballinger shall never be liable for personal injury or property damages resulting from any defect in any public street, highway, alley, grounds or public works of the city unless the specific defect causing the injury or damage shall have been known to the city administrator from personal inspection or written notice thereof for a period of at least twenty-

four hours prior to the occurrence of the injury or damage and proper diligence shall not have been-used to rectify the defect after such inspection or notice. Such notice shall be required whether the defect arose from an act or omission of the city itself through its agents or employees or otherwise.

(f) No provision of this section shall ever be construed as to expand the ordinary liability of the city.

ARTICLE 3. THE CITY COUNCIL

Section 3.01. Number, selection and term.

The city council shall have five members consisting of the mayor and commissioners numbers one, two, three and four elected by the city at large in the manner prescribed in article 4 hereof, for a term of two years and until their respective successors have been elected and qualified.

Section 3.02. Qualifications

(a) Each member of the City Council, in addition to having the other qualifications prescribed by law, shall meet the following requirements:

1. Shall be a qualified voter of the City of Ballinger.
2. Shall have resided in the City of Ballinger for at least one year next preceding his election.
3. Shall not hold any other public office of emolument except may be a notary public.

(b) If a member of the City Council should cease to possess any of these qualifications or shall be convicted of a felony, he shall immediately forfeit his office.

Section 3.03. Compensation.

The city council shall annually at its first meeting after the general election fix the compensation to be received by its members, not exceeding six hundred dollars per year for the mayor, and not exceeding three hundred dollars per year for each commissioner.

Section 3.04. Vacancies.

A single vacancy in the city council shall be filled until the next general election by a majority vote of the remaining members of the city council within fifteen days after the vacancy occurs. If more than one vacancy occurs at the same time, or before a prior vacancy has been filled, the city council shall, within ten days after the last vacancy occurs, call a special election to be held within forty-five days; provided, however, if such vacancies occur within ninety days prior to a general election, no special election shall be held; but in that event the remaining members of the city council may, by a majority vote, choose a person to fill each vacancy until the next general city election when such vacancy shall be filled as in the case of an original election.

Section 3.05. Presiding officer.

The city council shall at its first meeting after the annual general election elect from its membership a mayor pro tem.

The mayor shall preside at meetings of the city council and shall be recognized as head of the city government for all ceremonial purposes and by the governor for purposes of martial law but shall have no regular administrative duties. The mayor shall vote upon all matters considered by the city council, but he shall have no veto power. The mayor pro tem shall act as mayor during the absence or disability of the mayor.

Section 3.06. City secretary.

The city secretary shall be appointed in the same manner as other officers upon nomination by the city administrator and approval of the city council. He shall serve as secretary of the city council, give notice of its meetings, keep the journal of its proceedings, authenticate by his signature and record in full all ordinances and resolutions, and perform such other duties as this charter may provide or as the city administrator may assign to him. The city secretary and city administrator may be the same person if the city council should so determine. There may be appointed one or more assistant city secretaries in the same manner as the naming of the city secretary.

Section 3.07. Meetings.

(a) On the second Tuesday in April, or as soon thereafter as practicable, the city council shall meet at the city hall and the newly elected members shall qualify and assume the duties of office. Thereafter, the city council shall meet regularly at such times as may be prescribed by

its rules but not less frequently than once each calendar month. All meetings of the city council shall be held at the city hall unless the city council shall designate another place.

(b) Special meetings shall be called by the city secretary upon request of the mayor, the mayor pro tem, the city administrator, or a majority of the members of the city council.

(c) The city administrator shall attend all meetings of the city council and may take part in the discussion of all matters coming before the city council but shall have no vote.

Section 3.08. Quorum and voting.

(a) Three members of the city council shall constitute a quorum for the transaction of business, and the affirmative vote of three members of the city council shall be necessary to pass or repeal any ordinance or take any official action in the name of the city except as may be otherwise provided in this charter or by the general laws of the State of Texas.

(b) A record shall be made in the minutes of the result of all motions, resolutions and ordinances; and if there is not a unanimous vote thereon, then the vote of each member present shall be recorded to indicate how each member voted, either for or against or by abstaining on each issue.

Section 3.09. Rules of procedure.

The city council shall determine its own rules of procedure and order of business. Minutes of all meetings of the city council shall be taken and preserved as a permanent record open to the public for inspection.

Section 3.10. Ordinances.

(a) In addition to such acts of the city council as are required by statute or by this charter to be by ordinance, every act of the city council establishing a fine or other penalty or for the contracting of indebtedness, shall be by ordinance and the city council shall legislate by ordinance. The enacting clause of all ordinances shall be: "The Council of the City of Ballinger hereby ordains."

(b) Every ordinance shall be introduced in written or printed form and passed in compliance with section 3.08 of this article, or in compliance with another provision of this charter, authenticated by the signatures of the mayor (or mayor pro tem) and the city secretary, and systematically recorded in an ordinance book in a manner approved by the council. It

shall, however, be necessary to record only the caption or title of each ordinance in the minutes of the city council.

(c) A full text of every penal ordinance, or in lieu thereof a descriptive caption or title stating in summary the purpose of the ordinance and the penalty for violation thereof, shall be published at least twice in the official newspaper of the City of Ballinger within fourteen days after the passage of such ordinance, provided that any penal ordinance shall become effective in not less than twenty days from the date of its passage. All other ordinances, except those specifically required by this charter to be published, are not required to be published in either the official newspaper of the City of Ballinger or in any other publication, and such ordinances shall become effective upon passage or on the date specified therein.

(d) The city council shall have the power to cause the ordinances of the City of Ballinger to be corrected, amended, revised, codified and printed in code form as often as the city council deems necessary and advisable, and such printed code when adopted by the city council shall be in full force and effect without the necessity of publishing the same or any part thereof in the official newspaper except the ordinance adopting the same shall be published one time in the official newspaper of the City of Ballinger. Such printed code shall be admitted in evidence in all courts and places without further proof.

Section 3.11. Powers of the city council.

Except as otherwise provided by this charter all powers of the City of Ballinger and the determination of all matters of policy shall be vested in the city council. Without limitation of the powers granted or delegated to the city by the constitution, statutes, or this charter, and cumulative thereof, the city council shall have the following powers:

(a) Appoint and remove the city administrator, the chief of police, and the fire marshall and/or chief, as limited by this charter;

(b) Appoint and remove the city attorney;

(c) Appoint all officers, departmental heads, clerks and any and all other employees, after each such person is nominated by the city administrator, limited however by the provisions of article 9, and except in the law and police departments, and after each such person is nominated by the chief of police in the department of police, but reserving the right and power to reject any nomination and require another nomination to be made by the city administrator, except as limited by the provisions of article 9, and by the chief of police, in their respective departments, continuing this procedure until such person is found who is acceptable to

the officer making the nomination to the city council; however, if the office of city administrator or chief of police or other nominating officer is vacant, then the city council may appoint (as may be necessary for the proper conduct of the city government) such person or persons who will serve until such officer is appointed, at which time such officer may nominate a person, or persons, for appointment as herein provided;

(d) Appoint members of the planning and zoning commission, the board of adjustment, the park and recreation advisory board, the board of equalization, the board of the Ballinger housing authority, and all other boards and commissions serving the City of Ballinger;

(e) Adopt the budget of the City of Ballinger;

(f) Fix the salary of the City administrator, chief of police and fire marshall and/or chief, and, in cooperation with the city administrator, chief of police or fire marshal and/or chief, in their respective departments, fix other salaries;

(g) Authorize by ordinance the issuance of bonds, assignments of revenue or warrants;

(h) Approve plats;

(i) Adopt and modify the official map of the City of Ballinger;

(j) Adopt and modify the zoning plan which may regulate and fix the height of buildings and other structures, the size of yards and courts, the density of population and the location and use of buildings for trade, industry, business, residence or other purposes;

(k) Provide for the establishment and designation of fire limits, and prescribe the kind and character of buildings, structures, or improvements which may be erected therein, provide for the alteration of such limits, and provide for the penalty for violation thereof, and provide for the power and authority to require the removal of any building, structure or improvement which had been built, constructed, moved into or made in violation of the then existing fire limits ordinance, either with or without the permission of the city council in office at the time of such violation, and provide for the condemnation of dangerous or dilapidated buildings or structures which increase the fire hazard and for the manner of their removal or destruction;

(l) Adopt and modify the building code;

(m) Adopt, modify and carry into effect plans proposed by the planning and zoning commission;

(n) Regulate, license and fix the charges or fares made by any person, firm or corporation owning, operating or controlling any vehicle of any character used for the carrying of passengers for hire, or the transportation of freight for hire, Or the retail sale and delivery of merchandise or other products, on the public streets or alleys of the City of Ballinger;

(o) Provide by ordinance for the exercise of the police powers of the City of Ballinger;

(p) Cooperate for the purposes of establishing and maintaining a free public library with any person, firm, association or political subdivision in the manner prescribed by ordinance;

(q) Provide by ordinance for the exercise by the City of Ballinger of any and all powers of local self-government not made self-enacting by this charter or by statute;

(r) Inquire into the conduct of any office, department or agency of the City of Ballinger and make investigations of municipal affairs;

(s) Provide for an independent audit at least once each year.

