

CITY OF BELLAIRE TEXAS
CHARTER REVIEW COMMISSION
JUNE 19, 2017

FINAL REPORT



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OVERVIEW

A home-rule city derives its power from the Texas Constitution and has all the powers of the state not inconsistent with the Constitution, the general laws of the state, and the city's charter. Thus, home-rule cities have full power of local self-government; however, a home-rule municipality's powers may be limited by the state legislature if the legislature decides to exercise that authority, so long as the intention by the legislature to impose limitations on the power of home-rule cities is undertaken with unmistakable clarity.

On November 7, 2016, the City Council of the City of Bellaire adopted Ordinance Number 16-067 establishing a Charter Review Commission for the purpose of reviewing the City of Bellaire Charter. The Commission was charged to conduct an independent review of the City Charter and report to the City Council by June 30, 2017, of any proposed amendments which meet the following objectives:

- a. Amendments to sections of the Charter which are in conflict with applicable provisions of the general laws of the State of Texas, by reason of amendments or new statutes enacted by the Texas State Legislature since the Charter was first drafted and last amended;
- b. Amendments to sections of the Charter needed to resolve any inaccuracies related to construction of case law;
- c. Amendments to state more clearly certain provisions of the Charter, which, as currently expressed, are either ambiguous or inaccurate; and
- d. Amendments to correct certain provisions of the Charter, which, as currently expressed, are either inconsistent with our form of government or contain requirements that create unnecessary inefficiencies.

The Charter Review Commission began meeting on Thursday, December 15, 2016 for the purpose of completing its review pursuant to the objectives set out by City Council in Ordinance No. 16-067. The Charter Review Commission met on eight (8) separate occasions. All meetings were conducted pursuant to the Texas Open Meetings Act and allowed time both at the beginning, and prior to adjournment, for citizen input. This document is the culmination of the Charter Review Commission's work and constitutes their Final Report.

1. SUMMARY OF PROPOSED 2017 CHARTER AMENDMENTS

Articles

- I: Incorporation; Form of Government and General Powers
- II. The Council
- III. The City Manager
- IV. Department of Law
- V. The Budget
- VI. Borrowing for Capital Improvements
- VII. Finance Administration
- VIII. Tax Administration (*Repealed November 16, 1987*)
- IX. Nominations and Elections (*Repealed November 16, 1987*)
- X. Initiative, Referendum, and Recall
- XI. Franchises and Public Utilities
- XII. General Provisions

| Item # | Art. | Sec. | Sec. Title | Summary |
|--------|------|------|--|--|
| 1 | I | 5 | Liability of the City | Blanket liability waiver inconsistent with state law. |
| 2 | | 6 | Eminent Domain | Reference to condemnation by railroad companies is outdated. |
| 3 | | 7 | Street Powers | Language from 8 included here for efficiency. |
| 4 | | 8 | Street Improvements | Deleted and combined with Section 7 for efficiency; deletion of reference to 1927 law |
| 5 | | 9 | Extending City Limits by Action of the City Council | Added language on disannexation in line with state law. |
| 6 | | 11 | Garbage Disposal | Add “recycling” to remove ambiguity |
| 7 | II | 2 | Qualifications | Add public hearing language for consistency with Section 16. |
| 8 | | 3 | Compensation of Members of the City Council. | Revision for efficiency (remove council meeting counting) and add process for comp changes consistent with form of government. |
| 9 | | 5 | Mayor Pro Tempore | Clarification to clear up ambiguity as to powers and vacancies |
| 10 | | 6 | Vacancies in Council | Amendment to be consistent with 2013 change to Texas Constitution |
| 11 | | 11 | Council Not to Interfere in Appointments or Removals | Add language to clear up ambiguity by identifying right of Council to express views on appointments and removals |
| 12 | | 13 | City Clerk | Resolve ambiguity regarding Clerk reporting |
| 13 | | 14 | Municipal Court | Add appointment language consistent with law |
| 14 | | 15 | Meetings of Council | Remove ambiguity by inclusion of reference to Open Meetings Act |
| 15 | | 16 | Council to be Judge of Qualifications of its Members | Identify hearing process consisted with practice for form of government (removes ambiguity) |
| 16 | | 17 | Rules of Procedure; Journal | Remove antiquated “journal” references |

