

## Charter Amendment Propositions November 2019

### Explanation of Proposition No. 1:

The current City Charter uses inconsistent terminology regarding the title to the top chief operating officer of the City, the City Manager, sometimes referring to the position as “City Manager” and sometimes “City Administrator.” The term City Manager is used in most ordinances of the City. The current City Charter uses inconsistent terminology regarding the title given to the City’s governing body, the City Council, sometimes referring to the City Council as the “City Commission” and City Council members as “Commissioners.” This proposition, if passed, will correct that.

### Proposition No. 1:

Shall the City of Ballinger amend the City Charter of the City of Ballinger throughout to correct non-substantive errors such as misspellings, punctuation, spacing, indenting, grammar and sentence structure, to clarify meanings of terms and use consistent terminology, including changing all references to “city administrator” to “city manager” and all references to the “City Commission” to the “City Council” and “commissioners” to “city council members”?

### Explanation of Proposition No. 2:

The current City Charter, which was adopted in 1963, has a number of Charter provisions which no longer comply with State and/or Federal laws. This proposition, if passed, will bring those provisions in compliance with applicable laws.

### Proposition No. 2:

Shall the City of Ballinger amend the following sections of the City Charter of the City of Ballinger to adhere to state and/or federal law? Article 2, Section 2.02(d); Article 3, Sections 3.04 and 3.07(a); Article 4, Section 4.05(c); Article 5, Section 5.02(c); and Article 6, Section 6.08.

The proposed revisions to the Charter are as follows:

2.02(d) The City of Ballinger shall never be liable for personal injury or property damages of any kind unless within ~~one hundred and eighty (180) thirty~~ days after the occurrence thereof a notice in writing by or on behalf of the person injured or claiming damages is delivered to the city administrator stating specifically and accurately in complete detail the time, the place and the manner of occurrence of the exact injury or damages, the full extent thereof, the basis of the claim and the amount of damages claimed or asserted. In case of injuries resulting in death, before the city shall be liable in damages therefor, the person, or the persons, claiming such damages shall after the death of the injured person give notice as above required in case of personal injury.

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

city election when such vacancy shall be filled as in the case of an original election.

3.07(a) As soon as practicable after each city council election and in accordance with state law, the city council shall meet at the city hall and the newly elected members shall qualify and assume the duties of office. Thereafter, the city council shall meet regularly at such times as may be prescribed by its rules but not less frequently than once each calendar month. All meetings of the city council shall be held at the city hall unless the city council shall designate another place.

4.05(c) Immediately after counting the votes, the presiding election judge shall deliver the official returns of the election to the city secretary. The city council shall meet and canvass the returns and declare the results in accordance with the requirements of the Texas Election Code. The returns of every municipal election shall be recorded in the minutes of the city council.

5.02(c) If the member of the city council whose removal is sought does not resign within seven days after such notice the city council shall thereupon order and fix a date for holding a recall election in accordance with the Texas Election Code. If no general election is to be held within this time the city council shall provide for a special election.

**Section 6.08. Submission to electors.**

If the city council shall fail to pass an ordinance proposed by initiative petition, or shall pass it in a form different from that set forth in the petition therefor, or if the city council shall fail to repeal a referred ordinance, the proposed or referred ordinance shall be submitted to the qualified electors in accordance with the Texas Election Code. If no general city election is to be held within such period the city council shall provide for a special election.

**Explanation of Proposition No. 3:**

The current City Charter currently has a weak form of “Council-Manager” form of government. The Charter provides that the City will hire a City Manager to run the day-to-day operations of the City, but the City Manager cannot hire any employees, including, the City Treasurer and the City Secretary, without the approval of the City Council. The Charter also provides that the Police and paid Fire Department are under the direct control and supervision of the City Council. This proposition would bring the City of Ballinger into a true “Council-Manager” form of government, whereby the City Manager would be responsible to run the day-to-day operations of the City, would put all departments and employees of the City under the City Manager’s supervision and control, except the City Judge and the City Attorney, and would place the hiring authority of all employees, including, the Police Chief and paid Fire Marshal or Fire Chief, under the City Manager. The City Council would still retain the right to confirm and approve all appointments to department head positions, and approve and confirm the removal of the Police Chief and paid Fire Marshal or Chief, the appointment and removal of the City Judge, and the appointment and removal of the City Attorney.

