

ARTICLE I. - INCORPORATION, FORM OF GOVERNMENT, BOUNDARIES AND POWERS

Sec. 1. - Incorporation.

The inhabitants of the City of Jacksonville, Cherokee County, Texas, within its corporate limits as extended on June 18, 1921, and as extended by ordinances of the City of Jacksonville, Texas, enacted subsequent thereto, shall continue to be and are hereby constituted a body politic and corporate, in perpetuity, under the name of the City of Jacksonville, hereinafter referred to as the "city", with such powers, privileges, rights, duties and immunities as are herein provided.

Sec. 2. - Form of government.

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

Sec. 3. - Boundaries.

The boundaries and limits of said corporation shall be as they now exist as amended by ordinances from and after the extension on June 18, 1921, which set up the following corporate limits of said city:

Beginning at a point marked by monument one (1) mile south of a stake at the center of the intersection of South Main Street with East Commerce Street in the City of Jacksonville; thence east one (1) mile to a point marked by monument; thence north two (2) miles to a point marked by monument; thence west two (2) miles to a point marked by monument; thence south two (2) miles to a point marked by monument; thence east one (1) mile to the point of beginning.

Sec. 4. - General powers.

The city shall have all the powers granted to municipal corporations and to cities by the constitution and laws of the State of Texas, together with all the implied powers necessary to carry into execution such granted powers. The city may acquire property within or without its corporate limits for any municipal purposes in fee simple or any lesser interest or estate, by purchase, gift, devise, lease or condemnation; and may sell, lease, mortgage, hold, manage and control such property as its interests may require; and, except as prohibited by the constitution of this state or restricted by this charter, the city shall and may exercise all municipal powers, functions, rights, privileges, and immunities of every name and nature whatsoever. The city may use a corporate seal; may sue and be sued; may contract and be contracted with; may implead and be impleaded in all courts and places and in all matters whatever; may cooperate with the government of the State of Texas or any agency thereof, the federal government or any agency thereof, or any political subdivision of the State of Texas, to accomplish any lawful purpose for the advancement of the interest, welfare, health, morals, comfort, safety and convenience of the city or its inhabitants; and may pass such ordinances as may be expedient for maintaining and promoting peace, welfare, and government for the city, and for the performance of the functions thereof. The enumeration of particular powers by this charter shall not be deemed to be exclusive; and in addition to the powers enumerated therein or implied thereby, or appropriate to the exercise of such powers, it is intended that the city shall have, and may exercise, all powers of local self-government, and all powers enumerated in chapter 13, title 28, Revised Civil Statutes of the State of Texas, of 1925 [Vernon's Ann. Civ. St., art. 1165 et seq.], and the acts amendatory thereof and supplementary thereto, now or hereafter enacted, or any other powers, which, under the constitution and laws of the State of Texas, it would be competent for this charter to enumerate; and also such further powers as may hereafter be granted under the constitution and laws of the State of Texas.

Sec. 5. - City owned property.

All real estate owned in fee simple title or held by lease, sufferance, easement, or otherwise; all public buildings, fire stations, parks, streets, and alleys, and all property, whether real or personal, of whatever kind, character or description now owned or controlled by the Town of Jacksonville shall vest in, inure to, remain and be the property of the said City of Jacksonville.

Sec. 6. - Extension of city limits by ordinance.

The city council shall have power by ordinance to fix the boundary limits of the city and to provide for the alteration and extension of said boundary limits, and the annexation of additional territory lying adjacent to the city, with or without the consent of the territory and inhabitants annexed. Upon the introduction of any such ordinance in the city council, it shall be published one time in a newspaper of general circulation, published in the city, and said ordinance shall not thereafter be finally acted upon until at least thirty (30) days have elapsed after the publication thereof; and upon the final passage of any such ordinance the boundary limits of the city shall thereafter be as fixed in such ordinance; provided, however, that any citizen of the city or of the territory to be annexed shall have the right to be heard at a hearing on such ordinance at a date set by the city council within the body of the ordinance as passed; and after such citizen or citizens shall have been given an opportunity to be heard such ordinance in its original or in an amended form, as said city council in its judgment may determine, shall be finally passed.

Sec. 7. - Extension of city limits by unanimous voluntary petition.

Whenever all of the property owners within said territory as said territory may be designated by the city council or as described in a written petition, desire the annexation of such territory to the city, they may present a written petition to that effect to the city council and shall attach to said petition the affidavit of one or more of their number to the effect that said petition is signed by all of the property owners of said property either as designated by the city council or as described in said petition and the same shall be acknowledged by the signers thereof in order that the same may be recorded in the deed records of Cherokee County, Texas, and thereupon the city council may, by ordinance, annex such territory to the city and from thenceforth the said territory shall be a part of the city, and the inhabitants thereof shall be entitled to all the rights and privileges of other citizens and shall be bound by the acts, ordinances, resolutions and regulations of the city.

Sec. 8. - Extension of city limits by voluntary petition not unanimous.

Whenever a majority of the qualified voters who are citizens of the state and inhabitants of any territory and property owners of the property within said territory adjoining the city as said territory may be designated by the city council, or in case there are no qualified voters owning property in said territory, and no inhabitants thereof, then when persons owning a majority of the land in area in said territory desire the annexation of such territory to the city, they may present a written petition to that effect to the city council and shall attach to said petition the affidavit of one or more of their number to the effect that said petition is signed by a majority of the qualified voters residing in said territory and owning property therein, or in case there are no qualified voters residing in said territory and owning property therein, said affidavit shall be to the effect that there are none and that the persons signing said petition own a majority of the land in area in said territory, and said affidavit shall further state the names and addresses of the qualified voters, inhabitants and property owners who have not signed said petition, and they shall be given notice of said petition and shall have the right to be heard at the time and place set by said notice before the same may be acted upon; and in either event the same shall be acknowledged by the signers thereof in order that the same may be recorded in the deed records of Cherokee County, Texas, and thereupon the city council may by ordinance annex such territory to the city and from thenceforth the said territory shall be a part of the city, and the inhabitants thereof shall be entitled to all the rights and privileges of other citizens and shall be bound by the acts, ordinances, resolutions and regulations of said city.

Sec. 9. - Power to regulate rates and charges of franchises and license holders.

Said city shall have the power to determine, fix, and regulate the charges, fares, and rates of any person, firm or corporation exercising, or that may hereafter exercise any right or franchise or public privilege in said city, and to prescribe the kind of service to be furnished, the equipment to be used, the

manner in which service shall be rendered and to change such regulations from time to time; that in order to ascertain all the facts necessary for a proper understanding of what is or should be a reasonable rate or regulation, the governing authority shall have full power to inspect the books and other records of such person, firm or corporation, and compel the attendance of witnesses for such purpose; providing that in adopting such regulations and in fixing or changing such compensation, no stock or bonds authorized or issued by any person, firm or corporation exercising such franchise or privilege shall be considered unless proof be made that the same has been actually issued by such person, firm or corporation for money, or its equivalent, paid and used for the development of the property under investigation.

Sec. 10. - Establishment and control of streets.

The city shall have exclusive dominion, control, and jurisdiction in, upon, over, and under the public streets, sidewalks, alleys, highways, public squares, and public ways within the corporate limits of the city, and in, upon, over and under all public property of the city. With respect to each and every public street, sidewalk, alley, highway, public square, or other public way within the corporate limits of the city, the city shall have the power to establish, maintain, alter, abandon or vacate the same; to regulate, establish, or change the grade thereof; to control and regulate the use thereof, and to abate and remove in a summary manner any encroachment thereon.

Sec. 11. - Street development and improvement.

The city shall have the power to develop and improve, or cause to be developed and improved, any and all public streets, sidewalks, alleys, highways, and other public ways within the corporate limits of the city by laying out, opening, narrowing, widening, straightening, extending, and establishing building lines along the same; by purchasing, condemning, and taking property therefor; by filling, grading, raising, lowering, paving, repaving, and repairing, in a permanent manner the same; and by constructing, reconstructing, altering, repairing, and realigning curbs, gutters, drains, sidewalks, culverts, and other appurtenances and incidentals in connection with such development and improvements. The city may make or cause to be made any one or more of kinds or classes of development and improvement authorized hereinabove, or any combination or parts thereof. The cost of such development and improvement shall be paid by the city or the property owner, or partly by the city and partly by assessments levied against the property abutting thereon and the owners thereof, and such assessments may be levied in any amounts and under any procedure now or hereafter permitted by state law.

