

PART I - CHARTER

Footnotes:

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Editor's note— The Home Rule Charter for the City of Jasper, Texas was adopted at a special election held on 20 October 1964, and is included in this volume for the convenience of the users of this Code. Essentially, the charter has been printed in its original form without significant changes in numbering, catchlines, or wording of the text. In the Code portion of this volume, frequent references have been made to the charter as a citation of authority.

PREAMBLE

We, the citizens of Jasper, Texas, in order to establish a home rule municipal government, provide for the future progress of our city and obtain more fully the benefits of local self-government, do hereby adopt this Home Rule Charter in accordance with the statutes of the State of Texas; and do hereby declare the residents of the City of Jasper in Jasper County, Texas, living within the legally established boundaries of the said city, to be a political subdivision of the State of Texas incorporated forever under the name and style of the "City of Jasper" with such powers, rights and duties as are herein provided.

ARTICLE I. - FORM OF GOVERNMENT AND BOUNDARIES

Sec. 1.01. - 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 statutes of this state and by this charter, all powers of the city shall be vested in an elective council, hereinafter referred to as the "city council," which shall enact local legislation, adopt budgets, determine policies and appoint the city manager, who in turn shall be held responsible to the city council for the execution of the laws and the administration of 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, the state constitution or the statutes of the state.

Sec. 1.02. - Boundaries.

The boundaries of the City of Jasper shall be the same as have heretofore been established and as they existed on April 30, 1962, which boundaries are more fully set out and described by metes and bounds in a document titled "Boundaries of the Corporate Limits of the City of Jasper, Jasper County, Texas" which is filed in the city hall of the City of Jasper, and entered in minute book supplement Vol. 8, page No. 6, of the minutes of the city council of the City of Jasper.

Sec. 1.03. - Extension of boundaries.

The boundaries of the City of Jasper may be enlarged and extended by the annexation of additional territory, irrespective of size and configuration, in any of the methods hereinafter designed:

- (a) *Extending limits in accordance with Article 974 of the Revised Civil Statutes.* Where such additional territory adjoins the corporate limits of the city and contains three (3) or more inhabitants qualified to vote for members of the state legislature, such adjacent territory may be annexed to the city in the manner and in conformity with the procedure set forth in Article 974 of the Revised Statutes of the State of Texas of 1925, as now or hereafter amended.
- (b) *Extension of limits by election.* The city council shall have the power to order an election or elections for the purpose of annexing territory lying adjacent to the City of Jasper. Such order shall include the survey notes or the area sought to be annexed. The city council shall give notice of the date and place of balloting at such election by publication of the order in the official newspaper of the city at least thirty (30) days prior to the date on which such election is ordered. The residents of the City of Jasper and the territory sought to be annexed, who are qualified to vote for members of the state legislature, shall be qualified to vote at such election. The city council shall, at its next meeting, canvass the return of such election and if a majority of the votes cast at such election by the residents of Jasper, and if a majority of the votes cast at such election by the residents of said territory being considered for annexation, favor such annexation, the council shall declare the said territory annexed to the City of Jasper, and the boundary limits of the City of Jasper shall thereafter be extended and fixed so as to include such territory.
- (c) *Territory of unoccupied lands on petition of owners.* The owner or owners of any land which is without residents, or on which less than three (3) qualified voters reside, contiguous and adjacent to the city may, by petition in writing to the city council, request the annexation of such contiguous and adjacent land, describing it by metes and bounds. The city council shall thereafter, and not less than five (5) and not more than thirty (30) days after the filing of such petition hear such petition and the arguments for and against the same, and grant or refuse such petition as the city council may see fit. if the city council grants such petition, it may by proper ordinance receive and annex such territory as a part of the city.
- (d) *Annexation by any other method provided by law.* The city council may by ordinance annex territory lying adjacent to the city, with or without the consent of the inhabitants in such territory or the owners thereof, not inconsistent with the procedural rules prescribed by law applicable to cities operating under charters adopted or amended under Article XI, Section 5, of the Constitution of the State of Texas.
- (e) *Annexed territory to become part of the city.* Upon completion of any one (1) of the procedures hereinabove provided, the territory so annexed shall become a part of the city, and said land and its residents and future residents shall be entitled to all the rights and

privileges of other citizens of the city and shall be bound by the acts, ordinances, resolutions and regulations of the city.

Sec. 1.04. - Contraction of boundaries.

Whenever there exists within the corporate limits of the City of Jasper any territory not suitable or necessary for city purposes, which area must adjoin the outer boundaries of the city, the city council may, upon a petition signed by a majority of the qualified voters residing in such territory if the same be inhabited, or without any such petition if the same be uninhabited, by ordinance duly passed, discontinue said territory as a part of said city; said petition and ordinance shall specify accurately the metes and bounds of the territory sought to be eliminated from the city and shall contain a plat designating such territory so that the same can be definitely ascertained; and when said ordinance has been duly passed the same shall be entered upon the minutes and records of said city, and from and after the entry of such ordinance said territory shall cease to be a part of said city, but said territory shall still be liable for its pro rata share of any debts incurred while said area was a part of said city, and the city shall continue to levy, assess and collect taxes on the property within said territory to pay the indebtedness incurred while said area was a part of the city as though the same had not been excluded from the boundaries of the city.

ARTICLE II. - POWERS OF THE CITY

Sec. 2.01. - General.

The City of Jasper may use a corporate seal; may sue and be sued; may contract and be contracted with; may implead and be implead in all courts in all matters whatsoever; 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; and shall have all the powers granted 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 own or acquire property within or without its boundaries for any municipal purpose in fee simple or in any lesser interest or estate, by purchase, gift, devise, lease or condemnation and may sell, lease, hold, manage, control and police any property now owned by it or which it may hereafter acquire, and shall have the right to lease or let its property whether inside or outside of the city limits, subject to the limitations thereafter set out, and may construct, own, lease, operate and regulate public utilities, may assess, levy and collect taxes for general and special purposes on all lawful subjects of taxation; may borrow money on the faith and credit of the city by the issuance and sale of bonds, warrants or notes of the city; may appropriate the money of the city for all lawful purposes; may regulate and control the use, for whatever purpose, of the streets and other public places; may make and enforce all police, health, sanitary and other regulations; and may pass such ordinances as may be expedient for the protection and

maintenance of good government, peace and welfare of the city, for the performance of the functions thereof, for the order and security of its residents; and may provide suitable penalties for the violations of any ordinance enacted by the City of Jasper; and except as prohibited by the constitution and laws of this State or restricted by this charter, the city may exercise all municipal powers, functions, rights, privileges and immunities of every name and nature whatsoever.

Sec. 2.02. - General powers adopted.

The enumeration of the particular powers in this charter shall not be held or deemed to be exclusive but in addition to the powers enumerated herein or implied hereby or appropriate to the exercise of such powers, the city shall have and may exercise all power of local self-government and all other powers which, under the constitution and laws of the State of Texas, it would be competent for this charter specifically to enumerate. The City of Jasper shall have and may exercise all the powers enumerated in Article 1175, Chapter 13, Title 28, of the Revised Civil Statutes of the State of Texas of 1925 as now or hereafter amended.

Sec. 2.03. - Eminent domain.

