

ORDINANCE NO. 3246-22

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BALCH SPRINGS, TEXAS ADOPTING THE AMENDMENTS TO THE CITY OF BALCH SPRINGS HOME RULE CHARTER IN ACCORDANCE WITH THE ADOPTION OF PROPOSITIONS NO. A THROUGH N AT THE SPECIAL ELECTION HELD MAY 7, 2022; ADOPTING THE CHARTER, AS AMENDED; PROVIDING FOR SAVINGS, SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, on January 20, 1990, the Balch Springs Home Rule Charter was adopted by the citizens of Balch Springs; and

WHEREAS, the Home Rule Charter (“Charter”) is required to be reviewed in accordance with the provisions set forth therein and may be amended from time to time; and

WHEREAS, on August 9, 2021, the City Council appointed the Charter Review Commission (“Commission”) and charged the Commission with reviewing the Charter and proposing any amendments thereto; and

WHEREAS, following a series of meetings, the Commission presented its final report of proposed Charter amendments to the City Council; and

WHEREAS, the City Council reviewed the Commission report and thereafter called a Special Election to be held on May 7, 2022, for a vote of the qualified voters to consider the approval or rejection of various proposed amendments to the Charter, identified on the ballot as Proposition A through Proposition N; and

WHEREAS, at the May 7, 2022 Special Election, Balch Springs’s qualified voters approved, by majority vote, Proposition A through Proposition N; and

WHEREAS, the City Council finds it to be in the public interest to declare the adoption of the amendments to the Charter and to adopt the amended Charter.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BALCH SPRINGS, TEXAS:

Section 1. The findings in the preamble set forth above are determined to be true and correct and are hereby incorporated into the body of this ordinance as if fully set forth herein.

Section 2. The City of Balch Springs Home Rule Charter shall be and the same is hereby amended as follows:

A. Section 2.02. – City Powers shall be amended to read in its entirety as follows:

The enumeration of the particular powers of this Charter shall not be held or deemed to be exclusive; the City shall have and may exercise all powers of local self-government except

as prohibited by the constitution and laws of the State of Texas.

B. Section 2.03 Eminent Domain shall be amended to read in its entirety as follows:

The City shall have full power, authority and right to exercise the power of eminent domain when necessary or desirable to carry out any of the powers conferred upon it by this Charter except as prohibited by the Constitution and laws of the State of Texas.

C. Section 3.01– Number, Selection, and Term – Subsection (b) shall be amended to read in its entirety as follows:

(b) The term of each councilmember shall be from the date they take the Oath of Office until the councilmember elected from that same council place at the general municipal election two years later takes the Oath of Office.

No councilmember shall serve more than three consecutive terms. This term limit shall apply to an individual councilmember regardless of changes in the Council Place held and the office held.

A “term” as used in this subsection shall include any period of service that exceeds one year and shall include a term from which the councilmember resigned; however, a period of service of less than one year shall not be included in the "three consecutive terms" limitation. If a term is shortened by redistricting or election to a different office or place, the member shall be allowed to serve a full term in the new district or office.

D. Section 3.01 – Number, Selection, and Term – Subsection (c) shall be amended to read in its entirety as follows:

(c) Place 1 on the City Council shall be held by the Mayor elected at-large in odd numbered years. Place 2 on the City Council shall be held by the councilmember elected at-large in even numbered years. Places 3, 5 and 7 shall be held by councilmembers residing in and elected from those districts in odd numbered years. Places 4 and 6 shall be held by councilmembers residing in and elected from those districts in even numbered years.

E. Section 3.02 – Qualifications shall be amended to read in its entirety as follows:

Each member of the City Council, in addition to other qualifications prescribed by law or this Charter, shall be a qualified voter of the City of Balch Springs, shall meet the requirements of Section 5.02 of this Charter, and shall meet all requirements of state law. Each member of the City Council who resides in a single member district must reside within that district for the duration of the term of office. If they must relocate outside of their respective district due to an "act of God," they will be granted six (6) months to relocate back to their district. The City Council may, by majority vote, grant an extension. A single member district office that becomes vacant under this Section shall be filled in the manner provided by Section 3.06 of this Charter. Each member of the City Council

who resides in a single member district whose district lines are redrawn during their term of office may finish out their term of office; however, if they should seek council office from the same place at the next general municipal election, they must change their residency before filing an application and petition to become a candidate for that council place. This councilmember shall be permitted to seek office from the single member district council place to which they move or from which they reside should they choose not to move without regard to the sixty day residency requirement.

F. Section 3.04 – Compensation shall be amended to read in its entirety as follows:

Effective October 1, 2022, each City Councilmember shall receive \$250.00 compensation for each regular City Council meeting, and the Mayor shall receive \$350.00 compensation for each regular City Council meeting. No compensation shall be due for any meeting if a City Councilmember or the Mayor fails to attend and remain in attendance for the entire duration of the meeting. Members of the City Council shall also be entitled to reimbursement for actual expenses incurred in the performance of official duties with the approval of the City Council at a public meeting.

G. Section 3.06 – Vacancies – Subsection (2) shall be amended to read in its entirety as follows:

(2) If any member of the City Council is absent for three consecutive unexcused absences of regular Council meetings, an affirmative vote of the City Council may remove the councilmember and the Council place from which said councilmember is elected shall automatically be declared vacant.

H. Section 4.01– City Manager – Subsection 3 – Term and Removal shall be amended to read in its entirety as follows:

(3) *Term and removal.* The position hereby created shall be filled by appointment by a majority vote of the City Council. The person so appointed shall hold such position at the pleasure of the City Council and under such terms and conditions as hereafter set forth.

The City Manager shall serve at the pleasure of the City Council who, by majority vote, may terminate the appointment with or without cause.

I. Section 4.01 – City Manager – Subsection (4) - Duties – Subpart (j) shall be deleted in its entirety.

J. Section 4.05 – City Attorney shall be amended to read in its entirety as follows:

Appointment and qualifications. The City Council, in consultation with the City Manager, shall appoint a competent, duly qualified, licensed and practicing attorney in the State of Texas, who shall serve as the City Attorney at the pleasure of the City Council.

K. Section 5.02 – Filing for Office – The Official Ballot – Subsection (5) shall be amended to read in its entirety as follows:

(5) The City Secretary shall be required to review a City Council candidate application for a place on the ballot and provide notice to any applicant whose application is rejected based on this review as provided in the Texas Election Code, as amended. The City Secretary shall follow applicable provisions of the Texas Election Code for issuing an administrative declaration of ineligibility of a candidate for City office.

L. Section 6.05 – Presentation of Petitions – Subsection (1) shall be amended to read in its entirety as follows:

(1) A petition to the City Council for recall containing the signatures of qualified voters equal in number to no fewer than fifty percent (50%) of the qualified voters who voted on the date of the last general municipal election in the entire City in the case of a petition seeking the recall of the Mayor or the other at-large City Councilmember. In the case of a petition seeking the recall of a Councilmember from a single member district, the petition shall contain the signatures of qualified voters equal in number to no fewer than fifty percent (50%) of the qualified voters who voted on the date of the last election for that district. The petition shall be presented to the City Secretary not later than thirty (30) days following the filing of the affidavit by the petitioners' committee as discussed in Section 6.02 of this Charter.

M. Section 7.02 – Duties and Powers shall be amended to read in its entirety as follows:

- (1) The Commission shall be responsible to act as an advisory board to the City Council and, when authorized by state law regarding platting and duly adopted ordinance, act as a final decision-maker. The Commission shall:
- (a) Review all current and proposed ordinances and amendments pertaining to planning and zoning and make recommendations to the City Council for action to be taken.
 - (b) Adopt, amend, extend and add to the master plan for the physical development of the City.
 - (c) Submit annually to the City Council, Planning and Zoning Administrator and/or Coordinator, not less than 90 days prior to the beginning of the budget year, a list of recommended capital improvements to be constructed during the forthcoming two year period.
 - (d) Keep public records of its resolutions, finds [findings] and determinations.
 - (e) The chairman of the Planning and Zoning Commission and/or Coordinator shall make a formal monthly written report and a formal quarterly report in person in the City Council.

N. Section 10.06 – Notice of Claim shall be amended to read in its entirety as follows:

Before the City shall be liable for any claim for damages for the death or personal injuries

of any person or for damages to property, the complainant or his/her authorized representative shall notify the City Secretary. The notification shall be in writing and shall state specifically how, when and where the death, injury or damage occurred; the amount of loss claimed; and the identity of any witnesses upon whom it has relied to establish the claim. The notification shall be filed within ninety (90) days of the date of the alleged act creating the alleged liability. The failure to so notify the City within the time and manner specified shall exonerate, excuse and exempt the City from any liability whatsoever. No action at law shall be brought against the City until at least sixty (60) days have elapsed following the date of notification.

Section 3. A copy of the Home Rule Charter of the City of Balch Springs, Texas showing the changes adopted by this Ordinance is attached as **Exhibit A** and is hereby adopted.

Section 4. In accordance with Section 9.007(a) of the TEXAS LOCAL GOVERNMENT CODE and following passage of this ordinance, the Mayor shall certify to the Texas Secretary of State an authenticated copy of the Charter, as amended, under the City's seal and showing the approval by the voters of the City.

Section 5. The City Secretary shall record in the City's records the Charter, as amended, adopted by the voters of the City pursuant to Section 9.008(a) of the Texas Local Government Code.

Section 6. It is hereby declared to be the intention of the City Council that the phrases, clauses, sentences, paragraphs and sections of this ordinance are severable, and if any phrase, clause, sentence, paragraph, or section of this ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this ordinance, since the same would have been enacted by the City Council without the incorporation of this ordinance of such unconstitutional phrase, clause, sentence, paragraph or section.

Section 7. This ordinance shall be cumulative of all provisions of State or Federal law and other ordinances of the City of Balch Springs, Texas, whether codified or un-codified, except where the provisions of this ordinance are in direct conflict with the provisions of such ordinances, in which event the conflicting provisions of such ordinances are hereby repealed to the extent of such conflict.

Section 8. All rights and remedies of the City of Balch Springs, Texas, are expressly saved as to any and all violations of the provisions of this ordinance or any other ordinance which have accrued at the time of the effective date of this ordinance; and, as to such accrued violations and all pending litigation, both civil and criminal, whether pending in court or not, under such ordinances, same shall not be affected by this ordinance but may be prosecuted until final disposition by the courts.

SECTION 9. This ordinance will take effect immediately from and after its adoption as provided by law.