If improvements be ordered constructed in any part of the area between and under rails, tracks, double-tracks, turnouts and switches, and two (2) feet on each side thereof, of any railing, using, occupying or crossing any such highway, portion, or portions thereof, ordered improved, then the city council shall have power to assess the whole cost of improvements in such area against such railway, and shall have power, by ordinance, to levy a special tax upon such railway, and its road-bed, ties, rails, fixtures, rights, and franchises, which tax shall constitute a lien thereon superior to any other lien or claim except state, county and city ad valorem taxes, and which may be enforced either by sale of said property in the manner provided by law for the collection of ad valorem taxes by the city, or by suit in any court having jurisdiction. The ordinance levying such tax shall prescribe the time, terms and conditions of payment thereof, and the rate of interest, not to exceed eight (8) per cent per annum, the same, if not paid when due, shall be collectable, together with interest, expenses of collection and reasonable attorney's fees, if incurred. The city council shall have power to cause to be issued assignable certificates in evidence of such assessments.

As an alternate and cumulative method of developing, improving, and paving any and all public streets, sidewalks, alleys, highways, and other public ways within the corporate limits, the city shall have the power and authority to proceed in accordance with chapter 106, page 489, Acts 1927, Fortieth Legislature, first called session [Vernon's Ann. Civ. St., art. 1105b], as now or hereafter amended; to adopt plans and specifications pursuant thereto; to pay to the contractor, the successful bidder, in cash, that part of the cost which may be assessed against the abutting property and the owners thereof, to reimburse itself for the amount paid such contractor by levying assessments against the abutting property and the owners thereof, after the hearing and notice prescribed in the aforesaid statutes, in an amount permitted by said statutes and not in excess of the enhancement in value of such property occasioned by

the improvements; and to issue assignable certificates in favor of the city for such assessments, said certificates to be enforceable in the manner prescribed by the aforesaid statutes. The city shall likewise have the power to make any such development, improvement or paving with its own forces if, in the opinion of the council, the work can be done more expeditiously or economically, and in such event the city shall have the power to reimburse itself for the cost of such improvement in the same amount and in the same manner as if the work had been performed by a successful bidding contractor.

Sec. 12. - Sidewalks.

The city shall have the power by penal ordinance to provide for the construction, improvement or repair of sidewalks, curb and gutter, and to charge the entire cost of the construction, improvement or repair against the owner of abutting property; and to make a special charge against the owner for such cost; and to provide by special assessment a lien against such property for such cost; and to declare defective and dangerous sidewalks to be a public nuisance.

Sec. 13. - Sanitary sewer system.

The city shall have the power to provide for a sanitary sewer system and to require property owners to connect their premises with such system; to provide for fixing penalties for failure to make sanitary sewer connections; and to provide for fixing a lien against any property owner's premises who fails or refuses to make sanitary sewer connections and to charge the cost against said owner and make it a personal liability. The city shall further have the right to fix charges and compensation to be charged by the city for sewerage service, and to provide rules and regulations for the collection thereof.

Sec. 14. - Zoning.

The City of Jacksonville shall have the powers granted by chapter 283 of the general and special laws of the Fortieth Legislature of the State of Texas, specifically, to wit: Articles 1011a—1011j, inclusive, and all amendments thereto heretofore or hereinafter made in addition to the powers provided for in Article 1175 (subdivision 26) of the Revised Civil Statutes of the State of Texas.

Sec. 15. - Cemeteries.

The City of Jacksonville shall have the power and authority to make ample provisions for the upkeep and maintenance of a city cemetery or cemeteries and in the furtherance thereof shall enact all ordinances and pass all resolutions necessary in the premises and shall provide, either by a special tax on all the taxable property in said city, or by appropriations from the general fund of said city, annually, such amount as may be necessary for that purpose.

Sec. 16. - Nuisances.

The City of Jacksonville shall have the power to define all nuisances and prohibit the same within the city and outside the city limits for the maximum distance permitted by state law or this charter; to have power to police all parks and grounds, speedways and boulevards, streets or alleys, owned by the city and lying within or without the city limits; to prohibit the pollution of any stream, drain or tributary thereof which may constitute the source of water supply of the city and to provide for the policing of the same; to inspect dairies, slaughter pens and slaughterhouses inside or outside the city limits, from which milk or meat is furnished to the inhabitants of the city.

Sec. 17. - Eminent domain.

The city shall have the full right, power, and authority to exercise the power of eminent domain when necessary or desirable to carry out any of the powers conferred upon it by this charter, or by the constitution or laws of the State of Texas. In all cases where the city seeks to exercise the power of eminent domain, it may be controlled, as nearly as practicable, by the laws governing the condemnation of property by railroad corporations in this state, the city taking the position of the railroad corporation in any such case. The city may also exercise the power of eminent domain in any other manner now or

hereafter authorized or permitted by the constitution and laws of this state, or in the manner and form that may be provided by ordinance of the governing body of the city. The power of eminent domain hereby conferred shall include the right of the city to take the fee in the lands so condemned and such power and authority shall include the right to condemn public property for such purposes. The city shall have and possess this power of condemnation of property within or without the corporate limits for any municipal or public purpose, even though not specifically enumerated herein or in this charter.

Sec. 18. - Maps and plats of territory within or adjacent to the city.

Should any property lying within or adjacent to the city limits, as established by this charter, be hereafter platted into blocks and lots, the owners of said property shall plat and lay the same off to conform to the streets and alleys abutting on same, and shall file with the city council, a correct map thereof, provided, that in no case shall the City of Jacksonville be required to pay for any of said streets or alleys at whatever date opened, but when opened by reason of the platting of said property at whatever date platted, they shall become, by such act, the property of the City of Jacksonville for use as public highways.

ARTICLE II. - THE CITY COUNCIL

Sec. 1. - Number, selection and term of office.

The city council shall be composed of not less than five (5) members, who, unless sooner removed under the provisions of this charter, shall hold their office for a term of two (2) years, more or less, beginning on the date of their qualifying for said office and ending on the date that their successor, after having been duly elected, has qualified. The city council shall have the right by ordinance duly adopted to increase the number of its council members from five (5) to seven (7) members, and at a later date to nine (9) members and set the terms of said offices for a period of time not to exceed two (2) years, more or less, as previously stated. The city council shall provide by ordinance duly adopted for the election of four (4) of its membership from four (4) separate and distinct election precincts which shall be numbered one, two, three and four, and the fifth member shall be elected from the city at large and shall be elected to Place No. 5, and shall by virtue of said election automatically be the chairperson or Mayor of the City of Jacksonville, Texas, for the term of office for which the member is elected. The city council shall require that for a member of the city council to be eligible for election to said council that the candidate be a resident of the precinct in which the person is a candidate for election. The city council shall have the right to provide by ordinance duly adopted for separate polling places or a central polling place as deemed necessary; however, in no event (unless ordered by a final judgment of a court of competent jurisdiction) shall the city council change the number of precincts or their boundaries more than one time during any ten (10) year period following each preceding federal census beginning after the year 1980, or any other lesser period in the event the census is taken more frequently than once each ten (10) years. Nothing in this charter provision shall prohibit the city council from annexing territory adjacent to its corporate limits as prescribed by this charter and by law and increasing the size of any precinct that is adjacent to the newly annexed territory.

(Ord. No. 338, § 4, 1-11-77)

Sec. 2. - Qualifications.

Each candidate for a seat on the city council shall be a citizen of the United States of America and a registered voter of the State of Texas and a resident of the district in which the person is a candidate; or in the event of a person who is a candidate for Place No. 5, Mayor, the person must be a resident of the city. A candidate shall be a minimum of twenty-one (21) years of age and shall have a minimum length of residence of twelve (12) continuous months immediately preceding election day. Each councilman shall not be indebted to the City of Jacksonville at the time of his election nor shall he be in arrears in the payment of any taxes or other liability due the city, nor be disqualified by reason of any provision of any other section of this charter. Any member of the city council ceasing to possess any of the qualifications

specified in this section or any other section of this charter, or any member convicted of a felony while in office or who absents himself from three (3) consecutive regular council meetings without the prior consent of said council in resolution form recorded in the minutes, shall immediately forfeit the place to which he was elected, which forfeiture shall be automatic and effective upon the certification by the city secretary to the effect that the minutes of the last three (3) regular meetings reflect that said councilman was absent and that no prior written consent in the manner required was obtained and recorded in the minutes; provided, however, that no councilman shall become indebted to said city at any time during the term of office except as to such indebtedness as may arise out of levy of taxes or assessments of the city. No councilman shall hold any other public office of emolument and no city councilman shall be interested in the profits or emoluments of any contracts, jobs, work or service for the city. A member of the council who moves from the precinct that elected said member during the term for which said member was elected shall immediately forfeit the office. The chairperson, or mayor, who moves from the city during the term for which the person was elected shall immediately forfeit the office, in which event, the vice-chairperson, or mayor pro tem shall serve until a successor has been duly elected and qualified, which vacancy shall be filled as any other vacancy on the city council.