**Proposition No. 3:**

Shall the City of Ballinger amend and/or add to the following sections of the City Charter of the City of Ballinger to provide for a “Council-Manager” form of government and to clarify the powers and duties of the City Council and City Manager in furtherance of that form of government? Article 1, Section 1.02; Article 3, Section 3.11; Article 7, Sections 7.01(c)(1), 7.02(a), 7.02(b); Article 8, Sections 8.01 and 8.02; Article 9, Sections 9.01, 9.02; Article 12, Section 12.01; Article 14, Sections 14.01 and 14.02; and Article 15, Section 15.01(e)

The proposed revisions to the Charter are as follows:

**Section 1.02. 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 this charter, all powers of the city shall be vested in an elected council hereinafter referred to as “the council,” which shall enact local legislation, adopt budgets, determine policies and appoint the city administrator, who in turn, shall be held responsible to the City Council for the execution of the laws and the administration of the government . All powers of the city shall be exercised in the manner prescribed by this charter, or if the manner be not prescribed, then in such manner as may be prescribed by ordinance.

**Section 3.11. Powers of the city council.**

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

- (a) Appoint and remove the city administrator ;
- (b) Appoint and remove the city attorney;
- (c) Appoint and remove the city judge;
- (d) Confirm and approve city administrator appointments of department heads and the appointment of the city secretary;
- (e) Approve removal of the police chief and paid fire marshal and/or chief;
- (c)(f) Appoint members of the planning and zoning commission, the board of adjustment, the park and recreation advisory board, the board of equalization, the board of the Ballinger housing authority, and all other boards and commissions serving the City of Ballinger;
- (d)(g) Adopt the budget of the City of Ballinger;
- (e)(h)ix the salary of the City administrator, the city attorney and the city judge , and, in cooperation with the city administrator, \_\_\_\_\_ fix other salaries \_\_\_\_\_ for all

other employees of the city;

- (f)(i) Authorize by ordinance the issuance of bonds, assignments of revenue or warrants;
- (g)(i) Approve plats;
- (h)(k) Adopt and modify the official map of the City of Ballinger;
- (i)(l) Adopt and modify the zoning plan which may regulate and fix the height of buildings and other structures, the size of yards and courts, the density of population and the location and use of buildings for trade, industry, business, residence or other purposes;
- (j)(m) Provide for the establishment and designation of fire limits, and prescribe the kind and character of buildings, structures, or improvements which may be erected therein, provide for the alteration of such limits, and provide for the penalty for violation thereof, and provide for the power and authority to require the removal of any building, structure or improvement which had been built, constructed, moved into or made in violation of the then existing fire limits ordinance, either with or without the permission of the city council in office at the time of such violation, and provide for the condemnation of dangerous or dilapidated buildings or structures which increase the fire hazard and for the manner of their removal or destruction;
- (k)(n) Adopt and modify the building code;
- (l)(o) Adopt, modify and carry into effect plans proposed by the planning and zoning commission;
- (m)(p) Regulate, license and fix the charges or fares made by any person, firm or corporation owning, operating or controlling any vehicle of any character used for the carrying of passengers for hire, or the transportation of freight for hire, or the retail sale and delivery of merchandise or other products, on the public streets or alleys of the City of Ballinger;
- (n)(q) Provide by ordinance for the exercise of the police powers of the City of Ballinger;
- (o)(r) Cooperate for the purposes of establishing and maintaining a free public library with any person, firm, association or political subdivision in the manner prescribed by ordinance;
- (p)(s) Provide by ordinance for the exercise by the City of Ballinger of any and all powers of local self-government not made self-enacting by this charter or by statute;
- (q)(t) Inquire into the conduct of any office, department or agency of the City of Ballinger and make investigations of municipal affairs; and

Provide for an independent audit at least once each year.