| | | | | |
|----|-----|----|--|--|
| 17 | | 20 | Investigation by Council | Update fine amount consistent with similar cities. |
| 18 | | 21 | Independent Audit | Update publication to be via website |
| 19 | III | 2 | The City Manager; Powers and Duties | Give city manager contract signing authority within limits from Council for efficiency purposes |
| 20 | VI | 1 | Power to Incur Indebtedness by Issuing Bonds, Warrants and Notes | Amendment making City comply with state law process for incurring indebtedness by bonds (removes inefficiencies of including process in Charter) |
| 21 | | 2 | Bond Ordinance; Vote Required | Deleted per the above as to Section 1 |
| 22 | | 3 | Issuance of Bonds | Deleted per the above as to Section 1 |
| 23 | | 4 | Public Sale | Deleted per the above as to Section 1 |
| 24 | | 5 | Register of Bonds | Deleted per the above as to Section 1 |
| 25 | VII | 4 | Director of Finance; Powers and Duties | Deletion of duties not performed by director of finance or the city in its form of government. |
| 26 | | 8 | Fees Shall be Paid to City Government | Deleted as unnecessary in charter (action required by state law). |
| 27 | | 12 | Accounting of Property | Deleted definition of equipment not currently used by the City |
| 28 | | 16 | City May Carry Own Paper | Allowed under state law so not needed in Charter |
| 29 | | 17 | Borrowing in Anticipation of Property Taxes | Allowed under state law so not needed in Charter |
| 30 | | 18 | Borrowing in Anticipation of Other Revenues | Allowed under state law so not needed in Charter |
| 31 | | 19 | Sales of Notes, Report of Sale. | Allowed under state law so not needed in Charter |
| 32 | X | 1 | Power of Initiative | Tie initiative to number of voters as opposed to votes cast for consistency in threshold |
| 33 | | 2 | Power of Referendum | Tie initiative to number of voters as opposed to votes cast for consistency in threshold |
| 34 | | 8 | Submission to Electors | Consistency with state law on timing of elections and Charter internal consistency |
| 35 | | 14 | Recall Petitions | Tie recall to number of voters as opposed to votes casts for consistency in threshold |
| 36 | | 19 | District Judge May Order Election | Amendment to resolve state law conflict (not allowed to compel action by a judge) |
| 37 | XI | 2 | Franchises; Power of Council | Amendment to reduce readings and publications for efficiency |
| 38 | | 4 | Right of Regulation | Remove outdated references to accounting systems |
| 39 | | 8 | Franchise Records | Removal of ambiguity created by timing tied to effectiveness of Charter |
| 40 | XII | 2 | Personal Interest | Remove inconsistency with state law |
| 41 | | 10 | Amending the Charter | Consistency with state law on timing of elections |
| 42 | | 13 | Rearrangement and Renumbering Charter | Updated for efficiency purposes and to remove ambiguity |

2. PROPOSED 2017 CHARTER AMENDMENTS

Article I Incorporation; Form of Government, Corporate and General Powers

Sections 5, 6, 7 and 8

- Amendment for consistency with the general laws of the State of Texas and to clarify language which, as currently expressed, is ambiguous as to the City's authority.

Proposed Amendments:

Sec. 5. - Liability of the City.

The City of Bellaire shall not be liable for personal injury or property loss or damage from any cause, including the negligence of City officials or City employees, in the performance of governmental functions, ~~including the operation of the water system, the collection and disposition of garbage, the sewer system, the fire department, or any other governmental office, department or agency created by or operating under this Charter except as set forth in the Texas Civil Practices and Remedies Code, Title 5, Governmental Liability, Chapter 101 tort claims.~~

Sec. 6. - Eminent Domain.

- General Provisions. The City shall have the 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, except as provided in subsection (b) and (c). ~~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 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, except as provided in subsection (b) and (c). 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.
- Limitations to Eminent Domain. The City's power of eminent domain shall be limited to the taking of private property exclusively for the ownership and the use by the City, Eminent Domain shall be prohibited in those cases.
 - in which the taking is motivated by economic development which involve the intent to resell any interest in the property acquired; and
 - which involve a joint venture or a collaborative arrangement with a private entity.

(c) Exceptions to Limitations. The limitations in subsection (b) of this section are not intended to apply to

- (1) a non-adverse (or a willing and friendly) condemnation or a condemnation when the majority of partial interest owners consider the condemnation to be non-adverse; and
- (2) a condemnation necessary to cure the cloud on title to real estate or any other condition where a condemnation is deemed necessary in lieu of the transfer of title from a willing seller.

