

HOME RULE CHARTER

ARTICLE I. INCORPORATION; FORM OF GOVERNMENT; TERRITORY

Sec. 1. Incorporation.

The inhabitants of the City of Brownfield, within the corporate limits as now established or as hereafter established in the manner provided for by this charter, shall continue to be a municipal body politic and corporate in perpetuity, under the name of "City of Brownfield."

Sec. 2. Form of Government.

The municipal government provided by this charter shall be known as the "council-manager government." Pursuant to its provisions and subject only to the limitations imposed by the state constitution, the laws of the State of Texas, and by this Charter, all powers of the city shall be vested in an elective council, hereinafter referred to as "the council," which shall enact local legislation, adopt budgets, determine policies, and employ the city manager, who shall execute the laws and administer the government of the city. All powers of the city shall be exercised in the manner prescribed by this charter, or if the manner be not prescribed, then in such manner as may be prescribed by ordinance, or by the Constitution and Laws of the State of Texas.

***Editor's note**-The city's Home Rule Charter was adopted by the voters at an election held on November 16, 1954, and is included herein for the benefit of the user of this Code. The original arrangement, including section numbers and catchlines and article headings, have been retained. Amendments to the Charter have been added at the proper places and are indicated by notes following the amended sections. All material contained within brackets, i.e. [], has been added by the editors, either to clarify or correct the meaning of the text, to correct patent errors therein or to facilitate indexing and for ease of reference.

Sec. 3. Boundaries.

Editor's note-The legal description of the city's boundaries is not included herein as the same may be often changed by annexations and extensions. The user of this compilation is directed to the official map of the city on file in the office of the city secretary for the accurate, legal description of the corporate limits of the city. Ordinances changing the boundaries of the city, by annexation or otherwise, enacted subsequent to the adoption of the Charter, are not included in this compilation, but are on file in the office of the city secretary.

ARTICLE II. CORPORATE AND GENERAL POWERS

Sec. 4. Powers of the City.

The city shall have all of the powers granted to municipal corporations and to cities by the constitution and laws of the State of Texas, together with all the implied powers necessary to carry into execution all the powers granted. The city may acquire property within or without its corporate limits for any city purposes in fee simple or any lesser interest or estate, by purchase, gift, devise, lease or condemnation, and may sell, lease, mortgage, hold, manage and control such property as its interests may require; and, except as prohibited by the constitution of this state or restricted by this charter, the city shall and may exercise all municipal powers, functions, rights, privileges and immunities of every name and nature whatsoever. The City may use a corporate seal; may sue and be sued; may contract and be contracted with; may implead and be impleaded in all courts and places and in all matters whatever; may cooperate with the government of the State of Texas or any agency thereof, the Federal Government or any agency thereof, or any political subdivision of the State of Texas, to accomplish any lawful purpose for the advancement of the interest, welfare, health, morals, comfort, safety and convenience of the City or its inhabitants; and may pass such ordinances as may be expedient for maintaining and promoting the peace, welfare and government of the city, and for performance of the functions thereof. The enumeration of particular powers by this charter shall not be deemed to be exclusive, and in addition to the powers enumerated therein or implied thereby or appropriate to the exercise of such powers, it is intended that the City of Brownfield shall have, and may exercise, all powers of local self-government and all powers enumerated in Chapter 13, Title 28, Revised Civil Statutes of the State of Texas of 1925, and the acts amendatory thereof and supplementary thereto, now or hereafter enacted or any other powers which, under the constitution and laws of the State of Texas, it would be competent for this charter specifically to enumerate, and also such further powers as may hereafter be granted under the constitution and laws of Texas.

Sec. 5. Voluntary Annexation Upon Request of Owners.

Owners of property adjoining the City of Brownfield shall have the right to request voluntary annexation to the City of Brownfield in the manner prescribed by state law. (Amended by Charter election called 5/6/00)

Note-See editor's note following § 3 of this Charter.

Sec. 6. Annexation/Extension of City Limits by Action of the City Council.

"As an alternative method, the City Council shall have power by ordinance to fix boundary limits of the City of Brownfield, and to provide for the extension of said boundary limits and the annexation of additional territory adjoining said City, with or without the consent of the owners of said land in said territory, and inhabitants annexed. Upon the introduction of such ordinance under the provisions of this Section 6 in the City Charter, it shall be published in the official newspaper of the City of Brownfield for the time prescribed by law and thereafter acted on pursuant to the laws of the State of Texas. Any citizen of the City of Brownfield, or of the territory to be annexed, shall have the right to contest said annexation by filing with the City Council a written petition setting out the reasons for said contest and after such citizen or citizens shall have been given an opportunity to be heard, said ordinance, in original or amended form, may be finally passed, and the territory so annexed shall be a part of the City of Brownfield. In the event the ordinance is amended by the city council, following the contest said ordinance in its amended form shall be published in the official newspaper of the City of Brownfield as provided by law and thereafter be finally acted upon according to the laws of the State of Texas as said City Council in its sole discretion may determine. Following adoption of the ordinance the inhabitants of the annexed property shall be entitled to all rights and privileges of other citizens and shall be bound by the acts, charter, ordinances, resolutions and regulations of said city. (Amended by Charter election called 5/6/00)

Note-See editor's note following § 3 of this Charter.

Sec. 7. Eminent Domain.

The city shall have the full right, power and authority to exercise the power of eminent domain when necessary or desirable to carry out any of the powers conferred upon it by this charter, or by the constitution or laws of the State of Texas. The city may also exercise the power of eminent domain in any other manner now or hereafter authorized or permitted by the constitution and laws of this State, or in the manner and form that may be provided by ordinance of the governing body of the City. The power of eminent domain hereby conferred shall include the right of the city to take the fee in the lands so condemned and such power and authority shall include the right to condemn public property for such purpose. The city shall have and possess this power of condemnation of property within or without the corporate limits for any municipal or public purposes, even though not specifically enumerated herein, or in this Charter. (Amended by Charter election called 5/6/00)

Sec. 8. Establishment and Regulation of Streets and Other Public Places.

The City of Brownfield shall have the power of lay out, establish, open, alter, widen, lower, extend, grade, abandon, discontinue, abolish, close, care for, pave, supervise, maintain and improve streets, alleys, sidewalks, parks, squares, public places and bridges. The City of Brownfield has supervisory powers over all streets, alleys, sidewalks, bridges, parks and other

public ways and places within the city. The City has the power to:

- (1) regulate the use of streets and other public ways, provide for cleaning and lighting, prevent and remove encroachments and direct and regulate the planting of trees;
- (2) regulate openings for laying out gas, water and other mains and pipes;
- (3) regulate the use of sidewalks and require the owners or occupants of abutting premises to keep their sidewalks free from obstructions;
- (4) prevent activities that would result in damage to streets, alleys or other public grounds;
- (5) regulate crosswalks, curbs and gutters;
- (6) regulate the posting of signposts, handbills and similar items on streets, sidewalks and other grounds;
- (7) regulate traffic and sales on streets, sidewalks and other public spaces.

(Amended by Charter election called 5/6/00)

Sec. 9. Street Improvements.

The City of Brownfield shall have exclusive dominion, control and jurisdiction in, upon, and over and under the public streets, avenues, alleys and highways of the City, and may provide for the improvement thereof by paving, repaving, raising, draining, or otherwise. The provisions of Chapter 106, Fortieth Legislature, First Called Session, Acts 1927, being Article 1105b, Vernon's Annotated Civil Statutes of Texas, together with existing amendments and all such amendments as hereafter may be made, and acts supplementary thereto, now or hereafter enacted, are expressly adopted and made a part of this charter. Such exclusive dominion, control and jurisdiction in, upon, over and under the public streets, avenues, alleys and highways of the City shall also include, but not be limited to the right to regulate, locate, relocate, remove, or prohibit the location of all utility pipes, lines, wires, or other property.

As an alternative method and as an alternative method only, there is hereby adopted by the City of Brownfield, the powers enumerated in Chapter 14, of the Acts of the Thirty-first Legislature, Second Called Session, Page 402, known as the Street Improvement Law, together with all amendments now existing or hereafter enacted, being Articles 1086 of the Revised Civil Statutes of the State of Texas and following.

Sec. 10. Garbage Disposal.

The City Council shall have the right by ordinance to adopt and prescribe rules and regulations for the handling and disposition of all garbage, trash and rubbish within the City of Brownfield, and shall further have the right to fix charges and compensation to be charged by the City for the removal of garbage, trash and rubbish, providing rules and regulations for the collection thereof.

Sec. 11. Municipal Court.

There shall be a court for the trial of misdemeanor offenses known as the Municipal Court of the City of Brownfield, with such powers and duties as are given and prescribed by the laws and constitution of the State of Texas. (Amended by Charter election called 5/6/00)

Sec. 12.

(Deleted by Charter election called 5/6/00)

Sec. 13.

(Deleted by Charter election called 5/6/00)

ARTICLE III. GOVERNING BODY

Sec. 14. Number, Name.

The governing body of the City of Brownfield, Texas, shall consist of seven (7) councilmembers and a mayor and said body shall be known as the City Council of Brownfield, Texas. (As amended by Charter Election called 5/6/00)

[Sec. 14a.] Elective Officers.

The members of the City Council of the City of Brownfield, which includes the seven councilmembers and a mayor, shall be the only elective officers of the City. They shall be elected and hold office and be compensated as herein provided. (As amended by Charter Election called 5/6/00)

[Sec. 14b.] The City Council.

Manner of election.

(a) The City Council shall be comprised of seven city councilmembers and one mayor.

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(b) Five (5) of the seven city councilmembers shall be elected from single member districts-Districts One (1) through Five (5). The district lines shall be established and maintained pursuant to state and federal law.

(c) The other two councilmembers shall be elected simultaneously at large by plurality vote. The language on the ballot for the election of these two positions shall read in English: "Vote for one or two," and in Spanish: "Vote por uno o dos."

(d) All single member district elections shall be by majority vote.

(e) The mayor shall be elected at-large by a majority vote.

(f) All qualified voters of the City of Brownfield shall be eligible to vote for the at-large councilmember and mayor positions. Only qualified voters residing within a district shall be eligible to vote for candidates for that district's position on the City Council.

(g) Elections for Districts 1,2, and 3 and mayor, shall be held on the first Saturday in May beginning in May of 1998, and every two (2) years thereafter. Elections for District 4, 5 and the two at-large councilmembers shall be held the first Saturday in May beginning in May of 1999, and every two (2) years thereafter.

(As amended by Charter Election called 5/6/00)

[Successive terms.] The members of the City Council shall serve not more than two terms in succession and until their successors shall have been elected and qualified; and they shall be ineligible to succeed themselves for any additional successive term. Nothing herein shall prohibit any Councilmember or Councilmembers, who, having served two successive terms and having not served for one term, from again serving two successive terms.

[Oath, bond.] All officers of the City whether elected or appointed shall be qualified by taking the oath prescribed by the Constitution of this State, and by executing such bond as may be required under the provisions of this Charter and the ordinances and the resolutions of the City.

[Term.] The Mayor and each Councilmember shall serve for a term of two years and until his successor is elected and qualified unless sooner removed from office as herein provided.

[Mayor pro-tem.] The Council shall at the first regular meeting following each election, elect a Mayor Pro-Tem from among the members of the Council, and the Mayor Pro-Tem shall perform all the duties of the Mayor during his absence or disability.

[Mayor's vote.] The Mayor of the City of Brownfield shall be equally entitled to a vote on all matters which are within the province of the City Council under the terms of this Charter or any ordinances or resolutions of the City of Brownfield as though he were a member of the Council.