**Section 7.01. City administrator.**

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

(b) Term and salary: The city administrator shall be appointed for an indefinite term and may be removed at the will and pleasure of the city council by a vote of the majority of the entire council. The action of the city council in suspending or removing the city administrator shall be final, it being the intention of this charter to vest all authority and fix all responsibility of such suspension or removal in the city council. In case of the absence or disability of the city administrator the city council may designate some qualified person to perform the duties of office during such absence or disability. The salary of the city administrator shall be fixed by the city council.

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

(1) Appoint, suspend, discipline and remove all City employees and appointive administrative officers, except as provided in this charter, personnel rules adopted by the council or as otherwise provided by law.

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- (2) Prepare the annual budget and submit it to the city council and be responsible for its administration after its adoption;
- (3) Prepare and submit to the city council each month a complete report on the finances and administrative activities of the City of Ballinger for the preceding month, and present a compiled complete report thereof at the end of the fiscal year for each preceding fiscal year;
- (4) Attend all meetings of the city council with the right to take part in the discussion, but having no vote;
- (5) Keep the city council advised of the financial condition and future needs of the City of Ballinger and make such recommendations as may seem to him desirable;
- (6) Serve as departmental head of any department, as city secretary, city treasurer, city tax assessor and collector, if in the opinion of the city administrator and the city council

such duplication of duties is advisable;

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

**Section 7.02. Administrative departments.**

(a) The city council may, after hearing recommendations of the city administrator, establish, abolish, re-designate and/or combine departments, offices or agencies in addition to those provided for by this charter, and may prescribe the functions and duties of such departments, offices and agencies.

(b) Except as otherwise provided elsewhere in this charter, all departments, offices and agencies of the city shall be under the direction and supervision of the city administrator, and shall be administered by city employees appointed by and subject to direction and supervision of the city administrator. The city administrator may, with the consent of the city council, serve as the head of one (1) or more city departments, offices or agencies or appoint one (1) person as head of two (2) or more of them.

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

**Section 8.01. City treasurer.**

he city administrator shall appoint a city treasurer; however, if the city administrator and the city council deem it advisable the office of city treasurer may be held by the city administrator.

**Section 8.04. City tax assessor and collector.**

The city administrator may appoint a city tax assessor and collector or the city council may contract for such services ; however, if the city administrator and the city council deem it advisable the office of city tax assessor and collector may be held by the city administrator. There may be appointed one or more deputies as deputy city tax assessor and collector in the same manner as the naming of the city tax assessor and collector.

**ARTICLE 9. FIRE DEPARTMENT\***

**Section 9.01. Firemen.**

he city administrator shall appoint a paid fire marshal and/or chief and such other paid firemen and employees; however, if the city administrator and city council deem it advisable the office of fire marshal and/or chief may be held by any other person employed by the city in any capacity. The appointment and/or removal of the paid fire marshal and/or chief shall be subject to the confirmation and approval of the city council. If the city administrator should consider it advisable and necessary to appoint a fire marshal and/or chief to serve exclusively in such position, then the city administrator shall appoint such officer, subject to confirmation and approval by the city council

**Section 9.02. Control.**

- (a) All matters pertaining to the operation of the paid fire department shall be under the control of the city administrator.
- (b) The city administrator will consider recommendations and advice given by the elected president and/or elected chief of the Ballinger Volunteer Fire Department.
- (c) Whenever it is called to the city administrator by anyone whomsoever that there is situated within the fire limits as same is defined by ordinance passed in accordance with the provisions of section 3.11, subdivision (m) hereof, a building, structure or improvement violating such fire limits ordinance which violation occurred after such ordinance was made effective, then it shall be mandatory upon the city administrator if such violation exists to immediately order the owner or agent of the same or occupant of the premises, to take such corrective measures as may be necessary to eliminate the violation within thirty days after such order is delivered to such owner or agent or occupant, and the city council shall punish by fine all persons failing to comply with such order. In the event of the failure of such persons to comply with such order, the city administrator, acting through the city council, shall have the additional power to remove such building, structure or improvement violating such ordinance at the expense of the City of Ballinger for the account of the owner of such property and assess the expenses thereof, including condemnation proceedings, as a special tax against the land on which the same is situated as well as on the building, structure or improvement, and the same may be collected as other special taxes provided by statute or by this charter, or by suit in any court of competent jurisdiction.