The city shall have full power and right to exercise the power of eminent domain when necessary or desirable to carry out any of the powers conferred upon it by this charter or by the constitution and laws of the State of Texas. The city may exercise the power of eminent domain in any manner authorized or permitted by the constitution and laws of this state. The power of eminent domain hereby conferred shall include the right of the city to take the fee in land so condemned and such power and authority shall include the right to condemn public property for such purposes. The city shall have and possess the power of condemnation for any municipal or public purposes even though not specifically enumerated in this charter.

ARTICLE III. - THE CITY COUNCIL

Sec. 3.01. - Number, selection and term.

The legislative and governing body of the city shall be known as the "City Council of the City of Jasper" and shall consist of a mayor and five (5) councilmembers.

- (a) The mayor shall be elected by the qualified voters of the entire city and shall be the presiding officer of the city council and shall be recognized as the head of the city government for all ceremonial purposes and by the governor for purposes of military law. In the event of a tie vote, the mayor shall be entitled to vote on any matter under consideration by the city council.

- (b)

One (1) member of the city council shall be elected by the qualified voters of the entire city and four (4) councilmembers shall be elected from districts established by ordinance. The councilmember district for the entire city is designated as District Number Five. The Districts established by ordinance shall be designated as Districts One, Two, Three or Four and shall contain less than the entire area of the city. The boundary lines of a district established by ordinance shall not cross the boundary lines of another such district and one (1) councilmember shall be elected by the qualified resident voters of each such district. All qualified voters of the city shall be entitled to vote for one (1) candidate for mayor, one (1) candidate for councilmember in District Number Five, and one (1) candidate for councilmember in the district established by ordinance in which the voter resides.

- (c) A councilmember must reside in the district during his or her term of office. Failure to continuously reside within the district from which elected, other than as a result of a change resulting from realignment of council district boundaries, shall constitute immediate termination of office.
- (d) A mayor and five (5) councilmembers shall be elected at the regular city election in May, 1992. Thereafter, the mayor and two (2) councilmembers shall be elected each odd-numbered year and three (3) councilmembers shall be elected in each even-numbered year. The councilmembers elected in odd-numbered years shall be for Districts One and Two and the councilmembers elected in even-numbered years shall be for Districts Three, Four and Five.
- (e) The positions for the respective candidates shall be designated by place on the official ballot according to the following designations: Mayor, District One, District Two, District Three, District Four and District Five.
- (f) The mayor and each councilmember shall hold office for a period of two (2) years and until their successor is elected and qualified. All elections shall be held in the manner provided in Article Five of this Charter.
- (g) The members of the council and the mayor shall serve not more than five (5) consecutive two (2) year terms and shall be ineligible to succeed themselves for any successive term thereafter. A member shall be deemed to have served a two (2) year term if such member is elected at a regular city election and serves in such office for at least 365 days. A member shall not be considered as having served a two (2) year term if appointed or elected to fill a vacancy on the council. Service by the mayor or the members of the council prior to the May 2017 election shall be included in the number of terms counted toward the five (5) term limitation.

(Ord. No. 6-91-1, § 1, 6-10-91; Ord. No. 51517, § 3, 5-5-17)

Sec. 3.02. - Qualifications.

The mayor and each member of the city council shall have been a resident citizen of the City of Jasper for a period of not less than six (6) months immediately preceding the date of his or her election, shall be a qualified voter of the State of Texas, and shall not be indebted to the City of Jasper. A candidate for councilmember must have continuously resided within the district for which election is sought for a period of not less than six (6) months immediately preceding his or her election. Any person with the above qualifications, except their councilmember district residency having changed solely as a result of realignment of council district boundaries, shall be eligible for office. Any person with the above qualifications except as to residence, who shall have resided continuously for not less than one (1) year immediately preceding his or her election in territory not formerly within the corporate limits of the city but which territory is annexed and finally becomes a part of the corporate limits at least thirty (30) calendar days prior to the date of the election, shall be eligible for the office of mayor, councilmember in District Number Five or councilmember in the district to which his or her residence is annexed.

If the mayor or any councilmember fails to maintain the foregoing qualifications, or shall be absent from three (3) consecutive regularly scheduled council meetings without valid excuse, the city council may at its next regular meeting declare a vacancy to exist and shall fill said vacancy as set forth in section 3.06 of this Charter.

(Ord. No. 6-91-1, § 1, 6-10-91)

Sec. 3.03. - Council to be judge of election qualification.

The city council shall be the judge of the election and qualification of its own members and other elected officials of the city.

Sec. 3.04. - Compensation.

Neither the mayor nor councilmembers shall be paid compensation for serving in their capacity for the city.

(Ord. No. 11-00-1, 11-13-00)

Editor's note— At an election held on Nov. 7, 2000, the voters approved the prohibition of compensation paid to the mayor (Prop.1) and members of the council (Prop. 2) for service in their capacity for the city.

Sec. 3.05. - Mayor pro-tem.

The city council shall elect one (1) of its number mayor pro-tem. The mayor pro-tem shall be elected annually, at the first council meeting after the election of councilmembers, and shall perform the duties of the mayor in the absence or disability of the mayor.

(Ord. No. 6-91-1, § 1, 6-10-91)

Sec. 3.06. - Vacancies.

When a vacancy occurs in the city council, the remaining members of the council shall, within ten (10) days, appoint a qualified person to fill the unexpired term. However, the city council shall not appoint more than one (1) councilman in any twelve (12) months period, and in case a vacancy has been filled by the city council within twelve (12) months period to the subsequent vacancy, or if more than one (1) vacancy occurs at the same time or before a prior vacancy has been filled, the city council may call a special election within ten (10) days from the date the last vacancy occurred, to be held within forty-five (45) days thereafter, for the purpose of electing the successor or successors to the office or offices vacated.

Sec. 3.07. - Powers of the city council.

All powers of the city and the determination of all matters of policy shall be vested in the city council. Without limitation of the foregoing and among the other powers that may be exercised by the city council, the following are hereby enumerated for greater certainty:

- (a) Remove from any office or position of employment in the city government, any officer or employee or member of any board or commission.
- (b) Establish, consolidate or abolish administrative departments and distribute the work of divisions.
- (c) Adopt the budget of the city.
- (d) Authorize the issuance of bonds by a bond ordinance.
- (e) Inquire into the conduct of any office, department or agency of the city and make investigations as to municipal affairs.
- (f) Provide for such additional boards and commissions, not otherwise provided for in this charter, as may be deemed necessary, and appoint the members of all such boards and commissions. 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.
- (g) Adopt and modify the zoning plan and the building code of the city.
- (h) Adopt and modify the official map of the city.
- (i) Adopt, modify and carry out plans proposed by the planning commission for the clearance of slum districts and rehabilitation of blighted areas. Adopt, modify and carry out plans proposed by the planning commission for the replanning, improvement and redevelopment of any area or district which may have been destroyed in whole or in part by disaster.
- (k)

Regulate, license and fix the charges of fares made by any person, firm or corporation owning, operating or controlling any vehicle of any character used for the carrying of passengers for hire or the transportation of freight for hire on the public streets and alleys of the city.