Sec. 15. Qualifications.

Each candidate for the City Council must, at the time of election and during his term of office, live within the City of Brownfield. Each candidate for Districts One (1) through Five (5) must, at the time of election and during his term of office, live within his respective district. If a City Councilmember occupying a district seat moves out of his district or out of the City of Brownfield, or if a City Councilmember occupying an at-large position moves out of the City of Brownfield, or if any Councilmember dies in office, or resigns, then that seat is immediately declared vacant. No person shall be eligible to hold any elective office of the City of Brownfield, unless that person shall be a U. S. citizen, 21 years or older, a qualified voter and be eligible to hold office under the Constitution and Laws of the State of Texas and unless he shall have resided in the City of Brownfield, for 12 months next preceding any general or special election, at which he shall offer himself as a candidate. A member of the Council ceasing to possess any of the foregoing qualifications, or the qualifications of any other section or sections of this Charter, or any councilmember who may be convicted of a felony while in office, shall immediately forfeit his office. (As amended by Charter Election called 5/6/00)

Sec. 16. Compensation of Members.

(a) The Mayor shall receive a salary in an amount of Fifty and no/100 Dollars (\$50.00) per regular meeting not to exceed One Hundred and no/100 Dollars (\$100.00) per month.

(b) Each Councilmember shall receive the sum of Twenty-five and no/100 Dollars (\$25.00) for each regular meeting of the Council attended by him, provided that no Councilmember shall receive a greater compensation than Fifty and no/100 Dollars (\$50.00) per month.

(As amended by Charter Election called 5/6/00)

(c) The Mayor and City Councilmembers shall be entitled to be reimbursed for all reasonable and necessary expenses in carrying on in the performance of all their official duties.

Sec. 17. Presiding Officers; Mayor.

The Mayor shall preside at meetings of the Council and shall be recognized as head of the City government for all ceremonial purposes and by the governor for purposes of military law, but shall have no regular administrative duties. The Mayor shall be entitled to vote upon all matters considered by the Council, but he shall have no veto power. The Council shall elect a mayor pro

tem at the first meeting following each regular election who shall act as mayor during the absence or disability of the mayor, and if a vacancy should occur, such mayor pro tem shall become mayor until the next regular election. (As amended by Charter Election called 5/6/00)

Sec. 18. Vacancies.

A vacancy in the council shall be filled by a majority vote of the remaining members of the council, by the selection of a person possessing all of the qualifications prescribed by this Charter for holding of office, by an elective official. Where more than one vacancy shall develop at any one time, then a special election shall be called within forty-five (45) days and any vacancy filled in the same manner as herein provided for general elections; provided however, if such vacancies occur within ninety (90) days before a general election, then no special election shall be called.

Sec. 19. Powers.

All powers of the City of Brownfield, Texas, and the determination of all matters of policy shall be vested in the City Council. Except where in conflict with and otherwise expressly provided by this Charter the City Council shall have all powers authorized to be exercised by the City Council by Chapter 4 of Title 28, Vernon's Annotated Civil Statutes, and acts amendatory thereof and supplementary thereto, now or hereafter enacted. Without limitation of the foregoing and among the other powers that may be exercised by the Council, the following are hereby enumerated for greater certainty:

- (1) Appoint and remove the city manager.
- (2) Establish other administrative departments and distribute the work of divisions.
- (3) Adopt the budget of the city.
- (4) Authorize the issuance of bonds by a bond ordinance.
- (5) Inquire into the conduct of any office, department or agency of the city and make investigation as to municipal affairs.
- (6) Provide for a planning commission, a zoning commission and board of adjustment, and appoint the members of all such commissions and boards, and as well the members of the hospital board, if a hospital is established. The planning and zoning commissions may be combined. Such boards and commissions shall have all powers and duties now or hereafter conferred and created by this Charter, by city ordinance or by law.

- (7) Adopt Plats.
- (8) Adopt and modify the official map of the City.
- (9) Adopt, modify, and carry out plans proposed by the planning commission for the clearance of slum districts and rehabilitation of blighted areas.
- (10) Adopt, modify and carry out plans proposed by the planning commission for the replanning, improvement and redevelopment of neighborhood's and for the replanning, reconstruction or redevelopment of any area or district which may have been destroyed in whole or in part by disaster.
- (11) Regulate, license and fix the charges or fares made by any person owning, operating or controlling any vehicle of any character used for the carrying of passengers for hire or the transportation of freight for hire on the public streets and alleys of the city.
- (12) Provide for the establishment and designation of fire limits and to prescribe the kind and character of buildings or structures or improvements to be erected therein, and to provide for the erection of fire-proof building within certain limits, and to provide for the condemnation of dangerous structures of buildings or dilapidated buildings calculated to increase the fire hazard, and the manner of their removal or destruction.

Sec. 20. Appointment and Removal of City Manager.

The Council shall appoint an officer of the City who shall have the title of City Manager and who shall have the powers and perform the duties in this charter provided. No Councilmember shall receive such appointment during the term for which he shall have been elected, nor within one year after the expiration of his term.

The salary of the City Manager shall be fixed by the City Council. He shall hold office at will. The City Manager shall not be appointed for a definitive term. The City Council can remove or suspend, with or without cause, the City Manager at any time. The City Manager shall in all things be deemed to be employed as an at will employee of the City Council. During the absence, or suspension, or disability of the City Manager, the Council shall designate a properly qualified person to perform the duties of the office; except in case of his temporary absence or disability. (Amended by Charter election called 5/6/00)

Sec. 21. Council Not to Interfere in Appointment or Removals.

Neither the Council nor any of its members shall direct the appointment of any person to, or his

removal from office, by the City Manager or by any of his subordinates; provided however, that the appointment of department heads shall be subject to the approval of the Council. Except for the purpose of inquiry the Council and its members shall deal with the administrative service solely through the City Manager and neither the Council nor any member thereof shall give orders to any subordinates of the City Manager, neither publicly nor privately.

Sec. 22. Rights of City Manager and Other Officers in Council.

The City Manager, and such other officers of the city as may be designated by vote of the council, shall be entitled to seats in the council, but shall have no vote therein. The City Manager shall have the right to take part in the discussion of all matters coming before the council, and other officers shall be entitled to take part in all discussions of the Council relating to their respective offices, departments or agencies.

Sec. 23. Administrative Departments.

There are hereby created the following administrative departments: Finance, Police, Fire and Public Works, and such other departments as may be established by the Council as hereinafter provided.

The Council may, if it deems it advisable, consolidate into one department not more than two of the departments hereby; established. The Council by ordinance may create, change, and abolish offices, departments, or agencies other than the offices, departments and agencies established by this Charter.

Sec. 24. City Secretary.

The council shall designate an officer of the city who shall be recommended by the City Manager to serve as Secretary of the Council. He shall give notices of its meetings, shall keep the journal of its proceedings, shall authenticate by his signature and record in full in a book kept and indexed for the purpose all ordinances and resolutions, and shall perform such other duties as the City Manager shall assign to him, and those elsewhere provided for in this Charter.

Sec. 25. City Judge.

There shall be a magistrate of the Municipal Court known as the City Judge who shall be appointed by the City Council, and who shall hold his office at the will of the City Council, and until his successor is appointed. He shall receive such salary as may be fixed by the Council from time to time. In the event of failure of the City Judge to act, for any reason, the Mayor shall act in the place and stead of the City Judge (and in the event of a vacancy, until a City Judge is appointed by the Council to fill the vacancy). The Mayor while acting as City Judge shall receive

no compensation; for acting as City Judge. All costs and fines imposed by the Municipal Court, or by any court in all cases appealed from judgment of the Municipal Court, shall be paid into the City Treasury for the use and benefit of the City.

Sec. 26. City Attorney.

The City Council shall appoint a competent and duly licensed attorney practicing in the State of Texas who shall be its City Attorney. He shall receive for his services such compensation as may be fixed by the Council and shall hold his office at the will of the City Council and until his successor is appointed.

The City Attorney shall represent the City in Municipal Court and shall monitor and/or represent the City in all litigation as may be directed by the City Council. He shall be the legal advisor of and attorney and counsel for the City and all officers and departments thereof.

The City Attorney shall have power to appoint an assistant if deemed necessary by him, subject to the approval of the City Council, at such compensation as may be fixed by the Council; and more than one assistant if deemed necessary by the Council, such assistant or assistants to hold office at the will of the City Attorney, so long as he remains such.

(As amended by Charter Election called 5/6/00)

Sec. 27. Induction Into Office; Open and Closed Meetings.

On the first regularly scheduled City Council meeting following each regular municipal election held under this Charter, or any special election for the purpose of filling vacancies in the Council or office of Mayor, the Council shall meet at the usual time and place for holding meetings and the newly elected members shall qualify and assume the duties of office. Thereafter, the Council shall meet regularly at such times as may be prescribed by its rules but not less frequently than once each month. All meetings of the Council shall be open to the public; except for those purposes and meetings which may be closed according to the laws of the State of Texas. Special meetings shall be called by the City Secretary upon request of the Mayor, City Manager or a majority of the members of the Council. (As amended by Charter Election called 5/6/00)

Sec. 28. Council to be Judge of Qualifications of its Members.

The Council shall be the judge of the election and qualifications of its members and for such purpose shall have power to subpoena witnesses and require the production of records, but the decision of the Council in any such case shall be subject to, review by the courts.

Sec. 29. Rules of Procedure; Journal.

The Council shall determine its, own rules and order of business. It shall keep an indexed journal of its proceedings and the journal shall be open to the public for inspection.

Sec. 30. Ordinances.

In addition to such acts of the Council as are required by statute or by this Charter to be by ordinance covers every act of the Council establishing a fine or other penalty or providing for the expenditure of funds or for the contracting of indebtedness shall be by ordinance. The enacting clause of all ordinances shall be "BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BROWNFIELD."

Sec. 31. Procedure For Passage of Ordinance.

Every ordinance shall be introduced in written or printed form and upon passage, shall take effect at the time indicated therein; provided that any ordinance imposing a penalty, fine or forfeiture for a violation of its provisions shall not become effective until its publication as provided for herein; subject to the provisions of ARTICLE XI of this Charter. The City Secretary shall give notice of the passage of every ordinance imposing a penalty, fine, or forfeiture for a violation of the provisions thereof by causing a descriptive caption or title stating in summary the purpose of the ordinances, and the penalty for violations thereof, to be published in the official newspaper at least one time. As an alternative method, the City Council may cause the City Secretary to have the full text of the ordinance published. The City Secretary shall note on every ordinance, the caption of which is hereby required to be published, and on the record thereof, the fact that same has been published as required by the Charter, and the date of such publication, which shall be prima facie evidence of the legal publication and promulgation of such ordinance; provided, that the provisions of this section shall not apply to the correction, amendment, revision and codification of the ordinances of the City for publication in book or pamphlet form. Except as otherwise provided by ARTICLE XI of this Charter, it shall not be necessary to the validity of any ordinance that it shall be read more than one time or considered at more than one session of the City Council. Every ordinance shall be authenticated by the signature of the Mayor and City Secretary and shall be systematically recorded and indexed in an ordinance book in a manner approved by the Council. It shall only be necessary to record the caption or title of ordinances in the minutes or journal of Council meetings. The City Council shall have power to cause the ordinances of the City to be corrected, amended, revised, codified and printed in code form as often as the Council deems advisable and such printed code, when adopted by the Council shall be in full force and effect without the necessity of publishing the same or any part thereof in a newspaper. Such printed code shall be admitted in evidence in all courts and places without further proof; provided, however, that the failure of the Council to codify such items shall in no wise affect the validity or admissibility thereof.