**Section 12.01. Parks and recreation superintendent and employees.**

The city administrator may appoint a superintendent and any other necessary employees required for the administration of the department of parks and recreation . The city council shall provide for such superintendent and employees by any appropriate order, resolution or ordinance, as it may deem advisable and necessary in the premises. The superintendent may hold any other office in any other department of the city as the city manager and the city council may consider appropriate.

**ARTICLE 14. DEPARTMENT OF POLICE\***

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

**Section 14.01. Chief of police.**

The chief of police shall be the chief administrative officer in this department. He shall be appointed by the city administrator for an indefinite term. The appointment and/or removal of the police chief shall be subject to confirmation and approval of the city council. The chief of police shall be responsible for the administration of the police department.

**Section 14.02. Other policemen, clerks and employees.**

The city administrator shall appoint such other additional policemen, clerks and employees in the department of police as may be considered necessary; and the chief of police shall nominate to the city administrator such persons as he may consider suitable for policemen, clerks and employees, but the city administrator shall have the right and power to reject any nomination and require another nomination to be made by the chief of police, continuing this procedure until a person is found who is acceptable to the chief of police and city administrator; however, the chief of police shall have the right to remove any such policemen, clerks and employees in the department of police with the consent of the city administrator.

**Section 15.01. General Powers**

15.01(e) Superintendents, managers and employees: The city administrator shall appoint such superintendents, managers and employees of each utility service owned and operated by the city; however, if the city administrator and city council deem it advisable any of such positions and offices may be held by the city administrator, or any other departmental position.

**Explanation of Proposition No. 4:**

The current City Charter provides that the City shall not be liable for personal injury or property damages resulting from any defect in any public street, highway, alley, grounds or public works of the city unless the City Administrator had actual notice of the defect for a period of at least twenty-four hours. This proposition adds “death” to this provision.

**Proposition No. 4:**

Shall the City of Ballinger amend Section 2.02, “Liabilities, exemptions and limitations”, subsection (e) of the City Charter of the City of Ballinger to provide that the City shall not be liable for death, resulting from any defect in any public street, highway, alley, grounds or public works of the city unless the specific defect causing the death shall have been known to the city manager?

The proposed revisions to the Charter are as follows:

(e) The City of Ballinger shall never be liable for personal injury, including death, or property damages resulting from any defect in any public street, highway, alley, grounds or public works of the city unless the specific defect causing the injury, death or damage shall have been known to the city administrator from personal inspection or written notice thereof for a period of at least twenty-four hours prior to the occurrence of the injury, death or damage and proper diligence shall not have been used to rectify the defect after such inspection or notice. Such notice shall be required whether the defect arose from an act or omission of the city itself through its agents or employees or otherwise.



### **Explanation of Proposition No. 5:**

The current City Charter provides for two (2) year terms for the City Council and Mayor. This proposition extends the terms to four (4) years for each member of the City Council, including the Mayor. This proposition will result in cost savings to the City, in the form of fewer elections, and will allow members of the City Council to become more familiar with the City and its operations before having to undergo the time and expense of running for re-election. This proposition will not affect the current members of the City Council. It will go into effect during the elections that will be conducted in November 2020.

### **Proposition 5:**

Shall the City of Ballinger amend Article 3, Section 3.01 of the City Charter of the City of Ballinger to increase the term of office of the Mayor and City Council members from two (2) years to four (4) years?

The proposed revisions to the Charter are as follows:

#### **Section 3.01. Number, selection and term.**

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

### **Explanation of Proposition No. 6:**

The current City Charter does not provide for due process in the event that a City Council member fails to meet the qualifications of law to continue in office for the City. This proposition adds the due process requirements, gives the City Council members the authority to be the judge of the qualifications of its members, and adds vacancy language and additional requirements regarding attendance and conduct of the City Council which may result in forfeiture of office.