- (l) Provide for the establishment and designation of fire limits and prescribe the kind and character of buildings or structures or improvements to be erected therein, and provide for the erection of fireproof buildings within said limits, and provide for the condemnation of dangerous structures or buildings or dilapidated [dilapidated] buildings, or buildings calculated to increase the fire hazard and prescribe the manner of their removal or destruction within said limits.
- (m) Fix the salaries and compensation of the city officers and employees.
- (n) Provide for a sanitary sewer and water system and require property owners to connect their premises with sewer system, and provide for penalties for failure to make sanitary sewer connections.
- (o) Provide for sanitary garbage disposal, and set fees and charges therefor, and provide penalties for failure to pay such fees and charges.
- (p) Provide for an electrical system and set fees and charge therefor and provide penalties for misuses of same.
- (q) Exercise exclusive domain, control and jurisdiction including the right to close and abandon streets and alleys in, upon, over and under the public streets, avenues, sidewalks, alleys, highways, boulevards and public grounds of the city and provide for improvement of same as provided in Article 1105b, Chapter 9, Title 28 of the Revised Civil Statutes of the State of Texas of 1925, as now or hereafter amended.
- (r) Compromise and settle any and all claims and lawsuits of every kind and character in favor of or against the City of Jasper.

Sec. 3.08. - City council not to interfere in appointments.

Neither the city council nor any of its members shall direct the appointment of any person to office by the city manager or by any of his subordinates. Except for the purpose of inquiry, the city council and its members shall deal with the administrative services solely through the city manager and neither the city council nor any member thereof shall give orders to any subordinate of the city manager, either publicly or privately.

Sec. 3.09. - Meetings of the city council.

The city council shall hold at least one (1) regular meeting in each month at a time to be fixed by it for such regular meetings, and may hold as many additional meetings during the months as may be necessary for the transaction of the business of the city and its citizens. All meetings of the city council shall be public

and shall be held at the city hall, except that the city council may designate another place for such meetings after publishing due notice thereof in one (1) issue of a newspaper in general circulation in the City of Jasper. The mayor or any two (2) members of the city council may call special meetings of the city council at any time.

Sec. 3.10. - Rules of procedure.

The city council shall determine its own rules of procedure and may compel the attendance of its members. The mayor and three (3) councilmen, or four (4) councilmen, including the mayor pro-tem, shall constitute a quorum to do business and the affirmative vote of a majority of those present shall be necessary to adopt any ordinance or resolution. Minutes of the proceedings of all meetings of the city council shall be kept, to which any citizen may have access at all reasonable times and which shall constitute one (1) of the archives of the city. The vote upon the passage of all ordinances and resolutions shall be taken by the "ayes" and "nays" and entered upon the minutes, and every ordinance or resolution, upon its final passage, shall be recorded in a book kept for that purpose under full caption, and shall be authenticated by the signature of the presiding officer and the person performing the duties of the city secretary.

Sec. 3.11. - Procedure for passage of ordinances.

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 become effective not less than ten (10) days from the date of its passage; subject to the provisions of Article VII 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 the caption or title, including the penalty, of any such ordinance to be published in official newspaper of the City of Jasper at least twice, consecutively, after the passage of said ordinance. He shall note on every ordinance, the caption of which is hereby required to be published, and on the record thereof, the fact that the 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 VII of this charter, it shall not be necessary to the validity of any ordinance that it shall be read more than one (1) time or considered at more than one (1) 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.

Sec. 3.12. - Official bonds for city employees.

The city manager and the city secretary and such other city officers and employees as the city council may require, shall, before entering upon the duties of their offices, enter into a good and sufficient fidelity bond in a sum to be determined by the city council, payable to the City of Jasper and conditioned upon the faithful discharge of the duties of such persons and upon the faithful accounting for all monies, credits, and things of value coming into the hands of such persons, and such bonds shall be signed as surety by some company authorized to do business under the laws of the State of Texas, and the premium on such bonds shall be paid by the City of Jasper, and such bonds must be acceptable to the city council.

Sec. 3.13. - Investigation by the city council.

The city council shall have power to inquire into the conduct of any office, department, agency, officer or employee 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 other 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 two hundred dollars (\$200.00).

Sec. 3.14. - Audit and examination of city books and accounts.

The city council shall cause an annual audit to be made of the books and accounts of each and every department of the city. At the close of each fiscal year a complete audit shall be made by a licensed public accountant, who shall be selected by the city council and such audit shall include a recapitulation of all audits made during the course of each fiscal year, and all audit reports shall be filed with the city council, shall be available for public inspection and shall be made a part of the archives of the city. Such accountant, so selected, shall not maintain or keep any of the city's accounts or records.

ARTICLE IV. - ADMINISTRATIVE SERVICES

Sec. 4.01. - City manager.

- (a) *Appointment and qualifications.* The city council shall appoint a city manager who shall be the chief administrative and executive officer of the city and shall be responsible to the city council for the administration of all the affairs of the city. He shall be chosen by the city council solely on the basis of his executive and administrative training, experience and ability, and need not, when appointed, be a resident of the City of Jasper. No member of the city council shall, during the time for which he is elected and for one (1) year thereafter, be appointed city manager.
- (b) *Term and salary.* The city manager shall not be appointed for a definite term but may be removed at the will and pleasure of the city council by a vote of the majority of the entire council. The action of the city council in suspending or removing the city manager shall be final, it being the intention of this charter to vest all authority and fix all responsibility of such suspension or removal in the city council. In case of the absence or disability of the city manager, the city council may designate some qualified person to perform the duties of the office during such absence or disability. The city manager shall receive compensation as may be fixed by the council.
- (c) *Duties of the city manager.*
 - (1) Appoint, and when necessary for the welfare of the city, remove any employee of the city, except as otherwise provided by this charter.
 - (2) Prepare the budget annually and submit it to the city council, and be responsible for its administration after adoption.
 - (3) Prepare and submit to the city council as of the end of the fiscal year a complete report of the finance and administrative activities of the city for the preceding year.
 - (4) Keep the city council advised of the financial condition and future needs of the city and make such recommendations as may seem desirable.
 - (5) Perform such duties as may be prescribed by this charter or may be required of him by the city council, not inconsistent with this charter.

Sec. 4.02. - Department of police.

There shall be established and maintained a department of police to preserve order within the city and to secure the residents of said city from violence and the property therein from injury or loss.

- (a) *Chief of police.* The chief of police shall be the chief administrative officer of the department of police. He shall, with the approval of the city council, appoint and remove the employees of said department and shall perform such duties as may be required of him by the city council. The chief of police shall be appointed by the city council. The chief of police shall be responsible to the city council for the administration of his department and the carrying out of the directives of the city council. He may be removed from office by the city council.
- (b)

Special police. No persons except as otherwise provided by general law or the charter or the ordinances passed pursuant thereto shall act as special police or special detective.

Sec. 4.03. - City secretary.

The city manager, with approval of the city council, shall appoint the city secretary and such assistant city secretaries as the city council shall deem advisable. The city secretary, or an assistant city secretary, shall give notice of council meetings, shall keep the minutes of the proceedings of such meetings, 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. 4.04. - Corporation [municipal] court.

- (a) There shall be established and maintained a court designated as a "Corporation [Municipal] Court" for the trial of misdemeanor offense, with all such powers and duties as are now or hereafter may be prescribed by laws of the State of Texas relative to Corporation [Municipal] or Recorder's Courts.
- (b) The judge of said court, a licensed attorney when available, shall be appointed by the city council and shall receive such salary as may be fixed by the city council.
- (c) The city secretary or an assistant city secretary shall be ex officio clerk of said court.
- (d) The clerk of said court and his deputies shall have the power to administer oaths and affidavits, make certificates, affix the seal of said court thereto, and generally do and perform any and all acts usual and necessary by the clerk of courts, in issuing process of said courts and conducting the business thereof.

Editor's note— The term Corporation Court has been changed by the State of Texas' Legislature to Municipal Court; thus the editor has bracketed the word "Municipal" where appropriate.