Sec. 32. Investigation by Council.

The Council shall have power to inquire into the conduct of any office, department, agency, or officer of the City and to make investigations as to municipal affairs, and for that purpose may subpoena witnesses, administer oaths, and compel the production of books, papers and evidence. Failure to obey such subpoena or to produce books, papers or other evidence as ordered under the provisions of this section shall constitute a misdemeanor and shall be punishable by fine not to exceed one hundred dollars (\$100.00).

Sec. 33. Independent Annual Audit.

Not less than thirty (30) nor more than sixty (60) days prior to the end of each fiscal year the Council shall designate qualified public accountants who, as of the end of the fiscal year, shall make an independent audit of accounts and other evidences of financial transactions of the City Government and shall submit their report to the Council. Notices shall be given by publication in some newspaper of general circulation in the City of Brownfield that the annual audit is on file at the City Hall for inspection. Such accountant shall have no personal interest, direct or indirect in the fiscal affairs of the City Government. They shall not maintain any account or records of the business, but, within specifications approved by the Council, shall post audit the books and documents kept by the department of finance and any separate or subordinate accounts kept by any other office, department or, agency of the City Government. Nothing herein shall prohibit the City Council from employing an auditor for the City of Brownfield, who is a qualified accountant, on an annual basis, to make such independent audit of accounts and other accounts and financial transactions of the City Government.

Sec. 34. Public Library.

The City Council shall have the authority to establish and maintain a free public library within the City and to cooperate with any person, firm, association, legal entity or body politic, or corporation under such terms as the City Council may prescribe for the establishment and/or maintenance of such free public library. For budget purposes, the library shall be considered as a department of the City and the appropriation therefore shall comply with all the budgetary requirements as outlined in this Charter, and as may be prescribed from time to time by the City Council. Annual appropriations for the library will not be continuing, but will revert to the general fund in the same manner as the underspent appropriations of the other departments.

Sec. 35. Housing Authority.

The City Council may create a housing authority of such number, terms and compensation of members as the Council may determine and may delegate to the housing authority such powers relating to the planning, construction, reconstruction, alteration, repair, maintenance or operation

of housing projects and housing accommodations as the Council may determine.

Sec. 36. Disabled Employees, Pensions and Insurance.

The City Council shall have authority to provide for rules and regulations for maintaining employees when injured and disabled while performing their duties, or it may provide for such plan of insurance as it deems proper. The City Council shall have authority to establish a pension and retirement system for any or all groups of officers and employees in the service of the City. Any such pension and retirement system shall be established on a jointly contributory basis, with the officers and employees sharing the cost equally with the City, if feasible, except as to prior service charges at the time for establishment, which shall be borne entirely by the City. The cost of the system shall be determined actuarially on the basis of such mortality and service tables as the City Council shall approve. The provisions of the ordinance establishing such a pension and retirement system shall require periodic actuarial evaluations, which shall serve as the basis of any changes in the rates of contributions, and shall also provide for the maintenance at all times of adequate reserves to meet all accrued liabilities. Any officer or employee of the City at the time of establishment of such system shall for ninety (90) days thereafter have the privilege of becoming a member of the system so established and to share its benefits. Officers and employees thereafter appointed in the classified service shall be required to join the system as a condition of employment. The City Council shall have authority, on behalf of the City of Brownfield and its officers and employees, to join or participate in any district or statewide pension and retirement system which has been established by the Legislature of the State of Texas, or which may be hereafter established by the Legislature of the State of Texas, and if the employees are placed under such system or systems, that the employees shall be completely under and governed by said system as provided for by the laws of the State of Texas, and provisions in this Charter relating to retirement and pension shall not apply.

When and if a pension and retirement system is established under the provisions of this section, the City Council may also make provision for its administration, either by the creation of a Department of Personnel, with a Director, and a Personnel Board, or otherwise, as it may see fit, with such power and duties and compensation as the City Council by ordinance may prescribe and delegate; and such administrative agent or agency shall also have charge of the collection, investment payment and custody of funds of the pension and retirement system. If necessary to the maintenance of a financially sound system the City Council may by ordinance provide for as much as three-fourths (3/4) of the cost of its maintenance to be borne by the City.

The City Council of the City of Brownfield shall have authority to place the city employees under Federal Social Security Laws or Law, and in event the employees are placed under the Federal Social Security Law or Laws then in effect, that the employees shall be completely under said system as provided for by said law or laws, the provisions in this Charter to the contrary notwithstanding.

ARTICLE IV. THE CITY MANAGER

Sec. 37. Qualifications.

The City Manager shall be chosen by the Council solely on the basis of his executive and administrative qualifications with special reference to his actual experience in, or his knowledge of accepted practices in respect to the duties of his offices as hereinafter set forth. At the time of his appointment he need not be a resident of the City or State, but during his tenure of office he shall reside within the City of Brownfield, Texas.

Sec. 38. Powers and Duties.

The City Manager shall be the chief executive officer and the head of the administrative branch of the city government. He shall be responsible to the Council for the proper administration of all affairs of the City, and to that end he shall have power and shall be required to:

- (1) Appoint, and, when necessary, for the good of the service, remove, all officers and employees of the City except as otherwise provided by this Charter and except as he may authorize the head of a department to appoint and remove subordinates in such department.
- (2) Prepare the budget annually and submit it to the Council and be responsible for its administration after adoption.
- (3) Prepare and submit to the Council at the end of the fiscal year a complete report of the finances and administrative activities of the City for the preceding year.
- (4) Keep the Council advised of the financial condition and future needs of the City and make such recommendations as may seem to him desirable.
- (5) Perform such other duties as may be prescribed by this Charter or required of him by the Council, not inconsistent with this Charter, the Laws or Constitution of the State of Texas.

Sec. 39. Absence of City Manager.

To perform his duties during his temporary absence or disability, the manager may designate by letter filed with the City Secretary a qualified administrative officer of the City.

Sec. 40. Directors of Departments.

At the head of each administrative department there shall be a director, who shall be an officer of the City and shall have supervision and control of the department subject to the City Manager.

Two or more departments may be headed by the same individual, the manager may head one or more departments, and directors of departments may also serve as chiefs of divisions.

Sec. 41. Departmental Divisions.

The work of each administrative department may be distributed among such divisions thereof as may be established by ordinance upon the recommendation of the manager. Pending the passage of an ordinance or ordinances distributing the work of departments under the supervision and control of the manager among specific divisions thereof, the manager may establish temporary divisions.

ARTICLE V. THE BUDGET

Sec. 42. Fiscal Year.

The fiscal year of the City of Brownfield shall begin on the first day of October in each calendar year, and shall end on the last day of September of each succeeding year. Such fiscal year shall also constitute the budget and accounting year. (As amended by Charter Election called 5/6/00)

Sec. 43. Preparation and Submission of Budget.

"The City Manager shall file with the municipal clerk a proposed budget before the 60th day before the City Council makes its tax levy for the fiscal year, which budget shall provide a complete financial plan for the fiscal year, and shall contain the following:

- (1) A budget message, explanatory of the budget, which message shall contain an outline of the proposed financial policies of the City for the fiscal year, shall set forth the reasons for salient changes from the previous fiscal year in expenditure and revenue items, and shall explain any major changes in financial policy.
- (2) A consolidated statement of anticipated receipts and expenditures for all funds.
- (3) An analysis of property valuations.
- (4) An analysis of the estimated tax rate required to cover the proposed budget.

- (5) Tax levies and tax collections by year for at least five years.
- (6) General fund resources in detail, including the cash on hand to the credit of each fund.
- (7) Summary of proposed expenditures by function, department, and activity.
- (8) Summary of proposed expenditures by character and object.
- (9) Detailed estimates of expenditures shown separately for each activity to support Summaries No. 7 and 8 above. Such estimates of expenditures are to include an itemization of positions, showing the number of persons having each title, and the rate of pay. For department heads, their assistants or other employees who are involved in management, the budget shall identify by name and list all salary and other benefits for each.
- (10) A revenue and expense statement for all types of bonds.
- (11) A description of the outstanding obligations of the City including all bond issues outstanding, showing rate of interest, date of issue, maturity date, amount authorized, amount issued, and amount outstanding for the current and all future years in which bonds are due.
- (12) A schedule of requirements for the principal and interest of each issue of bonds, for current and all future years.
- (13) A special funds section.
- (14) The appropriation ordinance.
- (15) The tax levying ordinance.

(As amended by Charter Election called 5/6/00)

Sec. 44. Anticipated Revenues Compared With Other Years in Budget.

In preparing the Budget, the City Manager shall in the preparation of the budget place in parallel columns opposite the several items of revenue the actual amount of each item for the last completed fiscal year, the estimated amount for the current fiscal the proposed amount for ensuing fiscal year.

Sec. 45. Proposed Expenditures Compared With Other Years.

The City Manager in the preparation of the budget shall in parallel columns opposite the various items of expenditures place the items of expenditures for the last completed fiscal year, the estimated for the current fiscal year and the proposed amount for the ensuing fiscal year.

Sec. 46. Budget a Public Record.

The budget and all supporting schedules shall be filed with the City Secretary when submitted to the Council and shall be public record for inspection by anyone. The City Manager shall cause copies to be made for distribution to all interested persons.

Sec. 47. Notice of Public Hearing on Budget.

At the meeting of the Council at which the budget is submitted, the Council shall fix the time and place of a public hearing on the budget and shall cause to be published in the official newspaper of this City a notice, for one publication only, of the hearing, setting forth the time and place thereof not earlier than the 30th or later than the 10th day before the hearing. The public hearing shall be set for a date occurring after the 15th day after the date the proposed budget is filed with the City Secretary but before the Council makes its tax levy. (As amended by Charter Election called 5/6/00)

Sec. 48. Public Hearing on Budget.

At the time and place set forth in the notice required by Section 47 of this Charter, or any time and place to which such public hearing shall from time to time be adjourned, the Council shall hold a public hearing on the budget submitted and all interested persons shall be given an opportunity to be heard for or against any item or the amount of any item therein contained.

Sec. 49. Proceedings on Budget After Public Hearing Amending or Supplementing Budget.

After the conclusion of such public hearing, the Council may insert new items or may increase or decrease the items of the budget, except items in proposed expenditures fixed by law. So long as the Council does not increase the budget by more than .5%, no further public hearing shall be necessary. Should the Council propose to increase the budget by more than .5%, the Council shall re-notice the budget for public hearing as required in Section 47. (As amended by Charter Election called 5/6/00)

Sec. 50. Proceedings on Adoption of Budget.

After such further hearing, the Council may insert the additional item or items, and make the increase or increases, to the amount in each case indicated by the published notice, or to a lesser amount, but where it shall increase the total proposed expenditures, it shall also provide for an increase in the total anticipated revenue to at least equal such total proposed expenditures.

Sec. 51. Vote Required for Adoption.

The budget shall be adopted by the favorable vote of a majority of the members of the whole Council.

Sec. 52. Date of Final Adoption; Failure to Adopt.

The budget shall be finally adopted not later than the twenty-seventh day of the last month of the fiscal year. Should the Council take no final action on or prior to such day, the budget as submitted by the City Manager shall be deemed to have been finally adopted by the Council.

Sec. 53. Effective Date of Budget; Certification; Copies Made Available.