(Ord. No. 338, § 4, 1-11-77; Ord. No. 1327, § 2(4), 5-13-08)

Sec. 3. - Vacancies.

Where a vacancy in any place on the council shall occur, the vacant place may [may] be appointed by a majority of the remaining members. The appointee shall serve until the next general municipal election. However, in lieu of filling the vacancy by appointment, the city council may order a special election to fill the vacancy in accordance with state law.

(Ord. No. 1327, § 2(5), 5-13-08)

Sec. 4. - Limitation on term of office of chairperson, or mayor, and duties of the presiding officer.

Notwithstanding any other provision of this charter, no person shall serve as mayor longer than six (6) consecutive years. The chairman, or mayor, shall be the presiding officer at the meetings of the city council and shall be recognized as the head of the city government for all ceremonial purposes and be the governor for purposes of military law, but shall have no regular administrative duties. He shall vote as a member of said council on all matters coming before the body. He shall sign all bonds, warrants, and other official documents and exercise all the powers and perform all duties imposed upon him as such chairman, or mayor, by this charter and by the ordinances and resolutions of the city council. The city council shall elect, immediately following the election of the chairman, or mayor, a vice-chairman, or mayor pro tem who shall act as chairman, or mayor, during the absence or disability of the chairman, or mayor.

(Ord. No. 338, § 4, 1-11-77; Ord. No. 1327, § 2(2), 5-13-08)

Sec. 5. - Compensation of members.

The members of the city council shall be entitled to all necessary expenses incurred in the performance of their official duties; but shall not be entitled to receive any other compensation for their services.

Sec. 6. - Meetings.

The city council shall meet as may be prescribed by ordinance, but it shall meet at least once a month. The chairman, or mayor, or any two (2) councilmen, may call special meetings of the city council at any time deemed advisable. Except for meetings for discussion of appointments all meetings shall be open to the public.

Sec. 7. - Quorum.

Any three (3) members of the city council shall constitute a quorum for the transaction of business and the affirmative vote of three (3) members of the city council shall be necessary to adopt or repeal any ordinance or resolution. All "affirmative" and "negative" votes shall be recorded in connection with the adoption of the city council on any and all matters and duly entered in the minutes of the proceedings. All members present shall vote upon every ordinance or resolution and the refusal of any councilman to vote shall be entered in the minutes and shall be counted as voting in the affirmative.

Sec. 8. - Minutes.

The city council shall keep a journal of the minutes of its meetings and proceedings in a permanently bound book, and any citizen shall have access to the minutes and records thereof at all reasonable times.

Sec. 9. - Order of business.

The council shall by ordinance determine its own rules and order of business.

Sec. 10. - Enactment of ordinance.

The council shall legislate by ordinance only, and the enacting clause of every ordinance shall be "Be It Ordained By The City Council of the City of Jacksonville." Before any ordinance shall be adopted, the city attorney shall approve such ordinance in writing or shall file with the city secretary his written legal objections thereto. Every ordinance enacted by the council shall be signed by the mayor, mayor pro tem, or by two (2) councilmen, and be filed with and recorded by the city secretary before the same shall become effective. Unless otherwise provided by law or this charter, no ordinance shall become effective until the expiration of ten (10) days following the date of its final passage, except where an ordinance relating to the immediate preservation of the public health, peace or safety, is adopted as an emergency measure by the favorable votes of four (4) or more of the councilmen and contains a statement of the nature of the emergency.

Sec. 11. - Publication of ordinance.

Except as otherwise provided by law or this charter, the city secretary shall give notice of the enactment of every penal ordinance and of every other ordinance required by law or this charter to be published, by causing the descriptive title of caption of the same to be published at least one time within ten (10) days after final passage thereof in some newspaper of general circulation in the city. The city secretary shall note on every ordinance and on the record thereof the dates and medium of its publication, and such notation shall be prima facie evidence of compliance with the requirements of this section.

Sec. 12. - Code of ordinances.

Within five (5) years after the effective date of this section, the council shall cause all general ordinances of the city to be compiled and printed in code form. For the purpose of this section general ordinances shall be deemed to be those ordinances of a permanent or continuing nature which affect the residents of the city at large. Every general ordinance enacted subsequent to the original codification required above shall be enacted as an amendment to the code. After the original codification, the council shall have the power to cause all general ordinances to be recodified and reprinted whenever in its discretion such is deemed desirable, and it shall be discretionary upon the council to cause all general ordinances to be recodified and reprinted before the expiration of any ten (10) consecutive years following the last preceding codification or recodification. When adopted by the council, the printed codes of general ordinances contemplated by this section shall be in full force and effect without the necessity of such codes or any part thereof being published in any newspaper.

Sec. 13. - Proof of ordinance.

An ordinance of the City of Jacksonville may be proved prima facie by a printed code of ordinances purporting to be printed by authority of the city, or by a copy of the ordinance certified by the city secretary to be a true copy of the same, or by the city secretary's official record thereof.

Sec. 14. - Powers.

The city council shall be invested with the right to exercise all the powers of the city, express or implied, in article II of this charter and the determination of all matters of policy. Except where in conflict with and otherwise expressly provided for by this charter, the city council shall have all powers authorized to be exercised by chapter 4 of title 28 of Vernon's Annotated Civil Statutes [Vernon's Ann. Civ. St., art. 1007 et seq.], and acts amendatory thereof and supplementary thereto, now or hereafter enacted. The city council shall have the further power, whether express or implied herein, to legislate by ordinance upon any and all matters and things necessary to the proper and more efficient conduct of the affairs of the City of Jacksonville unless such legislation by ordinance be expressly prohibited by this charter and the constitution and the laws of the State of Texas. Without limitation of the foregoing, and among other powers that may be exercised by the city council, the following are hereby enumerated for greater certainty:

- (1) To appoint and remove the city manager.
- (2) To establish administrative departments, and distribute the work of divisions.
- (3) To adopt the budget of the city.
- (4) To authorize the issuance of bonds by a bond ordinance.
- (5) To inquire into the conduct of any office, department or agency of the city and make investigations as to municipal affairs.
- (6) To provide for a planning commission, a zoning commission and a zoning board of adjustment, and appoint the members of all such commissions and boards. The planning and zoning commissions may be combined. Such boards and commissions shall have all powers and duties now or hereafter conferred and created by this charter, by city ordinance or by law.
- (7) To adopt plats.
- (8) To adopt and modify the official map of the city.
- (9) To adopt, modify and carry out plans proposed by the planning commission for the clearance of slum districts and rehabilitation of blighted areas.
- (10) To adopt, modify and carry out plans proposed by the planning commission for the replanning, improvement and redevelopment of neighborhoods and for the replanning, reconstruction or redevelopment of any area or district which may have been destroyed in whole or in part by disaster.
- (11) To regulate, license and fix the charges or fares made by any person owning, operating or controlling any vehicle of any character used for the carrying of passengers for hire or the transportation of freight for hire on the public streets and alleys of the city.
- (12) To provide for the establishment and designation of fire limits and to prescribe the kind and character of buildings, structures or improvements to be erected therein, and to provide for the erection of fireproof buildings within certain limits, and to provide for the condemnation of dangerous structures, buildings, dilapidated buildings or buildings calculated to increase the fire hazard, and the manner of their removal or destruction.
- (13) To prevent the construction, and use of housing accommodations below standards fixed by the city council as proper for the purpose of promoting good health, safety, morals or general welfare of the city.

Sec. 15. - Interference in personnel matters.

Neither the council nor any of its members shall instruct or request the city manager or any of his subordinates to appoint to or remove from office or employment any person except with respect to those offices which are to be filled by appointment by the council under the provisions of this Charter. Except for the purpose of inquiry and investigation, the council and its members shall deal with the administrative service of the city solely through the city manager and shall not give orders to any of the manager's subordinates, either publicly or privately.

Sec. 16. - Investigation of office or department and acts and conduct of any official or employee.