Section 3.12. Official bond.

The city council shall require bonds of all municipal officers and employees who receive or payout any moneys of the City of Ballinger. The amount of such bond shall be determined by the city council and the cost thereof shall be borne by the City of Ballinger.

ARTICLE 4. NOMINATIONS AND ELECTIONS

Section 4.01. Nominations and filing for office.

(a) Any qualified person may have his name placed on the ballot as a candidate for mayor or for commissioner one, two, three or four by filing with the city secretary not more than ninety nor fewer than thirty days prior to the date of election an application in substantially the following form:

I, _____, do hereby declare that I am a candidate for the office of _____, of the City of Ballinger and request that my name be printed upon the official ballot for that office in the next general city election. I am qualified to serve as such officer with respect to the qualifications set forth in the charter. I reside in the City of Ballinger, Texas.

(Signed)

The foregoing petition was filed with the city secretary on the, ___ day of _____, 20__.

City Secretary

(b) As an alternative method, any qualified person may be nominated for mayor or for commissioner one, two, three or four by a written petition signed .by twenty-five qualified voters of the City of Ballinger, provided the candidate signs the petition, certifying his acceptance. One such petition shall be circulated and signed for each nominee or candidate, but such petition may be in multiple copies or counterparts. When such petition is filed in multiple copies or counterparts, the same shall be construed as one petition. The circulator of each counterpart shall sign same as herein provided. With each signature the signer shall state his place of residence, giving the street and number or other description sufficient to identify it. Nominating petitions shall be filed with the city secretary not more than ninety nor fewer than thirty days before the election day, and shall be in substantially the following form:

We, the undersigned electors of the City of Ballinger, hereby nominate, __ _____ ", whose residence is in the City of Ballinger, as a candidate for _____ of the City of Ballinger, and request that his name be printed upon the official ballot for that office in the next general city election; and we individually certify that we are qualified to vote for a candidate for such office.

Name	Address	Date of Signing
_____	_____	_____

(Spaces for twenty-five or more signatures)

Acceptance of Nomination

I am qualified to serve in such office of the City of Ballinger with respect to the qualifications set forth in the charter.

I hereby accept the nomination for such office and agree to serve if elected.

(Signature of Candidate)

Statement of Circulator

The undersigned is the circulator of the foregoing petition containing signatures. Each signature was appended thereto in my presence and is the genuine signature of the person whose name it purports to be.

(Signature of Circulator)

The foregoing petition was filed with the city secretary on the ___ day of _____, 20_____.

(City Secretary)

(c) The city secretary shall immediately examine each such petition and notify the candidate and the person, or persons, who filed the petition, or multiple copies or counterparts of petitions, whether it is signed by the required number of qualified voters. If such a petition is found insufficient, the city secretary shall return it, or the multiple copies or counterparts, immediately to the person, or persons, who filed same with a statement certifying wherein the petition is found insufficient. Within the regular time for filing petitions a new petition or amended petition may be filed for the same candidate. The petition of each candidate nominated to be mayor, or to be commissioner one, two, three or four shall be preserved by the city secretary until the expiration of the term of office for which he has been nominated.

(d) In computing the said ninety days, the date of the election shall not be counted; and in computing the said thirty days, the date of filing and the date of the election shall not be counted.

Section 4.02. Official ballot.

The city secretary shall make up the official ballot from the names presented to him. The order in which the names of the candidates for each place shall appear on the ballot shall be determined by lot in a drawing held under the supervision of the city secretary, at which drawing each candidate, or his designated representative, shall have a right to be present. All official ballots shall be printed at least twenty days prior to the date of any general or special election, and absentee voting shall be governed by the general laws of the State of Texas, except as modified by the special election required in subdivision (b) of section 4.03 of this charter.

Section 4.03. Municipal elections.

(a) The general election for the choice of members of the city council as provided in article 3 shall be held each year on the first Tuesday in April. The city council may by resolution order special elections, which shall be held as nearly as practicable according to the provisions of a general election and the provisions of the charter.

The city council shall determine the hours and places for holding all city elections.

(b) The mayor and the commissioners one, two, three and four shall be elected on the first Tuesday in April, 1963. The mayor and the commissioners one and two shall serve for a term of two years and until their respective successors have been elected and qualified, and the commissioners three and four shall serve for a term of one year and until their respective successors have been elected and qualified, after such election. Thereafter, the mayor and the commissioners one and two shall be elected on the first Tuesday in April of each odd-numbered year, and the commissioners three and four shall be elected on the first Tuesday in April of each even-numbered year. If no candidate for the office of mayor or for the offices of either commissioners one, two, three or four shall in any general election receive a majority vote of the total votes cast at such general election, the city council shall at a meeting after the general election order a special election to be held on the third Tuesday in April of the same year, at which only the names of the two candidates who received the highest number of votes shall be printed on the ballot; or if there be a tie requiring more than two names, then the appropriate number shall be printed on the ballot, and such additional elections shall be ordered until a candidate for such office shall have received a majority of the total votes cast at such election. Such additional elections, if any required, shall be ordered by the city council at intervals on Tuesday not exceeding two weeks between such elections.

(c) After having served as a member of the City Council or Mayor, no person shall be eligible to serve as Mayor or City Council of the City of Ballinger if the time served as Mayor or City Council and the time for which such member would again serve as Mayor or City Council should aggregate more than twelve (12) consecutive years, unless at least one (1) year shall lapse since the date such member last served as a member of the City Council or Mayor. (Ord. 2-07-2005, City Council and Mayor term Amended by voters 5-7-2005)

Section 4.04. Regulation of elections.

Except as otherwise provided by this charter, all city elections shall be governed by the applicable provisions of the election code of the State of Texas, as now and hereafter amended.

The city council shall have the power to make such additional regulations as may be necessary. In the event there should be any failure of the general laws or of this charter to provide for some feature of the city elections, then the city council shall have the power to provide for such deficiencies, and no informalities in conducting a city election shall invalidate the same if it be conducted fairly and in substantial compliance with the general laws, where applicable, and with the charter and ordinances of the City of Ballinger.

Section 4.05. Conducting elections and canvassing returns.

(a) The election judges and all other necessary election officials for conducting all elections, either general or special, shall be appointed by the city council.

(b) The election judges shall conduct the elections, determine, record and report the results as provided by the applicable provisions of the election code of the State of Texas, as now or hereafter amended.

(c) Immediately after counting the votes, the presiding election judge shall deliver the official returns of the election to the city secretary. Not more than five days after such election the city council shall meet and canvass the returns and declare the results. The returns of every municipal election shall be recorded in the minutes of the city council.

(d) Immediately after the election results have been declared, the mayor shall deliver certificates of election to the successful candidates. Each person elected to the city council shall take the oath of office prescribed by the Constitution of the State of Texas within two weeks after the date of his election; otherwise the office shall be deemed vacant.

ARTICLE 5. RECALL OF COUNCILMEN

Section 5.01. Scope of recall.

Any member of the city council may be removed from office by a recall election .

Section 5.02. Recall petition.

Recall petition papers shall contain the name of the mayor or the commissioner whose removal is sought, and a clear and concise statement of the grounds for his removal. Each signer of any petition paper shall sign his name in ink or indelible pencil and give after his name his place of residence by street and number, or other description sufficient to identify the place, and the date his signature was affixed. No signature to such petition shall remain effective or be counted which was placed thereon more than forty-five days prior to the filing of such petition with the city secretary. The signatures to a recall petition need not be appended to one paper, but to each separate petition there shall be attached an affidavit of the circulator thereof that he, and he only, personally circulated the foregoing paper, that it bears a stated number of signatures, that all signatures were appended thereto in his presence and that he believes them to be the genuine signatures of the persons whose names they purport to be.

Section 5.03. Filing and certification of petitions.

(a) All papers comprising a recall petition shall be assembled and filed with the city secretary as one instrument. Within five days after a petition is filed the city secretary shall determine whether each paper bears the names of qualified voters of the City of Ballinger equal in number to at least twenty-five per cent of the number of votes cast at the last preceding general city election, but in no event fewer than one hundred such electors.

(b) If the city secretary finds the petition insufficient, he shall return it to the circulator or circulators without prejudice, however, to the filing of a new or corrected petition. If the city secretary finds the petition sufficient and in compliance with the provisions of this article of the charter, he shall submit the petition and his certificate of its sufficiency to the city council at its next regular meeting and immediately notify the member of the city council whose removal is sought of such action.

(c) If the member of the city council whose removal is sought does not resign within seven days after such notice the city council shall

thereupon order and fix a date for holding a recall election not fewer than thirty nor more than sixty days after the petition has been presented to the city council. If no general election is to be held within this time the city council shall provide for a special election.