Upon the final adoption, the budget shall be in effect for the fiscal year. A copy of the budget, as finally adopted, shall be filed with the City Secretary, the County Clerk of Terry County, (but not recorded), and the State Comptroller of Public Accounts at Austin. The final budget shall be printed, mimeographed or otherwise reproduced and a reasonable number of copies shall be made available for the use of all offices, departments, and agencies, and for the use of interested persons and civic organizations.

Sec. 54. Budget Establishes Appropriations.

From the effective date of the budget, the several amounts stated therein as proposed expenditures shall be and become appropriated to the several objects and purposes therein named.

Sec. 55. Budget Established Amount to be Raised by Property Tax.

From the effective date of the budget, the amount stated therein as the amount to be raised by property tax shall constitute a determination of the amount of the levy for the purposes of the City, in the corresponding tax year.

Sec. 56.

(This section deleted by Charter election held 5/6/00)

Sec. 57. Estimated Expenditures Shall Not Exceed Estimated Resources.

The total estimated expenditures of the general fund and debt service fund shall not exceed the total estimated resources of each fund (prospective income plus cash on hand). The classification of revenue and expenditure accounts shall conform as nearly as local conditions will permit to the uniform classification as promulgated by the National Committee on Municipal Accounting, or some other nationally accepted classification.

Sec. 58.

(This section deleted by Charter election held 5/6/00)

ARTICLE VI. HEALTH

Sec. 59. Health of the City.

"The City Council shall have the power to establish all necessary rules and regulations for the protection of the public health and safety within the City Limits and within the Extraterritorial Limits of the City; to define and regulate public nuisances, and the accumulation of unwholesome materials; to enforce by penal sanctions violations of health ordinances promulgated by the City Council; to have the power to police all public places including all parks, grounds, streets or boulevards; to prohibit the pollution of any stream, draw, drain, water deposit, water system or reservoir; to require property owners to make connection to the sewer system of the City; to correct violations of health provisions in the manner provided by law; and to provide for filing a lien against the property of owners who fail to comply with health ordinances after notice of violation." (Amended by Charter election called 5/6/00)

ARTICLE VII. ISSUANCE AND SALE OF BONDS

Sec. 60. General Obligation Bonds.

The City shall have the power to borrow money on the credit of the City and to issue general obligation bonds for the acquisition of property for permanent public improvements or for any other public purpose not now or hereafter prohibited by the Constitution and laws of the State of Texas. Except for the refunding of bonds previously issued, any proposition to borrow money and to issue such bonds shall first be approved by a majority of the qualified property tax paying voters voting at an election called for the purpose of authorizing the issuance of such indebtedness. The ordinance calling such election and the manner of conducting the election

shall conform in all respects to the General Laws of the State of Texas.

Sec. 61. Revenue Bonds.

The City shall have power to borrow money for the purpose of constructing, purchasing, improving, extending or repairing of public utilities, recreational facilities or facilities for any other self liquidating municipal function not now or hereafter prohibited by any general law of the State, and to issue revenue bonds to evidence the obligation created thereby. Such bonds shall be a charge upon and payable solely from the properties, or interest therein, acquired and the income therefrom, and shall never be a debt of the City. All revenue bonds issued by the City shall first be authorized by a majority of the qualified electors voting at an election held for such purpose. The Council shall have authority to provide for the terms and form of any purchase agreement, contract, mort; gage, bond or document desired or necessary for the issuance of revenue bonds and the acquisition and operation of any such property or interest.

Sec. 62. Sale of Bonds.

No bond issued by the City shall be sold for less than par value and accrued interest. Nor shall any bonds be sold until bids, submitted in response to public advertisement therefore, have been received and considered by the Council. The Council shall have the right to reject any or all bonds.

Sec. 63. Sinking Fund.

It shall be the duty of the Council to levy an annual tax sufficient to pay the interest on and provide the necessary sinking fund required by law on all outstanding general obligation bonds of the City. The interest and sinking fund shall be deposited in a separate account and shall not be diverted to or used for any other purpose than to pay the interest and principal on such bonds. The sinking fund maintained for the redemption of any debt may be invested in any interest bearing bonds of the United States Government, the State of Texas, the County of Terry, or the City of Brownfield.

Sec. 64. Felony to Divert Interest or Sinking Fund.

Any officer of the City who shall divert or use the interest or sinking funds for any purpose except that for which the fund is created or is expressly authorized to be invested, shall be liable and responsible to the City of Brownfield in the full amount of such diversion and/or use, with lawful interest; and in case such diversion or use is made or participated in by more than one officer of the City the liability and responsibility therefore shall be joint and several.

ARTICLE VIII. FINANCE ADMINISTRATION

Sec. 65. Director of Finance.

The City Manager shall be the director of finance for the City. (Amended by Charter election called 5/6/00)

Sec. 66.

(Deleted by Charter election called 5/6/00)

Sec. 67. Director of Finance; Powers and Duties.

The director of finance shall have charge of the administration of the financial affairs of the City and to that end he shall have authority to and shall be required to: (Amended by Charter election called 5/6/00)

- (1) Supervise and be responsible for the disbursement of all moneys and have control over all expenditures to insure that budget appropriations are not exceeded;
- (2) Maintain a general accounting system for the City government and each of its offices, departments and agencies; keep books for and exercise financial budgetary control over each office, department and agency; keep separate accounts for the items of appropriation contained in the city budget, each of which accounts shall show the amount of the appropriation, the amounts paid therefrom, the unpaid obligation against it and the unencumbered balance; require reports of receipts and disbursements from each receiving and spending agency of the city government to be made daily or at such intervals as he may deem expedient;
- (3) Submit to the council a monthly statement of all receipts and disbursements in sufficient detail to show the exact financial condition of the city; (Amended by Charter election called 5/6/00)
- (4) Prepare, as of the end of each fiscal year, a complete financial statement and report;
- (5) Supervise and be responsible for the assessment of all property within the corporate limits of the city for taxation, make all assessments for the city government, prepare tax maps and give such notice of taxes and special assessments as may be required by law, unless the City Council contracts with a third party for such services; (Amended by Charter election called 5/6/00)

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- (6) Collect all taxes, special assessments, license fees and other revenues of the city or for whose collection the city is responsible and receive all money receivable by the city from the state or federal government, or from any court, or from any office, department or agency of this city;
- (7) Have custody of all public funds belonging to or under the control of the city, or any office, department or agency of the city government, and deposit all funds coming into his hands in such depository or depositories as may be designated by the City Council, subject to the requirements of law in force from time to time as to the furnishing of bond or the deposit of securities and payment of interest on deposits. All such interest shall be the property of the City and shall be accounted for and credited to the proper account;
- (8) Have custody of all investments and invested funds of the city government, or in possession of such government in a fiduciary capacity, and have the safekeeping of all bonds and notes of the city and the receipt and delivery of city bonds and notes for transfer, registration or exchange;
- (9) Supervise and be responsible for the purchase, storage and distribution of all supplies, materials, equipment and other articles used by any office, department or agency of the city government;
- (10) Approve all proposed expenditures; unless he shall certify that there is an unencumbered balance of appropriation and available funds, no expenditure shall be made.

Sec. 68. Transfer of Appropriations.

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

Sec. 69. Accounting Supervision and Control.

The director of finance shall have power and shall be required to:

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

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- (2) Examine and approve all contracts, orders and other documents by which the city government incurs financial obligations, having previously ascertained that moneys have been appropriated and allotted and will be available when the obligations shall become due and payable;
- (3) Audit and approve before payment all bills, invoices, payrolls and other evidences of claims, demands, or charges against the city government and with the advice of the city attorney determine the regularity, legality and correctness of such claims, demands or charges;
- (4) Inspect and audit any accounts or records of financial transactions which may be maintained in any office, department or agency of the city government apart from or subsidiary to the accounts kept in his office.

Sec. 70. Lapse of Appropriations.

All appropriations shall lapse at the end of the fiscal year to the extent that they shall not have been expended or lawfully encumbered.

Sec. 71. Fees Shall Be Paid to City.

All fees received by any officer or employee shall belong to the city government and shall be paid to the department of finance at such times as required by the director of finance.

Sec. 72. Sale of City Property

Before the City makes any sale or contract for the sale of any property belonging to the City, other than real estate, opportunity shall be given for open competition under such rules and regulations as the City Council may prescribe. Property of the City may only be sold for its full fair market value. Real property interests owned by the City may only be sold in accordance with the bidding procedures of state law. (Amended by Charter election called 5/6/00)

Sec. 73. Purchase Procedure.

The director of finance shall have authority to make expenditures without the approval of the City Council for all budgeted items not exceeding \$10,000.00. Any expenditure involving more than \$10,000.00 must be expressly approved in advance by the City Council. Before the City makes any purchase or contract for supplies, materials, equipment or contractual services, where the amount is \$10,000.00 or more the bidding procedures established by state law for items required to be bid shall be followed. Purchases of less than \$10,000.00 shall be made in accordance with such rules and regulations, as the Council may prescribe. (Amended by Charter

election called 5/6/00)

Sec. 74. Contracts for Improvements.

Any City improvement costing more than \$10,000.00 shall be executed by contract authorized by the City Council, except where such improvement is authorized by the Council to be executed directly by a city department in conformity with detailed plans, specifications and estimates. In the event of contracts for \$10,000.00 or more the bidding procedures established by state law for items required to be bid shall be followed. Purchases of less than \$10,000.00 shall be made in accordance with such rules and regulations, as the Council may prescribe. Alterations in any contract may be made when authorized by the Council upon the written recommendation of the City Manager when and only when such alterations do not increase the cost to the City more than ten percent of the original amount. Where cash is not to be paid for such improvements, the City shall follow the provisions of Article 2368a, Revised Civil Statutes of the State of Texas, 1925 as amended, as it relates to cities. (Amended by Charter election called 5/6/00)

Sec. 75. Disbursement of Funds.

All checks, vouchers or warrants for the withdrawal of money from the City depository shall be signed by the City Manager, and countersigned by the City Secretary. (Amended by Charter election called 5/6/00)

Sec. 76. Accounting Control of Purchases.

All purchases shall be pursuant to a written requisition from the head of the office, department or agency whose appropriation will be charged, and no contract or order shall be issued to any seller unless and until the director of finance certifies that there is to the credit of such office, department or agency a sufficient unencumbered appropriation balance to pay for the supplies, materials, equipment or contractual services for which the contract or order is to be issued.

Sec. 77. Borrowing in Anticipation of Property Taxes.

In any fiscal year, in anticipation of the collection of the property tax for such year, whether levied or to be levied in such year, the Council may by resolution authorize the borrowing of money by the issuance of negotiable notes of the City, each of which shall be designated "Tax Anticipation Note for the Year 19 " (stating the budget year). Such notes shall mature and be payable not later than the end of the fiscal year in which the original notes have been issued:

Sec. 78. Borrowing in Anticipation of Other Revenues.

In any fiscal year, in anticipation of the collection or receipt of other revenues of that budget

year, the Council may by resolution authorize the borrowing of money by the issuance of negotiable notes of the City, each of which shall be designated "Special Revenue Note for the year 19 " (stating the budget year). Such notes may be renewed from time to time, but all such notes, together with the renewals, shall mature and be payable not later than the end of the fiscal year in which the original notes shall have been issued.

Sec. 79. Sale of Notes; Report of Sale.

All notes pursuant to this article may be sold at not less than par and accrued interest at private sale lay the director of finance without previous advertisement, but such sale shall be authorized by the City Council.