DULY PASSED by the City Council of the City of Balch Springs, Texas, on this the 16th day of May, 2022.

CITY OF BALCH SPRINGS, TEXAS

Carrie Gordon, Ph.D., Mayor

ATTEST:

Cindy Gross, City Secretary

EXHIBIT A

PART I CHARTER

PREAMBLE

We, the citizens of the City of Balch Springs, living within the legally established boundaries of this City, a political subdivision incorporated under the laws of the State of Texas, in order to establish a Home Rule Municipal Government, provide for the future of our City, recognize and protect individual freedom, and serve in behalf of the general welfare of the citizens, hereby adopt this Home Rule Charter in accordance with the statutes of the State of Texas and declare that this City shall exist under the name and style of the City of Balch Springs with such powers, rights, privileges, authorities, duties and immunities as are hereby provided.

ARTICLE I. INCORPORATION, FORM OF GOVERNMENT AND BOUNDARIES

SECTION 1.01 INCORPORATION AND CORPORATE NAME.

The people of the City of Balch Springs in Dallas County, Texas, within the corporate limits as now established, or hereafter established in the manner prescribed by the Charter, shall be and shall continue to be a municipal body politic and corporate in perpetuity under the name of the "City of Balch Springs"; which hereinafter may be referred to as "the City."

SECTION 1.02 FORM OF GOVERNMENT.

The municipal government provided by this Charter shall be known as the "Council-Manager" form of government. All powers of the City shall be vested in the City Council which hereinafter may be referred to as the "Council," except as otherwise provided by law or by this Charter. The City Council shall appoint the City Manager, who shall execute the laws and administer the government of the City in accordance with the policies and budget adopted by the City Council.

SECTION 1.03 BOUNDARIES.

The boundaries and limits of the City, until changed in the manner herein provided, shall be the same as have been established and exist on the date of the adoption of this Charter, which boundaries are more fully set out and described by metes and bounds on record at City Hall.

SECTION 1.04 ANNEXATION OR DISANNEXATION.

1. The boundaries of the City of Balch Springs may be enlarged and extended by the annexation of additional territory or decreased by disannexation in any manner and by a procedure now or hereafter provided by law.
2. Upon completion of the annexation procedure, the annexed territory shall become a part of the City, and said land and its residents shall be entitled to all the rights and privileges provided by

the City for its citizens and shall be bound by the acts, ordinances, resolutions and regulations of the City.

3. If, according to state law, from the date of annexation, there exists land within the corporate limits of the City of Balch Springs not receiving municipal services of the City, then a majority of the qualified voters residing within this particular area may immediately petition the City Council to disannex the area as provided by the laws of the State of Texas as presently written or hereafter amended.

ARTICLE II. POWERS OF THE CITY

SECTION 2.01 GENERAL.

(1) The City of Balch Springs may use corporate seal; may sue and be sued; may contract and be contracted with; may plead and be impleaded in all courts and in all matters; may cooperate with the government of the United States or the State of Texas or any agencies thereof, for the advancement of the interests, safety, convenience and welfare of its inhabitants.

(2) The City may own or acquire property within and without its boundaries for any purpose, to further the advancement of the interests, safety, convenience and welfare of its inhabitants and may construct, own, lease, operate and regulate public utilities; may assess, levy and collect taxes for general and special purposes on all lawful subjects of taxation; may borrow money on the faith and credit of the City by the issuance and sale of bonds, warrants or notes of the City for any appropriate lawful purpose; may establish, maintain, improve, alter, abandon or vacate public streets, rights-of-way, sidewalks, alleys, squares, parks and to police the use thereof; may make and enforce all police, health, sanitary, and other regulations for the welfare of the public, including suitable penalties for the violation of any ordinance enacted by the City of Balch Springs, except as prohibited by the constitution and laws of this state.

SECTION 2.02 GENERAL POWERS ADOPTED.

The enumeration of the particular powers of this Charter shall not be held or deemed to be exclusive; the City shall have and may exercise all powers of local self-government except as prohibited by the constitution and laws of the State of Texas.

SECTION 2.03 EMINENT DOMAIN.

The City shall have full power, authority and right to exercise the power of eminent domain when necessary or desirable to carry out any of the powers conferred upon it by this Charter except as prohibited by the Constitution and laws of the State of Texas.

ARTICLE III. THE CITY COUNCIL

SECTION 3.01 NUMBER, SELECTION AND TERM.

(a) The City Council shall consist of seven council members, five of whom shall be elected from single member districts, and two of whom shall be elected at large. One of the two at-large members shall be the Mayor of the City. Four of the council members shall be elected in odd numbered years and three of the council members shall be elected in even numbered years.

(b) The term of each councilmember shall be from the date they take the Oath of Office until the councilmember elected from that same council place at the general municipal election two years later takes the Oath of Office.

No councilmember shall serve more than three consecutive terms. This term limit shall apply to an individual councilmember regardless of changes in the Council Place held and the office held.

A "term" as used in this subsection shall include any period of service that exceeds one year and shall include a term from which the councilmember resigned; however, a period of service of less than one year shall not be included in the "three consecutive terms" limitation. If a term is shortened by redistricting or election to a different office or place, the member shall be allowed to serve a full term in the new district or office.

(c) Place 1 on the City Council shall be held by the Mayor elected at-large in odd numbered years. Place 2 on the City Council shall be held by the councilmember elected at-large in even numbered years. Places 3, 5 and 7 shall be held by councilmembers residing in and elected from those districts in odd numbered years. Places 4 and 6 shall be held by councilmembers residing in and elected from those districts in even numbered years.

(d) The City shall be divided into five single member district of relatively equal population and drawn in accordance with the standards of the Constitution of the United States of America. These single member districts shall be designated as Place 3, Place 4, Place 5, Place 6, and Place 7 and the City Council shall draw the boundaries as soon as practicable after each decennial census. The new boundaries of each single member district shall be utilized by the voters of the city at the next general or special municipal council election following the drawing of these boundaries.

SECTION 3.02 QUALIFICATIONS.

Each member of the City Council, in addition to other qualifications prescribed by law or this Charter, shall be a qualified voter of the City of Balch Springs, shall meet the requirements of Section 5.02 of this Charter, and shall meet all requirements of state law. Each member of the City Council who resides in a single member district must reside within that district for the duration of the term of office. If they must relocate outside of their respective district due to an "act of God," they will be granted six (6) months to relocate back to their district. The City Council may, by majority vote, grant an extension. A single member district office that becomes vacant under this Section shall be filled in the manner provided by Section 3.06 of this Charter. Each member of the City Council who resides in a single member district whose district lines are redrawn during their term of office may finish out their term of office; however, if they should seek council office from the same place at the next general municipal election, they must change their residency before filing an application and petition to become a candidate for that council place. This councilmember

shall be permitted to seek office from the single member district council place to which they move or from which they reside should they choose not to move without regard to the sixty day residency requirement.

SECTION 3.03 COUNCIL SUPERVISION.

All determinations under this Charter as to qualifications for City Council, conduct of elections for City Council, and results of City Council elections shall be made by the City Council unless this Charter or state law supersedes the authority of the City Council to make such determination.

SECTION 3.04 COMPENSATION.

Effective October 1, 2022, each City Councilmember shall receive \$250.00 compensation for each regular City Council meeting, and the Mayor shall receive \$350.00 compensation for each regular City Council meeting. No compensation shall be due for any meeting if a City Councilmember or the Mayor fails to attend and remain in attendance for the entire duration of the meeting. Members of the City Council shall also be entitled to reimbursement for actual expenses incurred in the performance of official duties with the approval of the City Council at a public meeting.

SECTION 3.05 MAYOR AND MAYOR PRO TEM.

(1) The Mayor shall be the official head of the city government. He/she shall be the chairman and shall preside at all meetings of the City Council. The Mayor shall have the right to vote only in the event of a tie, but shall have no power to veto. He/she shall, when authorized by the City Council, sign all official documents, such as ordinances, resolutions, conveyances, grant agreements, official plats, contracts and bonds. He/she shall perform such other duties consistent with this Charter as may be directed upon him/her by the City Council.

(2) The Mayor Pro Tem shall be a City Council member elected by the City Council at the first regular meeting after each general municipal election and subsequent runoff, if any. The Mayor Pro Tem shall act as Mayor during the disability or absence of the Mayor, and in this capacity shall have the rights conferred upon the Mayor. The Mayor Pro Tem shall retain his/her council voting right.

SECTION 3.06 VACANCIES.

(1) The office of a council member or the Mayor shall become vacant upon his/her death, resignation, forfeiture of, or removal from office by any manner authorized by law.

(2) If any member of the City Council is absent for three consecutive unexcused absences of regular Council meetings, an affirmative vote of the City Council may remove the councilmember and the Council place from which said councilmember is elected shall automatically be declared vacant.

(3) Any member of the City Council who ceases to possess the required qualifications for office or who is convicted of a misdemeanor involving moral turpitude or of a felony or is convicted of violating Texas Local Gov't Code Ann. Chapter 171 or its successor statute concerning conflict of interest shall forfeit his/her office. A misdemeanor does not involve moral turpitude unless the City Attorney furnishes the Council with proof that either the legislature or a state appellate court has found the misdemeanor to have that status.

(4) Vacancies in the office of the City Council Member or Mayor shall be filled by majority vote of the remaining members of the City Council, and the person appointed shall serve until the next regular municipal election.

(5) In the event that the number of vacancies on the City Council due to death, resignation, recall, refusal to serve, incapacity, or any other reason causes the number of members of the City Council to be less than a quorum, the remaining available members may convene a meeting for the sole purpose of calling a special election for the purpose of filling such vacancies at the next available uniform election date.

SECTION 3.07 POWERS OF THE CITY COUNCIL.

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

SECTION 3.08 PROHIBITIONS.

(1) **HOLDING OTHER OFFICE.** Except where authorized by law, no Mayor or Council member shall hold any other position which is entitled to compensation by the City during his/her term as Mayor or Council member, nor shall any elected official of the City serve on any appointed committee or board in the City of Balch Springs. City Council members may be appointed by the Mayor to serve as liaison with any appointed committee, commission, or board of the City for the purpose of fact-finding and to inform the Council of the viewpoints of such committee, commission, or board. No former Mayor or Council member shall hold any compensated appointive City office or City employment until one (1) year after the expiration of this term as Mayor or Council member.