Sec. 4.05. - City attorney.

The city council shall appoint a competent and duly licensed attorney practicing law in the City of Jasper, Texas, who shall be the city attorney. He shall receive for his services such compensation as may be fixed by the city council and shall hold his office at the pleasure of the city council. The city attorney, or such other attorneys selected by him with the approval of the city council, shall represent the city in all litigation. He shall be the legal advisor of, and attorney and counsel for, the city and all officers and departments thereof.

Sec. 4.06. - Department of health and sanitation.

- (a) *Appointment and qualifications.* The city council shall appoint a city health officer who shall be a licensed physician qualified to practice medicine in the State of Texas and a resident of the City of Jasper. The city health officer shall be the director of the department of health and sanitation.
- (b) *Administration.* The city manager shall be responsible for the general administration of the department of health and sanitation and the supervision of the employees thereof.
- (c) *Duties of the health officer.* The city health officer shall advise with the city council on a program of public health; shall cooperate in the preparation of a sanitary code; shall cooperate with nearby cities on problems of health and sanitation; shall cooperate with the commissioners' court of Jasper County and its agencies, and with the State Health Department and other departments of the state government in matters pertaining to health and sanitation.

Sec. 4.07. - Department of taxation.

There shall be established a department of taxation to assess and collect taxes, the head of which shall be the city assessor-collector which office shall be filled by appointment by the city manager, with approval of the city council. The assessor-collector shall give a surety bond for faithful performance of his duties, including compliance with all controlling provisions of the state law bearing upon the functions of his office, in a sum which shall be fixed by the city council at not less than five thousand dollars (\$5,000.00).

Sec. 4.08. - Other departments.

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

ARTICLE V. - NOMINATIONS AND ELECTIONS

Sec. 5.01. - Elections.

The regular city election shall be held annually on the first Saturday in May, or on such other date nearest thereto as may be required by law, at which time officers will be elected to fill those offices becoming vacant that year. The city council shall designate the time and place for holding such election. The city council may order a special election, fix the time and place for holding same and provide all means for holding such special election. Notice of elections shall be provided in the absence of controlling state law by publishing notice once a week for two (2) consecutive weeks in a newspaper published in the City of Jasper, the first of such publications to be not less than thirty-eight (38) days prior to the date of the election. In the order, ordinance or resolution calling an election, the city council shall provide for a separate place on the ballot

for each vacancy to be filled at such election, designating such places as mayor, District Number One, District Number Two, District Number Three, District Number Four or District Number Five. In the event an unexpired term is to be filled at such election, the position to be filled for the unexpired term shall be so designated on the ballot.

(Ord. No. 6-91-1, § 1, 6-10-91)

Sec. 5.02. - Regulation of elections.

The city 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 the recount of ballots in case of doubt or fraud. Municipal elections shall be conducted by the appointed election authorities who shall also have power to make regulations not inconsistent with this charter or with any regulations made by the council or the laws of the State of Texas.

Sec. 5.03. - Filing for office.

Any person having the qualifications set forth for councilmember shall have the right to file an application to have his or her name placed on the official ballot as a candidate for mayor or councilmember. The filing with the city secretary not less than thirty (30) days prior to the date of election of a written application signed by such qualified candidate shall entitle such candidate to a place on the official ballot. Each such person filing application to have his or her name placed on the official ballot shall specify in the application the place for which he or she desires to become a candidate.

(Ord. No. 6-91-1, § 1, 6-10-91)

Sec. 5.04. - The official ballot.

The names of all candidates for office, except such as may have withdrawn, died or become ineligible, shall be printed on the official ballot without party designations in the order determined in a drawing of lots conducted by the city secretary. All official ballots shall be printed at least twenty (20) days prior to the date of any general or special election, and absentee voting shall be governed by the general election laws of the State of Texas.

Sec. 5.05. - Election by plurality.

At any regular or special election the candidates in each place on the ballot, including the candidate for mayor, who shall have received the greater number of votes cast in such election for such place (including the candidate for mayor who has received the greatest number of votes for such office) shall be declared

elected. In the event a tie vote makes it impossible to determine the winning candidate, the council shall cause to be held a runoff election between the tied candidates between thirty (30) and forty-five (45) days after said special or regular election.

Sec. 5.06. - Laws governing city elections.

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

Sec. 5.07. - Conducting and canvassing elections.

The election judges and other necessary election officials for conducting all such elections shall be appointed by the city council. The election judges shall conduct the elections, determine, record and report the results as provided by the general election laws of Texas. Within five (5) days or as soon as practical after an election, the city council shall meet, open the returns, canvass and officially declare the results of the election as to candidates and questions and issue certificates of election to candidates elected as hereinbefore provided.

Sec. 5.08. - 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 Jasper, 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 or indirectly paid, offered, or promised to pay, contributed, nor promised to contribute any money or valuable things, 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."

ARTICLE VI. - RECALL OF OFFICERS

Sec. 6.01. - Scope of recall.

Any elective city official, whether elected to office by the qualified voters of the city or appointed by the city council to fill a vacancy, shall be subject to recall and removal from office by the qualified voters of the city on grounds of incompetency, misconduct or malfeasance in office.

Sec. 6.02. - Petitions for recall.

Before the question of recall of such officer shall be submitted to the qualified voters of the city, a petition demanding such question to be so submitted shall first be filed with the person performing the duties of city secretary; which said petition shall be signed by qualified voters of the city equal in number to at least thirty (30) percent of the number of votes cast at the last regular municipal election of the city, but in no event less than one hundred fifty (150) such petitioners. Each signer of such recall petition shall personally sign his name thereto in ink or indelible pencil, and shall write after his name his place of residence, giving name of street and number, or place of residence, and shall also write thereon the day, the month and year his signature was affixed.

Sec. 6.03. - Form of recall petition.

The recall petition mentioned above must be addressed to the city council of the City of Jasper, must distinctly and specifically point out the grounds upon which such petition for removal is predicated, and, if there be more than one (1) ground, such as for incompetency, misconduct or malfeasance in office, shall specifically state each ground with such certainty as to give the officer sought to be removed, notice of the matters and things with which he is charged. The signature shall be verified by oath in the following form:

"STATE OF TEXAS)
COUNTY OF JASPER)

I, _____, being first duly sworn, on oath depose and say that I am one of the signers of the above petition; and that the statements made therein are true, and that each signature appearing thereto was made in my presence on the day and date it purports to have been made, and I solemnly swear that the same is the genuine signature of the person whose name it purports to be.

Sworn and subscribed to before me this _____ day of _____, 19____.

Notary Public in and for Jasper County, Texas."

Sec. 6.04. - Various papers constituting petition.

The petition may consist of one (1) or more copies, or subscription lists, circulated separately, and the signatures thereto may be upon the paper or papers containing the form of petition, or upon other papers attached thereto. Verifications provided for in the next preceding section of this article may be made by one (1) or more petitioners, and the several parts of copies of the petition may be filed separately and by different persons; but no signatures to such petition shall remain effective or be counted which were placed thereon more than forty-five (45) days prior to the filing of such petition or petitions with the person

performing the duties of city secretary. All papers comprising a recall petition shall be filed with the person performing the duties of city secretary on the same day, and the said secretary shall immediately notify, in writing, the officer so sought to be removed, by mailing such notice to his Jasper address.

Sec. 6.05. - Presentation of petition to city council.