Sec. 7. - Street Powers and Improvements.

The City of Bellaire shall have exclusive dominion, control and jurisdiction in, upon, and over and under the public streets, avenues, alleys and highways of the City, and may provide for the improvement thereof by paving, re-paving, raising, draining, or otherwise and shall also include, but not be limited to, the right to supervise, regulate and otherwise control, locate, relocate, remove, or prohibit the location of, all utility pipes, lines, wires, or other property. In addition, the City shall have the power to lay out, establish, open, alter, widen, lower, extend, grade, abandon, discontinue, abolish, close, care for, pave, supervise, maintain and improve streets, alleys, sidewalks, parks, squares, public places and bridges; and regulate and/or restrict the use thereof; and require the removal from the streets, sidewalks, alleys and other public property or places of all obstructions, trespasses and/or encroachments of every nature or character.

Sec. 8. Street Improvements.

~~The City of Bellaire shall have exclusive dominion, control and jurisdiction in, upon, and over and under the public streets, avenues, alleys and highways of the City, and may provide for the improvement thereof by paving, re-paving, raising, draining, or otherwise. The provisions of Chapter 106, 40th Legislature, First Called Session, Acts of 1927, together with existing amendments and all such amendments as hereinafter may be made, are expressly adopted and made a part of this Charter. Such exclusive dominion, control and jurisdiction in, upon, over and under the public streets, avenues, alleys and highways of the City shall also include, but not be limited to, the right to supervise, regulate and otherwise control, locate, relocate, remove, or prohibit the location of, all utility pipes, lines, wires, or other property.~~

Section 9

- Add language consistent and necessary for compliance with State law.

Legal Statement:

Texas Local Government Code Section 43.142 authorizes a home rule city to disannex property as provided in its charter. Currently the Charter does not provide a process for disannexation. Language is proposed for disannexation procedures.

Proposed Amendments:

Sec. 9. - Extending and Contracting City Limits by Action of the City Council.

The City Council shall have power by ordinance to fix the boundary limits of the City of Bellaire, and to provide for the extension of said boundary limits and the annexation of additional territory lying adjacent to said City, with or without the consent of the territory and/or inhabitants annexed. Upon the passage of such an ordinance by the city council one time, it shall be published in the official newspaper of the City of Bellaire one time. After at least thirty (30) days have elapsed from the date of such publication, said ordinance in original or amended form as said city council in its judgment may determine, shall be acted upon again, and if passed the territory so annexed shall thereupon become a part of the City of Bellaire, and any inhabitants thereof shall be entitled to all rights and privileges of other citizens of said City, and shall be bound by the acts, ordinances, resolutions and regulations of said City.

Any amendment to an ordinance annexing additional territory shall be advertised at least ten (10) days before final passage of the annexing ordinance, but any amendment eliminating from any such annexing ordinance property proposed to be annexed in the original ordinance or any amendment thereto need not be advertised.

Any area of the City may be disannexed pursuant to any procedure allowed under state law and whenever, in the opinion of the City Council, there exists within the corporate limits of the City a territory not suitable or necessary for City purposes, the City Council may discontinue said territory as part of the City by ordinance after conducting a public hearing on the matter.

Section 11

- Amendment to clarify language which, as currently expressed, is ambiguous as to the City's authority.

Proposed Amendments:

Sec. 11. - Garbage Disposal.

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

Article II The Council

Section 2

- Amendments to correct certain provisions of the Charter, which, as currently expressed, are inconsistent with the Charter.

Proposed Amendments:

Sec. 2. - Qualifications.

To be eligible to be a candidate for, or elected to, office as Mayor or City Councilman of the City of Bellaire, or to continue to hold any such office, a person must:

- (1) Be a United States citizen;
- (2) Be twenty-one (21) years of age or older on the first day of the term to be filled at the election;
- (3) Have not been determined mentally incompetent by a final judgment of a court;
- (4) Have not been finally convicted of a felony from which the person has not been pardoned or otherwise released from the resulting disabilities;
- (5) Have resided continuously in the State of Texas and within the corporate limits of the City of Bellaire for twelve (12) months immediately preceding the filing deadline of the regular election; and
- (6) Be a qualified, registered voter of the State of Texas, County of Harris.