The city council may investigate the financial transactions of any office or department of the city government, and the acts and conduct of any official or employee. In conducting such investigation, the council may compel the attendance of witnesses, the production of books and papers, and other evidence, and for that purpose may issue subpoenas or attachments, which shall be signed by the chairman; said subpoenas, attachments or other process may be served by any officer authorized by law to serve subpoenas or other process, or any peace officer of the city.

If any witness shall refuse to appear or testify to any fact within his knowledge or under his control, or produce any papers or books in his possession or under his control relating to the matter under investigation before the council, the council shall have the power to cause the witness to be punished as for contempt, not exceeding a fine of one hundred dollars (\$100.00) and three (3) days in the city prison. No witness shall be excused from testifying touching his knowledge of the matter under investigation in any such inquiry, but such testimony shall not be used against him in any criminal prosecution, except for perjury committed upon such inquiry.

Sec. 17. - Audit.

The city council shall cause a continuous audit of the books and accounts of all records and transactions, of the administration of the affairs of the city, such audit to be made annually, embracing each fiscal year, and shall be made by a certified public accountant. The duty of such accountant shall include the certification of all statements required. Such statements shall include a general balance sheet showing summaries of income and expenditures and also comparisons in proper classification with the last previous audit; such summary shall be published in a newspaper published in the City of Jacksonville, one (1) time within ten (10) days after completion of such audit.

Sec. 18. - Depository.

The city council shall designate a bank in the City of Jacksonville as a city depository, which shall be selected for a period of time not to exceed that set by Texas State law. The city council reserves the right to reject any or all proposals that are not advantageous for the city.

(Ord. No. 1146, § 2(1), 8-14-01)

ARTICLE III. - ELECTIONS

Sec. 1. - Election of councilmen.

Precinct Nos. 1 and 3 and Place No. 5 beginning in 1977 and in each odd-numbered year thereafter shall hold an election to elect two (2) members and a chairperson, or mayor, respectively to the city council, and Precincts Nos. 2 and 4 beginning in 1978, and in each even-numbered year thereafter shall hold an election to elect a member to the city council; however, in the year 1977 following the adoption of the Proposed Charter Amendment No. 1A, an election shall be held in Precincts Nos. 2 and 4 to elect members therefrom for a term of one year, more or less, until their successor has been duly elected and qualified. In the event the city council should ever increase the size of the council to seven (7) members, it shall create at that time seven (7) separate and distinct voting precincts and each even-numbered precinct shall hold its election on even-numbered years, and each odd-numbered precinct shall hold its election on odd-numbered years, except for the first election after the creation of such precincts, in which

event, both precincts shall hold an election with the terms of office being for one or two (2) years depending on the year in which the election is held, and the same provisions shall apply in the event the council should ever increase its size from seven (7) to nine (9) members. At every regular election and at every special election called to fill one or more vacant places on the council, election to each place on the council shall be by a majority of all the votes cast for such place at such election. In every such election each qualified voter shall vote for only one candidate for each council place to be filled.

(Ord. No. 338, § 4, 1-11-77)

Sec. 2. - Run-off elections.

When in an election to a place on the council, no candidate receives a majority of all the votes cast for such place, the council shall, upon declaring the official results of the election, issue on that date a call for the run-off election for each place to which no one was elected. The run-off election shall be held on the fourth Tuesday following the preceding election, and in such run-off election the two (2) candidates who had the highest number of votes for each place to which no one was elected shall be voted on again, and the candidate who receives the majority of the votes cast for such place in the run-off election shall be elected to such place.

Sec. 3. - Special elections.

The council may by ordinance call such special elections as are authorized by the state law and this charter, fix the time of holding same, and provide all means for holding such special elections, provided that every election other than the elections described in sections 1 and 2 of this article shall be held on a Saturday unless otherwise provided by law or this charter, and shall be held as nearly as practicable according to the provisions governing general elections.

Sec. 4. - Regulation of elections.

All elections shall be held in accordance with the laws of the State of Texas regulating the holding of municipal elections and in accordance with the ordinance adopted by the council for the conduct of elections. Provided that the council shall appoint the election judges and other election officials. Voting precincts, if necessary, shall be established by ordinance and may be altered from time to time in like manner.

Sec. 5. - Filing of candidates.

Any qualified person who desires to become a candidate for election to a place on the council shall file with the city secretary at least by the sixty-second (62nd) day prior to the election and not before the ninety-second (92nd) day prior to the election day, as per state law, an application for his/her name to appear on the ballot.

(Ord. No. 1327, § 2(3), 5-13-08)

Sec. 6. - Ballots.

For every regular election and for every special election called to fill one or more vacant places on the council, the city secretary shall place upon the official ballot the name of every candidate who shall file an application which complies with the provisions of this charter. The council places to be filled shall be placed on the ballot in numerical order. The name of each candidate shall be placed on the ballot under the designated place for which he shall have filed, and in such manner that the names of the candidates for each place shall be clearly separate and distinguishable from the names of the candidates for every other council place. The order on the ballot of the names of the candidates for each respective council place shall be determined by lot in a drawing to be held under the supervision of the city secretary, at which drawing each candidate or his named representative shall have a right to be present.

Sec. 7. - Canvassing election and declaring results.

The returns of every municipal election shall be delivered by the election judges to the city secretary not later than twelve (12) hours after the closing of the polls. The council shall canvass the returns and declare the official results of the election not later than the eleventh (11th) day after the closing of the polls and not before the third (3rd) day after the closing of the polls. The returns of every municipal election shall be recorded in the minutes of the council, by district totals for each candidate.

(Ord. No. 1327, § 2(1), 5-13-08)

ARTICLE IV. - INITIATIVE, REFERENDUM AND RECALL

Sec. 1. - Power of initiative.

The people of the city reserve the power of direct legislation by initiative, and in the exercise of such power may propose any ordinance, not in conflict with this charter, the state constitution, or the state laws except an ordinance appropriating money or authorizing the levy of taxes. Any initiated ordinance may be submitted to the council by a petition signed by qualified voters of the city equal in number to at least twenty-five (25) per cent of the qualified voters of the city.

Sec. 2. - Power of referendum.

The people reserve the power to approve or reject at the polls any legislation enacted by the council which is subject to the initiative process under this charter, except an ordinance which is enacted for the immediate preservation of the public peace, health or safety, which contains a statement of its urgency, and which is adopted by the favorable votes of four (4) or more of the councilmen. Prior to the effective date of any ordinance which is subject to referendum, a petition signed by qualified voters of the city equal number to at least twenty-five (25) per cent of the qualified voters of the city may be filed with the city secretary requesting that any such ordinance be either repealed or submitted to a vote of the people. When such a petition has been certified as sufficient by the city secretary, the ordinance specified in the petition shall not go into effect, or further action thereunder shall be suspended if it shall have gone into effect, until and unless it is approved by the voters as herein provided.

Sec. 3. - Form of petitions.

Initiative petition papers shall contain the full text of the proposed legislation in the form of an ordinance including a descriptive caption. The signatures to the initiative or referendum petitions need not all be appended to one paper, but each signer shall sign his name in ink or indelible pencil and shall add to his signature his place of residence by street and number. One of the signers of each separate petition shall make an affidavit that he, and he only, personally circulated such petition and that each signature appended thereto was made in his presence and is the genuine signature of the person whose name it purports to be.

Sec. 4. - Filing, examination and certification of petitions.

Within twenty (20) days after an initiative or referendum petition is filed, the city secretary shall determine whether the same is signed by the requisite number of qualified voters. The city secretary shall declare void any petition paper which does not have an affidavit attached thereto as required in section 3 of this article. In examining the petition the secretary shall write the letters "D. V." in red ink opposite the names of signers found not qualified to vote. After completing examination of the petition the secretary shall certify the result thereof to the council at its next regular meeting, stating the number of persons found on the petition who are qualified to vote and the number of persons found on the petition who are not qualified to vote. If the certificate of the city secretary shall show an initiative or referendum petition to be insufficient, the secretary shall notify the person filing the petition, and it may be amended within ten (10) days from the date of such notice by filing a supplementary petition upon additional papers signed

and filed as provided for an original petition. Within ten (10) days after such amendment is filed, the clerk shall examine the amended petition and certify as to its sufficiency. If the amended petition is found to be insufficient the secretary shall return the petition to the person filing the same, without prejudice to the filing of a new petition for the same purpose.

Sec. 5. - Council consideration and submission to voters.