(2) **APPOINTMENTS AND REMOVALS.** Neither the City Council nor any of its members shall in any manner dictate the appointment, employment or removal of any city administrative officer or employee that the City Manager or any of his/her subordinates are empowered to appoint or employ, but the City Council, at a meeting called for that purpose, may express its views and fully and freely discuss with the City Manager anything pertaining to the appointment, employment and removal of such officers and employees.

(3) **INTERFERENCE WITH ADMINISTRATOR.** Except for the purpose of inquiry and investigation as provided by this Charter, the City Council and its members shall deal with city administrators, officials, and employees who are subject to the direction and supervision of the City Manager solely through the City Manager, and neither the City Council nor its members shall

give orders to any such officer or employee, either publicly or privately, except as otherwise provided in this Charter.

SECTION 3.09 MEETINGS OF THE CITY COUNCIL.

1. The City Council shall hold at least two regular City Council meetings each month and any additional meeting it deems necessary to transact the business of the city. The City Council shall fix by ordinance the date and time of the regular meeting(s). Special meetings of the City Council shall be held at the call of the Mayor or a majority of the City Council members upon provision of public notice in accordance with State Law.

2. All meetings shall be open to the public and shall be held and notice given in accordance with state law with the only exceptions being those exceptions authorized by state law.

SECTION 3.10 QUORUM.

Four (4) members of the City Council shall constitute a quorum for the purpose of transaction of business. No action of the City Council, except as specifically provided in this Charter, shall be valid or binding unless adopted by the affirmative vote of a majority of City Council members present.

SECTION 3.11 RULES OF PROCEDURE.

The City Council shall, by ordinance, determine its own rules and order of business, and the rules shall provide that citizens of the city shall have a reasonable opportunity to be heard at any regular City Council meeting. Such ordinance shall also provide a method by which a citizen may have an item placed on the City Council agenda. The rules established by the City Council for this procedure may include a provision which permits the City Council to set reasonable time limits to be adhered to by persons appearing before the City Council. The rules established by the City Council shall include a provision that when an item has been placed on the City Council agenda by a citizen, by a council member, by the Mayor or by the City Manager, neither the Mayor nor any member of the City Council may arbitrarily remove such item from the City Council agenda. Nothing in the Rules of Procedure shall require the City Council to consider any item on the City Council agenda and such item may, by a majority vote of the quorum of the City Council then present, be continued to another date or removed from the City Council agenda.

The City Council shall provide for written minutes to be taken of all meetings, except when authorized by law not to do so, and such minutes shall be a public record and shall be kept and maintained by the City Secretary. Voting, except on procedural motions as such motions may be determined by the City Council, shall be by roll call called by the City Secretary or person serving as City Secretary and shall be recorded in the minutes.

SECTION 3.12 PASSAGE OF ORDINANCES IN GENERAL.

1. Form. The City Council shall legislate by ordinance only, and the enacting clause of every ordinance shall be "Be it ordained by the City Council of the City of Balch Springs, Texas." Each

proposed ordinance shall be introduced in the written or printed form required for adoption. An ordinance shall not be amended or repealed except by the adoption of another ordinance.

2. Procedure. Any member of the City Council may offer any ordinance in writing that has been placed on the agenda of a regular City Council meeting. Copies of each proposed ordinance, in the form required for adoption, shall be furnished to the office of the City Secretary at least forty-eight (48) hours prior to the deadline for posting of the agenda for the meeting at which it is to be considered, and shall be available to the City Council and members of the public at least forty-eight (48) hours prior to the meeting. This rule, as applied to any specific ordinance, may be suspended in cases of necessity by an affirmative vote of at least two-thirds of the members of the City Council present.

3. Effective date. Every ordinance shall become effective upon adoption, or at any later time specified in the ordinance, except that every ordinance imposing any penalty, fine or forfeiture shall become effective not only as described above but also after publication of its caption once in a newspaper of general circulation designated for such publication by the City Council.

4. Reading. The reading aloud at a City Council meeting of a title and caption of the ordinance shall suffice as a reading. If two (2) Council members request that the ordinance be read in its entirety, it must be so read.

SECTION 3.13 OFFICIAL BONDS FOR CITY EMPLOYEES.

The City Council shall require bonds of all municipal officers and employees who receive and/or pay out any monies of the City. The amount of such bonds shall be determined by the City Council and cost thereof shall be borne by the City.

SECTION 3.14 INVESTIGATION BY THE CITY COUNCIL.

The City Council shall have the power to inquire into the official conduct of any department, agency, office, officer or employee of the City, and for that purpose shall have the power to administer oaths, subpoena witnesses and compel the production of books, papers, and other evidence material to the inquiry. The City Council shall provide, by ordinance, penalties for contempt for failing or refusing to obey any such subpoenas or to produce any such books, papers or other evidence, and shall have the power to punish any such contempt in the manner provided by such ordinance.

SECTION 3.15 CONFLICT OF INTEREST.

No officer or employee of the City of Balch Springs shall have any substantial interest, direct or indirect, in any contract with the City of Balch Springs, or be financially interested, directly or indirectly, in any real estate or business entity in any manner that violates state law prohibitions and requirements regarding conflicts of interest, particularly as the same is governed by Chapter 171, Texas Local Government Code.

ARTICLE IV. ADMINISTRATIVE SERVICES

SECTION 4.01 CITY MANAGER.

1) *Appointment.* The City Council shall appoint a City Manager who shall be the chief administrative and executive officer of the City, and shall be responsible to the City Council for the administration of all affairs of the City. He/she shall be chosen by the City Council solely on the basis of his/her executive and administrative training, experience and ability. No member of the City Council shall, during the term for which he/she is elected or appointed and for one (1) year thereafter, be appointed City Manager.

2) *Compensation and review.* The City Council shall fix the compensation to be received by the City Manager, and the compensation may be amended from time to time in accordance with the City Manager's experience, qualifications and performance. The City Manager shall be reviewed at least once a year by the City Council.

3) *Term and removal.* The position hereby created shall be filled by appointment by a majority vote of the City Council. The person so appointed shall hold such position at the pleasure of the City Council and under such terms and conditions as hereafter set forth.

The City Manager shall serve at the pleasure of the City Council who, by majority vote, may terminate the appointment with or without cause.

4) *Duties.* The City Manager shall be empowered to:

a) Appoint, and when he/she deems necessary for the welfare of the city, suspend or remove any or all City employees, except those employees which this Charter or state law places under the control and supervision of another authority including but not limited to Department Heads, the City Secretary, and Civil Service Employees; and he/she shall promulgate such rules and regulations as he/she may deem necessary and appropriate for the exercise of this authority;

b) Direct and supervise the administration of all departments, offices and agencies of the city, except as otherwise provided by law or this Charter;

c) See that all state laws and City ordinances are effectively enforced;

d) Attend all City Council meetings and have the right to take part in discussions, but he/she shall not vote;

e) Reserved.

f) Prepare and submit to the City Council the annual budget and capital program, and administer the budget as adopted by the City Council;

g) Keep the City Council fully advised as to the financial condition and future needs of the city, and make such recommendations concerning the affairs of the city as he/she or the City Council deems desirable or necessary;

- h) Make reports as he/she or the City Council may require concerning the operations of the city departments, offices or agencies subject to his/her direction or supervision; and
- i) Perform such other duties as are specified in this Charter or may be required by the City Council, and are not inconsistent with this Charter.

SECTION 4.02 POLICE DEPARTMENT.

- 1) The minimum staffing level of sworn police officers for the Balch Springs Police Department shall be equal to or shall surpass one and five-tenths (1.5) full-time and fully paid commissioned sworn civil service police officers for every one thousand (1,000) inhabitants of the City, such population to be determined in accordance with data provided by the North Central Council of Governments and/or the latest population figures available from the United States Census Bureau.
- 2) The Chief of Police shall be the chief administrative officer of the Department of Police. He/she shall, subject to the review of the City Council and unless prohibited by state or federal law, appoint, suspend, and remove employees of said department. The Chief of Police shall be appointed by the City Council for an indefinite term and shall serve at the pleasure of the City Council. The Chief of Police shall be fully responsible to the City Council for the administration of his/her department and for the carrying out and enforcement of the resolutions and ordinances of the City Council.

SECTION 4.03 CITY SECRETARY.

- 1) The City Council shall appoint the City Secretary for an indefinite term and the City Secretary shall serve at the pleasure of the City Council.
- 2) The City Secretary shall:
 - a) Give notice of all official public meetings of the City Council in a manner consistent with this Charter and State laws;
 - b) Attend all public meetings and hearings of the City Council;
 - c) Keep the minutes of the proceedings of all public official meetings and hearings of the City Council in a manner prescribed by the City Council consistent with applicable law;
 - d) Act within the confines of state law as custodian of all official records of the City Council;
 - e) Hold and maintain the seal of the City of Balch Springs, and affix this seal to all appropriate documents;

- f) Authenticate by signature and seal, and record all ordinances, resolutions and proclamations of the City;
- g) Perform such other duties as may be required by the City Council, consistent with this Charter and the laws of the State of Texas;
- h) Prepare and accept items for inclusion in the official agenda of all City council meetings and meetings of boards and commissions as established by this Charter.

SECTION 4.04 MUNICIPAL COURT.

1) General. There shall be established and maintained a Municipal Court, designed as a "municipal court of record" as that term is defined by the laws of the State of Texas, for the trial of misdemeanor offenses, with all such powers and duties as now, or may hereafter, be prescribed by the laws of the State of Texas relative to municipal courts of record. The City Council may establish additional municipal courts of record as authorized by law.

2) Municipal Court Judge. The City Council shall appoint a Judge of the Municipal Court and an alternate judge of the Municipal Court who shall be competent, duly qualified, licensed attorneys in the State of Texas. The Judge and Alternate Judge of the Municipal Court shall be appointed to a term of two (2) years, and may be appointed to additional and consecutive terms upon completion of their terms of office. The Judge or Alternate Judge of the Municipal Court may be removed from office, after notice and hearing, by the City Council for unsatisfactory performance, incompetency, corruption, misconduct, or malfeasance in office. The Judge and Alternate Judge shall receive compensation as may be determined by the City Council. The compensation shall be fixed, and commensurate with the duties performed by a Judge or Alternate judge of a municipal court of record.

3) Clerk of the Court. The City Manager shall appoint a clerk, and may appoint deputies of the Municipal Court. The clerk and deputies shall be bonded at City expense, in an amount deemed adequate by the City Council, and shall receive compensation as may be determined by the City Council. The clerk and deputies, as employees of the City, may be removed by the City Manager.