In addition, all candidates or persons elected to office as Mayor or City Councilman of the City of Bellaire shall meet all other requirements for office holders as may, from time to time, be specified by the Constitution and general laws of the State of Texas. If, at any time, any person holding the office of Mayor or City Councilman of the City of Bellaire no longer possesses all of the qualifications specified in this Section or is convicted of a felony or an offense involving moral turpitude while in office, such office shall, after a public hearing and determination by City Council pursuant to Section 16 be declared immediately and automatically become vacant.

Section 3

- Revise language to provide for a process more consistent with the City's form of government.

Proposed Amendments:

Sec. 3. - Compensation of Members of the City Council.

The Mayor shall receive as compensation for his services the sum of Seventy-five Dollars (\$75.00) per month.

Each Councilman shall receive as compensation the sum of ~~Ten Dollars (\$10.00) for each meeting of the City Council attended by him, provided that no Councilman shall receive a greater compensation than~~ Fifty Dollars (\$50.00) per month.

The rate of compensation may be changed by the Council; however, no increase in the rate of compensation shall take effect unless ratified by a majority of the voters in the next regular City election. The City shall pay or reimburse reasonable expenses incurred by the Mayor or Council Members in the performance of specific duties, limited to the amount appropriated for such expenses in the current budget.

Section 5

Amendment to clarify language which, as currently expressed, is ambiguous.

Proposed Amendments:

Sec. 5. - Mayor Pro Tempore.

The City Council shall elect a Mayor Pro Tempore, who shall act as, and have all the powers of the Mayor during the absence or disability of the Mayor, and if a vacancy should occur in the office of Mayor, shall ~~become~~ act as, and have all the powers of the, Mayor until the next regular election, at which election a Mayor shall be elected to fill the full or unexpired term, as the case may be. The Mayor Pro Tempore's office shall not be considered vacant during any such time he or she is acting as the Mayor.

Section 6

- Amendments based on recent Texas constitutional changes which remove existing unnecessary inefficiencies.

Legal Statement:

The Texas Constitution was amended in 2013 to read as follows:

Sec. 11. TERM OF OFFICE EXCEEDING TWO YEARS IN HOME RULE AND GENERAL LAW CITIES; VACANCIES.

(c) Any vacancy or vacancies occurring on such governing body [whose term of office exceeds two years] shall not be filled by appointment but must be filled by majority vote of the qualified voters at a special election called for such purpose within one hundred and twenty (120) days after such vacancy or vacancies occur except that the municipality may provide by charter or charter amendment the procedure for filling a vacancy occurring on its governing body for an unexpired term of 12 months or less.

Proposed Amendments:

Sec. 6. - Vacancies in Council.

Vacancies in office of Mayor Council, the effective date of which shall be determined in accordance with the provisions of the Texas Election Code, shall be filled by a candidate possessing all of the qualifications outlined in Section 2 of this Article, at an election called for that purpose pursuant to the provisions of the Texas Constitution and the Texas Election Code.

In the event of a vacancy in the office of City Councilmember, the effective date of which shall be determined in accordance with the provisions of the Texas Election Code, if there are 365 days or more remaining on the term of the vacated office, the City Council shall call a special election to fill such vacancy. If there are fewer than 365 days remaining in the term of the vacant office, the City Council may, by majority vote of the remaining Members of City Council, at its discretion, leave the office vacant, appoint a new Councilmember to fill such vacancy or call a special election to fill such vacancy.

Section 11 and 13

- Amendment to clarify language which, as currently expressed, is ambiguous.

Proposed Amendments:

Sec. 11. - Council Not to Interfere in Appointments or Removals.

~~Neither the Council nor any of its members shall direct the appointment of any person to office, and such power is confided solely to the City Manager. The City Council shall have no power to remove any person appointed by the City Manager and shall have only the power to appoint and/or remove the City Manager. The Council shall deal with the administrative service solely through the City Manager, and neither the Council nor any member thereof shall give orders to any subordinate of the City Manager, either publicly or privately.~~

Neither the City Council nor the Mayor or any Councilmember shall in any manner dictate the appointment or removal of any city administrative officers or employees whom the City Manager or any of his subordinates are empowered to appoint, unless otherwise provided in this Charter. However, the City Council may, at a properly noticed meeting, express its views and fully and freely discuss with the City Manager anything pertaining to appointment and removal of such officers and employees. Further, except for the purpose of inquiries and investigations, unless otherwise provided in this Charter, the City Council, Councilmembers and the Mayor shall deal with City officers and employees who are subject to the direction and supervision of the City Manager solely through the City Manager, and neither the City Council nor Councilmembers nor the Mayor shall give orders to any such officer or employee, either publicly or privately.