Section 5.04. Recall election ballots.

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

(a) With respect to each person whose removal is sought the question shall be submitted:

"Shall (name of person) be removed from the office he holds on the city council by recall?"

(b) Immediately below each such question shall be printed the two following propositions, one above the other, in the order indicated:

"For the Recall of (name of the person)." "Against the Recall of (name of the person)."

Each qualified elector shall indicate his choice by marking out one line, leaving his choice of answer to the question unmarked and legible.

Section 5.05. Results of recall election.

If a majority of the votes cast at a recall election shall be against the recall of the member of the city council named on the ballot, he shall continue in the office. If a majority of the votes cast at a recall election be for the recall of the member of the city council named on the ballot, he shall be deemed removed from office and the vacancy shall be filled in the manner prescribed in section 3.04 of article 3 of this charter.

Section 5.06. Limitations and restrictions.

No petition shall be filed against a member of the city council within six months after he takes office, nor against a member of the city council who has been subjected to a recall election and not removed thereby until at least six months after such election.

Section 5.07. Failure of the city council to call election.

Should the city council fail or refuse to order any recall election when compliance with all the requirements for such election have been met by

the petitioning electors in conformity with this article of the charter, then it shall be the duty of the District Judge of Runnels County, Texas, upon proper application therefore, to order such election and effectuate the provisions of this article of the charter.

ARTICLE 6. INITIATIVE AND REFERENDUM

Section 6.01. Power of initiative.

The qualified electors of the City of Ballinger shall have the power to propose any ordinance, except an ordinance appropriating money or authorizing the levy of taxes, and to adopt or reject the proposed ordinance at the polls, such power being known as the initiative. Any initiative ordinance may be submitted to the city council by a petition signed by the qualified voters of the City of Ballinger equal in number to at least twenty-five per cent of the number of votes cast at the last preceding general city election.

Section 6.02. Power of referendum.

The qualified electors of the City of Ballinger shall have the power to approve or reject at the polls any ordinance passed by the city council or submitted by the city council to a vote of the electors except an ordinance appropriating funds, issuing bonds or authorizing the levy of taxes, such power being known as the power of referendum. Within twenty days after the enactment by the city council of any ordinance which is subject to a referendum, a petition signed by qualified voters of the city equal in number to at least twenty-five per cent of the number of votes cast at the last preceding general city election may be filed with the city secretary requesting that any such ordinance be either repealed or submitted to a vote of the electors.

Section 6.03. Form of petition.

Initiative petition papers shall contain the full text of the proposed ordinance. Referendum petition papers shall contain the full text of the ordinance which they propose to repeal. The signatures to initiative or referendum petitions need not all be appended to one paper, but to each separate petition there shall be attached a statement of the circulator thereof as provided herein. Each signer shall sign his name in ink or indelible pencil and shall give after his name his place of residence by street and number, or other description sufficient to identify the place. Attached to each separate petition paper there shall be an affidavit of the circulator thereof that he, and he only, personally circulated the foregoing paper, that it bears a stated number of signatures, that all the signatures

were appended thereto in his presence and that he believes them to be the genuine signatures of the persons whose names they purport to be.

Section 6.04. Filing, examination and certification of petitions.

All papers comprising an initiative or referendum petition shall be assembled and filed with the city secretary as one instrument. Within twenty days after a petition is filed, the city secretary shall determine whether each paper of the petition bears the required affidavit of the circulator and whether the petition is signed by a sufficient number of qualified voters. After completing his examination of the petition, the city secretary shall certify the results thereof to the city council at its next regular meeting. If he shall certify that the petition is insufficient he shall set forth in his certificate the particulars in which it is defective and shall at once notify the circulator or circulators of his findings.

Section 6.05. Amendments of petitions.

An initiative or referendum petition may be amended at any time within ten days after the notification of insufficiency has been sent by the city secretary, by filing a supplementary petition upon additional papers signed and filed as provided in the case of an original petition. The city secretary shall, within five days after such an amendment is filed, examine the amended petition; and if the petition is still insufficient, he shall file his certificate to that effect in his office and notify the circulator or circulators of his findings and no further action shall be had on such insufficient petitions. The findings of the insufficiency of a petition shall not prejudice the filing of a new petition for the same purpose.

Section 6.06. Effect of certification of referendum petition.

When a referendum petition, or amended petition as defined in section 6.05 of this article, has been certified as sufficient by the city secretary, the ordinance specified in the petition shall not go into effect, or further action thereunder shall be suspended if it shall have gone into effect, until and unless approved by the qualified electors as hereinafter provided.

Section 6.07. Consideration by the city council.

Whenever the city council receives a certified initiative or referendum petition from the city secretary, it shall proceed at once to consider such petition. The city council shall take final action on the ordinance within sixty days after the date on which such ordinance was certified to the city council by the city secretary. A referred ordinance shall be reconsidered by the city council and its final vote upon such reconsideration shall be upon the question, "Shall the ordinance specified in the referendum petition be repealed?"

Section 6.08. Submission to electors.

If the city council shall fail to pass an ordinance proposed by initiative petition, or shall pass it in a form different from that set forth in the petition therefor, or if the city council shall fail to repeal a referred ordinance, the proposed or referred ordinance shall be submitted to the qualified electors not fewer than thirty nor more than sixty days from the date the city council takes its final vote thereon. If no general city election is to be held within such period the city council shall provide for a special election.

Section 6.09. Voluntary submission.

The city council upon its own motion and by a majority vote of its members may submit to the qualified electors at an election for adoption or rejection of any proposed ordinance or resolution or measure, or may submit for repeal any existing ordinance, resolution or measure, in the same manner and with the same force and effect as provided for submission on petition and may in its discretion call a special election for said purpose.

Section 6.10. Publication of proposed and referred ordinances.

The city secretary shall publish at least once in the official newspaper of the City of Ballinger the proposed or referred ordinance or resolution within fifteen days before the date of the election, and shall give such other notices and do such other things relative to such election as are required in general city elections or by the ordinance or resolution calling said election.

Section 6.11. Form of ballot.

The ballots upon such proposed and referred ordinances, resolutions or measures, shall set forth their nature sufficiently to identify them and shall also set forth upon separate lines the words:

"For the Ordinance"
"Against the Ordinance"
or
"For the Resolution"
"Against the Resolution"

Each qualified elector shall indicate his choice by marking out one line, leaving his choice on the subject unmarked and legible.

Any number of ordinances may be voted on at the same election and may be submitted on the same ballot, and, if a general city election, may appear on the same ballot with candidates for offices.

Section 6.12. Result of election.

If a majority of the qualified electors voting on a proposed initiative ordinance shall vote in favor thereof, it shall thereupon be an ordinance of the City of Ballinger. A referred ordinance which is not approved by a majority of the qualified electors voting thereon shall be deemed repealed. The same method of results shall be applied in the case of resolutions or other measures which may have been voluntarily submitted by the city council.

ARTICLE 7. ADMINISTRATIVE SERVICES

Section 7.01. City administrator.

(a) Appointment and, qualification: The city administrator shall be chosen by the city council solely on the basis of his executive and administrative qualifications. At the time of his appointment he need not be a resident of the city or state but during his tenure of office he shall reside in the city.

(b) Term and salary: The city administrator shall be appointed for an indefinite term and may be removed at the will and pleasure of the city council by a vote of the majority of the entire council. The action of the city council in suspending or removing the city administrator 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. In case of the absence or disability of the city administrator the city council may designate some qualified person to perform the duties of office during such absence or disability. The salary of the city administrator shall be fixed by the city council.

(c) Powers and duties: The city administrator shall be the chief executive officer and head of the administrative branch of the city government. He shall be responsible to the city council for the proper administration of all the affairs of the city placed under his control or by ordinance or resolution by the city council, and to that end he shall have the following duties:

(1) Nominate all officers, department heads, clerks and any and all other employees to the city council for appointment, limited however by the provisions of article 9, and except the department heads and employees of the law and police departments, but the city council shall have the right and power to reject any nomination and require another nomination to be made by the city administrator, continuing this procedure

until a person is found who is acceptable to the city administrator and city council; however, the city administrator shall have the right to remove any such officer, department head, clerk and any and all other employees with or without the consent of the city council, limited however by the provision of article 9 and except department heads and employees of the law and police departments; and the city administrator may make temporary appointments only until the next meeting of the city council to fill any vacancy under his jurisdiction as herein defined which was created from any cause whatsoever, at which meeting or subsequent meetings the city council as it may deem advisable the same procedure shall be followed as in the first instance of original appointment;

(2) Prepare the annual budget and submit it to the city council and be responsible for its administration after its adoption;

(3) Prepare and submit to the city council each month a complete report on the finances and administrative activities of the City of Ballinger for the preceding month, and present a compiled complete report thereof at the end of the fiscal year for each preceding fiscal year;

(4) Attend all meetings of the city council with the right to take part in the discussion, but having no vote;

(5) Keep the city council advised of the financial condition and future needs of the City of Ballinger and make such recommendations as may seem to him desirable;

(6) Serve as departmental head of any department, as city secretary, city treasurer, city tax assessor and collector, if in the opinion of the city administrator and the city council such duplication of duties is advisable;

(7) Perform such other duties as may be prescribed by this charter or required of him by the city council not inconsistent with this charter.