Within five (5) days after the date of the filing of the papers constituting the recall petition, the person performing the duties of city secretary shall present such petition to the city council of the City of Jasper.

Sec. 6.06. - Public hearing to be held.

The officer whose removal is sought may, within five (5) days after such recall petition has been presented to the city council, request that a public hearing be held to permit him to present facts pertinent to the charges specified in the recall petition. In this event, the city council shall order such public hearing to be held, not less than five (5) days nor more than fifteen (15) days after receiving such request for a public hearing.

Sec. 6.07. - Election to be called.

If the officer whose removal is sought does not resign then it shall become the duty of the city council to order an election and fix a date for holding such recall election, the date of which election shall be not less than twenty-five (25) nor more than thirty-five (35) days from the date such petition was presented to the city council, or from the date of the public hearing if one (1) was held.

Sec. 6.08. - Ballots in recall election.

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

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

"Shall (name of person) be removed from the office of (name of office) by recall?"

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

"YES"

"NO"

Sec. 6.09. - Results of recall election.

If a majority of the votes cast at a recall election shall be "NO" that is against the recall of the person 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 "YES" that is for the recall of the person named

on the ballot, he shall be deemed removed from office and the vacancy be filled as vacancies in the city council are filled, as provided in section 3.06 of this charter.

Sec. 6.10. - Recall, restrictions thereon.

No recall petition shall be filed against any officer of the City of Jasper within three (3) months after his election, nor within three (3) months after an election for such officer's recall.

Sec. 6.11. - Failure of city council to call an election.

In case all of the requirements of this charter shall have been met and the city council shall fail or refuse to receive the recall petition, or order such recall election, or discharge any other duties imposed upon said city council by the provisions of this charter with reference to such recall, then the county judge of Jasper County, Texas, shall discharge any of such duties herein provided to be discharged by the person performing the duties of city secretary or by the city council.

ARTICLE VII. - LEGISLATION BY THE PEOPLE: INITIATIVE AND REFERENDUM

Sec. 7.01. - General power.

The qualified voters of the City of Jasper, in addition to the method of legislation hereinbefore provided, shall have the power of direct legislation by the initiative and referendum.

Sec. 7.02. - Initiative.

Qualified voters of the City of Jasper may initiate legislation by submitting a petition addressed to the city council which request the submission of a proposed ordinance or resolution to a vote of the qualified voters of the city. Said petition must be signed by qualified voters of the city equal in number to twenty (20) percent of the number of votes cast at the last regular municipal election of the city, or one hundred fifty (150), whichever is greater, and each copy of the petition shall have attached to it a copy of the proposed legislation. The petition shall be signed in the same manner as recall petitions are signed, as provided in section 6.02 of this charter, and shall be verified by oath in the manner and form provided for recall petitions in section 6.03 of this charter. The petition may consist of one (1) or more copies as permitted for recall petitions in section 6.04 of this charter.

Such petition shall be filed with the person performing the duties of city secretary. Within five (5) days after the filing of such petition, the person performing the duties of city secretary shall present said petition and proposed ordinance or resolution to the city council. Upon presentation to it of the petition and draft of the proposed ordinance or resolution, it shall become the duty of the city council, within ten (10) days after the receipt thereof, to pass and adopt such ordinance or resolution without alteration as to meaning or

effect in the opinion of the persons filing the petition, or to call a special election, to be held within thirty (30) days thereafter, at which the qualified voters of the City of Jasper shall vote on the question of adopting or rejecting the proposed legislation. However, if any other municipal election is to be held within sixty (60) days after the filing of the petition, the question may be voted on at such election.

Sec. 7.03. - Referendum.

Qualified voters of the City of Jasper may require that any ordinances or resolution, with the exception of ordinances or resolutions levying taxes, passed by the city council be submitted to the voters of the city for approval or disapproval, by submitting a petition for this purpose within thirty (30) days after final passage of said ordinance or resolution, or within thirty (30) days after its publication. Said petition shall be addressed, prepared, signed and verified as required for petitions initiating legislation as provided in section 7.02 of this charter and shall be submitted to the person performing the duties of city secretary. Immediately upon the filing of such petition, the person performing the duties of city secretary shall present said petition to the city council. Thereupon the city council shall immediately reconsider such ordinance or resolution and, if it does not entirely repeal the same, shall submit it to popular vote as provided in section 7.02 of this charter. Pending the holding of such election, such ordinance or resolution shall be suspended from taking effect and shall not later take effect unless a majority of the qualified voters voting thereon at such election shall vote in favor thereof.

Sec. 7.04. - Voluntary submission of legislation by the council.

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

Sec. 7.05. - Form of ballots.

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

"FOR the ORDINANCE," and

"AGAINST the ORDINANCE," or

"FOR the RESOLUTION," and

"AGAINST the RESOLUTION."

Sec. 7.06. - Publication of proposed and referred ordinances.

The person performing the duties of city secretary shall publish at least once in the newspaper of the city the proposed or referred ordinance or resolution within fifteen (15) days before the date of the election, and shall give such other notices and do such other things relative to such election as are required in general municipal elections or by the ordinance or resolution calling said election.

Sec. 7.07. - Adoption of ordinances.

If a majority of the qualified voters voting on any proposed ordinance or resolution or measure shall vote in favor thereof, it shall thereupon, or at any time fixed therein, become effective as a law or as a mandatory order to the city council.

Sec. 7.08. - Inconsistent ordinances.

If the provisions of two (2) or more proposed ordinances or resolutions approved at the same election are inconsistent, the ordinances or resolutions receiving the highest number of votes shall prevail.

Sec. 7.09. - Ordinances passed by popular vote, repeal or amendment.

No ordinance or resolution which may have been passed by the city council upon a petition or adopted by popular vote under the provisions of this article shall be repealed or amended except by the city council in response to a referendum petition or by submission as provided in section 7.04 of this charter.

Sec. 7.10. - Further regulations by city council.

The city council may pass ordinances or resolutions providing other and further regulations for carrying out the provisions of this article consistent herewith.

Sec. 7.11. - Franchise ordinances.

Nothing contained in this article shall be construed to be in conflict with any of the provisions of Article X of this charter, pertaining to ordinances granting franchises when valuable rights shall have accrued thereunder.

ARTICLE VIII. - MUNICIPAL PLANNING AND ZONING

Sec. 8.01. - Master plan.

The city council shall adopt and perpetuate a master plan for the orderly growth of the city and the well being of its citizens. Such plan shall be the responsibility of the city council, administered by the city manager, shall be reviewed annually, have a place in the budget, and kept up-to-date by being revised when necessary, in accordance with the provisions of section 8.02.

Sec. 8.02. - Planning commission.

The city council may appoint a city planning commission consisting of six (6) members who shall be residents of the City of Jasper, shall serve without compensation, and shall not hold any other position in the city government.