Sec. 13. - City Clerk.

The Council shall appoint ~~some~~ person to serve as a City Clerk of the Council. The City Clerk shall report to the City Council. He shall give notices of its meetings, shall keep the official copy of this Charter and the journal of the Council's proceedings, shall authenticate by his signature and record in full in a book kept for the purpose all ordinances and resolutions, and shall perform such other duties as the City Manager shall assign to him.

Section 14

- Amendment for consistency with State law.

Legal Statement:

Texas Government Code provides as follows as to appointment of Municipal Judges:

Sec. 29.004. Judge.

(a) The judge and alternate judges of the municipal court in a home-rule city are selected under the municipality's charter provisions relating to the election or appointment of judges. The judge shall be known as the "judge of the municipal court" unless the municipality by charter provides for another title.

Section 29.005. Term of Office provides as follows:

The judge of a municipal court serves for a term of office of two years unless the municipality provides for a longer term pursuant to Article XI, Section 11, of the Texas Constitution. A municipal court judge who is not reappointed by the 91st day following the expiration of a term of office shall, absent action by the appointing authority, continue to serve for another term of office beginning on the date the previous term of office expired.

- Delete language which creates inconsistencies with the City's form of government.

Proposed Amendments:

Sec. 14. - Municipal Court.

There is hereby established a Municipal Court of the City of Bellaire. The City Council shall appoint a Municipal Court Judge to serve a term of office of two (2) years. A Municipal Court Judge who is not reappointed by the 91st day following the expiration of a term of office shall, absent action by the City Council, continue to serve for another term of office beginning on the date the previous term of office expired. ~~term as it shall prescribe and The City Council shall appoint~~ such other associate judge or judges as it shall determine to be necessary and appropriate, for such terms as it shall provide. Such judge(s) may be removed for incompetency, misconduct or malfeasance. The compensation for the judge(s) of the Municipal Court shall be fixed by the City Council. The City Council shall have the power to make temporary or relief appointments of Municipal Court Judges, in the event of emergencies, for shorter periods of time than provided for the term(s) of the Municipal Court Judge and associate judge(s).

All costs and fines imposed by the Municipal Court, or by any court in cases appealed from judgments of the Municipal Court, shall be paid into the city treasury for the use and benefit of the City.

~~The City Council shall, by ordinance, appoint a Clerk of the Municipal Court and as many Deputy Clerks as shall be necessary. The Clerk of said Court or any Deputy City Clerk shall have power to administer oaths and affidavits, make certificates, affix the seal~~

~~of said Court thereto and generally do and perform any and all acts usual and necessary by clerks of courts in issuing process of said courts and conducting the business thereof. In the event of the absence or unavailability of the Clerk or Deputy Clerk to serve, any Judge of the Municipal Court may appoint a temporary replacement who shall have the same powers and duties as herein provided for the Clerk or any Deputy Clerk.~~

Section 15

- Amendment to clarify language which, as currently expressed, is ambiguous.

Proposed Amendments:

Sec. 15. - Meetings of Council.

The City Council shall meet regularly at such times as may be prescribed by its rules, but not less frequently than twice each month. All meetings of the Council shall be subject to the Texas Open Meetings Act open to the public; special meetings shall be called by the City Clerk upon request of the Mayor, City Manager, or a majority of the members of the Council.

Four (4) members of the Council, of whom the Mayor shall be counted as one, shall constitute a quorum for the transaction of business. The affirmative vote of four (4) members shall be required for the transaction of business. A smaller number may adjourn from time to time.

Section 16

- Amendment to add language to remove existing unnecessary inefficiencies.

Proposed Amendments:

Sec. 16 - Council to be Judge of Qualifications of its Members; Hearings; Process.

A. General. The Council shall be the judge of the election and qualifications of its members, and shall have the power to investigate and to remove any member for malfeasance or nonfeasance in office, after public hearing, by a two-thirds (2/3) vote of the whole Council; for such purpose it shall have power to administer oaths, subpoena witnesses, compel the production of records books, papers, and other evidence material to the inquiry. The City Council shall provide, by ordinance, penalties for contempt in failing or refusing to obey any such subpoena or to produce any such books, papers or other evidence. The City Council shall have the power to punish any such contempt in the manner provided by such ordinance.