The clerk of said court and his/her deputies shall have the power to administer oaths and affidavits, make certificates, affix the seal of said court thereto, and generally do and perform any and all acts usual and necessary to be performed by the clerks of courts in issuing process of said courts and conducting the business thereof.

4) Alternate Judge. The City Council shall appoint a qualified Alternate Judge of the Municipal Court as provided herein. In case of the disability or absence of the Judge of the Municipal Court, the Alternate Judge shall have authority to act as Judge of said court.

5) Costs, fines and penalties. All costs, fines and penalties imposed by the Municipal Court shall be paid into the city treasury for the use and benefit of the city, as may be consistent with present and future state laws.

SECTION 4.05 CITY ATTORNEY.

Appointment and qualifications. The City Council, in consultation with the City Manager, shall appoint a competent, duly qualified, licensed and practicing attorney in the State of Texas, who shall serve as the City Attorney at the pleasure of the City Council.

SECTION 4.06 FIRE DEPARTMENT.

- 1) The minimum number of certified fire fighters on duty for each shift at the Balch Springs Department shall be eight, excluding the Fire Chief and Fire Marshal.
- 2) The Fire Chief shall be the chief administrative officer of the Fire Department. He/she shall, subject to the review of the City Council and unless prohibited by State or Federal Law, appoint and remove the employees of said department, and shall perform such other duties as may be required of him/her. The Fire Chief shall be appointed by the City Council for an indefinite term and shall serve at the pleasure of the City Council. The Fire Chief shall be fully responsible for the administration of his/her department and for the carrying out enforcement of the resolutions and ordinances of the City Council.

SECTION 4.07 OTHER DEPARTMENTS.

The City Council may abolish or consolidate such offices and departments as it may deem to be in the best interests of the city; may divide and subdivide the administration of any such departments as it may deem advisable; may create new departments; and may discontinue any offices or departments at its discretion, except those specifically established by this Charter.

SECTION 4.08 DUAL APPOINTMENTS PROHIBITED

No municipal officer may simultaneously hold more than one (1) of any of the City Council-appointed positions at any given time, with the exception of an interim appointment in the event of a vacancy. The interim appointment shall not exceed a six (6) month period. This provision shall not apply to members of boards or commissions.

ARTICLE V. NOMINATIONS AND ELECTIONS

SECTION 5.01 NOMINATIONS AND ELECTIONS.

- 1) The members of the City Council of the City of Balch Springs, which includes the Mayor and six (6) council members shall be elected by the qualified voters of the city, as provided by Article III herein.
- 2) General municipal elections for the purpose of electing members of the City Council shall be held

on the uniform election date occurring in or nearest the month of May in the calendar year as designated by the Texas Election Code.

3) If the term of a member of the City Council will not expire at the next city election and the member files as a candidate for a different position on City Council, he/she must give notice to the City Council not later than sixty (60) days prior to the next city election that he/she will vacate his/her current position on the City Council immediately upon replacement by his/her successor in office.

SECTION 5.02 FILING FOR OFFICE—THE OFFICIAL BALLOT.

1) The candidate must be a qualified voter of the City of Balch Springs and must live in the city for at least one (1) year prior to the election. If he/she seeks a single member district Council place, he/she must also reside in that single member district for at least one (1) year prior to the election. He/she shall not owe delinquent taxes to the City.

2) A candidate for City Council must meet the requirements as provided by the Texas Constitution, Texas Election Code and other laws of the State of Texas.

3) Reserved.

4) Reserved.

5) The City Secretary shall be required to review a City Council candidate application for a place on the ballot and provide notice to any applicant whose application is rejected based on this review as provided in the Texas Election Code, as amended. The City Secretary shall follow applicable provisions of the Texas Election Code for issuing an administrative declaration of ineligibility of a candidate for City office.

SECTION 5.03 ELECTION BY MAJORITY VOTE.

1) ELECTION OF MAYOR AND AT-LARGE CITY COUNCIL MEMBER. The Mayor and the at-large City Council member shall be elected by a majority vote of the qualified voters of the municipality; and the single member district council members shall be elected by a majority vote of the qualified voters of the municipality residing in such candidate's district.

2) DEFINITIONS AND RUN-OFF PROVISION. To win by a majority vote, the successful candidate must obtain more than fifty percent (50%) of the votes cast in the municipal election for a Place. A run-off election will be required between the two candidates who receive the most votes for the same Place if no candidate receives a majority of votes for the Place.

SECTION 5.04 LAWS GOVERNING CITY ELECTION.

All city elections shall be governed, except as otherwise provided by this Charter, by the Constitution and laws of the State of Texas governing general and municipal elections.

ARTICLE VI. LEGISLATION BY THE PEOPLE; INITIATIVE, REFERENDUM AND RECALL

SECTION 6.01 GENERAL AUTHORITY.

The qualified voters of the City of Balch Springs shall, by following the procedures set out in this Charter, have the power of initiative enabling them to propose and enact ordinances for the City; the power of referendum enabling them to require reconsideration by the City Council of adopted ordinances and the subsequent right of the voters to approve or reject any such ordinances the City Council does not repeal; and the power of recall which enables the voters to remove any City Council member from office.

The Power of Initiative may be used to enact a new ordinance or to repeal or amend sections of an existing ordinance, except ordinances appropriating money or levying of taxes or ordinances repealing the appropriation of money or levying of taxes, not in conflict with this Charter, the state constitution or the state laws; provided, however, this section shall not be construed to prevent the use of initiative power to place limits on the maximum tax rate of the City.

The Power of Referendum shall not extend to the budget or capital program, to any ordinance or ordinances pertaining to appropriation of money or levying of taxes, or to bonds issued pursuant to the authority of an election or elections previously held.

In order to utilize the Power of Recall, there must be grounds stated for said Recall. Grounds for removal of any member of the City Council, whether elected to office by the qualified voters or appointed by the City Council to fill a vacancy, shall be incompetency, noncompliance with this Charter, misconduct or malfeasance in office.

SECTION 6.02 PETITIONERS' COMMITTEE.

Any group of five (5) qualified voters of the City of Balch Springs, or of a single member district if the committee is seeking the recall of a City Council member from a single member district may commence proceedings contemplated by this article by filing with the City Secretary an affidavit stating that they will constitute the petitioners' committee; they will be responsible for preparing, printing and circulating the petition; they will file it in the proper form; and they will specify the address to which all notices to the committee are to be sent. The affidavit shall set out in full the proposed initiative ordinance or cite the ordinance sought to be reconsidered, or in the case of recall, provide a statement of the grounds for removal. In the case of recall, the City Secretary shall immediately notify in writing the City Council member(s) sought to be removed that the affidavit has been filed and shall inform the City Council member(s) of its statement of grounds for removal.

SECTION 6.03 PETITION CIRCULATION.

All petition blanks used for circulation by the members of the petitioners' committee or their designees shall be numbered, dated and bear the signature of the City Secretary. The City Secretary shall enter in a record to be kept in his/her office the name of the qualified voters to whom the numbered petitions were assigned. Petition circulators must be qualified voters of the City of Balch Springs.

SECTION 6.04 FORM OF PETITION.

All pages of a petition shall be uniform in size and style and shall be assembled as one (1) instrument for filing. Each signer of a petition shall be a qualified voter of the City of Balch Springs and of the single member district in which a City Council member resides if this petition is being circulated for the purpose of the recall of a single member district City Council member. Each signer shall personally sign his/her own name thereto in ink or indelible pencil, and shall write after his/her name the signer's printed name, date of birth, his/her place of residence within the boundaries of the City of Balch Springs, giving name of street and number, or place of residence, and shall also write his/her voter registration number and the day, the month and the year his/her signature was affixed. All pages of a petition shall contain or have individually attached thereto throughout their circulation the full text of the ordinance proposed or sought to be reconsidered, or in the case of a recall petition, a statement which distinctly and specifically states each ground with such certainty as to give the City Council member(s) sought to be removed notice of the grounds upon which his/her removal is sought.

Each page of a petition shall have attached to it when filed, an affidavit executed by the circulator thereof stating that he/she personally circulated the paper, the number of signatures that are signed by persons they purport to be, and that each signer had an opportunity before signing, to read the full text of the ordinance or matter proposed or sought to be reconsidered.

Designated lines for twenty (20) and no more than twenty (20) signatures shall be provided on each blank petition.

SECTION 6.05 PRESENTATION OF PETITIONS.

1) A petition to the City Council for recall containing the signatures of qualified voters equal in number to no fewer than fifty percent (50%) of the qualified voters who voted on the date of the last general municipal election in the entire City in the case of a petition seeking the recall of the Mayor or the other at-large City Councilmember. In the case of a petition seeking the recall of a Councilmember from a single member district, the petition shall contain the signatures of qualified voters equal in number to no fewer than fifty percent (50%) of the qualified voters who voted on the date of the last election for that district. The petition shall be presented to the City Secretary not later than thirty (30) days following the filing of the affidavit by the petitioners' committee as discussed in Section 6.02 of this Charter.

(2) A petition of the City Council for initiative or referendum containing the signatures of qualified voters equal in number to no fewer than twenty-five percent (25%) of those who voted for or against the Mayor in the last general mayoral election shall be presented to the City Secretary

not later than thirty (30) days following the filing of the affidavit by the petitioners' committee as discussed in Section 6.02 of this Charter.

SECTION 6.06 CERTIFICATION OF PETITIONS AND PRESENTATION TO CITY COUNCIL.

Within ten (10) days after the petition is filed, the City Secretary, with advice of the City Attorney, shall certify as to its sufficiency, including whether the grounds stated for removal from office in a petition to the City Council for recall, if true, would be legally sufficient grounds for removal from office. If the petition is insufficient, the City Secretary shall certify wherein it is defective and shall immediately upon completion of the certification, send a copy of the certificate to the petitioners' committee by registered mail.

If the petition is certified as sufficient, the City Secretary shall present the certificate of sufficiency to the City Council by the next regular City Council meeting which shall be a final determination of the sufficiency of the petition. If a petition has been certified as insufficient and the petitioners' committee does not file notice of intention to amend it, the committee may, within five (5) working days after receiving the copy of such certificate, file a request that it be reviewed by the City Council. The City Council shall review the certificate at its next regular meeting following such request and affirm or reject the findings recited in the certificate. Such decision by the City Council shall be a final determination of the sufficiency of the petition.

If a petition is certified as insufficient for lack of required number of valid signatures, it may be amended once if the petitioners' committee files a notice of intention to amend it with the City Secretary within five (5) working days after having received the copy of the certificate. A supplementary petition with additional names must be filed within two (2) weeks after receiving the copy of the certificate. Such supplementary petition shall comply with all the requirements of Section 6.03 and Section 6.04 of this article.