### **Proposition No. 6:**

Shall the City of Ballinger amend Article 3, "The City Council", Section 3.02 by deleting subsection (b) regarding the forfeiture of office for failing to possess the required qualifications and for conviction of a felony and consolidating such forfeiture language in Section 3.04; by amending subsection 3.02(b) to provide that the city council members shall be the judge of the elections and qualifications of its members; and amending Section 3.04, "Vacancies", by adding subsection (a) to provide that an office of a city council member shall become vacant upon his or her death, resignation, incapacity, forfeiture of, or removal from office by any manner authorized by law; by adding subsection (b) to provide that if a city council member is absent from three consecutive regular meetings of the council, without an explanation reasonably acceptable to the city council his or her office may be declared forfeited after a public hearing; and (c) to provide that any person who ceases to possess the qualifications for office or who is convicted of a felony

or a crime of moral turpitude or is convicted of violating any state laws regarding conflicts of interest shall forfeit his or her office after a public hearing; and renaming Section 3.04 to “Vacancies, forfeitures and filling of vacancies”?

The proposed revisions to the Charter are as follows:

**Section 3.02. Qualifications.**

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

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

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

**Section 3.04. Vacancies, forfeitures and filling of vacancies.**

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

(b) If any member of the city council is absent from three (3) consecutive regular meetings, without explanation reasonably acceptable to a majority of the remaining members of the city council, his or her office may be deemed and declared vacant by resolution at the next regular meeting of the city council. The city council shall convene a public hearing before exercising its authority under this provision, and permit the council member to be heard regarding his or absences.

(c) Any person on the city council who ceases to possess the required qualifications for office or who is convicted of a felony or of a misdemeanor involving moral turpitude or is convicted of violating any state laws regulating conflicts of interest of municipal officers or guilty of a willful violation of Article 17, Section 17.03 of this Charter shall forfeit his or her office and every forfeiture shall be declared and enforced by the city council. The city council shall convene a public hearing before exercising its authority under this provision, and permit the council member to be heard regarding forfeiture of office.

**Explanation of Proposition No. 7:**

The current City Charter provides that the City Secretary shall be an employee under the City Council. This proposition makes the City Secretary position an appointment and employee of the City Manager, subject to removal by the City Manager. The City Council shall retain the right to approve and confirm the appointment of the City Secretary.

**Proposition No. 7:**

Shall the City of Ballinger amend Article 3, Section 3.06 of the City Charter to provide that the position of City Secretary shall be appointed and employed by the City Manager?

The proposed revisions to the Charter are as follows:

**Section 3.06. City secretary.**

The city administrator shall appoint a city secretary. The appointment of the city secretary shall be subject to confirmation and approval of the city council. Such persons shall report to the city administrator who shall establish their compensation and duties. The city secretary shall serve as secretary of the city council, give notice of its meetings, keep the journal of its proceedings, authenticate by his or her signature and record in full all ordinances and resolutions, and perform such other duties as this charter may provide or as the city administrator may assign. The city secretary and the city administrator may be the same person if the city council should so determine. There may be appointed one or more assistant city secretaries in the same manner as the naming of the city secretary.

**Explanation of Proposition No. 8:**

The current City Charter requires that three members of the City Council must vote to approve an ordinance or take official action on an issue. If there is a conflict of interest of a City Council member precluding a City Council member from voting, or an absence of one or more City Council members, certain measures may not be able to be passed or enacted in a timely manner. This proposition will allow a majority vote of the City Council members who are in attendance at the meeting to pass or enact a measure.

**Proposition No. 8:**

Shall the City of Ballinger amend Article 3, Section 3.08(a) of the City Charter to change that any action of the city council must be taken by a majority vote of the city council members present and qualified to act instead of three members of the city council?