B. Hearings Process for Forfeitures of Office and Prohibitions.

1. All hearings held under this subsection shall be conducted in open session, except that the City Council may conduct a closed session to get advice from its attorney pursuant to the Texas Open Meetings Act;

2. The office holder subject to any investigation and/or hearing under this section shall be entitled to written notice of the specific allegations made against them;
3. A special meeting shall be called to hold the hearing; the office holder who is the subject of the hearing shall not sit at the dais and shall not participate in deliberation or vote; and City Council shall adopt by ordinance rules of procedures to be followed which rules shall not be amended or repealed for a particular public hearing after written notice has been provided to the office holder; except and unless, agreed to by the office holder;
4. The City Council shall state the nature of the hearing and the allegations to be considered, shall be provided the results of any investigation and a presentation of the evidence against the office holder including, but not limited to testimony from individuals; the individual who is subject to the hearing shall be provided an opportunity to respond to the allegations and present any relevant evidence including, but not limited to, testimony from individuals; and City Council may ask questions of any individual; and
5. No public comment shall be allowed unless agreed to by a majority vote of the members of City Council present and rules for public comment, if allowed, shall be set by City Council.

Sections 17, 20 and 21

- Amendment to remove existing unnecessary inefficiencies.

Proposed Amendments:

Sec. 17. - Rules of Procedure; Journal.

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

Sec. 20. - Investigation by Council.

The Council shall have the power to inquire into the conduct of any office, department, agency, or officer of the City and to make investigations as to municipal affairs, and for the purpose may subpoena witnesses, administer oaths, and compel the production of books, papers, and other evidence. Failure to obey such subpoena or to produce books, papers or other evidence as ordered under the provisions of this section shall constitute a misdemeanor and shall be punishable by fine not to exceed ~~Two Hundred~~ (\$200.00) Three Hundred (\$300.00) Dollars for each offense.

Sec. 21. - Independent Audit.

Prior to the end of each fiscal year, the Council shall designate a certified public accountant who, as of the end of that fiscal year, shall make an independent audit of accounts and other evidences of financial transactions of the city government, and shall submit a sworn report to the Council. Notice shall be ~~given provided by publication in on~~ the official ~~newspaper~~ website of the City of Bellaire that the annual audit is on file at the City Hall for inspection. Such accountant shall have no personal interest, direct or indirect, in the fiscal affairs of the city government. They shall not maintain accounts or record of the City business, but, within specifications approved by the Council, shall post-audit the books and documents kept by the Department of Finance and any separate or subordinate accounts kept by any other office, department or agency of the city government. Such accountants may make monthly checks, or a general audit at more frequent intervals as the Council may direct.

Article III The City Manager

Section 2

- Amendment to add language consistent with the City's form of government and remove existing unnecessary inefficiencies.

Proposed Amendments:

Sec. 2. - The City Manager; Powers and Duties.

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

- Appoint and remove all officers and employees of the City appointed by him, 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;
- Prepare the budget annually and submit it to the Council and be responsible for its administration after adoption;
- Prepare and submit to the Council as of the end of the fiscal year a complete report on the finances and administrative activities of the City for the preceding year;
- Keep the Council advised of the financial condition and future need of the City and make such recommendations as may seem to him desirable; and
- Sign all documents, contracts and conveyances made or entered into by the City, and all bonds, pursuant to any relevant policy adopted by City Council, except where the City Council has authorized the Mayor to sign said document as provided for in Article II Section 4 of this Charter.**
- (ef)** Perform such other duties as may be prescribed by this Charter or required of him by the Council, not inconsistent with this Charter.

Article VI Borrowing for Capital Improvements

Sections 1, 2, 3, 4 and 5

- Amendment to add language making clear City must comply with state law when incurring indebtedness by issuing bonds and remove existing unnecessary inefficiencies.

Proposed Amendments:

Sec. 1. - Power to Incur Indebtedness by Issuing Bonds, Warrants and Notes.

The City of Bellaire shall have the right and power to borrow money on the credit of the City for any lawful public purpose, including without limitation permanent public improvements, as may be determined by the City Council, and to issue bonds, warrants, notes, or other evidence of indebtedness of the City therefor in accordance with state law.