Section 7.02. Administrative departments.

There are hereby created the following administrative departments: Finance, fire, health, law, parks and recreation, planning and zoning, police and public utilities. Other departments may be established by ordinance.

ARTICLE 8. DEPARTMENT OF FINANCE

Section 8.01. City treasurer.

Upon the nomination of the city administrator, the city council shall appoint a city treasurer, according to the procedure provided in subsection (1) of subdivision (c) of section 7.01 of article 7 hereof; however, if the city administrator and the city council deem it advisable the office of city treasurer may be held by the city administrator.

(a) Bond: The city treasurer shall provide a bond with such surety and in such amount as the city council may require, conditioned for the faithful discharge of his duties.

(b) Powers and duties: The city treasurer shall receive and have custody of all public funds belonging to or under the control of the City of Ballinger, or any office, department or agency of the city government and shall promptly deposit all funds which come into his hands in such depositories as may be designated by resolution of the city council, or in the absence of such resolution, designation of such depository shall be made by the city administrator, subject to the requirements of law as to security and the payment of interest on deposit, but all such interest shall be the property of the City of Ballinger and shall be accounted for and credited to the proper account. The city treasurer shall render a full and correct statement of his receipts and deposits to the city administrator on or before the tenth of each month and at such other times as the city administrator or the city council may require, in such form as the city administrator may prescribe. The city treasurer shall perform other such acts or duties as the city administrator may prescribe.

Section 8.02. Accounting, supervision and control.

There shall be established a division of accounting, supervision and control.

This division shall provide the following:

(a) Prescribe the forms of receipts, vouchers, bills or claims to be used by all of the offices, departments and agencies of the city government;

(b) Examine and approve all contracts, orders and other documents by which the city government incurs financial obligations, having previously ascertained that money has been appropriated and allotted and will be available when the obligation becomes due and payable;

(c) Audit and approve before payment all bills, invoices, payrolls and other evidence of claims, demands or charges against the city government

and with the advice of the city attorney determine the regularity, legality and correctness of such claims, demands or charges;

(d) Maintain a general accounting system for the city government and each of its offices, departments and agencies; keep books for and exercise financial budgetary control over each office, department and agency; keep separate accounts for the items of appropriations contained in the city budget, each of which accounts shall show the amount of the appropriation, the amount paid therefrom, the unpaid obligations against it and the unencumbered balance; require reports of receipts and disbursements from each receiving and spending agency of the city government to be made daily or at such intervals as the city administrator may deem expedient;

(e) Pay no claim against the City of Ballinger unless it is evidenced by a voucher approved by the head of the department or office for which the indebtedness was incurred; and each officer and his surety, if any, shall be liable to the City of Ballinger for all loss or damage sustained by the City of Ballinger by reason of his negligent or corrupt approval of such claim;

(f) See that checks, vouchers or warrants for the withdrawal of money from the city depository shall be signed by the city treasurer and countersigned by the city administrator, except checks in the amount of ten dollars or less, and checks for refunds of deposits for utilities. In the event the city administrator and the city treasurer is the same person, then all checks, vouchers or warrants shall be signed by the city treasurer and countersigned by another official designated by the city council, except checks for ten dollars or less, and checks for refunds of deposits for utilities. Checks amounting to the sum of ten dollars or less and checks for refunds of deposits for utilities may be signed by the city treasurer without any additional signature.

(g) Publish a financial report of the financial condition of the city, including the status of the general and special accounts, and bonded and other indebtedness, of the city, in the official newspaper of the city in the form and as often as the city council may require but at least once each fiscal year.

Section 8.03. Purchase procedure.

The city council shall establish rules and regulations for the purchase of all budgeted supplies, materials and equipment required for any office, department or agency of the city government; provided, however, all contracts or purchases involving an expenditure of more than one thousand dollars shall be let to the lowest and best bid by a responsible

bidder after there has been an opportunity for competitive bidding, and providing further that the city council shall have the right to reject any and all bids.

Section 8.04. City tax assessor and collector.

Upon the nomination of the city administrator the city council shall appoint a city tax assessor and collector according to the procedure provided in subsection (1) of subdivision (c) of section 7.01 of article 7 hereof; however, if the city administrator and the city council deem it advisable the office of city tax assessor and collector may be held by the city administrator. There may be appointed one or more deputies as deputy city tax assessor and collector in the same manner as the naming of the city tax assessor and collector,

(a) Bond: The city tax assessor and collector shall provide a bond with such surety and in such amount as the city council may require conditioned for the faithful performance of his duty, including compliance with all controlling provisions of the state laws bearing upon the functions of his office.

(b) Power and duties:

(1) It shall be the duty of the city tax assessor and collector to receive all tax renditions from property owners or agents thereof; and in this connection all property, real, personal and mixed, situated within the city on the first day of January of each year shall be rendered for taxation to the city tax assessor and collector by the owners thereof, or his or their agent, as provided by the laws of the State of Texas for the rendition of property assessment by the county, insofar as these laws are applicable; and it shall not be necessary for the city tax assessor and collector to give any public notice by advertisement to require such owner or agent to render property for taxation;

(2) The city tax assessor and collector shall assess all property which for any cause has not been rendered, placing such valuation thereon as he may deem just. If the owners of such property are unknown such assessment may be made in the name "Unknown";

(3) If the city tax assessor and collector shall discover any real property which was subject to taxation for any year within the preceding ten-year period, and which from any cause has escaped taxation for that year, he shall assess such property in a supplement to his next assessment roll, at the same rate under which such property should have been assessed for such year, stating the year, and the taxes thereon shall be collected the same as other taxes; provided that such supplemental rolls may be made

at any time and thereafter reported to the city council for its approval. The taxes assessed in such supplemental roll for years previous to the approval of such roll shall be due at once upon the approval of such roll by the city council; such taxes may bear interest at the rate of six per cent per annum from the date on which they would have been delinquent if they had been timely assessed; and if such taxes shall not be paid within thirty days of the date of such approval the city tax assessor and collector may proceed to collect them in the manner required by law.

Section 8.05. Property subject to tax.

(a) All property, real, personal or mixed, within the corporate limits of the City of Ballinger on the first day of January and not expressly exempted by law, shall be subject to annual taxation within the limits prescribed by the constitution for cities of over five thousand population.

(b) All rights, privileges and franchises heretofore or hereafter granted to and held by any person, firm or corporation, in the streets, alleys, highways or public grounds or places in the City of Ballinger shall be subject to taxation separately from and in addition to the other assets of such person, firm or corporation, and the city council may require the rendition and assessment thereof accordingly.

Section 8.06. Board of equalization.

(a) *Appointment and qualification:* The city council shall each year prior to the first day of June appoint a board of equalization to be composed of three members who are real property tax-paying citizens of the City of Ballinger, who are not in arrears in the payment of any taxes or other liabilities due the City of Ballinger, well acquainted with real estate values, one of whom shall be designated as chairman of the board. A majority of the board shall constitute a quorum for the transaction of business. The city secretary shall serve as ex officio secretary to the board. Each member of the board shall be paid for each day he sits as a member thereof such compensation as shall be fixed by the city council.

(b) Powers and duties;

(1) It shall be the duty of the city council, as soon as the assessment rolls are completed, to refer them to the board of equalization;

(2) The board of equalization shall convene each year on the first day of June or as soon thereafter as practicable and continue its labors until its work is completed, provided it shall not continue beyond the tenth day of July of the same year;

(3) The board of equalization shall review the assessment rolls, correct any mistakes or any inequality found therein and make any adjustments that may be necessary to equalize the assessments, to the end that all property within the city shall be assessed as fairly and as uniformly as possible. The board shall be governed in its procedure by the laws of the state relating to the equalization of state and county taxes by the commissioners court;

(4) The board shall have the power, when in session, to compel the attendance of witnesses and the production of all books, documents, stocks, bonds and other papers pertinent to any investigation of the ownership or value of property subject to taxation by the city;

(5) If the board of equalization proposes to decrease or increase any assessment over the amount assessed or rendered, notice shall be issued to the owner or person who has rendered the property, mailed to the last known address, informing him that the assessment of the property is about to be decreased or increased, and giving the property owner or his agent, an opportunity to appear and show cause why the assessment should not be altered. When the owner of the property is unknown, no notice shall be required to be given to anyone whomsoever;

(c) *Records of proceeding and approval of tax rolls:* The board of equalization shall be required to keep an accurate record of all its proceedings, which shall be available for public inspection. Immediately upon completion of its work, the board shall certify its approval of the assessment rolls, which shall be returned to the city council and thereupon adopted by the council as the assessment rolls to be used for the collection of taxes for the current year.