Sec. 80. Surety Bonds.

The directors of all administrative departments whose duties include the handling of moneys, and all employees whose duties include the handling of moneys, belonging to the City of Brownfield, shall before entering upon the duties of their office or employment make bond in some responsible surety company, acceptable to the City Council for such amount as the Council may prescribe the premium of which bond shall be paid by the City; and the City Council may also require any such surety bond to be further conditioned that the principal thereon will faithfully perform and/or discharge the duties of his office, and if there are provisions of state law bearing upon the functions of his office under which the execution of a surety bond is required, it shall be further conditioned to comply therewith.

ARTICLE IX. TAX ADMINISTRATION

Sec. 81. Division of Taxation.

There shall be established in the Department of Finance a Division of Taxation, to assess and collect taxes, the head of which shall be the City Assessor and Collector. Notwithstanding the foregoing, the City Council may contract with an outside agency to assess and collect City taxes and to perform the duties of the City's Tax Assessor/Collector. (Amended by Charter election called 5/6/00)

Sec. 82. Power to Tax.

The City Council shall have the power under the provisions of State Law to levy, assess and collect an annual tax upon taxable property within the City to the maximum provided by the Constitution and General Laws of the State of Texas.

Sec. 83. Property Subject to Tax; Method of Assessment.

All property, real, personal or mixed, lying and being within the corporate limits of the City of Brownfield on the first day of January, not expressly exempted by law, shall be subject to annual taxation by the City for such year. The mode and manner of making renditions, tax lists, assessments, and tax rolls shall be governed by state law. (Amended by Charter election called 5/6/00)

Sec. 84. Board of Equalization; Appointment; Qualifications.

In the event the City does not contract with another municipality or district for the mutual assessment, equalization, and collection of taxes, then the following provisions shall apply. The City Council shall each year prior to the first day of June appoint six (6) residents, who shall be qualified voters, as the board of equalization. Such board shall choose from its membership a chairman. The City Tax Assessor-Collector shall be ex-officio secretary of the board; provided the City Tax Assessor-Collector, with the consent of the City Council, may designate some other officer or employee of the City to act in his stead. A majority (three members) of said board shall constitute a quorum for the transaction of business. Members of the board while serving shall receive such compensation as may be provided for them by the City Council. (Amended by Charter election called 5/6/00)

Sec. 85. Board of Equalization; Public Hearings; Notice to Owner.

At the same meeting that the Council appoints the board of equalization it shall by ordinance fix the time of the first meeting of the board, which shall be on the first day of June or as soon thereafter as practicable. After such first meeting, the board may reconvene and adjourn from time to time, and as long thereafter as may be necessary it shall hear and determine the complaint of any persons in relation to the assessment roll, provided said board shall be finally adjourned by the last day of said month. Whenever said board shall find it their duty to raise the value of any property appearing on the tax lists or tax records of the City, it shall, after having examined such lists and records and corrected all errors appearing therein, adjourn to a day not less than ten nor more than fifteen days from the date of adjournment, and shall cause the secretary of said board to give written notice to the owner of such property or to the person rendering same of the time to which said board has adjourned, and that such owner or person rendering said property may at that time appear and show cause why the value of said property should not be raised. Such notice may be served by depositing the same, properly addressed, and postage paid, in the City Post Office of the City of Brownfield, Texas.

Sec. 86. Board of Equalization; Power and Duties.

It shall be the duty of such board to examine and, if necessary, revise the assessments as returned

by the City Assessor-Collector, to the end that all property within the City shall be assessed as fairly and as uniformly as possible. The board of equalization shall also have the power to:

- (1) Review on complaint of property owners assessments for the purpose of taxation of both real and personal property within the City made by the City Assessor-Collector;
- (2) Administer oaths;
- (3) Take testimony;
- (4) Hold hearings;
- (5) Adopt regulations regarding the procedure of assessment review;
- (6) Compel the production of all books, documents, and other papers pertinent to the investigation of the taxable values of any person, firm or corporation having or owning property within the corporate limits of the City subject to taxation.

Sec. 87. Board of Equalization; Records; Approval of Rolls.

The board shall be required to keep an accurate record of all its proceedings, which shall be available for public inspection. Upon completion of its work the board shall certify its approval of the assessment rolls, which shall be returned to the City Council, which shall thereupon approve the said rolls as returned to it and thereupon adopt the same as the assessment rolls to be used for the collection of taxes for the current year.

Sec. 88. Taxes; When Due and Payable.

All taxes due the City of Brownfield shall be payable at the office of the City Assessor-Collector and may be paid at any time after the tax rolls for the year have been completed and approved, which shall be not later than October 1st of each year. The City Council may by ordinance provide that current taxes paid prior to December 31st of the tax year shall be subject to discounts as follows:

Three percent if paid on or before October 31st, two percent if paid after October 31st, and on or before November 30th, one percent if paid after November 30th and on or before December 31st.

The City Council may by ordinance provide that all taxes, either current or delinquent due the City, may be paid in installments (as to current taxes only, over a period not exceeding one year). Taxes which are not delinquent on the date of the first installment payment shall not be deemed

delinquent so long as each installment is paid on the date due, failing in which such taxes shall at once, without grace, demand or notice, be subject to such penalty and interest as are imposed by state law (in case of delinquent State and County taxes) and be deemed and become delinquent as of February 1st of the year following assessment. Delinquent taxes paid in installments shall as to time, amount, prematurity in event of default and all other pertinent matters be governed by the ordinance providing for installment payment of taxes, except to the extent otherwise controlled by state law. No remission of penalty and interest shall be accomplished except by action of the City Council in regular session and further that no remission of penalty and interest shall be accomplished except that the penalty and interest due for all taxpayers of the City of Brownfield shall be remitted.

Sec. 89. Seizure and Sale of Personal Property.

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

Sec. 90. Tax Liens.

A lien is hereby created on all property, personal and real, in favor of the City of Brownfield, for all taxes, ad valorem, occupational or otherwise. Said lien shall exist from January 1st in each year until said taxes are paid. Such lien shall be prior to all other claims and no gift, sale, assignment or transfer of any kind, or judicial writ of any kind, can ever defeat such lien, but the assessor and collector of the taxes can pursue such property, and whenever found, may seize and sell enough thereof to satisfy such taxes.

All persons, firms or corporations owning or holding personal property or real estate in the City of Brownfield on the first day of January of each year shall be liable for all municipal tax levies thereon for such year.

The personal property of all persons owing any taxes to the City of Brownfield is hereby made liable for all of paid taxes, whether the same be due upon personal or real property, or upon both.

ARTICLE X. NOMINATIONS AND ELECTIONS

Sec. 91. Municipal Elections.

The regular election for the choice of members of the Council and for the office of Mayor of the City of Brownfield as provided in Section 14 of Article III of this Charter, shall be held each year on the first Saturday in May, unless a different date is required by state law. The Council may order a special election, under conditions specified elsewhere in this charter for bond issues, Charter Amendments, recall or other purposes deemed appropriate by the City Council. The Council will fix the time and place for holding such special election and provide all means for holding same in accordance with state law. (Amended by Charter election called 5/6/00)

Sec. 92. Regulation of Elections.

The Council shall make all regulations which it considers needful or desirable, not inconsistent with this Charter or the laws of the State of Texas, for the conduct of municipal elections, for the prevention of fraud in such elections and for recount of ballots in case of doubt or fraud. Municipal elections shall be conducted by the appointed election authority, who shall also have power to make such regulations not inconsistent with this Charter, with any regulations made by the Council or the laws of the State of Texas.

Sec. 93. Application for Place on Ballot.

Any person qualified under Section 15 may have his or her name placed on the official ballot as a candidate for Councilmember or for the office of Mayor of this City at any election held for the purpose of electing Councilmember or Mayor by filing with the Mayor or City Secretary at least forty-five (45) days prior to the date of election a written sworn application in substantially the following form:

"I _____, do hereby declare that I am a candidate for the office of (Councilmember-Mayor) and request that my name be printed upon the official ballot for that particular office in the next City election, I am ____ years of age, a U.S. citizen, a qualified voter of the State of Texas, and am and have been a bona fide resident of the State of Texas for one year immediately next preceding said election, have been a bona fide resident of the City of Brownfield within its present corporate limits for at least twelve (12) months immediately next preceding said election, nor am I otherwise disqualified or ineligible to serve (on the City Council)--(Mayor) if elected. I reside at _____ address Brownfield, Texas. I am aware of the nepotism law of the State of Texas as stated in Chapter 573, Government Code."

(Signature of Candidate)

(Amended by Charter election called 5/6/00)

Sec. 94. Ballots.

The full names of all candidates for the office of Mayor or the Council as hereinbefore provided, except such as may have withdrawn, died or become ineligible, shall be printed on the official ballots without party designations. If two candidates with the same surnames, or with names so similar as to be likely to cause confusion are nominated, the addresses of their places of residence shall be placed with their names on the ballot. The order of the names on the ballot shall be determined by lot. The official ballots shall be printed not less than twenty (20) days before the date of the election.

Sec. 95. Election of Councilmembers by Majority.

At the regular municipal election (or any special election held to fill vacancies on the City Council or vacancy in the office of Mayor) the candidates for the office of Councilmembers, to the number to be elected, who shall have received the highest number of votes cast in such election for each office to be filled shall be declared elected. And the candidate for the office of Mayor who shall have received the highest number of votes cast in such election shall be declared elected.

In case of a tie vote the elected officer shall be determined by lot under the rules, regulations, and under supervision and in the presence of the City Council.

Sec. 96. Laws Governing City Elections.

All City elections shall be governed, except as otherwise provided by the Charter, by the laws of the State of Texas governing general and municipal elections, so far as same may be applicable thereto; and in event there should be any failure of the general laws or this Charter to provide for some feature of the City elections, then the City council shall have the power to provide for such deficiency, and no informalities in conducting a City election shall invalidate the same, if it be conducted fairly and in substantial compliance with the general laws, where applicable, and the Charter and ordinances of the City.

Sec. 97. Canvassing Elections.

Returns of elections, general and special, shall be made by the election officers to the City Council at the time and date provided by state law. At such time the Council shall meet, canvass

the returns and declare the results of such elections. (Amended by Charter election called 5/6/00)

ARTICLE XI. INITIATIVE, REFERENDUM AND RECALL

Sec. 98. Power of Initiative.

The electors shall have power to propose any ordinance except an ordinance appropriating money or authorizing the levy of taxes, and to adopt or reject the same at the polls, such power being known as the initiative. Any initiative ordinance may be submitted to the Council by a petition signed by qualified electors of the City equal in number to at least twenty-five (25) per centum of the number of votes cast at the last regular municipal election.

Sec. 99. Power of Referendum.

The electors shall have power to approve or reject at the polls any ordinance passed by the Council, or submitted by the Council to a vote of the electors, such power being known as the referendum, except in cases of bond ordinances and ordinances making the annual tax levy. Ordinances submitted to the Council by initiative petition and passed by the Council without change shall be subject to the referendum in the same manner as other ordinances. Within twenty (20) days after the enactment by the Council of any ordinance which is subject to a referendum, a petition signed by qualified, electors of the City equal in number to at least twenty-five (25) per centum of the number of votes cast at the last preceding regular municipal election may be filed with the City Secretary requesting that any such ordinance be either repealed or submitted to a vote of the electors.

Sec. 100. Form of Petitions; Committee of Petitioners.