~~Sec. 2. Bond Ordinance; Vote Required.~~

~~The issuance of tax bonds must be approved by a majority of the qualified voters voting at an election called for that purpose.~~

~~The City shall authorize the issuance of bonds by a "bond ordinance" passed by the affirmative votes of the majority of all members of its Council. Revenue bonds may be issued by the Council in accordance with state law.~~

~~The bond ordinance and the manner of conducting the election shall in all respects conform to this Charter and the general laws of the State.~~

~~Sec. 3. Issuance of Bonds.~~

~~When an issue of bonds has been authorized, the City shall have the power to issue serial bonds or otherwise as in its opinion may seem best as provided in the ordinance authorizing their issuance, not to exceed thirty (30) years. However, all character of securities issued for street improvements shall be for a period of not exceeding twenty (20) years. All bonds shall specify on their face for what purpose they are issued, and they shall be invalid if sold for less than their par value, plus accrued interest. When any such bonds are issued by the City a fund shall be provided to pay the bonds at maturity. The regulations of this section shall likewise govern warrants, notes and other evidences of indebtedness.~~

~~Sec. 4. Public Sale.~~

~~All bonds issued under this Charter shall be sold at public sale upon sealed proposals after at least ten (10) days' notice published at least once in a publication carrying municipal bond notices and devoted primarily to financial news, and at least ten (10) days notice published at least once in the official newspaper of the City.~~

~~If no satisfactory bid is received under the above procedure, the Council may have the power to negotiate a sale at a better price within a ten day period following the opening of bids; otherwise, the sale of bonds must be readvertised.~~

~~Sec. 5. Register of Bonds.~~

~~The City Council shall cause to be kept for and on behalf of the City a complete register and set of books showing all bonds, warrants and other evidences of indebtedness issued by the City, the date and amount thereof, the rate of interest, maturity, all bonds, warrants or other evidences of indebtedness surrendered, all transactions of the City Council having reference to the refunding of any of the indebtedness of the City, and all other information that may be desired or required. Records with reference to bonds and warrants and other evidences of indebtedness shall be kept separately. When bonds, or warrants, or other evidences of indebtedness, or their coupons, are paid, their payment or cancellation shall be noted in said register.~~

Article VII Finance Administration

Sections 4, 8, 12, 16, 17, 18 and 19

- Amendment to add language consistent with the City's form of government and remove existing unnecessary inefficiencies.

Proposed Amendments:

Sec. 4. - Director of Finance; Powers and Duties.

Under the direction of the City Manager, the Director of Finance shall have charge of the administration of the financial affairs of the City and to that end, he shall have authority and shall be required to:

- (1) Supervise and be responsible for the disbursement of all moneys and have control over all expenditures to ensure that budget appropriations are not exceeded;
- (2) Maintain a general accounting system for the city government and each of its offices, departments and agencies; keep books for and exercise financial budgetary control over each office, department and agency; keep separate accounts for the items of appropriation contained in the city budget, each of which accounts shall show the amount of the appropriation, the amounts paid therefrom, the unpaid obligations against it and the unencumbered balance; require reports of receipts and disbursements from each receiving and spending agency of the city government to be made daily or at such intervals as he may deem expedient;
- (3) Submit to the City Council through the City Manager a monthly statement of all receipts and disbursements in sufficient detail to show the exact financial condition of the City;
- (4) Prepare, as of the end of each fiscal year, a complete financial statement and report;
- (5) Collect ~~all taxes~~, special assessments, license fees and other revenues of the City or for whose collection the City is responsible and receive all money receivable by the City from the state or federal government, or from any court, or from any office, department or agency of this City;
- (6) ~~Have custody of all public funds belonging to or under the control of the City, or any office, department or agency of the city government, and deposit all funds coming into his hands in such depository or depositories as may be designated by~~

~~the City Council, subject to the requirements of law in force from time to time as to the furnishing of bond or the deposit of securities and the payment of interest on deposits. All such interest shall be the property of the City and shall be accounted for and credited to the proper account;~~

- ~~(7) Have custody of all investments and invested funds of the city government, or in possession of such government in a fiduciary capacity, and have the safekeeping of all bonds and notes of the City and the receipt and delivery of city bonds and notes for transfer, registration or exchange;~~
- ~~(8) Supervise and be responsible for the purchase, storage and distribution of all supplies, materials, equipment and other articles used by any office, department or agency of the city government; and~~
- ~~(9) Approve all proposed expenditures; unless he shall certify that there is an unencumbered balance of appropriation and available funds, no expenditure shall be made.~~

Sec. 8. Fees Shall be Paid to City Government.

~~All fees for City services received by any officer or employee shall belong to the City Government, and shall be paid to the Department of Finance at such times as required by the Director of Finance.~~

Sec. 12. - Accounting of Property.