Section 8.07. Tax payment, delinquency and penalties.

(a) All taxes shall be payable at the office of the city tax assessor and collector, and may be paid at any time after the tax rolls for the year have been completed, which shall be not later than October first;

(b) All unpaid taxes shall become delinquent as of January thirty-first of the year following their assessment, and shall be subject to such penalties and interest as imposed by law in the case of delinquent state and county taxes, or cumulative thereof as the city council may provide by ordinance;

(c) The city council may, by ordinance, authorize the payment of current taxes in installments not exceeding two installments, over a period not exceeding one year;

(d) The enforcement of tax liens and the collection of delinquent taxes on real and personal property shall be governed by the law applicable in the case of delinquent state and county taxes, and cumulative thereof as the city council may provide by ordinance, and cumulative of the other provisions hereof;

(e) Permits to wreck or move buildings shall not be issued until all taxes due on such property have been paid;

(f) If anyone against whom a personal tax is assessed and unpaid, whether the tax is delinquent or not, shall have removed or be about to remove his personal property out of the city limits, it shall be the duty of the city tax assessor and collector to proceed at once to collect such taxes by seizure and sale of such personal property;

(g) Personal property seized by the city tax assessor and collector shall be sold at auction to the highest bidder at the front door of the city hall after the city tax assessor and collector has given notice of the time and place of the sale by posting a written notice at the city hall door and inserting another notice in the official newspaper of the City of Ballinger at least ten days before the date of sale. 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 property.

Section 8.08. Tax lien.

A lien is created on all property, real and personal, situated within the limits of the City of Ballinger on January first of each year, in favor of the City of Ballinger, for the amount of all due and unpaid taxes levied by the City of Ballinger. The lien shall exist from January first of each year until the taxes are paid. This lien shall be prior to all other claims, and no gift, sale, assignment or transfer of any kind, or judicial writ of any kind, shall ever defeat such lien. All taxes heretofore assessed by the City of Ballinger are ratified and all ordinances relating to taxes now in force shall continue until amended or repealed by the city council.

Section 8.09. General powers.

The city council shall have the power to levy, for general purposes, an ad valorem tax on real and personal property, within the limits of the City of Ballinger, not exempt from taxation by the Constitution and Laws of the State of Texas, based upon its true value as provided by law to the extent of the constitutional limit permitted by the State of Texas to cities of over five thousand population. In addition to the powers herein conferred with reference to the assessment and collection of taxes, the City of Ballinger shall have and may exercise all powers and authority now

conferred or that may hereafter be conferred upon cities having a population of more than five thousand inhabitants by the general laws of the State of Texas. The city council shall also have the power to levy occupation taxes on such occupations as consistent with the general laws of the State of Texas. The city council shall have power to correct errors in any assessment at any time or in the tax roll.

Section 8.10. The Fiscal Year.

The Fiscal Year of the City of Ballinger shall begin on October 1st of each year and end on the 30th day of September next ensuing thereafter. The Fiscal Year established for this Charter shall also constitute the budget and accounting year the budget and accounting year.

Section 8.11. Preparation and submission of the budgett.

Not later than August first of each fiscal year the city administrator shall submit to the city council a proposed budget for the ensuing fiscal year. The budget shall provide a complete financial plan for the fiscal year, and shall contain the following:

(a) A budget message, explanatory of the budget, which message shall contain an outline of the proposed financial policies of the city for the fiscal year, shall set forth the reasons for significant increases or decreases from the previous fiscal year in expenditure and revenue items and shall explain any major changes in financial policy;

(b) A consolidated statement of anticipated receipts and proposed expenditures for all funds;

(c) An analysis of tax rate;

(d) Summary of anticipated revenues for all funds and proposed expenditures from all funds:

(1) In preparing the budget, the city administrator shall place in parallel columns opposite the items of revenue and expenditures the actual amount of each item for the last completed fiscal year, the estimated amount for the current fiscal year, and the proposed amount for the ensuing fiscal year;

(2) The budget shall show detailed estimates of expenditures separately for each department or agency to support summary provided for in

(d) hereof;

(e) A schedule of requirements for the principal and interest of each issue of bonds;

(f) A revenue and expense statement for each issue of bonds;

(g) A contingent appropriation not to exceed three percent of the total general fund expenditure. This fund shall be under the control of the city council and shall be disbursed only by transfer to other departmental appropriations after approval by a majority of the members of the city council. Expenditures from this fund shall be used only in cases of unforeseen items of expenditures or established emergencies;

(h) A list of capital projects which is included within the budget year;

(i) A table showing the tax levies and tax collections by years for the past five years;

(j) A description of all bond issues outstanding, showing rate of interest, date of issue, maturity date, amount authorized, amount issued and amount outstanding.

Section 8.12. Public hearing on budget.

The city council, after giving at least fifteen days' notice by publication in the official newspaper of the City of Ballinger, shall hold a public hearing on the proposed budget, at which all interested persons shall be given an opportunity to be heard, for or against any item thereof. After such public hearing the city council may make such changes in the budget as appear desirable and may increase or decrease the items of the budget provided the total proposed expenditures shall not exceed the total anticipated revenues.

Section 8.13. Adoption of budget.

The budget shall be finally adopted by the favorable votes of at least a majority of all members of the city council on or before October first prior to the end of the fiscal year. Should the city council take no final action on that date, the budget as submitted by the city administrator shall be deemed to have been finally adopted by the city council.

Section 8.14. Effect of the budget.

Upon final adoption, the budget shall be in effect for the budget year. Final adoption of the budget by the city council shall constitute the official appropriation of the several amounts stated therein as proposed expenditures for the budget year and shall constitute the official levy of the property tax stated therein as the amount to be assessed and collected by the City of Ballinger for the tax year beginning October first of the same year. A copy of the budget as finally adopted shall be filed with the city secretary, the county clerk of Runnels County and the state comptroller of public accounts in Austin. All appropriations that have not been expended or lawfully encumbered shall lapse at the end of the budget year.

Section 8.15. Transfer of appropriations.

The city administrator may at any time transfer any unencumbered appropriation balance or portion thereof between general classifications of the expenditures within an office, department or agency. At the request of the city administrator and within the last three months of the budget year, the city council may by resolution transfer any unencumbered appropriation balance or portion thereof from one office, department or agency to another.

Section 8.16. Amending the budget.

In case of grave public necessity, emergency expenditures to meet unusual and unforeseen conditions, which could not by diligent thought and attention have been included in the original budget, may be authorized by the affirmative vote of at least four members of the city council as an amendment to the original budget. In every case where such amendment is made, a copy of the resolution by the city council adopting the amendment shall be filed with the city secretary, the county clerk of Runnels County and the state comptroller of public accounts in Austin, and attached to the budget originally adopted.

Section 8.17. Budget a public record.

The budget, budget message and all supporting schedules shall be a public record in the office of the city secretary open to public inspection.

Section 8.18. Powers to issue bonds.

(a) The City of Ballinger shall have the power to borrow money on the credit of the City of Ballinger and to issue general obligation bonds for

permanent public improvements or for any other public purpose not prohibited by the Constitution and Laws of the State. of Texas, and to issue refunding bonds to refund outstanding bonds of the City of Ballinger previously issued. All such bonds shall be issued in conformity with the laws of the State of Texas.

(b) The City of Ballinger shall have the power to borrow money for the purpose of constructing, purchasing, improving, extending or repairing public utilities, recreational facilities or any other self-liquidating municipal functions not prohibited by the Constitution and Laws of the State of Texas and to issue revenue bonds to evidence the obligation created thereby. Such bonds shall be a charge upon and payable solely from the properties, or interest therein, pledged, or the income therefrom, or both, and shall never be a debt of the City of Ballinger. All such bonds shall be issued in conformity with the laws of the State of Texas.

(c) All bonds of the City of Ballinger having been issued and sold in accordance with the terms of this section, and having been delivered to the purchasers thereof, shall thereafter be incontestable, and all bonds issued to refund and in exchange for outstanding bonds previously issued shall, after said exchange, be incontestable.

Section 8.19. Bond register.

The city treasurer shall prepare, maintain and cause to be filed in his office a complete bond register, showing all bonds, the date and amount thereof, the rate of interest, a schedule of maturity dates and a record of all bonds and all other transactions of the city council having reference to the refunding of any indebtedness of the City of Ballinger. When bonds or their coupons are paid, their payment or cancellation shall be noted in the register.

Section 8.20. Misapplication of bond funds.

Any officer or employee of the City of Ballinger who shall willfully or knowingly divert or use any funds arising from the issuance of any bond or sinking fund for any other purpose than that for which the fund is created or as herein otherwise authorized, shall be subject to prosecution as provided by the Laws of the State of Texas on the diversion and conversion of funds belonging to any of the municipalities of the State of Texas.

Section 8.21. Assessment for improvements.