When the council receives an authorized initiative petition certified by the city secretary to be sufficient, the council shall either: (a) Pass the initiated ordinance without amendment within sixty (60) days after the date of the certification to the council; or (b) Submit said initiated ordinance without amendment to a vote of the qualified voters of the city at a regular or special election to be held within ninety (90) days after the date of the certification to the council; or (c) At such election submit to a vote of the qualified voters of the city said initiated ordinance without amendment and an alternative ordinance on the same subject proposed by the council.

When the council receives an authorized referendum petition certified by the city secretary to be sufficient, the council shall reconsider the referred ordinance, and if upon such reconsideration such ordinance is not repealed, it shall be submitted to the voters at a regular or special election to be held not more than ninety (90) days after the date of the certification to the council. Special elections on initiated or referred ordinances shall not be held more frequently than once each six (6) months, and no ordinances on the same subject as an initiated ordinance which has been defeated at any election may be initiated by the voters within two (2) years from the date of such election.

Sec. 6. - Ballot form and results of elections.

The ballot used in voting upon an initiated or referred ordinance shall state the caption of the ordinance and below the caption shall set forth on separate lines the words, "For the ordinance" and "Against the ordinance."

Where an initiated ordinance and an alternative ordinance proposed by the council are submitted the ballot shall state the captions of each ordinance, clearly designating them "Ordinance No. 1" and "Ordinance No. 2", respectively, and shall set forth below the captions on separate lines the words "For Ordinance No. 1," and "For Ordinance No. 2", and "Against both ordinances." Where an initiated ordinance and an alternative ordinance are submitted, each voter shall vote "For" only one ordinance or "Against both ordinances," and a vote for one ordinance shall be counted as a vote against the other ordinance.

Any number of ordinances may be voted on at the same election in accordance with the provisions of this article. If a majority of the votes cast is in favor of a submitted ordinance, it shall thereupon be effective as an ordinance of the city. An ordinance so adopted may be repealed or amended at any time after the expiration of two (2) years by a four-fifths (4/5) vote of the council. A referred ordinance which is not approved by a majority of the votes cast shall be deemed thereupon repealed.

Sec. 7. - Power of recall.

The people of the city reserve the power to recall any member of the council and may exercise such power by filing with the city secretary a petition, signed by qualified voters of the city equal in number to at least forty (40) per cent of the qualified voters of the city, demanding the removal of a councilman. The petition shall be signed and verified in the manner required for an initiative petition, shall contain a general statement of the grounds for which the removal is sought, and one of the signers of each petition paper shall make an affidavit that the statements therein made are true.

Sec. 8. - Recall election.

Within twenty (20) days after a recall petition is filed, the city secretary shall examine the same. The provisions regulating examination, certification, and amendment of initiative petitions shall apply to recall petitions. If the petition is certified by the city secretary to be sufficient and the councilman whose removal is sought does not resign within five (5) days after the certification to the council, the council shall order

and hold a recall election within not less than thirty (30) nor more than sixty (60) days from such certification.

Sec. 9. - Recall ballot.

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

- (1) With respect to each person whose removal is sought the question shall be submitted "Shall (name of councilman) be removed from the office of city councilman?"
- (2) Immediately below each such question there shall be printed the two (2) following propositions, one above the other in the order indicated:

"For the recall of (name of councilman)"

"Against the recall of (name of councilman)"

Sec. 10. - Results of recall election.

If a majority of the votes cast at a recall election shall be against removal of the councilman named on the ballot, he shall continue in office. If the majority of the votes cast at such election be for the removal of the councilman named on the ballot, the council shall immediately declare his office vacant and such vacancy shall be filled in accordance with the provisions of this charter for filling of vacancies. A councilman thus removed shall not be a candidate to succeed himself in an election called to fill the vacancy thereby created.

Sec. 11. - Limitation on recall.

No recall petition shall be filed against a councilman within six (6) months after he takes office, and no councilman shall be subjected to more than one (1) recall election during a term of office.

Sec. 12. - "Qualified voters."

The term "qualified voters" shall mean insofar as testing the sufficiency of a petition for initiative, referendum and recall, the persons whose names are on the current voter registration list of Cherokee County, Texas, who are residents of the City of Jacksonville.

(Ord. No. 1327, § 2(6), 5-13-08)

ARTICLE V. - ADMINISTRATIVE ORGANIZATION

Sec. 1. - The city manager.

The city council shall appoint an officer of the city who shall have the title of city manager and who shall have the powers and perform the duties set forth in this Charter. No councilman shall receive such appointment during the term for which he shall have been elected, nor within one (1) year after the expiration of his term.

The salary of the city manager shall be fixed by the city council and he shall hold office at its pleasure; but if he is removed at any time after six (6) months following his appointment, he may demand written charges and a public hearing thereon before the city council prior to the date on which his final removal shall take effect, but pending such hearing the city council may suspend him from office. 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 for such suspension or removal in the city council. During the absence or disability of the city manager, the city council shall designate some properly qualified person to perform the duties of the office, except in case of his temporary absence or disability.

Sec. 2. - City secretary.

Upon recommendation by the city manager and approval by the city council, there shall be designated an officer of the city to serve as city secretary. He shall give notices of its meetings, shall keep the journal of its proceedings, shall authenticate by his signature and record in full in a book kept and indexed for the purpose all ordinances and resolutions, and shall perform such other duties as the city council shall assign to him, and those elsewhere provided for in this Charter.

Sec. 3. - City recorder.

There shall be a magistrate of the corporation court known as the city judge who shall be appointed by the city council at any time for a term of two (2) years. He may be removed by the city council at any time for incompetency, misconduct, malfeasance, or disability. He shall receive such salary as the city council may fix from time to time. The city council shall appoint an associate judge to serve in the event of the failure of the city judge to act for any reason. All costs and fines imposed by the corporation court, or by any court in cases appealed from judgments of the corporation court, shall be paid into the city treasury for the use and benefit of the city.

(Ord. No. 1146, § 2(2), 8-14-01)

Editor's note— All corporation courts or recorders' courts in cities in Texas are now called municipal courts by virtue of recent amendment to Art. 1194 of the Revised Civil Statutes.

Sec. 4. - City attorney.

The city council shall appoint a competent and duly licensed attorney practicing in the City of Jacksonville who shall be its city attorney. The city attorney shall receive for his services such compensation as may be fixed by the city council and shall hold office at its will and pleasure. The city attorney shall represent the city in all litigation and shall be the legal advisor and attorney and counsel for the city and all officers and departments thereof.

The city attorney shall have the power to appoint an assistant or assistants, if deemed necessary by him, subject to the approval of and at such compensation as may be fixed by the city council; and such assistant or assistants may hold office at the will of the city attorney so long as he continues in office.

Sec. 5. - Administrative departments.

There shall be such administrative departments as are established by this Charter and as may be established by ordinance, all of which shall be under the control and direction of the city manager. The council may abolish any department or combine one (1) or more departments created by it, but no administrative department shall be created, abolished or combined with another department until the council has obtained and considered the recommendations of the city manager with regard thereto.

Sec. 6. - Directors of departments.

At the head of each department there shall be a director who shall be appointed, and who may be removed, by the city manager. Such directors shall have supervision and control over their respective departments, and may serve as chiefs of divisions within their respective departments. Two (2) or more departments may be headed by the same individual, and the city manager may head one (1) or more departments.

Sec. 7. - Departmental organization.

The work of each department shall be distributed among such divisions as may be established by ordinance. Provided, however, that no departmental division shall be made until the city manager shall have been heard and have made his recommendations with respect thereto. Pending passage of ordinances establishing departmental divisions, the manager may establish temporary divisions in any department.

Sec. 8. - Official bonds.

The city council shall require official bonds of all officers and employees of the city in such amounts as said council may from time to time fix by ordinance or resolution, and conditioned for the faithful accounting of all credits and things of value coming into the hands of such officials or employees.

Sec. 9. - Qualifications and duties of employees.

The qualifications, duties and emoluments of all officers and employees of the City of Jacksonville shall be defined and prescribed by ordinance duly enacted by the city council, not in conflict with the provisions of this Charter, but until such ordinances are enacted and put into operation, the qualifications, duties and emoluments now prescribed by the ordinances of the City of Jacksonville and the laws of the State of Texas shall govern and be in force.

ARTICLE VI. - THE CITY MANAGER²

Footnotes:

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Cross reference— Appointment, etc., Art. V, § 1; control of departments, Art. V, § 5; council not to interfere, Art. II, § 15.