Within five (5) working days after the amended petition is filed, the City Secretary shall certify as to the sufficiency of the petition, as amended, and shall send a copy of such certificate to the petitioners' committee by registered mail as in the case of an original petition. The final determination as to the sufficiency of an amended petition shall be determined in the same manner as prescribed for original petitions in this section above, except that no petition, once amended, may be amended again.

A final determination as to the sufficiency of a petition shall be subject to review in a court of competent jurisdiction. A final determination of insufficiency, even if sustained upon court review, shall not prejudice the filing of a new petition for the same purpose.

SECTION 6.07 PUBLIC HEARING ON RECALL OF CITY COUNCIL MEMBERS.

An elected official whose removal is sought by recall may, within five (5) working days after such recall petition in accordance with [Section] 6.06 of this article has been either certified as sufficient by the City Secretary and presented to the City Council or, in the alternative, determined to be sufficient by the City Council, request in writing to the City Secretary that a public hearing be

held to permit him/her to present facts pertinent to the charges specified in the petition. Should such a request be made, the City Council shall order that a public hearing be held not less than five (5) working days nor more than fifteen (15) working days after receiving such request for a public hearing.

SECTION 6.08 ACTION ON INITIATIVE AND REFERENDUM PETITIONS.

When an initiative or referendum petition has been finally determined sufficient, the City Council shall promptly consider the proposed initiative ordinance in the manner prescribed for enacting ordinances or reconsider the referred ordinance by voting its repeal. If the City Council fails to adopt a proposed initiative ordinance without any change in substance within sixty (60) days, or fails to repeal the referred ordinance within thirty (30) days after the date the petition was finally determined sufficient, the City Council shall at its first regular meeting after the end of the sixty-day period submit the proposed or referred ordinance to the voters of the City of Balch Springs at the first date permitted by law for holding said election after thirty (30) days following the failure of the City Council to act as specified herein.

Said called election may coincide with a general municipal election should such general municipal election fall within the specified period. Special elections on initiated or referred ordinances shall not be held more frequently than once each six (6) months, and no ordinance substantially the same as an initiated ordinance which has been defeated or one substantially the same as a referred ordinance which has been approved at any election may be resubmitted to the voters of Balch Springs within two (2) years from the date of such election. Copies of the proposed or referred ordinance shall be made available at the polls and shall be published at least once in a newspaper of general circulation designated for such publication by the City Council not more than fifteen (15) days immediately preceding the date of the election.

SECTION 6.09 CALLING OF RECALL ELECTION.

1. If the City Council member(s) whose removal is sought fails to resign, then the City Council shall order an election and set the date for holding such recall election. The date selected for the recall election shall be the first date permitted by law for holding said election after thirty (30) days after the date the petition was presented to the City Council or determined as sufficient by the City Council if there was no public hearing on the matter; or after thirty days after the date of the public hearing, if one was held. Any election order so issued shall comply fully with the Texas Election Code.

2. The City Council shall order an election to fill any vacancy that may be created by such recall election. Such election to fill the vacancy may be held on the same date as the recall election. A City Council member who is subject to the recall election may not be a candidate in the election to fill the vacancy. The ballot for such an election shall provide that election to fill the vacancy is contingent on, and shall not be effective unless, the City Council member subject to the recall election is actually recalled.

SECTION 6.10 NO WITHDRAWAL OF PETITIONS.

No withdrawal of initiative, referendum and recall petitions. In order to respect the qualified voters already having affixed their signatures to petitions, no procedure for withdrawal of petitions is allowed once a petition has been finally determined sufficient.

SECTION 6.11 FORM OF BALLOTS.

1) Initiated ordinances shall be submitted by ballot title, which shall be prepared in all cases by the City Attorney. The ballot title may be different from the legal title of any such initiated ordinance and it shall be a clear, concise statement without argument or prejudice, descriptive of the substance of such ordinance. Immediately below the ballot title shall be printed the following two (2) statements, one (1) above the other, in the order:

"For the adoption of the ordinance"

"Against adoption of the ordinance"

Immediately to the left of such statement shall appear a square in which the voter may cast his/her vote by making a mark.

2) Referred ordinances shall be submitted by ballot title which shall be prepared in all cases by the City Attorney. The ballot title may be different from the legal title of any such referred ordinance and it shall be a clear, concise statement without argument or prejudice, descriptive of the substance of such ordinance. Immediately below the ballot title shall be printed the following two (2) statement, one (1) above the other, in the order:

"For repeal of the ordinance"

"Against repeal of the ordinance"

Immediately to the left of such statement shall appear a square in which the voter may cast his/her vote by making a mark.

3) Ballots used at recall elections shall, with respect to each person whose removal is sought, submit the question:

"Shall _____ be removed by recall? Yes _____ No _____"

Immediately to the left of such statement shall appear a square in which the voter may cast his/her vote by making a mark.

If in initiative, referendum or recall elections, voting machines are used at the election, the form of the ballot above stated may be modified to permit use of such voting machines.

The above-stated form and procedure shall be followed in all such city elections, but such ballot form must comply with any and all requirements of the Texas Election Code and other laws governing state and federal elections.

SECTION 6.12 RESULTS OF ELECTION.

If a majority of the qualified electors voting on a proposed initiative ordinance vote in its favor, it shall be considered adopted upon certification of the election results and shall be treated in all respects in the same manner as ordinances of the same kind adopted by the City Council.

If conflicting ordinances are approved at the same election, the one receiving the greatest number of affirmative votes shall prevail.

An ordinance adopted by initiative may be repealed or amended only after the expiration of two (2) years by a majority vote of the registered voters, or any time after the expiration of five (5) years by an affirmative vote of four or more City Council members.

If a majority of the qualified electors voting on a referred ordinance vote to repeal the ordinance, it shall be considered repealed upon certification of the election results. If a majority of the qualified electors voting on a referred ordinance vote for the ordinance, the ordinance shall be considered in effect.

An ordinance repealed by referendum may be reenacted only after the expiration of two (2) years by a vote of not less than four (4) of the City Council [members] or at any time after the expiration of five (5) years by an affirmative vote of four or more City Council members.

If a majority of the votes cast on the question of recall at the recall election shall be against the removal of the elected official named on the ballot, he/she shall continue in office for the remainder of his/her unexpired term, subject to recall as before within the limitations of Section 6.13 below. If a majority of the votes cast on the questions of recall at a recall election shall be for the removal of elected official named on the ballot, he/she shall, regardless of any technical defects in the recall petition, be deemed removed from office and the vacancy shall be filled in accordance with the provisions of this Charter for the filling of vacancies.

SECTION 6.13 LIMITATIONS AND RESTRICTIONS.

No recall petition shall be filed against any City Council member of the City of Balch Springs within ninety (90) days after his/her election or appointment, nor within ninety (90) days of such a petition being filed and found insufficient, nor within one (1) year after the election for such City Council member's recall.

In no instance shall a City Council member removed from office by recall election succeed himself/herself, nor shall his/her name appear on a ballot for elective office of the City of Balch Springs within a period of five (5) years following the date of the election at which he/she was removed from office.

Unless successfully withdrawn, no petition shall again be filed on an initiated or referred ordinance of substantially the same content within a period of six (6) months of such a petition being filed

and found insufficient or within a period of two (2) years of the failure of the petition at the municipal election.

SECTION 6.14 FAILURE OF CITY COUNCIL TO CALL AN ELECTION.

In case all of the requirements of this Charter have been met and the City Council shall fail or refuse to receive an initiative, referendum or recall petition, or order such initiative, referendum, or recall election, or discharge other duties imposed upon said City Council by the provisions of this Charter with reference to initiative, referendum or recall, then any qualified voter of the City of Balch Springs may seek judicial relief in any court of competent jurisdiction in Dallas County, Texas, to have said court discharge any such duties herein provided to be discharged by the City Secretary or by the City Council; and further to have any of the provisions of this Charter pertaining to initiative, referendum or recall carried out by the proper official.

ARTICLE VII. MUNICIPAL PLANNING AND ZONING

SECTION 7.01 ORGANIZATION.

- 1) There shall be established a Planning and Zoning Commission which shall consist of seven members who shall be appointed by the City Council to staggered terms of two years in accordance with a Zoning Ordinance approved by the City Council. Each Commission member shall be a qualified City voter of the City and a resident of the City for at least six months. Any vacancy occurring during the unexpired term of a member shall be filled by the City Council for the remainder of the unexpired term. In January, the Commission shall elect from its members a Chairman and a Vice Chairman to serve for one year beginning as of the first day of January. A majority of the members of the Commission shall constitute a quorum.
- 2) The Commission shall meet at least once a month. The Commission shall keep minutes of its proceedings which shall be of public record. Minutes will be recorded by a member of the City staff. The Commission shall serve without compensation.
- 3) The ordinance adopted by the City Council establishing the Planning and Zoning Commission shall provide that a vote of at least $\frac{3}{4}$ of all Council Members shall be required to overrule a recommendation of the Planning and Zoning Commission that a proposed amendment, supplement or change to the Zoning ordinance of the City be denied.
- 4) All proposed amendments, supplements, or changes to a zoning classification shall be by ordinance which shall be adopted in compliance with such notice, publication and public hearing requirements as may be imposed by state law and the ordinances of the City. The granting or denial of an application to amend, supplement or change the zoning classifications of a specific tract or tracts of real property within the City shall be effective upon the adoption of an ordinance and shall be final upon the passage of a motion by a sufficient number of votes of the members of the City Council to approve or deny the application. No such application shall be reconsidered by the City Council until such notice, publication and public hearing requirements as may be imposed by State law and the ordinances of the City are first met.

SECTION 7.02 DUTIES AND POWERS.

1) The Commission shall be responsible to act as an advisory board to the City Council and, when authorized by state law regarding platting and duly adopted ordinance, act as a final decision-maker. The Commission shall:

- (a) Review all current and proposed ordinances and amendments pertaining to planning and zoning and make recommendations to the City Council for action to be taken.
- (b) Adopt, amend, extend and add to the master plan for the physical development of the City.
- (c) Submit annually to the City Council, Planning and Zoning Administrator and/or Coordinator, not less than 90 days prior to the beginning of the budget year, a list of recommended capital improvements to be constructed during the forthcoming two year period.
- (d) Keep public records of its resolutions, finds [findings] and determinations.
- (e) The chairman of the Planning and Zoning Commission and/or Coordinator shall make a formal monthly written report and a formal quarterly report in person in the City Council.