Initiative petition papers shall contain the full text of the proposed ordinance. The signatures to initiative or referendum petitions need not all be appended to one paper, but to each separate petition there shall be attached a statement of the circulator thereof as provided by this section. Each signer of any petition paper shall sign his name in ink or indelible pencil and shall indicate after his name his place of residence by street and number, or other description sufficient to identify the place. There shall appear on each petition the names and addresses, of five electors, who as a committee of the petitioners, shall be regarded as responsible for the circulation and filing of the petition. Attached to each separate petition paper there shall be an affidavit of the circulator thereof that he, and he only, personally circulated the foregoing paper, that it bears a stated number of signatures, that all signatures appended thereto were made in his presence, and that he believes them to be the genuine signatures of the persons whose names they purport to be.

Sec. 101. Filing, Examination and Certification of Petitions.

All petition papers comprising an initiative or referendum petition shall be assembled and filed with the City Secretary as one instrument. Within ten (10) days after the petition is filed, the City Secretary shall determine whether each paper of the petition has a proper statement of the circulator and whether the petition is signed by a sufficient number of qualified electors. The City Secretary shall declare any petition paper entirely invalid which does not have attached thereto an affidavit signed by the circulator thereof. If a petition paper is found to be signed by more persons than the number of signatures certified by the circulator, the last signatures in excess of the number certified shall be disregarded. If a petition paper is found to be signed by fewer persons than the number certified, the signatures shall be accepted unless void on other grounds. After completing his examination of the petition, the City Secretary shall certify the results thereof to the Council at its next regular meeting. If he shall certify that the petition is insufficient he shall set forth in his certificate the particulars in which it is defective and shall at once notify the committee of the petitioners of his findings.

Sec. 102. Amendment of Petitions.

An initiative or referendum petition may be amended at any time within ten (10) days after the notification of insufficiency has been sent by the City Secretary, by filing a supplementary petition upon additional papers signed and filed as provided in case of an original petition. The City Secretary shall, within five (5) days after such an amendment is filed, make examination of the amended petition, and, if the petition be still insufficient, he shall file his certificate to that effect in his office and notify the committee of petitioners of his findings and no further action shall be had on such insufficient petition. The finding of the insufficiency of a petition shall not prejudice the filing of a new petition for the same purpose.

Sec. 103. Effect of Certification of Referendum Petitions.

When a referendum petition, or amended petition as defined in Section 102 of this Article, has been certified as sufficient by the City Secretary, the ordinance specified in the petition shall not go into effect, or further action thereunder shall be suspended if it shall have gone into effect, until and unless approved by the electors, as hereinafter provided.

Sec. 104. Consideration by Council.

Whenever the Council receives a certified initiative or referendum petition from the City Secretary, it shall proceed at once to consider such petition. A proposed initiative ordinance shall be read and provision shall be made for a public hearing upon the proposed ordinance. The Council shall take final action on the ordinance not later than sixty (60) days after the date on which such ordinance was submitted to the Council by the City Secretary. A referred ordinance

shall be reconsidered by the Council and its final vote upon such reconsideration shall be upon the question. "Shall the ordinance specified in the referendum petition be repealed?"

Sec. 105. Submission to Electors.

If the Council shall fail to pass an ordinance proposed by the initiative petition, or shall pass it in a form different from that set forth in the petition therefore, or if the Council fails to repeal a referred ordinance, the proposed or referred ordinance shall be submitted to the electors not less than thirty (30) days nor more than sixty (60) days from the date the Council takes its final vote thereon. The Council may, in its discretion, and if no regular election is to be held within such period shall, provide for a special election.

Sec. 106. Form of Ballot for Initiated and Referred Ordinances.

Ordinances submitted to vote of the electors in accordance with the initiative and referendum provisions of this Charter 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 or referred ordinance and shall be a clear, concise statement, without argument or prejudice, descriptive of the substance of such ordinance, if a paper ballot, shall have below the ballot title the following propositions, one above the other in the order indicated: "FOR THE ORDINANCE" and "AGAINST THE ORDINANCE." Any number of ordinances may be voted on at the same election and may be submitted on the same ballot, but any paper ballot used for voting thereon shall be for that purpose only. If voting machines are used, the ballot title of any ordinance shall have below it the same two propositions, one above the other or one preceding the other in the order indicated, and the elector shall be given an opportunity to vote for either of the two propositions and thereby to vote for or against the ordinance.

Sec. 107. Results of Election.

If a majority of the electors voting on a proposed initiative ordinance shall vote in favor thereof, it shall thereupon be an ordinance of the City. A referred ordinance which is not approved by a majority of the electors voting thereon shall thereupon be deemed repealed. If conflicting ordinances are approved by the electors at the same election, the one receiving the greatest number of affirmative votes shall prevail to the extent of such conflict.

Sec. 108. Repealing Ordinances; Publication.

Initiative and referendum ordinances adopted or approved by the electors shall be published, and may be amended or repealed by the Council, as in the case of other ordinances.

Sec. 109. Recall; General.

Any member of the City Council or the Mayor may be removed from office by recall.

Sec. 110. Recall Procedure.

Any elector of the City of Brownfield may make and file with the City Secretary an affidavit containing the name or names of the officer or officers whose removal is sought and a statement of the grounds for removal. The Secretary shall thereupon deliver to the elector making such affidavit copies of petition blanks demanding such removal. The City Secretary shall keep a sufficient number of such printed petition blanks on hand for distribution. Such blanks when issued by the City Secretary shall bear the signature of that officer and be addressed to the City Council, and shall be numbered, dated, and indicate the name of the person to whom issued. The petition blanks when issued shall also indicate the number of such blanks issued and the name of the officer whose removal is sought. The City Secretary shall enter in a record to be kept in his office the name of the elector to whom the petition blanks were issued and the number issued to said person.

Sec. 111. Recall Petitions.

The recall petition to be effective must be returned and filed with the City Secretary within thirty (30) days after the filing of the affidavit in Section 110 of this Article and it must be signed by qualified electors of the City equal to at least fifty-one percent (51%) of the total number of votes cast at the last municipal election at which four Councilmembers were elected; provided, however, that the petition shall contain the signatures of at least five hundred (500) qualified electors of the City and shall conform to the provisions of Section 140 of this Article. No petition papers shall be accepted as part of a petition unless it bears the signature of the City Secretary as required in Section 110 of this Article.

Sec. 112. Recall Election.

The City Secretary shall at once examine the recall petition and if he finds it sufficient and in compliance with the provisions of this Article of the Charter, he shall within five (5) days submit it to the City Council with his certificate to that effect and notify the officer sought to be recalled of such action. If the officer whose removal is sought does not resign within five (5) days after such notice the City Council shall thereupon order and fix a date for holding a recall election. Any such election shall be held not less than thirty (30) days nor more than sixty (60) days after the petition has been presented to the City Council at the same time as any municipal election held within such period, the City Council shall call a special election to be held within the time aforesaid.

Sec. 113. Ballots in Recall Election.

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

- (1) With respect to each person whose removal is sought, the question shall be submitted "Shall (name of person) be removed from the office of Councilmember (or in the case of Mayor, etc.) by recall?"
- (2) Immediately below each such question there shall be printed the two following propositions, one above the other, in the order indicated

"For the recall (name of person)"

"Against the recall of (name of person)"

Sec. 114. Results of Recall Elections.

If a majority of the votes cast at a recall election shall be against the recall of the officer named on the ballot, he shall continue in office for the remainder of his unexpired term, subject to recall as before. If a majority of the votes cast at such an election be for the recall of the officer named on the ballot, he shall, regardless of any technical defects in the recall petition, be deemed removed from office and the vacancy shall be filled by the City Council as in other vacancies.

Sec. 115. Limitations on Recalls.

No recall petition shall be filed against a Councilmember or Mayor within six (6) months after he takes office nor in respect to an officer subjected to a recall election and not removed thereby, until at least six (6) months after such election.

Sec. 116. District Judge May Order Election.

Should the City Council fail or refuse to order any of the elections as provided for in this Article, when all the requirements for such election have been complied with by the petitioning electors in conformity with this Article of the Charter, then it shall be the duty of any one of the District Judges of Terry County, Texas, upon proper application being made therefore, to order such elections and to enforce the carrying into effect of the provisions of this Article of the Charter.

ARTICLE XII. FRANCHISES AND PUBLIC UTILITIES

Sec. 117. Control Over and Powers With Reference to City Property.

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The ownership, right of control and use of streets, highways, alleys, parks, public places and all other real property of the City of Brownfield is hereby declared to be inalienable to said City, except by ordinances passed by vote of the majority of the governing body of the City, as hereinafter provided; and no franchise or easement involving the right to use same, either along, across, over or under the same, shall ever be valid, unless expressly granted and exercised in compliance with the terms hereof, and of the ordinances granting the same. No act or omission of the City, its governing body, officers or agents shall be construed to confer or extend by estoppel or indirection, any right, franchise or easement not expressly granted by ordinance.

The City of Brownfield shall have the power, subject to the terms and provisions hereof, by ordinance to confer upon any person, firm or corporation, the franchise or right to use the property or [of] the City, as defined in the preceding paragraph, for the purpose of furnishing to the public any general public service, including heat, telephone service, refrigeration, steam and manufacture and distribution of ice, and the carriage of passengers or freight, within the said City and its suburbs, over the streets, highways and property of said City, or for any other purposes whereby a general service is to be furnished to the public for compensation or hire, to be paid to the franchise holder, whereby a right to, in part, appropriate or use the streets, highways, or other property of the City is necessary or proper, and generally to fix and regulate the rates, tolls and charges of all public utilities of every kind operating within the corporate limits of the City of Brownfield, provided that no franchise shall be granted by said City to any person, firm or corporation to own, control or operate waterworks or electric power manufacture and distribution system in the City of Brownfield.

Sec. 118. Limitations.

No exclusive franchise or privilege shall ever be granted nor a franchise, or a privilege to commence at any time after six months subsequent to the taking effect of the ordinance granting the same and no franchise shall be directly or indirectly extended beyond the term originally fixed by the ordinance granting the same, except as provided by the terms of the City Charter; nor, except as hereinafter provided, shall any franchise be granted to any person, firm or corporation, their associates, assigns or successors, to acquire the physical property, rights or franchise of another person, firm or corporation to whom or which a franchise has already been granted by the City, whereby the rights and properties held and used under such franchise are assigned to any other person, firm or corporation which holds a franchise from the City extending beyond the time of the expiration of the franchise of the person, firm or corporation selling such physical properties, rights or franchises; provided however, that when it shall appear that the public welfare will be promoted by permitting or requiring the properties of two or more companies doing the same character of business to be under one common ownership the City may, in granting a franchise for such properties, allow or require the ownership of such properties to become vested in one ownership or one corporation, provided that no debts or obligations of any of the said companies so consolidated shall be assumed by the corporation,

person or association of persons acquiring the ownership of such properties except such debts and obligations of said companies, or either of them as could at the time of the creation of such indebtedness, lawfully be created under the Constitution and laws of the State of Texas, and only to the extent that the assumption of such indebtedness is permitted under the provisions of the ordinance granting such franchise and the amount of such indebtedness shall be fixed or limited in such ordinance and the same shall not thereafter be increased except by such actual moneys as may hereafter, be expended pursuant to the rules and regulations to be formulated by the City Council from time to time.

Sec. 119. Procedure for Granting Franchise.