Sec. 1. - Qualifications.

The city manager shall be chosen by the city council solely on the basis of his executive and administrative qualifications with special reference to his actual experience in, or his knowledge of, accepted practice in respect to the duties of his office as hereinafter set forth. At the time of his appointment he need not be a resident of the city or state, but during his tenure of office he shall reside within the city limits.

Sec. 2. - Powers and duties.

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

- (1) Appoint and, when necessary for the good of the city, remove all officers and employees of the city except as otherwise provided by this Charter and except as he may authorize the head of a department to appoint and remove subordinates in such department.
- (2) To devote all his working time and attention to the affairs of the city and be responsible to the city council for the efficient administration of the city's affairs.
- (3) To see that all laws and ordinances are enforced.
- (4) To exercise supervision and control over all departments created by this Charter or that may hereafter be created by the city council, or the city manager, the offices of the city recorder and city attorney excepted.
- (5) To attend all meetings of the city council with the right to take part in discussions, but having no vote.
- (6) To make a full written report to the city council as soon after the close of each month's accounts as possible, showing the operation and expenditures of each department of the city for the preceding month and a comparison of such monthly expenditures by the departments with the monthly allowances made for such departments in the annual budget, and to keep the city

council advised of the financial condition and future needs of the city and make such recommendations as may seem to him desirable and proper.

- (7) To prepare and submit to the city council at the end of the fiscal year a complete report on the finances and administrative activities of the city for the preceding year.
- (8) Reserved.
- (9) To see that all terms and conditions imposed in favor of the city or its inhabitants on any public utility franchise are faithfully kept and performed, and upon knowledge of any violation thereof to call the same to the attention of the city council.
- (10) To recommend to the city council the salaries to be paid each appointive officer and subordinate employee of the city, and it shall be the duty of the city council to pass ordinances or resolutions from time to time, fixing rates and compensation.
- (11) To recommend to the city council from time to time for adoption such measures as he may deem necessary or expedient, and to do and perform such other duties as may be prescribed by this Charter or that may be required of him by the ordinances and resolutions of the city council.

(Ord. No. 1146, § 2(5), 8-14-01)

Sec. 3. - Term of appointment, salary.

The term of appointment for the office of city manager is for an indefinite period unless otherwise specified by the city council and the person holding said office shall be subject to discharge at the will of the city council and at such salary as the city council shall from time to time fix by resolution.

Sec. 4. - Absence of city manager.

To perform his duties during his temporary absence or disability, the city manager may designate by letter filed with the city secretary a qualified administrative officer of the city to serve for the city manager.

ARTICLE VII. - THE BUDGET

Sec. 1. - Fiscal year.

The fiscal year of the City of Jacksonville 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. 2. - Preparation and submission of budget.

The city manager, between thirty (30) and ninety (90) days prior to the beginning of each fiscal year, shall submit to the city council a proposed budget which shall provide a complete financial plan for the fiscal year, and shall contain the following:

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

- (5) Tax levies and tax collections by years for at least five (5) years or, if records for five (5) years are not available, then for as many years as are available.
- (6) General fund resources in detail.
- (7) Summary of proposed expenditures by function, department, and activity or by an acceptable budgetary system.
- (8) Summary of proposed expenditures by character and object.
- (9) Detailed estimates of expenditures shown separately for each activity to support the summaries (7) and (8) above. Such estimates of expenditures are to include an itemization of positions showing the number of persons having each title and the rate of pay.
- (10) A revenue and expense statement for all types of bonds.
- (11) A description of all bond issues outstanding, showing rate of interest, date of issue, maturity date, amount authorized, amount issued and amount outstanding.
- (12) A schedule of requirements for the principal and interest of each issue of bonds.
- (13) A special funds section.
- (14) The appropriation ordinance.
- (15) The tax levying ordinance.

Sec. 3. - Anticipated revenues compared with other years in budget.

In preparing the budget the city manager shall, in the form which he presents to the city council, 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. 4. - Proposed expenditures compared with other years.

The city manager shall, in the preparation of the budget, 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. 5. - Budget a public record.

The budget and all supporting schedules shall be filed with the city secretary when submitted to the city council and shall be a public record for inspection by anyone. The city manager shall cause copies to be made for distribution to all interested persons.

Sec. 6. - Notice of public hearing on budget.

At the meeting 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 a notice of the hearing setting forth the time and place thereof at least five (5) days before the date of the hearing.

Sec. 7. - Public hearing on budget.

At the time and place set for a public hearing on the budget, 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. 8. - Proceedings on budget after public hearing amending or supplementing budget.

At any time prior to or subsequent to the conclusion of such public hearing, and at any time prior to or subsequent to the adoption of the budget, the city council may insert new items or may increase or decrease the items of the budget, except items in proposed expenditures fixed by law. Before inserting any additional item or increasing any item of appropriation which will increase the total budget by ten (10) per cent or more, it must cause to be published a notice setting forth the nature of the proposed increases and fixing a place and time, not less than five (5) days after publication, at which the city council will hold a public hearing thereon.

Sec. 9. - Proceedings on adoption of budget.

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

Sec. 10. - Vote required for adoption.

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

Sec. 11. - Date of final adoption; failure to adopt.

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

Sec. 12. - 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 city secretary. The final budget shall be printed, mimeographed or otherwise reproduced, and a reasonable number of copies shall be made available for the use of all officers, departments and agencies, and for the use of interested persons and civic organizations.

Sec. 13. - 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. 14. - Budget establishes amount to be raised by property tax.

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

Sec. 15. - Contingent appropriation.

Provision shall be made in the annual budget and in the appropriation ordinance for a contingent appropriation in a percentage of the total general fund expenditure, to be used in case of unforeseen items of expenditures at such a percentage to be proposed by the city manager and approved by the city council. Such contingent appropriation shall be under the control of the city manager and distributed by him, after approval by 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. The proceeds of the contingent appropriation shall be disbursed only by transfer to other departmental appropriation, the spending of which shall be charged to the departments or activities for which the appropriations are made.

Sec. 16. - Estimated expenditures shall not exceed estimated resources.

The total estimated expenditures of the general fund and debt fund shall not exceed the total estimated resources of each fund. The classification of revenue and expenditure account shall conform as nearly as local conditions will permit to the uniform classification as promulgated by the National Committee on Municipal Accounting, or some other nationally accepted classifications.

Sec. 17. - Appropriations.

No funds of the city shall be expended nor shall any obligations for the expenditure of money be incurred, except in pursuance of the annual or interim period appropriation ordinance provided by this charter. At the close of each fiscal year any unencumbered balance of an appropriation shall revert to the fund from which appropriated and may be reappropriated by the city council. The council may transfer any unencumbered appropriation balance or portion thereof from one office, department, or agency to another. The city manager shall have authority without council approval, to transfer appropriation balances from one expenditure account to another within a single office, department, or agency of the city.

Sec. 18. - Emergency appropriations.

The city budget may be amended and appropriations altered in cases of grave public necessity after a public hearing upon the question of the necessity, notice of which public hearing shall be given either through the press, radio, or any other channels of communication available at the time.

Sec. 19. - Flexibility of presentation.

The city council is hereby empowered to substitute for subsections (7), (8), and (9) of section 2, section 16, as to the second sentence thereof, any other classification or summary method that is currently used and accepted to the end that improvements and advancements in municipal budgeting might be utilized without the necessity of charter amendment to accomplish the purpose.

ARTICLE VIII. - ISSUANCE AND SALE OF BONDS

Sec. 1. - Bonds to specify purpose of issuance.

All bonds shall specify for what purpose they are issued and shall be invalid if sold for less than their par value, and when any bonds are issued by the city a fund shall be provided to pay the interest and create a sinking fund to redeem said bonds, which fund shall not be diverted or drawn upon for any other purpose, and the person acting as city treasurer shall honor no drafts upon said funds, except to pay interest upon or redeem the bonds for which it was provided.

Sec. 2. - Bonds to be issued payable per ordinance.

Said bonds shall be issued for a period of time not to exceed a period of forty (40) years, shall be signed by the chairman of the council and countersigned by the person acting in the capacity of city secretary, and shall be payable at such places and times as may be fixed by ordinance of the city council. All such bonds shall be submitted to the attorney general of the State of Texas for his approval, and the state comptroller for registration, as provided by the laws of Texas, provided that any such bonds after approval may be issued by the city either optional or serial or otherwise, as may be deemed advisable by the city council.