2) The Commission shall have full power to:

- (a) Exercise the authority of the Planning and Zoning Commission as provided by state law, this Charter and City ordinances.
- (b) Prepare, adopt and administer rules and recommendations pertaining to subdivisions and to platting in territories within the City limits and extraterritorial jurisdiction.
- (c) Make reports and recommendations relating to the master plan and development of the City.
- (d) Within its budget appropriation, contract for professional and consultant services to aid in carrying out its duties.

SECTION 7.03 THE MASTER PLAN.

The existing master plan for the physical development of the City contains recommendations for the growth, development and beautification of the City and its extraterritorial jurisdiction. Additions to and amendments of the master plan shall be by resolution, but before any such revision the Commission shall hold at least one public hearing on the proposed action.

SECTION 7.04 PROCEDURE.

1) A copy of the proposed revisions to the master plan shall be forwarded to the Planning and Zoning Administrator who shall submit the proposal to the City Council. The City Council, after a public hearing, shall adopt or reject such proposed revision or any part thereof as submitted within sixty (60) days following its submission by the Planning and Zoning Administrator. If the proposed revisions or part thereof should be rejected by the City Council, the Planning and Zoning Commission may make modifications and again forward it to the Planning and Zoning Administrator for submission to the City Council.

2) All rules and regulations adopted by the Planning and Zoning Commission shall be forwarded to the Planning and Zoning Administrator who shall submit them to the City Council. The City Council may adopt or reject any such rules or regulations. If any rules or regulations should be rejected, the Planning and Zoning Commission may modify them and submit such modified rules and regulations to the Planning and Zoning Administrator for submission to the City Council. The failure of the commission to act within sixty (60) days after the date of official submission to the Commission shall be deemed disapproved, unless a longer period be granted by the City Council or submitted official.

SECTION 7.05 LEGAL EFFECT OF THE MASTER PLAN.

The City Council may adopt a master plan which shall be used as a guide for future land use and development regulations, capital improvement expenditures and ordinances for the orderly development of the City. The Planning and Zoning Commission shall make recommendations to the City Council on all matters affecting the master plan.

SECTION 7.06. LOCATION OF SALES OF ALCOHOLIC BEVERAGES.

The sale of liquor shall be prohibited in all parts and sections of the City that are zoned residential or are predominantly residential in nature, and no sale of alcoholic beverages shall be permitted within 300 feet of any church, public or private school, day care center, or public hospital or within any greater distance as authorized by state law.

ARTICLE VIII. MUNICIPAL FINANCE

SECTION 8.01 FISCAL YEAR.

The fiscal year of the City shall begin on the first day of each October and end on the last day of September of the succeeding year. All funds collected by the City during any fiscal year, including both current and delinquent revenues, shall belong to such fiscal year, and, except for funds derived to pay interest and create a sinking fund on the bonded indebtedness of the City, may be applied to the payment of expenses incurred during such fiscal year, except as provided in this Charter. Any revenue uncollected at the end of any fiscal year and any unencumbered funds actually on hand shall become resources of the next succeeding fiscal year.

SECTION 8.02 SUBMISSION OF BUDGET AND BUDGET MESSAGE.

On or before the first day of August of the fiscal year, the City Manager shall submit to the City Council a first draft budget for the ensuing fiscal year and an accompanying message.

SECTION 8.03 BUDGET A PUBLIC RECORD.

The budget and all supporting schedules shall be filed with the City Secretary when submitted to the City Council and shall be opened to public inspection by anyone interested.

SECTION 8.04 PUBLIC HEARING ON BUDGET.

Upon submission of the budget in accordance with State law, the City Council shall name the date, time and location of a public hearing and shall have published in a newspaper of general circulation designated for such publication by the City Council, the date, time, and location of the hearing, which will be not less than 15 days nor more than 20 days after the date of notice. At this hearing, interested citizens may express their opinions concerning items of expenditures, giving their reason for wishing to increase or decrease any items of expense.

SECTION 8.05 PROCEEDING ON ADOPTION OF BUDGET.

After public hearing, the City Council shall analyze the budget, making any additions or deletions which they feel appropriate, and shall, at least ten days prior to the beginning of the next fiscal year, adopt the budget by a majority vote of the full membership of the City Council. Should the City Council take no final action on or prior to such day, the current budget shall be in force on a month-to-month basis until a new budget is adopted.

SECTION 8.06 CERTIFICATION; COPIES MADE AVAILABLE.

A copy of the budget, as finally adopted, shall be filed with the City Secretary and such other places required by State law or as the City Council shall designate. The final budget shall be printed, mimeographed or otherwise reproduced and sufficient copies shall be made available for the use of all offices, agencies, and for the use of interested persons and civic organizations.

SECTION 8.07 CAPITAL PROGRAM.

The City Manager shall submit a five-year capital program as an attachment to the annual budget. The program submitted shall include:

- (a) A clear general summary of its contents.
- (b) A list of all capital improvements which are proposed to be undertaken during the five fiscal years succeeding the budget year, with appropriate supporting information as to the necessity for such improvement.

(c) Cost estimates, method of financing and recommended time schedules for each improvement.

(d) The estimated annual cost of operating and maintaining the facilities to be constructed or acquired.

The above information may be revised and extended each year with regard to capital improvements still pending or in process of construction or acquisition.

SECTION 8.08 AMENDING THE BUDGET.

Under conditions which may arise and which could not reasonably have been foreseen in the normal process of planning the budget, the City Council may, by a majority vote of the fully elected membership, amend or change the budget to provide for any additional expense in which the general welfare of the citizenry is involved. These amendments shall be by ordinance, and shall become attachments to the original budget.

SECTION 8.09 BUDGET, APPROPRIATION AND AMOUNT TO BE RAISED BY TAXATION.

On 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 appropriations of proposed expenditures for the current year and shall constitute the basis of official levy of the property tax as the amount of tax to be assessed and collected for the corresponding tax year. Estimated expenditures will in no case exceed proposed revenue plus cash on hand. Unused appropriations may be transferred to any item required for the same general purpose.

SECTION 8.10 CONTINGENT APPROPRIATION.

Provisions shall be made in the annual budget and in the appropriation ordinance for a contingent appropriation in an amount not more than ten percent (10%) of the total general fund expenditures, to be used in case of unforeseen items of expenditures. This contingent appropriation shall apply to current operating expenses and shall not include any reserve funds of the City. Such contingent appropriation shall be under the control of the City Manager and distributed by him/her only after prior approval by the City Council. The proceeds of the contingent appropriation shall be disbursed only by transfer to other departmental appropriation, the spending of which shall be charged to the departments or activities for which the appropriations are made.

SECTION 8.11 OFFICE OF TAX COLLECTOR.

There shall be established an office of taxation to collect taxes, the head of which shall be the City Tax Collector. The City Council may contract for such services.

SECTION 8.12 POWER TO TAX.

- 1) The City shall have the power to levy, assess and collect taxes, of every character and type for any municipal purpose not prohibited by the Constitution and laws of the State of Texas as now written or hereafter amended.
- 2) The City shall have the power to grant tax exemptions in accordance with the laws of the State of Texas.

SECTION 8.13 TAXES; WHEN DUE AND PAYABLE.

- 1) All taxes due in the City of Balch Springs shall be payable at the office of the City Tax Collector, or at such location or locations as may be designated by the City Council, and may be paid at any time after the tax rolls for the year have been completed and approved. Taxes for each year shall be paid before February 1 of the next succeeding year, and all such taxes not paid prior to that date shall be deemed delinquent, and shall be subject to penalty and interest as the City Council shall provide by ordinance. The City Council may provide discounts for the payment of taxes prior to January 1 in amounts not to exceed those established by the laws of the State of Texas.
- 2) Failure to levy and assess taxes through omission in preparing the appraisal rolls shall not relieve the person, firm or corporation so omitted from obligation to pay such current or past due taxes as shown to be payable by recheck of the rolls and receipts for the years in question, omitting penalty and interest.

SECTION 8.14 TAX LIENS, LIABILITIES AND SUITS.

- 1) All taxable property located in the City on January 1 of each year shall stand charged from that date with a special lien in favor of the City for the taxes due. All persons purchasing any such property on or after January 1 in any year shall take the property subject to the liens provided above. In addition to the liens herein provided, on January 1 of any year, the owner of property subject to taxation by the City shall be personally liable for the taxes due for that year.
- 2) The City shall have the power to sue for and recover personal judgment for taxes without foreclosure, or to foreclose its lien or liens, or to recover both personal judgment and foreclosure. In any such suit where it appears that the description of any property in the City appraisal rolls is insufficient to identify such property, the City shall have the right to plead a good description of the property to be assessed, to prove the same, and to have its judgment foreclosing the tax lien or for personal judgment against the owners for such taxes.

SECTION 8.15 BONDS, WARRANTS, AND EVIDENCE OF INDEBTEDNESS.

- 1) **POWER TO ISSUE.** In keeping with the Constitution and laws of the State of Texas and not contrary thereto, the City shall have the right to issue all tax bonds, revenue bonds, funding and refunding bonds, time warrants and other evidences of indebtedness as now authorized or as may hereafter be authorized to be issued by municipalities by the general laws of the state.

2) MANNER OF ISSUANCE. Bonds and warrants of the City shall be issued in the manner provided by the Constitution and general laws of the State applicable to municipalities.

ARTICLE IX. FRANCHISES AND PUBLIC UTILITIES

SECTION 9.01 FRANCHISE AND PUBLIC UTILITIES.

Unless conflict with State or Federal law, the right of control and use of the public streets, highways, sidewalks, alleys, parks, public squares and public places of the City is hereby declared to be inalienable by the City. No act or omission by the City Council or any officer or agent of the City shall be construed to grant, renew, extend, or amend, expressly or by estoppel or implication, any right, franchise, or easement affecting such public streets, highways, sidewalks, alleys, parks, public squares, public places, and other real property, except as provided by law.

SECTION 9.02 FRANCHISE BY ORDINANCE.

The City shall have the power by ordinance to confer upon any person, firm or corporation the franchise or right to use the streets, alleys, and other public property of the City for the purpose of furnishing a public service or benefit.

SECTION 9.03 FRANCHISE ORDINANCE PROCEDURE.