The City of Brownfield shall have the power by ordinance to grant any franchise or right mentioned in the preceding sections hereof, which ordinance shall not be passed finally until its third and final reading. Said readings shall be at three separate regular meetings of the City Council of the City of Brownfield, the last of which shall take place not less than thirty days from the first. No ordinance granting a franchise shall pass any reading except by a vote of the majority of the City Council, and such ordinance shall not take effect until sixty days after its adoption on its third and final reading. Persons opposed to the granting of such franchise may petition the Council to call an election on whether to grant the franchise in accordance with Texas Transportation Code 311.071 *et. Seq.* (Amended by Charter election called 5/6/00)

Sec. 120. Term and Conditions.

No determinate or fixed term franchise shall ever be granted or a longer term than twenty-five (25) years; nor shall an right, privilege or franchise now in existence be extended beyond the period now fixed for its termination, directly or indirectly, or through any means whatsoever, and any ordinance in violation or evasion of this prohibition shall be absolutely void; provided however, that any corporation, person or association of persons now holding any franchise under an charter or charters or ordinances of the City of Brownfield may, with the consent of the City Council of the City surrender such franchise or franchises, subject to the provisions of the City Charter then in force, and take a new franchise under such charter or a new franchise may be granted to a new company or another person with the privilege of acquiring the properties of such franchise holder upon the surrender of the franchise rights then held. No subsidiary franchise or franchises of any character appertaining or relating to any other franchise holder, or to any person, firm or corporation acting directly or indirectly for such franchise holder, shall be granted and such grant in violation of this prohibition shall be absolutely void to the extent of the excess in time beyond the life of such main franchise. No franchise, privilege or easement shall ever be used [or easement shall ever be used] or operated so as to extend or enlarge any other franchise or privilege granted by said City except upon surrender of such original franchise as herein provided, and any violation of this prohibition shall operate as a forfeiture of each and all such franchise privilege or easements. No holder of a franchise heretofore or hereafter granted

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shall have a right (unless such right is granted in the franchise) to transfer or assign its properties and franchise to any other person, firm or corporation without the consent of the City, and such consent when given shall not operate as the granting of a franchise or as a new franchise.

The City Council shall have the power to compel all persons, firms, or corporations operating any public utilities in this City, whether operating under existing franchises, or franchises that may be hereafter granted, to extend their service, lines, pipes, etc., if the person to be benefited by such extension will pay the costs thereof, or if it can be shown that the revenue resulting from such extension will, within a reasonable time after same is made, pay a reasonable return on the investment, after making the customary allowance from depreciation.

All grants, renewals, extension or amendment to public utility franchises in the City of Brownfield shall be held whether expressed in the ordinance or not, subject to the right of the City:

- (1) To repeal the same by ordinance at any time for failure to begin construction or operation within the time prescribed or for failure otherwise to comply with the terms of the franchise, such power to be exercised only after due notice and hearing.
- (2) To require an adequate and reasonable extension of plant and service, and the maintenance of the plant and fixtures at the standard necessary to render highest reasonable quality of utility service to the public.
- (3) To establish reasonable standards of service and quality of products and prevent unjust discrimination in service or rates.
- (4) To prescribe the form of accounts kept by each such utility; provided, that if the utility shall keep its accounts in accordance with the uniform system of accounts for said utility prescribed by the appropriate state and/or Federal utility regulatory agencies, this shall be deemed sufficient compliance with this paragraph.
- (5) To at any time examine and audit the accounts and other records of any such utility and to require annual and other reports, including reports on local operations by each such public utility.
- (6) To impose such reasonable regulations and restrictions as may be deemed desirable or conducive to the safety, welfare, and accommodation of the public.
- (7) To adopt procedural rules and regulations dealing with public utilities which shall conform to the requirements of the appropriate state or federal regulatory agencies.

- (8) To require such compensation and rental as may be permitted by the laws of the State of Texas.

Every public utility franchise hereafter granted shall be subject to the terms and condition of this Charter, whether such terms and conditions are specifically mentioned in the franchise or not.

(Amended by Charter election called 5/6/00)

Sec. 121. Utility Rates and Charges.

The City Council shall have the power by ordinance to fix and regulate, after public hearing and reasonable notice, the price of water, gas, electric lights, electric power and to regulate and fix the fares, tolls, and charges of all public utilities of every kind operating within the corporate limits of the City of Brownfield as permitted by State and/or Federal Law. (Amended by Charter election called 5/6/00)

Sec. 122. Applicable to Streets and Highways.

The right to use the public streets, highways, alleys and thoroughfares of this City, which necessitates the digging up, or displacement thereof, for the installation of equipment, appliances or appurtenances, either on, above or below the surface of same, to make the intended use thereof practicable, shall be deemed and considered "a franchise," granting of which shall be governed and controlled in the manner herein provided.

The use of the said public streets, highways, alleys and thoroughfares of this City, which does not require the digging up or similar interference with said streets, alleys or highways for the installation of equipment, appliances or appurtenances, to make the intended use possible, shall be treated and considered as "a privilege," subject to the control and disposition of the City Council, and such privilege over and upon the said public streets, alleys, highways and thoroughfares of the City shall not be granted to any person or corporation excepting when public necessity and convenience may require such use and when given by ordinance passed by a two-thirds (2/3) vote of the City Council.

All franchises for the use and occupancy of public streets, highways, alleys and thoroughfares of this City shall, in event public necessity and convenience so require, be subject to cancellation by the City Council; and the City reserves the right to require all public utilities holding their franchises from the City of Brownfield to conform to street grades, and alter or lower their underground structures to meet changing conditions.

Sec. 123.

(Deleted by Charter election called 5/6/00)

Sec. 124.

(Deleted by Charter election called 5/6/00)

Sec. 125. Consent of Property Owners.

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

Sec. 126. Extensions.

All extensions of public utilities within the City limits shall become a part of the aggregate property of the public utility, and shall be operated as such, and shall be subject to all the obligations and reserved rights contained in this Charter and in any original grant hereafter made. The right to use and maintain any extension shall terminate with the original grant and shall be terminable as provided in this Charter. In case of an extension of a public utility operated under a franchise hereafter granted, such right shall be terminable at the same time and under the same conditions as the original grant.

Sec. 127. Other Conditions.

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

Sec. 128. Franchise Records.

Within six (6) months after this Charter takes effect every public utility and every owner of a

public utility franchise shall file with the City as may be prescribed by ordinance, certified copies of all franchises owned or claimed, or under which such utility is operated in the City of Brownfield. The City shall compile and maintain a public record of public utility franchises.

ARTICLE XIII. THE CITY PLANNING COMMISSION; ZONING; BUILDING LINES

Sec. 129. Appointment of Members; Purpose.

The City Council of the City of Brownfield may appoint five registered voters of the City of Brownfield, who shall constitute the City Planning and Zoning Commission and who shall serve for two years, and until their respective successors shall have been appointed and qualified. Said Commissioners shall serve without pay, and shall adopt such rules and regulations as the deem best, governing their action, proceeding, and deliberations, and time and place of meeting. (Amended by Charter election called 5/6/00)

The purpose and object of said City Planning Commission is to act as an advisory board to the City Council or other governing body relating to all nature of public improvements, civic improvements, city planning, opening, widening and cha grog of streets, routing of public utilities, controlling and regulating traffic upon the public streets and ways of the City of Brownfield, and such other matters relating to City improvements as the City Planning Commission and the governing body of the City of Brownfield may deem beneficial to the City of Brownfield, Texas. A majority of said commissioners shall constitute a quorum.

If a vacancy occurs upon the said City Planning Commission, by death, resignation, or otherwise, the governing body of the City of Brownfield, shall appoint a Commissioner to fill such vacancy for the unexpired term.

Sec. 130. Adoption of State Law.

All of the laws and Constitution of the State of Texas are hereby adopted and made a part of this Charter, and shall be con rolling on the City Planning Commission, as the law may now exist or may be hereafter enacted or amended.

Sec. 131. Powers.

The City Planning Commission shall have the power to pass upon all plans which may be considered by the City Council of the City of Brownfield relating to public improvements, and it shall be the duty of the City Council as far as practicable to submit plans governing public improvements involved under the terms of this Charter, to the City Planning Commission to obtain its advice with reference thereto. The governing body may thereafter adopt the methods

recommended by the City Planning Commission or any other plans or methods which may be deemed most advisable by the City Council of the City of Brownfield, Texas; provided however, that any public improvements undertaken hereunder, or otherwise by the governing body shall never be deemed invalid because the City Planning Commission has not been consulted or has not furnished any advice thereon, or because the governing body has failed to submit its plans thereon for consideration by said City Planning Commission.

Sec. 132. Removal From Commission.

The members of the City Planning Commission shall be subject to removal from office by the governing body, for any cause deemed by the governing body sufficient for their removal in the interest of the public service; but only after a public hearing before the City Council on charges publicly made, if demanded by such member within ten days.

Sec. 133. Zoning.

For the purpose of promoting the public health, morals, safety, order, convenience, prosperity and general welfare; the City Council of the City of Brownfield, or any other body by, through, or under its direction, shall have the power to divide the City of Brownfield into zones or districts for the purpose of regulating and controlling the size, height, bulk and use of buildings within such zones or districts and may exercise any other powers necessary fully to effectuate and accomplish the purpose of the powers herein conferred; that the further power is conferred upon the City of Brownfield to establish building lines within such zones or districts or to establish building lines in residence districts or in other portions of the City, as may be deemed advisable by the said City Council, and to make different regulation for different districts, as may be deemed advisable, all according to the Laws and Constitution of the State of Texas, as it now exists or may hereafter exist, and the Statutes of the State of Texas; are hereby adopted in full for the guidance of the City Council of the City of Brownfield, in enacting such regulations, rules, resolutions and ordinances.

Sec. 134. Building Lines.

The City Council of the City of Brownfield may establish building lines on any public street or highway, or part thereof in Brownfield, Texas. The word "street" as used herein, means an public highway, boulevard, parkway, square or street, or any part or side of any of the same. The establishing of building lines may be done by adopting a resolution or ordinance describing the street, highway or part thereof to be effected, and the location of the building line or lines, and except as herein otherwise provided by following the same procedure as that authorized by this charter, the constitution and laws of the State of Texas, for acquiring land for the opening of streets by the City of Brownfield, Texas. After the establishment of any such lines, no building or other structures shall be erected, reconstructed or substantially repaired, and no new buildings

or other structure or part thereof, shall be erected or re-erected within said line or lines so established. The provisions of Article 1105-A of the Revised Civil Statutes of the State of Texas, are hereby adopted into for the guidance of the City Council, in establishing such building line or lines, as well as the laws and Constitution of the State of Texas.

ARTICLE XIV. GENERAL PROVISIONS

Sec. 135. Publicity of Records.

All public records and accounts of every office, department or agency of the City shall be open to inspection by any citizen, and representative of a citizens' organization or any representative of the press during regular business hours, provided that records that are closed to the public by law shall not be considered public records for the purpose of this section. (Amended by Charter election called 5/6/00)

Sec. 136. Personal Interest.

No member of the Council or any officer or employee of the City shall have a financial interest, direct or indirect, in any contract with the City, unless the Councilmember, officer or employee has fully complied with the requirements of Chapter 171 of the Texas Local Government Code as it applies to conflicts of interest.

Sec. 137. No Officer or Employee to Accept Gifts.

No officer or employee of the City of Brownfield shall ever accept, directly or indirectly, any gift, favor, privilege or employment valued over \$25.00 from any firm, individual or corporation doing business or proposing to do business with the City; provided however, that policemen or firemen in uniform or wearing their official badges may accept such free services where the same is permitted by ordinance. Any officer or employee of the City who violates the provisions of this section shall be guilty of a misdemeanor and may be punished by any fine that may be prescribed by ordinance for this offense, and shall forthwith be removed from office. This section does not prohibit the giving of gifts where the donor and recipient are kin by blood or marriage. (Amended by Charter election called 5/6/00)

Sec. 138. Relative of Officers Shall Not be Appointed or Employed.