Sec. 3. - Ordinance calling for election, publication.

Before the issuance of any bonds the same shall be submitted to a vote of the qualified property tax paying voters of the City of Jacksonville, and should a majority of the votes cast in said election be in favor of the issuance of the bonds the same shall be issued as provided herein, but should said election fail to carry, the bonds shall not be issued. The election provided for above shall be conducted as other elections under the state law, after due notice by publication once each week for four (4) consecutive

weeks prior to said election in a newspaper published in the City of Jacksonville, which said notice shall state the purpose and nature of said election.

Sec. 4. - Outstanding bonds and indebtedness as of January 20, 1931.

All outstanding bonds and other indebtedness of the Town of Jacksonville shall be assumed by the City of Jacksonville on the adoption and becoming effective of this charter, and shall be paid off and discharged according to their face, tenor and effect, and in accordance with the contract of said Town of Jacksonville to pay off and discharge the same. All indebtedness to the Town of Jacksonville, of whatsoever nature, shall become the property of and payable to the City of Jacksonville, upon the adoption and becoming effective of this charter.

ARTICLE IX. - TAXATION

Sec. 1. - Power to levy.

The city shall have the power and is hereby authorized to annually levy, assess and collect taxes not to exceed one dollar and fifty cents (\$1.50) on each one hundred dollars (\$100.00) assessed valuation of all real and personal property within the city limits of the City of Jacksonville, not exempt from taxation by the constitution and laws of the State of Texas.

Sec. 2. - Power to levy poll tax.

The city shall have the right and power to annually levy and collect a poll tax not to exceed fifty cents (\$0.50) for each year upon all inhabitants between the ages of twenty-one (21) and sixty (60) years of age, not exempt from the payment of poll taxes by the laws of the State of Texas.

Sec. 3. - Power to levy a franchise tax.

Said city shall have the power annually to levy and collect a franchise tax from any public service corporation using and occupying the public streets or grounds of the city, separately from the tangible property of such corporation, and to levy and collect annually upon the property and shares of corporations, companies and corporate institutions, as they are now or may be assessed by the laws of Texas, and shall have full power to enforce the collection of such taxes.

Sec. 4. - Power to regulate rendition and method of assessment.

Said city shall have the power to regulate the manner and mode of making out tax lists, inventories and appraisements of property therein, and to prescribe the oath that shall be administered to each person rendering property for taxation, and to prescribe how, when and where property shall be rendered, and to prescribe the number and form of assessment, as may be deemed advisable to secure the assessment of all property within the city limits, and to collect taxes thereon and may provide a fine upon all persons failing, neglecting or refusing to render their property for taxation, and to do any and all other things necessary or proper to render effectual the collection of moneys by taxation.

Sec. 5. - Power to assess unrendered property.

Said city shall have the power to provide for assessment of unrendered property for taxation and levy and assess taxes thereon annually, and to provide for the rendition, levy and assessment of taxes for previous years on property omitted from taxation and to provide interest at the rate of six (6) per cent per annum and penalty upon such unrendered or omitted property, and to change and provide for correction and reassessment of property erroneously assessed.

Sec. 6. - Personal property liable for all taxes.

Personal property of all persons, firms and corporations, owing any taxes to the City of Jacksonville are hereby made liable for all such taxes, whether the same be upon personal or real property, or upon both.

Sec. 7. - Property subject to tax.

All real, personal, or mixed property, held, owned or situated in the City of Jacksonville, not exempt by the laws of the State of Texas, shall be liable for all municipal taxes due by the owner thereof, including taxes on real estate, franchises, personal and mixed property, and all other municipal taxes of whatsoever character. Such municipal taxes are hereby declared to be a lien, charge and incumbrance upon the property so taxed, and shall be a prior lien to all other claims, sales, assignments, transfers, gifts and judicial writs. Said lien shall exist from the first day of January of each year until all such taxes have been paid, and against any real estate which for any cause has failed to be assessed for one (1) or more years, and such lien shall be good and effective for every year for which assessment has so failed.

(Ord. No. 1327, § 2(7), 5-13-08)

Sec. 8. - City council to levy annual taxes; failure to levy.

The governing authority of the City of Jacksonville, at its first meeting in June of each year, or as soon thereafter as practicable, shall levy the annual tax for such year, but special taxes or assessments allowed by this charter may be levied, assessed and collected at such times as the governing body may provide; provided that should the governing authority fail or neglect to levy the annual tax herein provided for any one (1) year, the annual tax levy for the preceding year last made by said governing body shall and will be considered in force and effective as the tax levy for the year for which no annual tax levy was made.

Sec. 9. - Power to provide for collection.

The city shall have full power to provide for the prompt collection, by suit or otherwise, of taxes assessed, levied and imposed, and it is hereby authorized, and to that end, shall have full power and authority to sell, or cause to be sold, all kinds of property, real and personal, and shall make such rules and regulations, and enact all such ordinances as are deemed necessary for the collection of any taxes provided for in this charter.

Sec. 10. - Funds collected divided into general fund and interest and sinking fund.

All moneys arising from the collection of taxes by the city shall be divided into appropriate funds and designated as the general fund and interest and sinking fund.

Sec. 11. - Irregularities not to invalidate assessment.

No irregularities in the time or manner of making or returning the city assessment rolls or the approval of such rolls, shall invalidate any assessment.

Sec. 12. - Board of equalization.

The governing body of the City of Jacksonville shall create annually a board of equalization, consisting of three (3) qualified voters and property taxpayers of the city, whose duty it shall be to equalize the values of all property rendered for taxation in the City of Jacksonville. Said governing body shall prescribe the compensation of the members of said board, and enact all ordinances necessary to regulate and control the equalization of values of such board.

ARTICLE X. - FRANCHISES AND PUBLIC UTILITIES

Sec. 1. - Inalienability of public property.

The right of control and use of the public streets, highways, sidewalks, alleys, parks, public squares, and public places of the city is hereby declared to be inalienable by the city, except by ordinances not in conflict with the provisions of this charter. No act or omission by the council or any officer or agent of the city shall be construed to grant, renew, extend, or amend by estoppel or indirection any right, franchise or easement affecting said public streets, highways, sidewalks, alleys, parks, public squares, public places and other real property.

Sec. 2. - Power to grant franchises.

The city council shall have the power and authority to grant franchises for the use and occupancy of the streets, avenues, alleys, and any and all public grounds belonging to or under the control of the city. No telegraph, telephone, electric light or power, street, railway, interurban railway, steam railway, gas company, waterworks, water systems or any other character of public utilities shall be granted any franchise or permitted the use of any street, avenue, alley, highway, or grounds of the city without first making application to and obtaining the consent of the city council thereto, expressed by ordinance, and upon paying such compensation as may be prescribed, and upon such conditions as may be provided for by such ordinance.

Sec. 3. - Power to grant and issue licenses.

The city council shall authorize the granting and issuance of licenses and shall direct the manner of issuing and registering the same, and fix the fees therefor, but no license shall be issued for a longer period than one (1) year, and shall not be assignable, except by permission of the city council of the city.

Sec. 4. - Ordinance granting franchise.

Every ordinance granting, renewing, extending or amending a public utility franchise shall be read at three (3) regular meetings of the council, and shall not be finally acted upon until thirty (30) days after the first reading thereof. Within five (5) days following each of the three (3) readings of the ordinance, the full text thereof shall be published one (1) time in some newspaper of general circulation in the city, and the expense of such publication shall be borne by the prospective franchise holder. No such ordinance shall become effective until the expiration of thirty (30) days following the date of its final adoption by the council, and every such ordinance shall be subject to the referendum procedure provided by state law and by this charter.

Sec. 5. - Transfer of franchise.

No public utility franchise shall be transferred by the holder thereof except with the approval of the council expressed by ordinance.

Sec. 6. - Regulation of franchise.

Every grant, renewal, extension or amendment of a public utility franchise, whether so provided in the ordinance or not, shall be subject to the right of the council:

- (1) To forfeit any such franchise by ordinance at any time for failure of the holder thereof to comply with the terms of the franchise, such power to be exercised only after notice and hearing, but no forfeiture shall be had until proof of such failure or failures has been established in a hearing or hearings properly conducted.
- (2) To impose reasonable regulations to insure safe, efficient and continuous service to the public.
- (3) To require every franchise holder to furnish to the city, without cost to the city, full information regarding the location, character and extent of all underground facilities of such franchise holder in, on and under the streets, alleys, and other public property of the city and to regulate and control the location, relocation and removal of all facilities in, on and under the streets, alleys and other public property of the city.