The proposed revisions to the Charter are as follows:

**Section 3.08. Quorum and voting.**

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

**Explanation of Proposition No. 9:**

The current City Charter is confusing on the requirements of adopting City ordinances and making amendments thereto. This proposition will make the process clearer on when penal ordinances are effective, which is in compliance with State law, and allow the City to publish the caption of the amended ordinances

in the newspaper instead of the full text of the ordinance. The ability to publish the caption of the amended ordinance will save money for the City.

**Proposition No. 9:**

Shall the City of Ballinger amend Article 3, Sections 3.10 (c) and (d) of the City Charter of the City of Ballinger to clarify the process to adopt ordinances of the city?

The proposed revisions to the Charter are as follows:

(c) A full text of every penal ordinance, or in lieu thereof a descriptive caption or title stating in summary the purpose of the ordinance and the penalty for violation thereof, shall be published at least twice in the official newspaper of the City of Ballinger. Unless otherwise required by law, every penal ordinance shall become effective only after having been published twice in the official newspaper of the City of Ballinger as described above.

All other ordinances, except those specifically required by this charter to be published, are not required to be published in either the official newspaper of the City of Ballinger or in any other publication, and such ordinances shall become effective upon passage or on the date specified therein.

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

**Explanation of Proposition No. 10:**

This proposition would clarify the prohibition against Council interference with the appointment and removal of City employees under the City Manager and would strengthen the Council-Manager form of government being adopted by the City.

**Proposition No. 10:**

Shall the City of Ballinger amend Article 3 by adding a Section 3.12 to the City Charter of the City of Ballinger to clarify the prohibition against interference with the appointment and removal of City employees under the control and supervision of the City Manager?

The proposed revisions to the Charter are as follows:

**Section 3.12 Council not to interfere in appointments or removals.**

Members of the city council shall not in any way dictate the appointment or removal of the City administrative officers or employees whom the city administrator or any of the city administrator's subordinates are empowered to appoint under this charter. The city council, at a meeting called for that purpose, may express its views and fully and freely discuss with the city administrator anything pertaining to appointment and removal of such officers and employees. The appointment of department heads by the

city administrator, however, shall be subject to confirmation and approval by the council.

### **Explanation of Proposition No. 11:**

This proposition would clarify that the City Council is not to direct employees under the control and supervision of the City Manager, except for limited situations.

### **Proposition No. 11:**

Shall the City of Ballinger amend Article 3 by adding a Section 3.13 to the City Charter of the City of Ballinger to clarify the prohibition that the City Council is not to direct employees under the control and supervision of the City Manager?

The proposed revisions to the Charter are as follows:

### **Section 3.13 Council not to direct officers and employees.**

Except for the purpose of inquiries and investigations as provided by this charter, the city council shall deal with city officers and employees who are subject to the direction and supervision of the city administrator solely through the city administrator. The city council shall not give orders to any such officer or employee either publicly or privately except as otherwise provided in this charter or in the absence of the city administrator.

### **Explanation of Proposition No. 12:**

The current City Charter requires that a person who desires to run for City Council must complete a form as provided in the City Charter not more than 90 days or fewer than 30 days. This proposition deletes that form, replaces it with a form that is approved by the Secretary of State and requires that the form be filed in accordance with the timelines and requirements of the Texas Election Code.

### **Proposition No. 12:**

Shall the City of Ballinger amend Article 4, "Nominations and Elections", Section 4.01(a) of the City Charter of the City of Ballinger to provide that any person who meets the qualifications for mayor or city council member as stated in the Charter may have their name on the ballot if they file with the city secretary an application on a form approved by the Secretary of State in accordance with the timelines and requirements of the Texas Election Code?

The proposed revisions to the Charter are as follows:

### **Section 4.01. Nominations and filing for office.**

Any person who shall meet the qualifications for mayor or city council member as stated in the charter may have their name placed on the ballot as a candidate for mayor or for city council members numbers one, two, three or four by filing with the city secretary an application on a form approved by the Secretary of State in accordance with the timelines and requirements of the Texas Election Code

**Explanation of Proposition No. 13:**

This proposition deletes the ability of a person to be nominated for a position on the City Council, instead of filing an application. It is the City’s understanding that this method has never been used, nor should it be. If a person wants to run for Council they should do so by filing a required application in accordance with State law.