The granting franchise by the City Council shall be governed by the following regulations:

- (a) No exclusive or indeterminate franchise or privilege shall ever be granted;
- (b) No franchise shall ever be granted for a longer term than fifty (50) years;
- (c) Actual operation under a franchise must commence within six (6) months after it is granted, or as provided by the City Council. As a part of the actual operation, the City Council may grant a reasonable time beyond the six (6) month period for research, development, and construction upon terms and conditions as set forth in the franchise.
- (d) No franchise, nor the assets held by the franchise holder, may be sold, assigned, transferred or conveyed without the consent of the City Council given by ordinance or resolution, unless otherwise provided in the franchise. In the event that the purchaser is the holder of a like franchise, the franchise purchased shall be cancelled and merged into the franchise held by the purchaser upon terms and conditions as may be set out by the City Council when permission for merger is granted.
- (e) The purchaser of any franchise must assume and promptly discharge all of the payments due and owing the City by the holder of the franchise being purchased.
- (f) All holders of franchises for public service from the City, their successors or assigns, as compensation for the right or privilege enjoyed shall pay to the City a sum not less than two percent (2%) per annum of the gross receipts of the business pursued by the

franchise holder rendered in the City. Such sum shall be exclusive of, and in addition to, all special assessments and taxes of whatever nature, including ad valorem taxes upon the value of the franchise and other property of the franchise holder. The sum due hereunder shall be due and payable on or before the fifteenth (15) day of February each year for the preceding calendar year; or payable quarterly; whichever time of payment is established by the City Council.

(g) All rights held under any such ordinance, shall at all times be subject to the power of the City Council to require the holder thereof to make any necessary changes in or reasonable extensions of facilities and services in or to any portion of the City. The City reserves the right to prevent the making of unnecessary or unprofitable extensions.

SECTION 9.04 CONTESTING OF RATES.

No person or corporation enjoying any franchise to operate a public utility within the City of Balch Springs shall ever make any charge or fix any rate for public service to its patrons or the inhabitants of the City of Balch Springs without first being authorized by the City Council by an ordinance or order approving the same, and no public utility shall contest any rate or charge or order fixed by the City Council under the authority otherwise conferred in the Charter of the City, in any suit or cause of action in any court until after such utility has filed a motion for a rehearing with the City Council specifically setting out the grounds of complaint against any such order or ordinance fixing any rate or charge and until the City Council shall have passed upon the said motion for rehearing, provided that if the City Council has not acted within sixty (60) days, the motion shall be deemed overruled.

SECTION 9.05 FORFEITURE OF FRANCHISE.

Upon evidence being received by the City Council that the provisions of a franchise previously granted are being violated, it shall at once cause an investigation to be made of the alleged violation. If the City Council is of the opinion that the provisions of the franchise are being violated, it shall determine a reasonable period of time for compliance with provisions of the franchise, and shall direct the City Attorney to notify the franchise holder of its determination and that in its opinion the provisions of the franchise are being violated, and the period of time for compliance with the provisions of the franchise. Should the franchise holder after public hearing before City Council fail to comply with the provisions of the franchise within the period of time determined by the City Council, the City Attorney, as directed by the City Council shall take any steps to ensure proper compliance with the franchise authorized by law, including forfeiture of the franchise.

SECTION 9.06 RATE HEARINGS.

The City Council shall provide for a hearing to any franchise holder prior to the change in the rates, rules or regulations applicable to such franchise. Every franchise holder who requests an increase in rates, charges or fares, shall have, at the hearing of the City Council called to consider such request, the burden of establishing by competent evidence, the value of its investment that properly applies to service in the City and the amount and character of its expenses and revenues connected with the rendering of such service. If upon such hearing, the City Council is not satisfied

with the sufficiency of the evidence so furnished, it shall be entitled to call upon such franchise holder for the furnishing of additional evidence at a later date to which said hearing may be adjourned. If at the conclusion of such adjourned hearing, the City Council is still not satisfied with sufficiency of the evidence furnished by the franchise holder, the City Council shall have the right to select and employ rate consultants, auditors, and attorneys to conduct investigations, present evidence, advise the City Council and conduct litigation on such requested increase in rates, charges, or fares; and the franchise holder shall reimburse the City for its reasonable and necessary expenses so incurred. Such rate consultants, auditors, and attorneys shall be in good standing in their professions. No hearing shall be required for a reduction in rates initiated by the utility concerned unless requested in writing by an interested person, firm or organization. Rate increases shall only be adopted from the date of City Council approval of the increase and not from the date of the application for an increase by the franchise holder.

SECTION 9.07 ACQUISITION BY EMINENT DOMAIN.

The City shall have the power through eminent domain proceedings to acquire any public utility operating with or without a franchise and furnishing a public service to the citizens of Balch Springs. The procedures to be used in the acquisition of such property shall be those which are promulgated under State Law as now written or hereafter amended. This power shall be in addition to and cumulative of any other powers of acquisition granted to or reserved by the City in a franchise ordinance.

SECTION 9.08 NO PUBLIC UTILITY OR FRANCHISE PURCHASE WITHOUT VOTER APPROVAL.

Prior to the purchase of any public utility or franchise, the City Council must submit the question of the purchase to the qualified voters of the City and the same must be approved by a majority of those voting in the election. The election shall be held and notice given as provided in the case of issuance of municipal bonds of the City.

SECTION 9.09 GRANTS TO PROPERTY OWNERS.

The City Council shall have the authority to grant by ordinance to any property owner abutting upon the streets or other City property, the use thereof in any manner which may be necessary or proper to the enjoyment of said abutting property by the owner, provided it is not inconsistent with and does not unreasonably impair the public use of street or other public property by the public. The City Council shall fix the terms and conditions of any such grant and set the time it shall be in existence. The right is expressly reserved to the City to terminate such grant when deemed inconsistent with the public use of the property, and the City may terminate such grant after the expiration of thirty (30) days from the date written notice of termination was given to the proper owner.

SECTION 9.10 TEMPORARY GRANT.

The City Council shall have the authority to grant minor or temporary privileges in the streets, public ways and public places of the City by ordinance or resolution. Such permit shall be

unconditionally revocable at the will of the City Council and shall not be deemed to be a franchise as used by this Charter.

SECTION 9.11 MISCELLANEOUS POWERS.

The City Council shall have the following powers in addition to others granted by law.

- (a) To require every franchise holder to furnish to the City, without cost to the City, full information regarding the locations, character, size, length, and terminals of all facilities of such franchise holder in, over, and under the streets, alleys, and other public properties of the City, and to regulate and control the locations, relocation, and removal of such facilities.
- (b) To collect from every franchise holder operating in the City such proportion of the expenses of excavation, grading, paving, repaving, construction, reconstructing, draining, repairing, maintaining, lighting, sweeping, and sprinkling the streets, alleys, bridges, culverts, and other public places of the City as represent the increased cost of such operation resulting from the occupancy of such public places by such franchise holder, and such proportion of the cost of such operations as results from the damage to or the disturbance of such public places caused by such franchise holder shall be at its own expense;
- (c) To require every franchise holder to allow other public utilities to use its poles and other facilities, including bridges, whenever such use shall be in the public interest; provided that in such an event, a reasonable rental shall be paid such owner of the facilities for such use. Provided further, that inability of such public utilities to agree upon a reasonable rental shall not be an excuse for failure to comply with such requirement by the City Council;
- (d) The consent of abutting and adjacent property owners shall not be required for the construction, extension, maintenance or operation of any public service company, but nothing in this Charter or in any franchise granted hereunder shall ever be construed to deprive any such property owner of any right of action for damage or injury to his/her property as now or hereafter may be provided by law;
- (e) To impose such other reasonable regulations, restrictions, requirements and conditions as may be deemed necessary or desirable to promote the health, safety, welfare or accommodations of the public.

ARTICLE X. GENERAL PROVISIONS

SECTION 10.01 PUBLICITY OF RECORDS.

All records of the City shall be open to inspection except for those that are closed to the public by law. The records shall be open for inspection and duplication in the City offices during normal office hours. The City Council may set reasonable rates and fees for copying.

SECTION 10.02 NEPOTISM.

In addition to the nepotism restrictions imposed under state law, neither the City Manager, Chief of Police or Fire Chief shall employ or appoint to any paid position of the City any person who is related within the first degree of consanguinity or affinity to any member of the City Council.

SECTION 10.03 OATH.

All elected and appointed officers of the City shall take and sign the oath of office prescribed for state elective and appointive office, respectively, by the Constitution of the State of Texas.

SECTION 10.04 ASSIGNMENT, EXECUTION AND GARNISHMENT.

Property, real and personal, belonging to the City shall not be liable to be sold or appropriated under any writ or execution of cost bill. Funds belonging to the City, in the hands of any person, firm or corporation, shall not be liable to garnishment, attachment or sequestration; nor shall the City be liable to garnishment on account of any debt it may owe or funds or property it may have on hand or owing to any person. Neither the City nor any of its officers or agents shall be required to answer any such writ of garnishment on any account whatever. The City shall not be obligated to recognize any assignment of wages or funds by its employees, agents or contractors, unless otherwise mandated by State and Federal laws.

SECTION 10.05 SECURITY AND BOND.

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

SECTION 10.06 NOTICE OF CLAIM.

Before the City shall be liable for any claim for damages for the death or personal injuries of any person or for damages to property, the complainant or his/her authorized representative shall notify the City Secretary. The notification shall be in writing and shall state specifically how, when and where the death, injury or damage occurred; the amount of loss claimed; and the identity of any witnesses upon whom it has relied to establish the claim. The notification shall be filed within ninety (90) days of the date of the alleged act creating the alleged liability. The failure to so notify the City within the time and manner specified shall exonerate, excuse and exempt the City from any liability whatsoever. No action at law shall be brought against the City until at least sixty (60) days have elapsed following the date of notification.

SECTION 10.07 SEPARABILITY CLAUSE.

If any section or part of this Charter is held invalid by a court of competent jurisdiction, such holding shall not invalidate or impair the validity, force or effect of any other section or part of this Charter.

SECTION 10.08 EFFECT ON EXISTING LAWS.

- 1) Unless prohibited by state or federal law, the provisions of the Charter shall supersede all ordinances, portions thereof, resolutions, contracts, bonds, obligation, rules and regulations now in force under the City government of Balch Springs.
- 2) All ordinances, portions thereof, resolutions, contracts, bonds, obligations, rules and regulations now in force under the City government of Balch Springs, and not in conflict with the provisions of this Charter, shall remain in force under this Charter until altered, amended or repealed by the City Council after the Charter takes effect.

SECTION 10.09 AMENDMENT OF CHARTER.