All of the terms, powers and applicable provisions of Chapter 9, Title 28 of the Revised Civil Statutes of the State of Texas, as now or hereafter

amended, relating to assessments for streets or other improvements as therein provided, are hereby adopted as a part of this charter and hereby constitute an alternative authority and method which the City of Ballinger may use in improving streets, alleys and public places in levying assessments therefor, provided, the city shall have the power in all such cases to make such improvements with its own forces if, in the opinion of the city council, the work can be done more expeditiously or economically.

Section 8.22. Depositor or depositories.

All money received by any person, department or agency of the City of Ballinger for or in connection with the affairs of the City of Ballinger shall be deposited promptly in the city depository or depositories, which shall be designated by the city council in accordance with such regulations and subject to such requirements as to security for deposits and interest thereon as may be established by ordinance.

ARTICLE 9. FIRE DEPARTMENT

Section 9.01. Firemen.

Upon the nomination of the city administrator, the city council shall appoint a fire marshal and such other firemen and employees, according to the procedure provided in subsection (1) of subdivision (c) of section 7.01 of article 7 hereof; however, if the city administrator and city council deem it advisable the office of fire marshal may be held by any other person employed by the city in any capacity. If the city council should consider it advisable and necessary to appoint a fire marshal and/or chief to serve exclusively in such position, then the city council shall appoint such officer in the same manner as is herein provided for the appointment of a city administrator and chief of police; whereupon said fire marshal and/or chief, whichever may be designated by the city council, shall make the nominations, rather than the city administrator, for the appointment of firemen and other employees in the same manner as is provided for the city administrator and chief of police to make nominations in their respective departments or department, in which event the city administrator would thereafter have no power of nomination of firemen and other employees of the fire department.

Section 9.02. Control.

(a) All matters pertaining to the operation of the fire department shall be under the control of the city council, and such matters may be controlled by ordinance, resolution or any other action deemed advisable by the city council.

(b) The city council will consider recommendations and advice given by the president and/or chief of the Ballinger Volunteer Fire Department.

(c) Whenever it is called to the attention of the city council by anyone whomsoever that there is situated within the fire limits as same is defined by ordinance passed in accordance with the provisions of section 3.11, subdivision (k) hereof, a building, structure or improvement violating such fire limits ordinance which violation occurred after such ordinance was made effective, then it shall be mandatory upon the city council if such violation exists to immediately order the owner or agent of the same or occupant of the premises, to take such corrective measures as may be necessary to eliminate the violation within thirty days after such order is delivered to such owner or agent or occupant, and the city council shall punish by fine all persons failing to comply with such order. In the event of the failure of such persons to comply with such order, the city council shall have the additional power to remove such building, structure or improvement violating such ordinance at the expense of the City of Ballinger for the account of the owner of such property and assess the expenses thereof, including condemnation proceedings, as a special tax against the land on which the same is situated as well as on the building, structure or improvement, and the same may be collected as other special taxes provided by statute or by this charter, or by suit in any court of competent jurisdiction. In the event of the failure of the city council to issue such order, or failure to enforce the provisions herein provided for correcting or removing said property, then the members of the city council shall forfeit their respective offices, or may be removed by the provisions of article 5 hereof, or may be required to perform their duties by an injunction of a court of competent jurisdiction.

ARTICLE 10. DEPARTMENT OF HEALTH

Section 10.01. Health officer and other personnel.

(a) Upon the nomination of the city administrator, the city council may appoint the city health officer, according to the procedure provided in subsection (l) of subdivision (c) of section 7.01 of article 7 hereof. The health officer shall be a licensed physician qualified to practice medicine in the State of Texas. The city health officer shall advise with the city council on a program of public health; shall cooperate in the preparation of a sanitary code; shall cooperate with nearby cities on problems of health and sanitation; shall cooperate with the commissioners court of Runnels County and its agencies, and with the state health department and other departments of the state government in matters pertaining to health and sanitation.

(b) Upon the nomination of the city administrator, the city council shall appoint such other officers and employees required for the administration of the department of health, according to the procedure provided in subsection (1) of subdivision (c) of section 7.01 of article 7 hereof. The city council shall provide for such officers and employees by any appropriate order, resolution or ordinance as it may deem advisable and necessary in the premises.

ARTICLE 11. LAW DEPARTMENT

Section 11.01. City attorney.

(a) Appointment and qualification: The city council may appoint and remove a city attorney and such assistants as may be deemed necessary. The city attorney and each assistant who may be appointed shall be a competent attorney duly licensed to practice law by the State of Texas. The city council shall fix the compensation of such an attorney or attorneys.

(b) Powers and duties: The city attorney or an assistant shall represent the City of Ballinger in all litigation and controversies and shall prosecute all cases brought before the corporation court. He shall draft, approve or file his written opinion on the legality of every proposed ordinance before it is acted upon by the city council, and shall pass upon all documents, contracts and other legal instruments in which the city may have an interest. He shall be the legal advisor of the city administrator, the city council and of all boards, commissions, agencies, officers and employees with respect to any legal question involving their official powers or duties. He shall perform such other duties as may be required by statute, by this charter or by ordinance.

Section 11.02. Corporation court.

(a) There is hereby established a court which shall be known as the corporation court of the City of Ballinger. The corporation court shall have jurisdiction and be conducted in the manner prescribed and authorized by law. All costs and fines imposed by the corporation court shall be paid into the treasury for the use and benefit of the City of Ballinger.

(b) City Judge shall preside over the Corporation Court. The City Judge shall be a person who is a qualified voter of the City of Ballinger and shall have resided in the City of Ballinger for at least one year next preceding his appointment. The City Judge shall receive such compensation as may be fixed by the City Council.

Section 11.03. City Judge

The City Council may appoint and remove a City Judge and such assistant, if any, as may be deemed necessary; the term of the time of appointment for the City Judge shall be for a term of two years, said term to begin on May 1, 1994 and each and every two years thereafter unless said City Judge is removed or a vacancy occurs in the office therein. In the case of the vacancy in the office of City Judge, the City Council may appoint a qualified person to serve in the office for the remainder of the term for which the City Judge was appointed.

Section 11.04. Clerk of the corporation court.

The city secretary, or his assistant, shall be ex officio clerk of the corporation court, and shall have the power to administer oaths and affidavits, make certificates, affix the seal of the court, and perform such other duties or acts as may be necessary in issuing process and conducting the business of the court.

ARTICLE 12. DEPARTMENT OF PARKS AND RECREATION

Section 12.01. Parks and recreation superintendent and employees.

Upon the nomination of the city administrator, the city council may appoint a superintendent and any other necessary employees required for the administration of the department of parks and recreation, according to the procedure provided in subsection (1) of subdivision (c) of section 7.01 of article 7 hereof. The city council shall provide for such superintendent and employees by any appropriate order, resolution or ordinance, as it may deem advisable and necessary in the premises. The superintendent may hold any other office in any other department of the city as the city administrator and the city council may consider appropriate.

Section 12.02. Parks and recreation advisory board.

(a) Appointment and qualification: There shall be a park and recreation board which shall consist of five resident property owning taxpayers of the City of Ballinger. They shall be appointed by the city council for a term of two years, provided three members shall be appointed each odd-numbered year and two members each even-numbered year. The board shall elect its chairman from among its members, and he shall serve for one year or until his successor is elected

or qualified. The board shall serve without pay and shall adopt such rules as may be necessary for the regulation of its business and affairs.

(b) Powers and duties: The board shall serve in an advisory capacity. The board shall meet monthly and at such other times as the board may by resolution determine. The board shall submit to the city council an annual report of its operations together with such recommendations for the improvement of the park and recreation program as it may deem appropriate. The board shall endeavor to stimulate public interest in the development and maintenance of parks and playgrounds and a well-rounded community-wide recreation program. It shall endeavor to interpret the work of the park and recreation department and to promote close cooperation between the city and all private citizens, institutions and agencies to the end that all park and recreational facilities and resources within or controlled by the city may make their maximum contribution to the public welfare.

ARTICLE 13. DEPARTMENT OF PLANNING AND ZONING

Section 13.01. Planning and zoning commission.

All of the terms, powers and applicable provisions of Chapter 4, Title 28 of the Revised Civil Statutes of the State of Texas, as now or hereafter amended, relating to zoning are hereby adopted as a part of this charter and hereby constitute the method which the City of Ballinger may employ in promoting the health, safety, morals or the general welfare of the community, vesting in the city council the power to appoint and control such boards and commissions, appoint officers and employees as other officers and employees are authorized to be appointed by the provisions hereof, and to delegate the authority to such boards, commissions, officers and employees as the city council may deem wise. All of the foregoing may be made by an order, resolution or ordinance of the city council as it may consider for the best interest of the City of Ballinger.

Section 13.02. Building permits.

The City of Ballinger shall have power to prohibit the wrecking or moving and the erection or construction of any building or structure of any kind within the City of Ballinger without a permit first having been issued by the city for the construction or erection of such building or structure, and may authorize a fee to be charged for such permit, and in pursuance of said authority may authorize the inspection by the city of all buildings or structures during the progress of their construction and may require that all buildings shall be constructed in conformity with the building regulations which exist in said city or which shall hereafter be passed. Permits to

wreck or move any building or structure shall not be issued until all taxes due on such property have been paid.