- (a) *Term of office.* Of the six (6) members first appointed, three (3) shall be appointed to serve one (1) year and three (3) to serve two (2) years. Thereafter, three (3) members shall be appointed within thirty (30) days after each regular city election to serve a term of two (2) years.
- (b) *Rules of procedure.* The commission shall elect, annually, one (1) of its number chairman, and shall establish its own rules of procedure which shall include the following: A quorum shall consist of a majority of the members of the commission and an affirmative vote of a majority of those present shall be necessary to pass upon pending questions, the chairman being entitled to vote upon any question. All meetings shall be open to the public and a record of all proceedings shall be kept, which record shall be filed by the person performing the duties of the city secretary and shall be a public record.
- (c) *Vacancies.* Membership on the planning commission shall be accompanied by active participation in the activities of the commission, and any member who is absent from three (3) consecutive meetings of the commission without valid excuse, as determined by the commission, shall automatically be dismissed from membership. The commission shall at once notify the city council that a vacancy in the planning commission exists. Vacancies occurring in the commission, for whatever reason, shall be filled within thirty (30) days by appointment by the city council for the remainder of the unexpired term.
- (d) *Powers and duties.* The commission shall have the power and shall be required to:
 - (1) Make, amend, extend and add to the master plan for the physical development of the city.
 - (2) Approve or disapprove plats of proposed subdivisions submitted in accordance with Article 974a of the Revised Civil Statutes of Texas, as now or hereafter amended. In considering such plats, the planning commission shall require that the proposed subdivisions shall meet, so far as is practicable, all the standards of layout and street and sidewalk construction on comparable property within corporate limits of the City of Jasper, and shall further require that restrictions be placed on the property which are consistent with restrictions on

comparable property within the City of Jasper. Upon approving such plats, and before they are released for recording, the planning commission shall submit all copies of the approved plats to the city council for inspection.

- (3) Draft, and recommend to the city council for adoption, an official map of the city and recommend or disapprove proposed changes in such map.
 - (4) Make, and recommend to the city council for adoption, a zoning plan and recommend or disapprove proposed changes in such plan.
 - (5) Make, and recommend to the city council for adoption, plans for the clearance and rebuilding of slum districts and blighted areas which may develop within the city.
 - (6) Compile, and recommend to the city council for adoption, a building code, which shall include the minimum standards of construction for buildings, the minimum standards for plumbing, and the minimum standards for wiring.
 - (7) Submit annually to the city manager, not less than ninety (90) days prior to the beginning of the budget year a list of recommendations for capital improvements which, in the opinion of the commission, are necessary or desirable to be constructed during the forthcoming five (5) years. Such list shall be arranged in order of preference, with recommendations as to which projects shall be constructed in each year.
 - (8) Meet not less than once each month; meetings to be held at the city hall unless prior notice of change of meeting place be given by publication in a newspaper in general circulation in the City of Jasper.
 - (9) Perform such other duties and be vested with such other powers as the city council shall from time to time prescribe.
- (e) *Liaison with city council.* The city manager or his representative shall attend the meetings of the planning commission and shall serve as liaison between the planning commission and the city council.

Sec. 8.03. - Zoning board of adjustment.

The city council shall appoint a zoning board of adjustment of five (5) members who shall be citizens of the City of Jasper, shall be appointed to serve for a term of two (2) years, shall adopt rules in accordance with the zoning ordinance of the city, shall select one (1) of their number chairman and shall meet at the call of said chairman and at such other times as the board may determine. All meetings of such board shall be open to the public and minutes shall be kept of all proceedings, showing the vote of each member present upon every question. The board shall have all powers granted in Articles 1011a through 1011j of the Revised Civil Statutes of the State of Texas as now or hereafter amended, which shall include the power to hear and determine appeals from refusal of building permits, and to permit exceptions to or variations from the zoning regulations in classes of cases or situations in accordance with the principles, conditions and

procedure specified in the zoning ordinance. Of the number first appointed to the zoning board of adjustment, three (3) members shall be appointed to serve one (1) year and two (2) to serve two (2) years. Thereafter three (3) members shall be appointed in each even-numbered year, and two (2) members shall be appointed in each odd-numbered year.

ARTICLE IX. - MUNICIPAL FINANCE

Sec. 9.01. - Fiscal year.

The fiscal year of the City of Jasper shall begin on the first day of October and shall end on the last day of September of each calendar year. Such fiscal year shall also constitute the budget and accounting year.

Sec. 9.02. - Preparation and submission of budget.

The city manager, between sixty (60) and ninety (90) days prior to the beginning of each fiscal year, shall submit to the council a proposed budget, which budget shall provide a complete financial plan for the fiscal year, and shall contain the following:

- (a) A budget message, explanatory of the budget, which message shall contain an outline of the proposed financial policies of the city for the fiscal year, and 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.
- (b) A consolidated statement of anticipated receipts and proposed expenditures for all funds.
- (c) An analysis of property valuations.
- (d) An analysis of tax rate.
- (e) Tax levies and tax collections by years for at least five (5) years.
- (f) General fund resources in detail.
- (g) Special fund resources in detail.
- (h) Summary of proposed expenditures by function, department, and activity.
- (i) Detailed estimates of expenditures shown separately for each activity to support summary subsection (h) above.
- (j) A revenue and expense statement for all types of bonds.
- (k) A description of all bond issues outstanding, showing rate of interest, date of issue, maturity date, amount authorized, amount issued and amount outstanding.
- (l) A schedule of requirements for the principal and interest of each issue of bonds.
- (m) The appropriation ordinance.
- (n)

The tax levying ordinance.

Sec. 9.03. - Anticipated revenues compared with other years in budget.

In preparing the budget, the city manager shall 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 year, and the proposed amount for the ensuing fiscal year.

Sec. 9.04. - Proposed expenditures compared with other years.

The city manager in the preparation of the budget shall place in parallel columns opposite the various items of expenditures: the actual amount of such items of expenditures for the last completed fiscal year, the estimated amount for the current fiscal year and the proposed amount for the ensuing fiscal year.

Sec. 9.05. - Budget a public record.

The budget and all supporting schedules shall be filed with the person performing the duties of city secretary, submitted to the city council and shall be a public record. The city manager shall provide copies for distribution to all interested persons.

Sec. 9.06. - Notice of public hearing on budget.

At the meeting of the city council at which the budget is submitted, the city 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 the City of Jasper, a notice of the hearing setting forth the time and place thereof at least fourteen (14) days before the date of such hearing.

Sec. 9.07. - Public hearing on budget.

At the time and place set forth in the notice required by section 9.06, or at any time and place to which such public hearing shall from time to time be adjourned, the city 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. 9.08. - Vote required for adoption.

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

Sec. 9.09. - Date of final adoption.

The budget shall be finally adopted not later than fifteen (15) days prior to the beginning of the fiscal year, and should the city council fail to so adopt a budget, the then existing budget together with its tax-levying ordinance and its appropriation ordinance, shall be deemed adopted for the ensuing fiscal year.

Sec. 9.10. - Effective date of budget; certification; copies made available.

Upon 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 person performing the duties of city secretary, the county clerk of Jasper County and the State Comptroller of Public Accounts in Austin. The final budget shall be printed, mimeographed or otherwise reproduced and 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. 9.11. - 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. 9.12. - Budget establishes 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; provided however, that in no event shall such levy exceed the legal limit provided by the laws and Constitution of the State of Texas.

Sec. 9.13. - Contingent appropriation.

Provision shall be made in the annual budget and in the appropriation ordinance for a contingent appropriation in an amount not more than three (3) per centum of the total budget, to be used in case of unforeseen items of expenditure. Such contingent appropriation shall be under the control of the city manager and distributed by him, after approval of the city council. Expenditures from this appropriation shall be made only in case of established emergencies and a detailed account of such expenditures shall be recorded and reported.

Sec. 9.14. - 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 Governmental Accounting or some other nationally accepted

classification.

Sec. 9.15. - Other necessary appropriations.

The city budget may be amended and appropriations altered in accordance therewith in cases of public necessity, the actual fact of which shall have been declared by the city council.