**Proposition No. 13:**

Shall the City of Ballinger amend Article 4, “Nominations and Elections”, Sections 4.01(b), (c) and (d) of the City Charter of the City of Ballinger to delete the alternative method of obtaining a place on the ballot by nomination?

The proposed revisions to the Charter are as follows:

**Explanation of Proposition No. 14:**

This proposition changes the City Charter to be in compliance with State and Federal law and removes outdated language from the Charter. Elections must be conducted on uniform election dates, which are in November and May of each year.

**Proposition No. 14:**

Shall the City of Ballinger amend Section 4.03, “Municipal Elections”, subsections (a) and (b) of the City Charter of the City of Ballinger to delete outdated language regarding the first city council elected following the adoption of the new charter in 1963; to provide that the general election for the mayor and city council members shall be held on the first Tuesday in November or such other date as required by the Texas Election Code; and that any elections shall be conducted in accordance with the requirements of the Texas Election Code?

The proposed revisions to the Charter are as follows:

**Section 4.03. Municipal elections.**

(a) The general election for the choice of members of the city council as provided in article 3 shall be held on the first Tuesday in November or such other date as required by the Texas Election Code. The city council may by resolution order special elections, which shall be held as nearly as practicable according to the provisions of a general election and the provisions of the charter.

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

(b) The mayor and the city council members numbers one and two shall be elected on the first Tuesday in The mayor and the city council members numbers one and two shall be elected on the first Tuesday in The mayor and the city council members numbers one and two shall be elected on the first Tuesday in The mayor and the city council members numbers one and two shall be elected on the first Tuesday in November of each odd-numbered year, and the city

council members numbers three and four shall be elected on the first Tuesday in November of each even-numbered year. If no candidate for the office of mayor or for the offices of either city council members one, two, three or four shall in any general election receive a majority vote of the total votes cast at such general election, the city council shall at a meeting after the general election order a special election to be held in accordance with the requirements of the Texas Election Code, at which only the names of the two candidates who received the highest number of votes shall be printed on the ballot; or if there be a tie requiring more than two names, then the appropriate number shall be printed on the ballot, and such additional elections shall be ordered until a candidate for such office shall have received a majority of the total votes cast at such election. Such additional elections, if any required, shall be ordered by the city council at intervals authorized by the Texas Election Code.

### **Explanation of Proposition No. 15:**

This proposition deletes the requirement to publish a financial report of the financial condition of the City. It has apparently not been followed by the City in the past and, now, with all the requirements of State law regarding adoption of a budget, this provision is unnecessary and costly.

### **Proposition No. 15:**

Shall the City of Ballinger amend Section 8.02, "Accounting, supervision and control", of the City Charter of the City of Ballinger by deleting subsection (g), which provides that the City shall publish a financial report in the newspaper annually, in its entirety?

The proposed revisions to the Charter are as follows:

(g)

### **Explanation of Proposition No. 16:**

State law provides that a City must use competitive bidding for all purchases over \$50,000.00. The current provision in the Charter is too restrictive and causes an unnecessary expense and burden on the City.

### **Proposition No. 16:**

Shall the City of Ballinger amend Section 8.03, "Purchase procedure" of the City Charter of the City of Ballinger by deleting the requirement that all expenditures over \$1,000.00 must be submitted to competitive bidding and providing that all purchasing shall be done in accordance with the requirements of applicable State procurement laws?

The proposed revisions to the Charter are as follows:

### **Section 8.03. Purchase procedure.**

The city council shall establish rules and regulations for the purchase of all budgeted supplies, materials and equipment required for any office, department or agency of the city government; provided, however, all contracts or purchases shall be purchased in accordance with the requirements of applicable State

procurement laws.

**Explanation of Proposition No. 17:**

Boards of Equalization are no longer used by cities and this provision is unnecessary.