Amendments to this Charter may be framed and submitted to the qualified voters of the City in the manner provided by the Constitution and laws of the State of Texas, as now written or hereafter amended.

SECTION 10.10 CHARTER REVIEW COMMISSION.

- 1) The City Council may appoint a Charter Review Commission of ten citizens of the City which shall:
 - (a) Inquire into the operation of the City government under the Charter and determine whether any provisions require revision. To this end, public hearings may be held. The Commission may compel the attendance of any officer or employee of the City and require submission of any City records it deems necessary to conduct the hearings.
 - (b) Propose any recommendations it deems desirable to insure compliance with the Charter of the City government.
 - (c) Report its findings and present its recommendations to the City Council.
- 2) The City Council shall receive and have published in a newspaper of general circulation designated for such publication by the City Council a comprehensive summary of the report presented by the commission; shall consider any recommendations made, and may order any amendments suggested to be submitted to the voters of the City in the manner provided by the Constitution and laws of the State of Texas, as now written or hereafter amended.
- 3) The term of office of the Commission shall be for not more than six months, at the end of which time a report shall be presented to the City Council and all records of proceedings of the Commission shall be filed with the City Secretary and become a public record.

4) Each member of the City Council representing a single-member district may appoint two members from his or her district to serve on each Charter Review Commission and each at-large member of the City Council may appoint two citizens of the City to serve as alternate members on each Charter Review Commission.

SECTION 10.11. MEANING OF WORDS.

Words in the present tense include the future tense, and except when a more restrictive meaning is manifest, singular may mean plural. Throughout this Charter, words used in expressing masculine gender shall be construed to include the feminine. The word "Council" shall be construed to mean the City Council of the City of Balch Springs.

ARTICLE XI. TRANSITIONAL PROVISIONS

SECTION 11.01 SCHEDULE.

This Charter shall take effect immediately following adoption by the voters and approval by state and federal authorities as provided by law, and shall be fully operable within one year after adoption and approval by state and federal authorities as provided by law.

SECTION 11.02 ELECTION OF CITY COUNCIL MEMBERS.

Each office of council member shall be designated as a place and in even numbered years the City shall elect council members to Place 2 which shall be designated as the at-large council place other than that of Mayor, Place 4 and Place 5; and in odd numbered years the City shall elect council members to Place 1 which shall be designated as the office of Mayor, Place 3, Place 5 and Place 7.

In the first general municipal election after the effective date of this Charter, all former council terms shall expire, and council members for all seven council places shall be elected at the first general municipal election following the effective date of this Charter; and those council members elected from places with terms which will come to an end at the second general municipal election after the effective date of this Charter shall serve only for one year. The council members elected from the remaining council places shall serve for their regular two-year terms. Thereafter, a staggered council system will be in place whereby council members in the future would be elected to regular two-year terms as provided in Subsection 3.01(b).

Any City Council member elected prior to the effective date of this Charter whose term has not expired at the first general municipal election after the effective date of this Charter shall no longer hold City Council office but shall be entitled to seek election for one of the council places created under this Charter and for which they are qualified to serve.

SECTION 11.03 OFFICERS AND EMPLOYEES.

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

2) Continuance of office or employment. Except as specifically provided by this Charter, if at the time this Charter takes full effect a City administrative officer or employee holds any office or position which is or can be abolished by or under this Charter, he/she shall continue in such office or position until the adoption of some specific ordinance directing that he/she vacate the office or position.

3) Appointed committees and boards. No employee of the City shall serve on any appointed committee or board in the City of Balch Springs, except those acting as secretaries to such committee or board. Once a motion has been made and received a second, no City employee acting in an advisory position shall willfully make any comment with the intent of changing the outcome of any item before any committee or board. Such action by any City employee will be considered grounds for termination.

SECTION 11.04 EFFECT OF CHARTER ON EXISTING LAW.

All codes, ordinances, resolutions, rules and regulations in force on the effective date of this Charter, and not in conflict with this Charter, shall remain in force until altered, amended or repealed by the Council. All taxes, assessments, liens, encumbrances and demands, of or against the City, fixed or established before such date, or for the fixing or establishing of which proceedings have begun at such date, shall be valid when properly fixed or established either under the law in force at the time of the beginning of such proceedings or under the law after the adoption of this Charter.

SECTION 11.05 PENDING MATTERS.

All rights, claims, actions, orders, contracts, franchises, legal or administrative proceedings in existence at the time of adoption of this Charter shall continue until consummation. All renewals or new rights, claims, actions, orders, franchises, and legal or administrative proceedings arising after the adoption of this Charter shall be conducted pursuant to this Charter.

SECTION 11.06 FRANCHISES.

Within six (6) months after the effective date of this Charter, every public utility and every owner of a public utility franchise shall file with the City certified copies of all franchises owned or claimed, or under which such utility is operated in the City.

ARTICLE XII. ADOPTION OF CHARTER

SECTION 12.01 PROCEDURE.

1) This Charter and its optional propositions shall be submitted to the qualified voters of the City of Balch Springs for adoption or rejection on January 20, 1990, at which election, if a majority of the qualified voters voting in such election shall vote in favor of the adoption of this Charter

and shall make choices regarding the optional propositions, the approved document shall then become the governing law of the City of Balch Springs, Texas, upon approval of state and federal authorities until amended or repealed.

2) It is hereby prescribed that the form of ballot to be used in such election shall be in conformity with the Texas Election Code, and shall include the following optional propositions:

- (a) "For the adoption of the Charter"
"Against the adoption of the Charter"
- (b) "For election by majority"
"Against election by majority"
"For election by plurality"
"Against election by plurality"
- (c) "For filling City Council vacancy by appointment"
"Against filling City Council vacancy by appointment"
"For filling City Council vacancy by special election"
"Against filling City Council vacancy by special election"

3) The present City Council of the City of Balch Springs shall call an election in accordance with the provisions of the general laws of the state governing such elections, and the same shall be conducted and the returns made and results declared as provided by the laws of the State of Texas governing municipal elections, and in case a majority of the votes cast at such election shall be in favor of the adoption of such Charter and either option of each of the two optional propositions, then an official order shall be entered upon the records of said City by the City Council of Balch Springs declaring the same adopted and the City Secretary shall record at length upon the records of the City, in a separate book to be kept in his/her office for such purpose, such Charter as adopted, and such secretary shall furnish to the Mayor a copy of the Charter which shall be forwarded by the Mayor as soon as practicable, to the Texas Secretary of State under the Seal of the City together with a certificate showing the approval of the qualified voters of such Charter.

Respectfully submitted to the City Council of the City of Balch Springs for the purpose of calling an election on the question of adoption of the Home Rule Charter on this the 27th day of November, 1989. This proposed Charter and its optional propositions represent the recommendation of the Citizen's Charter Commission whose membership is listed below.

Billy Polege, Chairman
David Haas, Secretary
Dennita Burrow

James Littlejohn
Mary Baty
Sue Mears
Connie Gold
Charles Hardy
Marie Hughes
Aileen Tucker
Jean Graham
Bobby Bridges
Greg Pierson
Judi Hill
Gary Andrews

4) Propositions to amend the Original Charter shall be submitted to the qualified voters of the City of Balch Springs for adoption or rejection on the 10th of May, 2008.

Respectfully submitted to the City Council of the City of Balch Springs for the purpose of calling an election on the question of the Home Rule Charter on the 10th of May, 2008. The proposed Charter and its optional propositions represents the recommendations of the Citizen's Charter Commission whose members are listed below to reflect the Charter Review Commission as of February 6, 2008:

Dr. Carrie Gordon
Rita Burks
Richard Gillen
Jesse McGee
John Ralston
Dr. Larry Gordon
Bobby Ray
Cedric Davis
Eugene Howard
Otto Lowrance
David Chang

5) Propositions to amend the Original Charter shall be submitted to the qualified voters of the City of Balch Springs for adoption or rejection on the 14th of May, 2011.

Respectfully submitted to the City Council of the City of Balch Springs for the purpose of calling an election on the question of the Home Rule Charter on the 14th of May, 2011. The proposed Charter and its optional propositions represents the recommendations of the Citizen's Charter Commission whose members are listed below to reflect the Charter Review Commission as of March 14, 2011:

David Stone
Dalinda Gardner
David Chang
Lear Credit

Larry Gordon
Ed Grant
Linda Pineda
John Ralston
Bobby Ray
Donna Taulbee

6) Propositions to amend the Original Charter shall be submitted to the qualified voters of the City of Balch Springs for adoption or rejection on the 10th of May, 2014.

Respectfully submitted to the City Council of the City of Balch Springs for the purpose of calling an election on the question of the Home Rule Charter on the 10th May, 2014. The proposed Charter and its optional propositions represents the recommendations of the Citizen's Charter Commission whose members are listed below to reflect the Charter Review Commission as of February 24, 2014:

Linda Logan
Linda Pineda
John Ralston
Meg Comstock
Lear Credit
Rosa Hernandez
David Chang
Gerald Whitehead
Ed Grant
Charlie Cazares
Jessie Patino

7) Propositions to amend the Original Charter shall be submitted to the qualified voters of the City of Balch Springs for adoption or rejection on the 8th of November, 2016.

Respectfully submitted to the City Council of the City of Balch Springs for the purpose of calling an election on the question of the Home Rule Charter on the 8th of November, 2016. The proposed Charter and its optional propositions represents the recommendations of the Citizen's Charter Commission whose members are listed below to reflect the Charter Review Commission as of July 25, 2016:

Brenda Haas
Billie Gorwood
Helen Shelby
Travis Campbell
Linda Brown
Julie Greer
Kelly Smith
Sammy Moon
Angela Brown

Lamonte Brown
Samaria McCoy
Lina Kinnel
Kelwyn Hill
Shirley Thomas

8) Propositions to amend the Original Charter shall be submitted to the qualified voters of the City of Balch Springs for adoption or rejection on the 7th of May, 2022.

Respectfully submitted to the City Council of the City of Balch Springs for the purpose of calling an election on the question of the Home Rule Charter on the 7th of May, 2022. The proposed Charter and its optional propositions represents the recommendations of the Citizen's Charter Commission whose members are listed below to reflect the Charter Review Commission as of August 9, 2021:

Myesha Applewhite
Felicia Rettig
Lavida Davidson
Meg Comstock
Lana Chambless
Donna Greenlee
Steven Gorwood
Veronica Salinas
David Stone
Suzanne Thomas
Johnny Adams
Tab Plummer
Troy Coffelt
Ian McCloskey