Sec. 9.16. - Power to tax.

The city council shall have the power under the provisions of the state law to levy, assess and collect an annual tax upon real and personal property within the city to the maximum provided by the Constitution and general laws of the State of Texas. The city council shall also have the power to levy occupation taxes on such occupations as consistent with the general laws of the State of Texas.

Sec. 9.17. - Property subject to tax; method of assessment.

All real and personal property within the City of Jasper not expressly exempted by law, shall be subject to annual taxation. On or before the thirty-first day of January each year, the city assessor-collector shall make available to each owner of property within the city, a tax rendition form, on which form such property owner shall state the value of his property computed in a manner prescribed by the city council, and shall return said form to the city assessor-collector before the first day of May of that year. in all cases of failure to obtain a statement of real and personal property from any cause, the assessor-collector shall ascertain the amount and value of such property and may assess the same as he believes to be the true value thereof; and such assessment shall be as valid and binding as if such property had been rendered by the owner thereto.

Editor's note— The above section is superseded by V.T.C.A. Tax Code, § 21.01 et seq.

Sec. 9.18. - Board of equalization; appointment; qualifications.

Each year the city council shall appoint no fewer than three (3) nor more than five (5) persons who shall be qualified voters and real property owners in the City of Jasper as the board of equalization. At the same meeting that the city council appoints such board it shall fix the time of the first meeting of the board, which shall be not later than the first day of July. Members of the board while serving shall receive such compensation as may be provided for them by the city council. Members of the city council shall not be prohibited from serving on such board.

Editor's note— The above section is superseded by V.T.C.A. Tax Code, § 41-01 et seq.

Sec. 9-19. - Powers of board of equalization.

The board of equalization shall have the power to:

- (a) Elect a chairman from its membership;
- (b) Adopt regulations regarding the procedure of assessment review;
- (c) After its first meeting, reconvene and adjourn from time to time;
- (d) 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 tax assessor-collector;
- (e) Hold hearings, administer oaths and take testimony;
- (f) 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.

Editor's note— The above section is superseded by V.T.C.A. Tax Code, § 41.01 et seq.

Sec. 9.20. - Duties of the board of equalization.

The board of equalization shall, at its first meeting, elect a chairman from its membership and determine its rules of procedure. It shall then be the duty of the board to:

- (a) Examine and, if necessary, revise the assessments as presented by the city tax assessor-collector, to the end that all property within the city shall be assessed as fairly and uniformly as possible;
- (b) Hold as many hearings as may be necessary to hear and determine the complaint of any persons in relation to the assessment roll;
- (c) Make such adjustments in the assessment roll as it may determine to be necessary.

Whenever the board of equalization shall find it their duty to raise the value of any property appearing on the lists or books of the assessor-collector, it shall, after having examined such lists and books and corrected all errors appearing therein, adjourn to a day not less than ten (10) nor more than fifteen (15) days from the date of adjournment and shall cause the secretary of said board to give written notice to the owner of said property or to the person rendering same, of the time to which the 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 U.S. Government Post Office at Jasper, Texas.

Editor's note— The above section is superseded by V.T.C.A. Tax Code, § 41.01 et seq.

Sec. 9.21. - Records of board of equalization.

The board shall be required to keep an accurate record of all its proceedings which shall be available for public inspection. Immediately upon completion of its work, the board shall certify its approval of the assessment rolls which shall be returned to the city council, which shall in turn 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.

Editor's note— The above section is superseded by V.T.C.A. Tax Code, § 41.01 et seq.

Sec. 9.22. - Taxes; when due and payable.

All taxes due the City of Jasper 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 1.

Taxes shall be paid before February 1, and all such taxes not paid prior to such date shall be deemed delinquent, and shall be subject to such penalty and interest as the city council may provide by ordinance.

The city council may provide further by ordinance that all taxes, either current or delinquent, due the City of Jasper may be paid in installments.

Failure to levy and assess taxes through omission in preparation of the approved tax roll shall not relieve the person, firm or corporation so omitted from obligation to pay such current or past-due taxes as shown to be payable by recheck of the rolls and receipts for the years in question.

Editor's note— The above section is superseded by V.T.C.A. Tax Code, § 31.01 et seq.

Sec. 9.23. - Tax liens.

The tax levied by the city is hereby declared to be a lien, charge or encumbrance upon the property as of January 1 upon which the tax is due, which lien, charge or encumbrance the city is entitled to enforce and foreclose in any court having jurisdiction over the same, and the lien, charge or encumbrance on the property is such as to give the state courts jurisdiction to enforce and foreclose said lien on the property on which the tax is due, not only as against any resident of this state or person whose residence is unknown, but also as against nonresidents. All taxes upon real estate shall especially be a lien and a charge upon the property which the taxes are due, which lien may be foreclosed in any court having jurisdiction. 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.

Editor's note— The above section is superseded by V.T.C.A. Tax Code, § 32.01 et seq.

Sec. 9.24. - Issuance of bonds.

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 taxpaying 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.

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 bond 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 bond 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, mortgage, bond or document desired or necessary for the issuance of revenue bonds and the acquisition and operation of any such property or interest.

ARTICLE X. - FRANCHISE AND PUBLIC UTILITIES

Footnotes:

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Annotation—Where a utility in carrying out business of supplying the city and its inhabitants with electricity was acting under county franchise granted prior to the incorporation of the city, and there was no agreement between the utility and the city with respect to the right to do business within the city, any right of utility to the use of city streets and alleys was revocable by the city within a reasonable time. City of Jasper v. Gulf States Utilities Co., 189S.W.2d, 693.

Sec. 10.01. - Power of the city.

In addition to the city's power to buy, construct, lease, maintain, operate and regulate public utilities and to manufacture, distribute and sell the output of such utility operations, the city shall have further powers as may now or hereafter be granted under the Constitution and laws of the State of Texas.

Sec. 10.02. - Franchise; power of city council.

The city council shall have power by ordinance to grant, amend, renew and extend, all franchises of all public utilities of every character operating within the City of Jasper. All ordinances granting, amending, renewing, or extending franchises for public utilities shall be read at two (2) separate regular meetings of the city council, and shall not be finally passed until thirty (30) days after the first reading; and no such ordinance shall take effect until thirty (30) days after its final passage; and pending such time, the full text of such ordinance shall be published once each week for four (4) consecutive weeks in the official newspaper

of the City of Jasper, and the expense of such publication shall be borne by the proponent of the franchise. No public utility franchise shall be granted for a term of more than twenty (20) years nor be transferable except with the approval of the city council expressed by ordinance.

Sec. 10.03. - Franchise value not to be allowed.

No value shall be assigned to any franchise granted by the City of Jasper under this charter in fixing reasonable rates and charges for utility service within the city and in determining the just compensation to be paid by the city for public utility property which the city may acquire by condemnation or otherwise.

Sec. 10.04. - Right of regulation.

All grants, removals, extensions, or amendment of public utility franchises, whether it be so provided in the ordinance or not, shall be subject to the right and control of the city council of the City of Jasper:

- (a) To repeal the same ordinance at any time upon the failure of the grantee to comply with any provision of the ordinance, the franchise, the charter of the City of Jasper, any applicable statute of the State of Texas or the rule of any applicable governmental body;
- (b) To require proper and adequate extension of plant and service, and the maintenance of the plant and fixtures at the highest reasonable standard of efficiency;
- (c) To establish reasonable standards of service and quality of products and prevent unjust discrimination in service or rates;
- (d) At any time to examine and audit the accounts and other records of any such utility and to require annual and other reports, including reports on operations within the City of Jasper;
- (e) To impose such reasonable regulations and restrictions as may be deemed desirable or conducive to the safety, welfare, and accommodation of the public;
- (f) To require such compensation and rental as may be permitted by the laws of the State of Texas.