Section 13.03. Condemnation of structures.

Whenever in the opinion of the city council of the City of Ballinger, any building, fence, shed, awning, cave, excavation, structure, object or thing of any kind or part thereof may fall or collapse and injure persons or property, the city council may order the owner or agent of the same or occupant of the premises, to take such corrective measures as the city council may direct, and may punish by fine all persons failing to do so. Upon his failure to comply, the city council shall have the additional power to remove the same at the expense of the City of Ballinger on account of the owner of the property and assess the expenses thereof, including condemnation proceedings, as a special tax against the land and improvements, and same may be collected as other special taxes provided for in this charter, or by suit in any court of competent jurisdiction. The city council of the City of Ballinger shall have full power to determine if hazardous in any way, especially to health and fire, and provide regulations therefor by ordinance.

ARTICLE 14. DEPARTMENT OF POLICE

There shall be established and maintained a department of police to preserve order within the City of Ballinger and to secure the residents of said city from violence and the property therein from injury or loss, and who shall serve as officers of the corporation court under the direction of the city judge while serving in such court.

Section 14.01. Chief of police.

The chief of police shall be the chief administrative officer in this department. He shall be appointed by the city council for an indefinite term as provided in Article 998, Chapter 3, Title 28, of the Revised Civil Statutes of the State of Texas, as now or hereafter amended, or removed by the city council. He shall be responsible to the city council for the administration of this department and for such other matters as may be placed under his control by ordinance or resolution by the city council.

Section 14.02. Other policemen, clerks and employees.

Upon nomination by the chief of police, the city council shall appoint such other additional policemen, clerks and employees in the department of police as may be considered necessary; and the chief of police shall nominate to the city council such persons as he may consider suitable for policemen, clerks and employees, but the city council shall have the right

and power to reject any nomination and require another nomination to be made by the chief of police, continuing this procedure until a person is found who is acceptable to the chief of police and city council; however, the chief of police shall have the right to remove any such policemen, clerks and employees in the department of police with or without the consent of the city council; and the chief of police may make temporary appointments until the next meeting of the city council, at which meeting of the city council the same procedure shall be followed as in the first instance of original appointment.

ARTICLE 15. DEPARTMENT OF PUBLIC UTILITIES

Section 15.01. General powers.

(a) *May regulate*: The City of Ballinger may license, regulate, fix the rates, control and supervise public utilities of all kinds.

(b) *May own*: In addition to such public utilities it may now own, the City of Ballinger may own, acquire, construct, maintain and operate any other public utility that may be approved by a majority vote of the qualified voters of the city voting therefor at an election held for such purposes; and shall have the power to condemn the property of any person, firm or corporation for the purpose of operating and maintaining any such utility, and for distributing such service throughout the city or any portion thereof, but in such condemnation proceedings no allowance shall be made for the value of any franchise and only the actual physical assets shall be purchased by the city.

(c) *May fix rates*: The city shall have the power, subject to limitations imposed by state law and this charter to fix and from time to time revise such rates and charges as it may deem advisable for supplying such utility services owned by the city as the city may provide. The rates and charges for services to customers of the city utilities outside the corporate limits of the city may be greater but shall not be less than the rates and charges for similar services to customers within the corporate limits of the city.

(d) *Revenues and accounts*: Any money remaining in the "system fund" after all necessary expenses of operation and maintenance of the utilities system, including salaries, labor and materials have been paid, upon proper approval, and after all payments have been made into the several funds required and provided to be made by the ordinance or ordinances authorizing the issuance of any revenue bonds of the city, now outstanding or hereafter authorized and issued which may be payable from and secured from the net earnings of the water and sewer systems shall be deemed "excess revenue" for the purposes of this section.

"System funds" as used herein shall mean the fund or funds as may be required by outstanding bond issues into which are deposited the gross incomes derived from the operation of the above-named utilities systems. The city shall operate the utility system at a profit and "excess revenues" may be transferred to any other fund of the city.

(e) *Superintendents, managers and employees*: Upon nomination of the city administrator, the city council shall appoint such superintendents, managers and employees of each utility service owned and operated by the city, according to the procedure provided in subsection (1) of subdivision (c) of section 7.01 of article 7 hereof; however, if the city administrator and city council deem it advisable any of such positions and offices may be held by the city administrator, or any other departmental position.

Section 15.02. Disposal of utility properties.

No sale, lease or disposal of any utility system, or any part thereof essential to continued effective utility service, shall ever be made unless such sale, lease or disposal is affirmed by a majority vote of the qualified voters in the City of Ballinger voting at such election; except any part thereof which is no longer needed for the operation of such utility system, as such is found by specific finding by the city council entered in the minutes of such city council, may be sold without prior approval by the qualified voters of the city, by resolution adopted by a majority of the members of the city council; and except further, any real estate pertinent to any public utility may be leased for mineral exploration upon competitive bidding therefor without prior approval by the qualified voters of the city; however, any real estate found no longer needed for any utility service, shall not be sold until the same be advertised for a period of two consecutive weeks in the official newspaper of the City of Ballinger, and sold to the highest bidder, with the right of the city council to reject any bids.

Section 15.03. Franchises: Public utilities.

The city council shall have power by ordinance to grant, amend, renew and extend, all franchises of all public utilities of every character operating within the City of Ballinger. All ordinances granting, amending, renewing or extending franchises for public utilities shall be read at two separate regular meetings of the city council, and shall not be finally passed until thirty days after the first reading; and no such ordinance shall take effect until thirty days after its final passage; and pending such time, the full text of such ordinance shall be published once each week for four consecutive weeks in the official newspaper of the City of Ballinger, and the expense of such publication shall be borne by the proponent of the

franchise. No public utility franchise shall be granted for a term of more than twenty-five years. Any franchise which may be transferred shall not relieve the obligations placed upon the original grantee of the franchise. The city council shall have the right to include in any franchise such other provisions that it may deem advisable not in conflict with state law or any other provisions of this charter.

No value shall be assigned to any franchise granted by the City of Ballinger under this charter in fixing reasonable rates and charges for utility service within the city and in determining the just compensation to be paid by the city for public utility property which the city may acquire by condemnation or otherwise. No franchise shall be granted by the city to commence at any time after twelve months subsequent to the passage of the ordinance granting same. No grant or franchise to construct, maintain or operate a public utility and no renewal or extension of such grant shall be exclusive.

Section 15.04. Franchises: Use of streets.

The city may by ordinance grant franchises or permits for the use and occupancy of streets, avenues, alleys or other public grounds belonging to or under the control of the city. Before such ordinance can become effective, it shall be passed by a majority vote of the entire city council at two regular meetings of the city council; no such ordinance shall take effect until twenty-one days after its passage; pending such time, the full text of the ordinance shall be published once each week for two consecutive weeks in the official newspaper of the City of Ballinger, and the expense of such publication shall be borne by the grantee of the franchise and such ordinance shall be subject to referendum as provided in article 6 of this charter.

Section 15.05. Franchise tax.

The holder or grantee of any franchise may be required, as compensation for the right or privilege enjoyed, to pay to the City of Ballinger each year such reasonable sums (not less than two per cent of the gross receipts of the business pursued by the holder of the franchise earned for service rendered in the City of Ballinger) as the city council may determine by ordinance or by contract with any such utility, which compensation shall be in addition to all ad valorem and occupation taxes paid by the utility.

Section 15.06. Regulation of utilities.

All grants, removals, extensions or amendments of public utility franchises, whether if, be so provided in the ordinance or not, shall be subject to the right of the city council of the City of Ballinger:

(a) To repeal the same ordinance at any time upon the willful failure of the grantee to comply with any provision of the ordinance, the franchise, the charter of the City of Ballinger, any applicable statute of the State of Texas or the rule of any applicable governmental body;

(b) To require proper and adequate extension of plant and service, and the maintenance of the plant and fixtures at the highest reasonable standard of efficiency;

(c) To establish reasonable standards of service and quality of products and prevent unjust discrimination in service or rates;

(d) To examine and audit at any time the accounts and other records of any such utility and to require annual and other reports, including reports on operations within the City of Ballinger;

(e) To impose reasonable regulations and restrictions as may be deemed desirable or conducive to the safety, welfare and accommodation of the public;

(f) To require such compensation and rental as may be permitted by the Laws of the State of Texas.

Section 15.07. Franchise records.

Within six months after this charter takes effect, every public utility and every owner of public utility franchises shall file with the City of Ballinger as may be prescribed by ordinance, certified copies of all franchises owned or claimed, or under which such utility is operated in the City of Ballinger, except however those franchises heretofore filed with the city and now in the files of the city secretary. The City of Ballinger shall compile and maintain a public record of public utility franchises.

Section 15.08. Other conditions.