**Proposition No. 17:**

Shall the City of Ballinger amend the City Charter of the City of Ballinger by removing, Article 8, Section 8.06 “Board of Equalization,” in its entirety; and the references to the Board of Equalization in Article 3, Section 3.11(d)?

The proposed revisions to the Charter are as follows:

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

**Explanation of Proposition No. 18:**

The current City Charter requires that the budget and any amendments thereto be filed with the Runnels County Clerk and the State Comptroller. This requirement is unnecessary and a waste of paper. Anything document forwarded to the State Comptroller would be immediately placed in the trash.

**Proposition No. 18:**

Shall the City of Ballinger amend Section 8.14, “Effect of Budget” and 8.16, “Amending the Budget” of the City Charter of the City of Ballinger deleting the requirements that the City budget, and any amendments thereto, shall be filed with the county clerk of Runnels County and the state comptroller of public accounts?

The proposed revisions to the Charter are as follows:

**Section 8.14. Effect of the budget.**

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

**Section 8.16. Amending the budget.**

In case of grave public necessity, emergency expenditures to meet unusual and unforeseen conditions,



which could not by diligent thought and attention have been included in the original budget, may be authorized by the affirmative vote of at least four members of the city council as an amendment to the original budget. In every case where such amendment is made, a copy of the resolution by the city council adopting the amendment shall be filed with the city secretary, and attached to the budget originally adopted.

### **Explanation of Proposition No. 19:**

The City does not have a Health Department. This proposition deletes the requirement to establish such a department.

### **Proposition No. 19:**

Shall the City of Ballinger amend the City Charter of the City of Ballinger by deleting Article 10, "Department of Health" in its entirety; and the references to the health department in Article 7, Section 7.02?

The proposed revisions to the Charter are as follows:

#### **Section 7.02. Administrative departments.**

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

### **Explanation of Proposition No. 20:**

The current Charter requires that the full text of a franchise ordinance be published in the newspaper. This is very costly. This proposition deletes that requirement and allows the caption of such ordinance to be published in the newspaper.

### **Proposition No. 20:**

Shall the City of Ballinger amend Section 15.03 and 15.04 of the City Charter of the City of Ballinger by providing that captions of any franchise ordinances shall be published in the newspaper instead of the full text of the franchise ordinances?

The proposed revisions to the Charter are as follows:

#### **Section 15.03. Franchises: Public utilities.**

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

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

**Section 15.04. Franchises: Use of streets.**

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

**Explanation of Proposition No. 21:**

This proposition simply clarifies that all records of the City are subject to the provisions of the Texas Public Information Act.

**Proposition No. 21:**

Shall the City of Ballinger amend Section 17.01 of the City Charter by providing that all records of the City shall be available for inspection by any citizen, subject to the provisions of the Texas Public Information Act?

The proposed revisions to the Charter are as follows:

**Section 17.01. Publicity of records.**

All records and accounts of every office, department or agency of the City of Ballinger shall be open to inspection by any citizen at all reasonable times and under reasonable regulations established by the city administrator, subject to the provisions of the Texas Public Information Act.

**Explanation of Proposition No. 22:**

This proposition gives the City Council the authority to renumber and rearrange the provisions of the City Charter after amendments are passed by the voters.

**Proposition No. 22:**

Shall the City of Ballinger amend the City Charter of the City of Ballinger by adding Section 17.11 to

permit the City Council, by ordinance, to renumber and rearrange all articles, sections, and paragraphs of the Charter or any amendments thereto, as it shall deem appropriate?

The proposed revisions to the Charter are as follows:

**Section 17.11. Renumbering and rearranging.**

The City Council shall have the power, by ordinance, to renumber and rearrange all Articles, Sections, and paragraphs of the Charter or any amendments thereto, as it shall deem appropriate.

**Explanation of Proposition No. 23:**

The current Charter does not use any feminine pronouns, referring to all positions as masculine pronouns. This proposition will modernize this approach.

**Proposition No. 23:**

Shall the City of Ballinger amend its City Charter throughout to replace references to “he” or “him” with references to “he or she” or “him or her” and/or replace gender specific pronouns with gender-neutral pronouns?