Sec. 10.05. - Grant not to be exclusive.

No grant or franchise to construct, maintain or operate a public utility and no renewal or extension of such grant shall be exclusive.

Sec. 10.06. - 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. 10.07. - Extensions.

All extensions of public utilities within the city limits shall become a part of the aggregate property of the utility, shall be operated as such, and shall be subject to all the obligations and reserved rights contained in this charter and in any original grant hereafter made. The right to use and maintain any extension shall terminate with the original grant and shall be terminable as provided in section 10.04 of this charter. In case of an extension of a public utility operated under a franchise hereafter granted, such right shall be terminable at the same time and under the same conditions as the original grant.

Sec. 10.08. - Other conditions.

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

Sec. 10.09. - Accounts of municipally-owned utilities.

Accounts shall be kept for each public utility owned or operated by the city, in such manner as to show the true and complete financial results of such city ownership and operation, including all assets and all liabilities, appropriately subdivided by classes, depreciation reserve, other reserves and surplus; also revenues, operating expenses including depreciation, interest payments, rental, and other disposition of annual income. The accounts shall show actual capital cost to the city of each public utility owned, also the cost of all extension, additions, and improvements and the source of funds expended for such capital purposes. They shall show as nearly as possible the cost of any service furnished to or rendered by any such utility to any city government department. The city council shall cause an annual report to be made by a licensed public accountant and shall publish such report showing the financial results of such city ownership and operation, giving the information specified in this section and such other data as the city council shall deem expedient.

Sec. 10.10. - Sales of electricity, water and sewer services.

- (a) The city council shall have the power and authority to sell and distribute electricity and water and to sell and provide for sewer services and any other utilities to any person firm or corporation outside the limits of the City of Jasper, and to permit them to connect with said system under contract with the city, under such terms and conditions as may appear to be for the best interest of the city; provided the charges fixed for such services outside the city limits shall be reasonable when considered in the light of all circumstances, to be determined by the city council.
- (b) The city council shall have the power and authority to prescribe the kind of materials used within or beyond the limits of the City of Jasper where it furnishes the service, and to inspect the same and require them to be kept in good order and condition at all times and to make such rules and regulations as shall be necessary and proper, and prescribe penalties for noncompliance with same.

Sec. 10.11. - Regulation of rates and services.

The city council shall have the power, after due notice and hearing, to regulate by ordinance the rates and services of every public utility operating in the City of Jasper; and shall have power to employ at the expense of the grantee, expert assistance and advice in determining a reasonable rate and equitable profit to the grantee.

Sec. 10.12. - Sale of municipally-owned utilities.

The city council shall not sell municipally-owned utilities without approval of two-thirds of the qualified voters of the City of Jasper voting at an election called for such specific purpose.

Sec. 10.13. - Regulation of rates of municipally-owned utilities.

The City of Jasper shall not charge more than ten percent (10%) above the cost of any utility it provides to its customers.

(Ord. No. 05-10-22, § 1, 5-10-22)

ARTICLE XI. - GENERAL PROVISIONS

Sec. 11.01. - Publicity of records.

All records and accounts of every office, department, or agency of the city shall be open to inspection by any citizen or by any representative of the press at all reasonable times and under such reasonable regulations as may be established by the city council or the mayor, except records and documents the

disclosure of which would tend to defeat the lawful purpose which they are intended to accomplish.

Sec. 11.02. - Personal interest.

No officer or employee of the city shall have a financial interest, direct or indirect, in any contract with the city, nor shall be financially interested, directly or indirectly, in the sale to the city of any land, or rights or interest in any land, materials, supplies or service. The above provision shall not apply where the interest is represented by ownership of stock in a corporation involved, provided such stock ownership amounts to less than one (1) percent of the corporation stock. Any violation of this section shall constitute malfeasance in office, and any officer or employee of the city found guilty thereof shall thereby forfeit his office or position. Any violation of this section with the knowledge, express or implied, of the person or corporation contracting with the city shall render the contract voidable by the city manager or the city council.

Sec. 11.03. - Nepotism.

No person related within the second degree by affinity, or within the third degree by consanguinity to any elected officer of the city, or to the city manager, shall be appointed to any office, position or clerkship or other service of the city, in accordance with the provisions of Article 432, Texas Penal Code.

Sec. 11.04. - 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 or execution or cost bill. 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. 11.05. - 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 Jasper is a party, for any bond, undertaking, or security to be demanded or executed by or on 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 had been given as required by law.

Sec. 11.06. - Special provisions covering damage suit.

Before the city shall be liable to damage claim or suit for personal injury, or damage to property, the person who is injured or whose property is damaged or someone in behalf shall give the city manager or the person performing the duties of city secretary, notice in writing after the occurrence of the alleged injury, or

damage, stating specifically in such notice when, where and how the injury or damage was sustained, and setting forth the extent of the injury or damage as accurately as possible No action at law for damages shall be brought against the city for personal injury or damage to property prior to the expiration of thirty (30) days after the notice hereinbefore described has been filed with the city manager or the person performing the duties of city secretary, not later than thirty (30) days after the occurrence of the injury or damage to property. In case of injury resulting in death, before the city shall be liable in damages therefor the person or persons claiming such damages shall after the death of the injured person give notice as above required in case of personal injury. provided, however, that nothing herein contained shall be construed to mean that the City of Jasper waives any rights, privileges, defenses or immunities in tort actions which are provided under the common law, the Constitution and general laws of the State of Texas.

Sec. 11.07. - Separability clause.

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 to the extent 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. 11.08. - Effect of this charter on existing law.

All ordinances, resolutions, rules, and regulations now in force under the city government of Jasper 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 Jasper under existing franchises and contracts are preserved in full force and effect to the City of Jasper.

Sec. 11.09. - Interim municipal government.

From and after the date of the adoption of this charter, the persons then filling elective offices which are retained under this charter will continue to fill those offices for the terms to which they were elected. At the first regular city election after the adoption of this chapter, a mayor and two (2) councilmen shall be elected, and shall serve terms of two (2) years. Thereafter, the city council shall be elected as provided in section 3.01 of this charter. Persons, who on the date this charter is adopted are filling appointive positions with the City of Jasper which are retained under this charter, may continue to fill these positions for the term for which they were appointed.

Sec. 11.10. - Applicability of general laws.

The Constitution of the State of Texas, the statutes of said state applicable to home-ruled municipal corporations, as now or hereafter enacted, this charter and ordinances enacted pursuant thereto shall, in the order mentioned, be applicable to the City of Jasper, but the city shall also have the power to exercise any and all powers conferred by the laws of the State of Texas upon any other kind of city, town or village, not contrary to the provisions of said home-rule statutes, charter and ordinances, but the exercise of any such powers by the City of Jasper shall be optional with it, and it shall not be required to conform to the law governing any other cities, towns or villages unless and until by ordinance it adopts same.

Sec. 11.11. - Amending the charter.

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

Sec. 11.12. - Charter review commission.

The city council may appoint a charter review commission of five (5) citizens of the City of Jasper.