No person related within the second degree by affinity, or within the third degree by consanguinity, to the mayor or any member of the City Council or the City Manager shall be employed or appointed to any office, position or service in the City, except to the extent and in the manner allowed by the Texas Nepotism Statute, Chapter 573 of the Texas Government Code

as it currently exists or may hereafter be amended. (As Amended by Charter election called 5/6/00)

Sec. 139.

(Deleted by Charter election called 5/6/00)

Sec. 140. Oath of Office.

Every officer of the City shall, before entering upon the duties of his office, take and subscribe to the following oath or affirmation, to be filed and kept in the office of the City Secretary:

"I, _____, do solemnly swear (or affirm), that I will faithfully execute the duties of the office of _____, of the City of Brownfield, State of Texas, and will to the best of my ability preserve, protect, and defend the Constitution and Laws of the United States and of this State and the Charter and ordinances of this City; and I furthermore solemnly swear (or affirm), that I have not directly nor indirectly aid, offered, or promised to pay, contributed, nor promised to contribute any money, or valuable thing, or promised any public office or employment, as a reward for the giving or withholding a vote at the election at which I was elected, or if the office is one of appointment, to secure my appointment. So help me God."

Officers' Name

Sec. 141. Exemption From Liability for Damages.

Notice of Damage or Injury Required. The City of Brownfield shall never be liable for any personal injury, whether resulting in death or not, unless the person injured or someone in his behalf, or in the event the injury results in death, the person or persons who may have a cause of action under the law by reason of such death injury, shall file a notice in writing with the City Manager or City Secretary within six (6) months after the same has been received, stating specifically in such notice when, where and how the exact injury occurred and the full extent thereof, together with the amount of damages claimed or asserted. The City of Brownfield shall never be liable for any claim for damage or injury to personal property unless the person whose personal property has been injured or damaged or someone in his behalf, shall file a claim in writing with the City Manager or the City Secretary within six (6) months after said damage or injury has occurred, stating specifically when, where and how the injury or damage occurred and the full extent thereof, and the amount of damage sustained. The City of Brownfield shall never be liable for any claim for damage or injury to real property caused by the negligent act or omission of its officers, servants, agents or employees, unless the person whose real property has been injured or damaged, or someone in his behalf, shall file a claim in writing with the City

Manager or City Secretary within six (6) months after said damage or injury has occurred, stating specifically when, where and how the injury or damage occurred, and the amount of damage claimed. The City of Brownfield shall never be liable on account of any damage or injury to person or to personal property arising from or occasioned by any defect in any public street, highway, alley, grounds or public work of the City of Brownfield unless the specific defect causing the damage or injury shall have been actually known to the City Manager, or to the Director of Public Works at least twenty-four (24) hours prior to the occurrence of the injury or damage, or unless the attention of the City Manager or Director of Public Works shall have been called thereto by a notice thereof in writing at least twenty-four (24) hours prior to the occurrence of the injury or damage and proper diligence has not been exercised to rectify the defect. The notice herein required to be given to the City Manager or Director of Public Works of the specific defect causing the damage or injury shall apply where the defect arose from any omission of the City itself, through its agents, servants or employees, or acts of third parties. (Amended by Charter election called 5/6/00)

Sec. 142. Authority to Settle Claims.

The City Council shall have the authority to compromise and settle any and all claims and lawsuits of every kind and character in favor of or against the City, except suits by the City to recover delinquent taxes. (Amended by Charter election called 5/6/00)

Sec. 143. Service of Process Against the City.

All legal process against the City shall be served upon the Mayor or Mayor pro tem.

Sec. 144. City Not Required to Give Security or Execute Bond.

It shall not be necessary in any action, suit or proceeding in which the City of Brownfield is a party, for any bond, undertaking or security to be demanded of, or executed by or in behalf of said City in any of the State courts, but in all such actions, suits, appeals or proceedings same shall be conducted in the same manner as if such bond, undertaking or security has been given as required by law, and said City shall be just as liable as if security or bond had been duly executed.

Sec. 145. Liens Against City Property.

No lien of any kind shall ever exist against any property, real or personal, owned by the City except that the same be created by this Charter.

Sec. 146. Provisions Relating to Assignment; Execution and Garnishment.

The property, real and personal, belonging to the City shall not be liable to be sold or appropriated under any writ of execution or cost bill. No public property of any other character owned or held by the City of Brownfield shall be subject to execution of any kind or nature. The 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.

Sec. 147. Power to Remit Penalties.

The City Council shall have the right to remit in whole or in part any fine or penalty belonging to the City, which may be imposed under any ordinance or resolution passed in pursuance of this Charter.

Sec. 148. Church and School Property Not Exempt From Special Assessments.

No property of any kind, church, school, or otherwise, in the City of Brownfield, shall be exempt from any of the special taxes and assessments authorized by this Charter for local improvements unless the exemption is required by State law.

Sec. 149. Sale or Lease of Property Other Than Public Utilities or Acquired by Tax Sale.

Any real property owned by the City of Brownfield may be sold or leased (See Oil & Gas Lease Section 149a) by the City Council when in its judgment such sale or lease will be for the best interests of the City; provided however, a sale or a lease for more than five (5) years shall never become effective until thirty (30) days after passage of the ordinance or resolution affecting the same. If, during such thirty day period, a referendum petition is presented to the City Secretary which in all respects conforms to the referendum provisions of Article XI of this Charter, and same is found sufficient, then the Secretary shall certify the sufficiency of same to the City Council, and an election shall be called submitting the question of whether or not the sale or lease, as the case may be, shall be consummated. Provided further, however, the provisions of this section shall not apply to public utilities, nor to property purchased by the City at tax sales.

Sec. 149a. [Same; Oil and Gas Lease].

Any of the real estate belonging to the City of Brownfield, or any part thereof, or interest in oil, gas or other minerals owned by the said City, or any part thereof, may be leased by the City Council of the City of Brownfield when in its sole discretion such oil, gas or other mineral lease

shall be for the best interest of the said City. Such lease shall be made upon such terms, conditions, covenants, bonuses, annual delay rentals, rentals, royalties, overriding royalties, oil payments as to the Council may seem proper in the premises and no notice of the making of such oil, gas or other mineral lease shall be necessary. Such lease may be granted at a regular meeting, or special, meeting of the Council called for that purpose, at which regular or special meeting at least four (4) of the members of the City Council (which number may include the Mayor) shall be present, and such lease shall be executed by the Mayor of the said City, his signature attested to by the City Secretary.

Sec. 150. Effect of This Charter on Existing Law.

All ordinances, resolutions, rules and regulations now in force under the City government of the City of Brownfield and not in conflict with the provisions of this Charter, shall remain in force under this Charter until altered, amended or repealed by the Council after this Charter takes effect; and all rights of the City of Brownfield under existing franchises and contracts are preserved in full force and effect to the City of Brownfield. Upon adoption of this Charter it shall constitute the Charter of the City of Brownfield.

Sec. 151. Continuance of Contracts and Succession of Rights.

All contracts entered into by the City, or for its benefit, prior to the taking effect of this Charter, shall continue in full force and effect. Public improvements for which legislative steps have been taken under laws or ordinances existing at the time this Charter takes effect may be carried to completion in accordance with the provisions of such existing laws or ordinances.

All suits, taxes, penalties, forfeitures and all other rights, claims and demands, which have accrued under the laws heretofore in force governing the City of Brownfield, shall belong to and be vested in and shall be prosecuted by and for the use and benefit of the corporation hereby created; and shall not in anywise be diminished, affected or prejudiced by the adoption and taking effect of this Charter.

Sec. 152. Construction and Reparability Clause.

This Charter shall be liberally construed to carry out its intents and purposes. If any section or part of section, of this Charter shall be held invalid by a court of competent jurisdiction, such holding shall not affect the remainder of this Charter nor the context in which such section or part of section so held invalid may appear, except that an entire section or part of section may be inseparably connected in meaning and effect with the section or part of section to which such holding shall directly apply.

Sec. 152a. Nonsubstantive Rearrangement and Renumbering of Charter Provisions and

Correction of Legal References.

The City Council shall have the power by ordinance, to renumber and rearrange all articles, sections and paragraphs of this Charter or any amendments thereto and to correct incorrect or obsolete references to state or federal law provided such amendments shall not constitute substantive changes to the meaning or intent of this Charter. Upon passage of such an ordinance, a copy thereof, certified by the City Secretary shall be forwarded to the Secretary of State for filing. (Added by Charter election 5/6/00)

Sec. 153. Amending the Charter.

Amendments to this Charter shall be as provided by the Revised Civil Statutes of the State of Texas, and the Constitution of the State of Texas; as it is now written or as it may hereafter be amended, and amendments to this Charter shall comply in every respect with the Constitution and Laws of the State of Texas.

Sec. 154. Submission of the Charter to Electors.

The Charter Commission in preparing this Charter, finds and decides that it is impractical to segregate each subject so as to permit a vote of "yes" or "no" on the same for the reason that the Charter is so constructed that in order to enable it to work and function it is necessary that it should be adopted in its entirety. For these reasons the Charter Commission directs that the said Charter be voted upon as a whole and that it shall be submitted to the qualified voters of the City of Brownfield at an election to be held for that purpose on the sixteenth day of November, A.D., 1954. If a majority of the qualified voters voting in such election shall vote in favor of the adoption of this Charter, it shall become the Charter of the City of Brownfield and after the returns have been canvassed, the same shall be declared adopted.

An official copy of the Charter shall be filed with the records of the City and the Mayor shall as soon as practicable certify to the Secretary of State an authenticated copy under the seal of the City, showing approval by the qualified voters of such Charter.

No elective officers under this Charter shall be voted on at the time this Charter is voted on. But the first election to be held to elect the elective officials as provided in this Charter shall be on the first Tuesday in April, A.D., 1955. Until which said time and qualification, the elective officials so to be elected under the provisions hereof on the first Tuesday in April, A.D., 1955, and on the first Tuesday in April, A.D., 1956, the present City Council and Mayor shall constitute and be the governing body of the City of Brownfield as provided in the terms of this Charter, and said present officials shall be governed by the terms of this Charter immediately upon its passage and taking effect which action in the opinion of the Charter Commission of the City of Brownfield as heretofore elected will cause less interruption in handling of business of

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the City of Brownfield than it would to call an earlier election for the supplying of officers, provided for in the terms of this Charter. It being the intention and meaning of the Charter Commission of the City of Brownfield that the present City Administration is in effect fully filling the job of the business of the City of Brownfield, and to call an earlier special election for the sole purpose of providing officers would provide unnecessary expense and cause unnecessary interruptions in handling the business of the City of Brownfield. As provided herein the present Council and Mayor of the City of Brownfield, shall continue in office until a successor or successors have been elected and qualified.

In not less than thirty (30) days prior to the election for presentation of this Charter to the voters the City Council shall cause the City Secretary to mail a copy of this Charter to each qualified voter of the City of Brownfield as appears from the tax collector's roll for the year ending January 1953 preceding said election.

/S/ Fred C. Smith,
Chairman, Charter Commission, City of Brownfield.

/S/ T. A. Hicks,
Secretary, Charter Commission, City of Brownfield.