- (4) To collect from every public utility operating in the city its fair and just proportion of the expense of excavating, grading, paving, repaving, constructing, reconstructing, draining, repairing, maintaining, lighting, sweeping, and sprinkling such portions of the alleys, bridges, culverts, viaducts, and other public places and ways of the city as may be caused by the occupation or use in whole or in part by such utilities, or to compel such public utility to perform, at its own expense, its just share of such excavating, grading, paving, repaving, constructing, reconstructing, draining, repairing, maintaining, lighting, sweeping, and sprinkling.
- (5) To require every franchise holder to allow other public utilities to use its tracks, poles, wires or other facilities, including bridges and viaducts, wherever, in the judgment of the council, such use shall be in the public interest.
 - (a) The rates for rentals shall be agreed upon by and between the parties subject to the order of the council; however, in the event of failure to agree upon said rates by and between the parties, said failure shall in no wise affect the validity of the order of the council, and the parties shall have the right to litigate in a court of competent jurisdiction the reasonable rental thereof.
- (6)
 - (a) To prescribe the form of accounts kept by every franchise holder in the event the system of form of accounts is not otherwise specified by applicable state or federal laws or regulations.
 - (b) To examine and audit at any time the accounts and other records of any franchise holder.
 - (c) To require annual and other reports including reports on the operations of the utility, which reports shall be within the framework of generally accepted accounting practices of the utility involved.
- (7) To require and collect any compensation and rental not now and hereafter prohibited by the laws of this state.
- (8) To require such franchise holders who request an increase in rates, charges or fares, to reimburse the city for reasonable expenses incurred in employing rate consultants to conduct investigations, present evidence and advise the council on such requested increase.

Sec. 7. - Regulation of rates.

The council shall have full power after notice and hearing to regulate by ordinance, the rates, charges and fares of every public utility franchise holder operating in the city. Any franchise holder requesting an increase in its rates, charges, or fares shall have, at the hearing on such request, the burden of establishing by substantial evidence the value of its investments and the amount and character of its expenses and revenues and/or other pertinent information. No franchise holder shall institute any legal action to contest any rate, charge, or fare fixed by the council until such franchise holder has filed a motion for rehearing with the council specifically setting out each ground of its complaint against the rate, charge or fare fixed by the council, and until the council shall have acted upon such motion. The council shall have a period of sixty (60) days to act on said motion, and if motion is not acted on within such period, franchise holder shall have the right to institute such legal action as it desires.

ARTICLE XI. - GENERAL PROVISIONS

Sec. 1. - Publicity of records.

All records and accounts of every office, department, or agency of the city shall be open to inspection by any citizen, any representative of a citizens' organization, or any representative of the press at all reasonable times.

Sec. 2. - Personal interest in city contracts.

The city and its officers and employees shall comply with the Texas State law concerning personal financial interest of officers and employees in city contracts.

(Ord. No. 1146, § 2(3), 8-14-01)

Sec. 3. - Officers not to be interested in franchises; forfeiture of office.

Neither the mayor nor any other member of the city council, nor any elective or appointive officer of the city, shall be directly or indirectly in the employ of any person, company or corporation, holding or seeking to hold any franchise from the City of Jacksonville, or shall receive directly or indirectly any wage, commission, fee, gift, favor or payment from such franchise holder, and any violation of this section shall ipso facto render vacant the office held by the person so violating it.

Sec. 4. - Improper acts of officers and employees.

Any officer or employee of the city who by solicitation or otherwise, shall exert his influence directly or indirectly to influence any other officer or employee of the city to favor any particular person or candidate for office in the city, or who shall in any manner contribute money, labor, time or other valuable thing to any person for election purposes pertaining to any city office or appointment, shall be deemed guilty of a misdemeanor and upon conviction thereof shall forfeit his office or employment and be punished by a fine not exceeding two hundred dollars (\$200.00).

Sec. 5. - Oath of office.

Every person elected or appointed to any office in the city shall, before entering upon the duties of his office, take and subscribe to the oath of office prescribed in article XVI, section 1 of the state constitution.

Sec. 6. - Nepotism.

The City shall adhere to the prohibition of the Texas State law concerning nepotism.

(Ord. No. 1146, § 2(4), 8-14-01)

Sec. 7. - Notice of claims.

Before the City of Jacksonville shall be liable for damages for the death or personal injuries of any person or for damage to or destruction of property of any kind, which does not constitute a taking or damaging of property under article I, section 17, Constitution of Texas, the person injured, if living, or his representatives, if dead, or the owner of the property damaged or destroyed, shall give the city council or city manager notice in writing of such death, injury, damage or destruction, duly verified by affidavit, within forty-five (45) days after same has been sustained, stating specifically in such written notice when, where, and how the death, injury, damage or destruction occurred, and the apparent extent of such injury, the amount of damages sustained, the actual residence of the claimant by street and number at the date the claim is presented, the actual residence of such claimant for six (6) months immediately preceding the occurrence of such death, injury, damage or destruction, and the names and addresses of all witnesses upon whom it is relied to establish the claim for damages; and the failure to so notify the council or city manager within the time and manner specified herein shall exonerate, excuse and exempt the city from any liability whatsoever. No act of any officer or employee of the city shall waive compliance, or estop the city from requiring such compliance, with the provisions of this section as to notice, but such provisions may be waived by resolution of the council, made and passed before the expiration of the forty-five (45) day period herein provided, and evidenced by minutes of the council.

Sec. 8. - Damages; city not liable; limitations.

The City of Jacksonville shall not be liable for damages to anyone, on account of any defect in, obstruction on, or anything else in connection with any sidewalk in the city; nor shall the City of Jacksonville be liable for damages to anyone on account of any defect in, obstruction on, or anything else

in connection with any street, alley, or public place, other than any sidewalk, unless and until it be shown that some person, in the employment of the city and having superintendence or control of the work on the streets, alleys or public places, had actual notice of such defect, obstruction or other thing, for a sufficient length of time before such injury was received to have remedied such condition of the street, alley or public place before the injury was received.

Sec. 9. - Security or bond not required in suit, etc.

It shall not be necessary in any action, suit or proceeding in which the city shall be a party for any bond, undertaking or security to be executed in behalf of the city.

Sec. 10. - Assignment, execution, and garnishment.

The property, real and personal, belonging to the city shall not be liable for sale or appropriation under any writ of execution. 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. - Effect of charter on existing law.

All ordinances, resolutions, rules and regulations now in force under the city government and not in conflict with the provisions of any amendment to this charter shall remain in force under such amendment until altered, amended or repealed by the council after such amendment to this charter takes effect. All rights of the city under existing franchises and contracts and all existing authority for the issuance of bonds, not in conflict with the provisions of any amendment to this charter, shall be preserved in full force and effect.

Sec. 12. - Construction of charter.

This charter shall not be construed as a mere grant of enumerated powers, but shall be construed as a general grant of power and as a limitation of power on the government of the City of Jacksonville in the same manner as the Constitution of Texas is construed as a limitation on the powers of the legislature. Except where expressly prohibited by this charter each and every power under article XI, section 5 of the Constitution of Texas, which it would be competent for the people of the City of Jacksonville to expressly grant to the city, shall be construed as granted to the city by this charter.

Sec. 13. - Judicial notice.

This charter shall be deemed a public act, may be read in evidence without pleading or proof, and judicial notice shall be taken thereof in all courts and places.

Sec. 14. - Separability clause.

If any section or part of a section of this charter is held to be invalid or unconstitutional by a court of competent jurisdiction, the same shall not invalidate or impair the validity, force, or effect of any other section or part of a section of this charter.

Sec. 15. - Rearrangement and renumbering.

The council shall have the power, by ordinance, to renumber and rearrange all articles, sections, and paragraphs of this charter or any amendments thereto, as it shall deem appropriate, and upon the passage of any such ordinance a copy thereof, certified by the city secretary, shall be forwarded to the secretary of state for filing. The council shall have the power by ordinance to give designations to sections of the present charter not repealed and to change wherever needed the words "city commission" to "city council."

Sec. 16. - Interim municipal government.

From and after the date of the adoption of any amendment to this charter and until the completion of the first city election thereunder and the qualifications of the members of the council therein elected, the members of the present governing body of this municipality now in office, shall continue in office and shall exercise all of the powers conferred upon the city by such amendment.