(a) Consent of property owners: The consent of abutting and adjacent owners shall not be required for the construction, extension, maintenance or operation of any public utility; but nothing in this charter or in any franchise granted thereunder shall ever be construed to deprive any such property owner of any right of action for damage or injury to his property as now or hereafter provided by law.

(b) Extensions: All extensions of public utilities within the city limits shall become a part of the aggregate property of the public utility, shall be operated as such, and shall be subject to all the obligations and reserved

rights contained in this charter and in any original grant hereafter made. The right to use and maintain any extension shall terminate with the original grant and shall be terminable as provided in section 15.06 of this charter. In case of an extension of a public utility operated under a franchise hereafter granted, such right shall be terminable at the same time and under the same conditions as the original grant.

(c) All franchises heretofore granted are recognized as contracts between the City of Ballinger and the grantee, and the contractual rights as contained in any such franchise shall not be impaired by the provisions of this charter, except that the power of the City of Ballinger to exercise the right of eminent domain in the acquisition of utility property is in all things reserved, and except the general power of the city heretofore existing and herein provided for, to regulate the rates and services of a grantee which shall include the right to require proper and adequate extension of plant and service and the maintenance of the plant and fixtures at the highest reasonable standard of efficiency. Every public utility franchise hereafter granted shall be held subject to all the terms and conditions contained in the various sections of this article whether or not such terms are specifically mentioned in the franchise. Nothing in this charter shall operate to limit in any way, as specifically stated, the discretion of the city council or voters of the city in imposing terms and conditions as may be reasonable in connection with any franchise grant.

ARTICLE 16. CITY PROPERTY

Section 16.01. Power of sale.

The city council by a majority vote of its membership may sell and lease, including surface and mineral leases, any property belonging to the City of Ballinger, not needed for any city purposes or functions, except as such sales and leasing powers are limited by the provisions of section 2.01 of article 2 hereof; and the provisions hereof and the provisions of section 2.01 of article 2 hereof shall be construed together. The city council by a majority vote of its membership shall have the right and power to convey any interest of the City of Ballinger in any street, avenue, alley, highway or public road or any part thereof which has been abandoned, or which was dedicated and has never been opened and used as such, to adjacent property owners, but which sale shall be without warranty, either express or implied, by the City of Ballinger.

Section 16.02. Streets.

(a) *Control by ordinance:* All of the powers and authority vested in the cities, towns and villages by the statutes of the State of Texas for the

use, control, abandonment, acquisition by purchase or by the power of eminent domain, of streets, avenues, alleys, highways and public roads are expressly reserved and made a part of this charter. In addition thereto and cumulative thereof the City of Ballinger shall have the power and authority to extend all of its rights and privileges over the use, control, abandonment and acquisition of such streets, avenues, alleys, highways and public roads, so long as the same is not in conflict with any provision of the Constitution or Laws of the State of Texas.

(b) *Abandonment*: The city council may by a majority vote of its membership abandon any street, avenue, alley, highway or public road, or any part thereof, which is no longer needed or required for use by the general public, or which has been created by dedication or platting on a map of a portion of the city and thereafter never opened or used as such, which abandonment shall be by ordinance passed as provided in section 3.10 of article 3 hereof, and no other notice shall be required.

(c) *Ratification of previous ordinances of abandonment and disposition*: All ordinances heretofore passed by the governing body of the City of Ballinger abandoning any street, avenue, alley, highway or public road, or any part thereof, or any other method of abandonment thereof employed by such governing body, and the sale or other disposition thereof by the governing body, are hereby ratified, confirmed and validated.

ARTICLE 17. GENERAL PROVISIONS

Section 17.01. Publicity of records.

All records and accounts of every office, department or agency of the City of Ballinger shall be open to inspection by any citizen at all reasonable times and under reasonable regulations established by the city administrator. Section 17.02. Official newspaper.

The city council shall annually select and designate by resolution the official newspaper of the City of Ballinger in which all ordinances and official notices required to be published shall be published.

Section 17.03. Personal interest.

No officer or employee of the City of Ballinger shall have a financial interest, direct or indirect, in any contract with the City of Ballinger, or be financially interested, directly or indirectly, in the sale to or by the City of Ballinger of any land, except on behalf of the City of Ballinger as an officer or employee. Any willful violation of this section shall constitute

malfeasance in office, and any officer or employee guilty thereof shall forfeit his office or position.

Any officer or employee of the City of Ballinger who shall willfully or knowingly divert or use any funds arising from the issuance of any bonds or sinking fund for any other purpose than that for which the fund is created or as herein otherwise authorized, shall be subject to prosecution as provided by the Laws of the State of Texas on the diversion and conversion of funds belonging to any of the municipalities of the State of Texas.

Section 17.04. Nepotism.

No person shall be appointed to an office or be employed by the City of Ballinger who is related to any member of the city council within the second degree of affinity or the third degree of consanguinity.

Section 17.05. Effect of charter.

All ordinances, resolutions, rules and regulations now in force under the city government of Ballinger and not in conflict with any provisions of this charter, shall remain in force under this charter until altered, amended or repealed by the city council after this charter takes effect.

Section 17.06. Severable provisions.

If any section, subsection, sentence, clause or phrase of this charter, or the application thereof to any person or circumstance, is held invalid by a court of competent jurisdiction, such invalidity shall not affect any other provisions or applications of this charter which can be given effect without the invalid provision or application, and to this end the provisions of this charter are declared severable.

Section 17.07. Amending charter.

Amendments to this charter may be framed and submitted to the voters of the City of Ballinger in the manner provided by Chapter 13, Title 28 of the Revised Civil Statutes of the State of Texas, 1925, as now or hereafter amended.

Section 17.08. Interim government.

The mayor and the commissioners holding office at the time this charter is adopted shall serve only until the mayor and the commissioners composing the city council as provided herein shall have been elected and qualified. The mayor and the commissioners who are elected under

general law at the election to be held on the first Tuesday in April 1963, shall not take office as such if this charter is adopted at the same election.

The mayor and the four commissioners shall be elected as provided in subdivision (b) of section 4.03 of article 4 hereof at the same election this charter is submitted to the qualified voters. If this charter is adopted these elected officials shall succeed the mayor and the commissioners holding office at the time this charter is adopted. If this charter is not adopted at such election, then such elected officials shall not take office as such, but the mayor and the commissioners who are elected under general law at such election shall succeed the mayor and the commissioners holding office at the time this charter is submitted to the qualified voters.

The recorder, holding office at the time this charter is adopted, shall serve only until the city judge as provided herein shall have been elected and qualified. The recorder who is elected under general law at the election to be held on the first Tuesday in April, 1963, shall not take office as such if this charter is adopted at the same election. The city judge shall be elected as provided in section 11.03 of article 11 hereof at the same election this charter is submitted to the qualified voters. If this charter is adopted the city judge shall succeed the recorder holding office at the time this charter is adopted, and the office of recorder is abolished. If this charter is not adopted at such election then the city judge shall not take office as such, but the recorder who is elected under general law at such election shall succeed the recorder holding office at the time this charter is submitted to the qualified voters.

Section 17.09. Submission of charter to electors.

The charter commission in preparing this charter finds and decides that it is impracticable 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. For these reasons the charter commission directs that this charter be voted upon as a whole and that it shall be submitted to the qualified voters of the City of Ballinger at an election to be held for that purpose on the first Tuesday in April, 1963, being the second day of said month. At the same time the mayor and the four commissioners and the city judge shall be elected as provided in this charter, and the names of the candidates for such offices shall appear on the same ballot with the provisions for the submission of this charter to the qualified voters. Appropriate headings shall appear for each such office and the names of each candidate therefor shall appear under the appropriate heading.

The ballot shall contain the following provisions:

FOR CHARTER
AGAINST CHARTER

The voter shall mark through one line and leave the other line without a mark which shows his intention.

The ballot for the election of the mayor and commissioners and recorder under the general law shall be a separate ballot. The same officials appointed to hold the election for the officers to be elected under the general law shall also hold the election on the submission of this charter and the election of the mayor and the four commissioners and the city judge.

Section 17.10. Effective date.

If a majority of the qualified voters voting in such election shall vote in favor of the adoption of this charter, the present city commission, after canvassing the returns, shall enter an official order upon the records of the City of Ballinger declaring the same adopted and this charter shall be in full force and effect on and after the date of official adoption.

We, the undersigned members of the Ballinger Charter Commission, theretofore duly appointed to prepare a charter for the City of Ballinger, Texas, do hereby certify that this publication constitutes a true copy of the proposed charter for the City of Ballinger, Texas, as unanimously adopted by the members thereof.

Drury P. Hathway, Chairman
R. E. Ruble, Vice-Chairman
Dick Ayers, Chairman

E. Y. Bailey
Sam Behringer
C. A. Bissett
Eldon Holley
John B. King
C. N. Mansell

Ernest Caskey
Arthur Giesecke
Chas. M. Hambrick
M. H., Morgan
Carl F. Murman
J. G. Tuckey

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