The Director of Finance shall maintain, or cause to be maintained, reliable accounts of the City's investment in permanent property by departments, and shall fix responsibility for the custody and property use of all City owned equipment, structures, and land.

He shall be responsible for the accounting control of all permanent property of the City.

~~As used herein, the term "equipment" means all items of movable property purchased by, or assigned to, a department or division which cost or have a value of Five Dollars (\$5.00) each, or more, and can normally be expected to have a useful life of one year or more.~~

The head of each department shall be held accountable for the safekeeping of all movable equipment in his department.

Sec. 16. City May Carry Own Paper.

~~The City shall have the power to purchase or otherwise acquire improvement certificates and/or mechanic's lien contracts of the owners of property abutting or adjacent to public improvements authorized by the City Council and thereafter constructed in the City. Moneys from the City's general fund may be used for such purchases and/or the proceeds of bonds may be used where such proceeds could lawfully be expended directly for such improvements, or in aid thereof.~~

Sec. 17. Borrowing in Anticipation of Property Taxes.

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

Sec. 18. Borrowing in Anticipation of Other Revenues.

~~In any budget year, in anticipation of the collection or receipt of other revenues of that budget year, the Council may by resolution authorize the borrowing of money by the issuance of negotiable notes of the City, each of which shall be designated "special revenue note for the year 19_____ " (stating the budget year). Such notes may be renewed from time to time, but all such notes, together with the renewals, shall mature and be payable not later than the end of the fiscal year in which the original notes shall have been issued.~~

Sec. 19. Sales of Notes, Report of Sale.

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

Article X Initiative, Referendum and Recall

Sections 1 and 14

- Amendment to remove existing unnecessary inefficiencies.

Proposed Amendments:

Sec. 1. - Power of Initiative.

The electors shall have power to propose any ordinance except an ordinance appropriating money or authorizing the levy of taxes, and to adopt or reject the same at the polls, such power being known as the initiative. Any initiative ordinance may be submitted to the Council by a petition signed by qualified electors of the City equal in number to at least **six percent (6%) of the number of voters registered to vote at the last general City election** twenty five percent (25%) of the number of votes cast at the last regular municipal election; provided, however, that the petition shall contain the signatures of at least two hundred (200) qualified electors of the City. Bond elections may be initiated by petition to the City Council as above provided.

Sec. 14. - Recall Petitions.

The recall petition to be effective must be returned and filed with the City Clerk within thirty (30) days after the filing of the affidavit required in Section 13 and it must be

signed by qualified electors of the City equal in number to at least fourteen percent (14%) of the number of voters registered to vote at the last general City election ~~fifty-one percent (51%) of the total number of votes cast at the last general municipal election~~, and shall conform to the provisions of Section 3 herein. No petition paper shall be accepted as part of a petition unless it bears the signature of the City Clerk as required in Section 13 herein.

Section 2

- Amendment to remove existing unnecessary inefficiencies.
- Amendment to correct conflict with state law.

Legal Statement:

Texas Elections Code Section 41.001 Uniform Election Dates provides that elections may only be held on a uniform election date as prescribed by the Texas Elections Code which are either the first Saturday in May or the first Tuesday after the first Monday in November. State law would prohibit the City Council from calling a special election on any day other than a uniform election date.

Proposed Amendments:

Sec. 2. - Power of Referendum.

The electors shall have power to approve or reject at the polls any ordinance passed by the Council, or submitted by the Council to a vote of the electors, such power being known as the referendum. Ordinances submitted to the Council by initiative petition and passed by the Council without change shall be subject to the referendum in the same manner as other ordinances. Within ~~twenty (20)~~ thirty (30) days after the enactment by the Council of any ordinance which is subject to a referendum, a petition signed by qualified electors of the City equal in number to at least ~~twenty five percent (25%) of the number of votes cast at the last preceding regular municipal election~~ six percent (6%) of the number of voters registered to vote at the last general City election may be filed with the City Clerk requesting that any such ordinance be either repealed or submitted to a vote of the electors; provided, however, that such petition shall contain the signatures of at least two hundred (200) qualified electors of the City.

Sections 8

- Amendment to clarify language which, as currently expressed, is ambiguous.
- Amendment to correct conflict with state law.

Legal Statement:

Texas Elections Code Section 41.001 Uniform Election Dates provides that elections may only be held on a uniform election date as prescribed by the Texas Elections Code which are either the first Saturday in May or the first Tuesday after the first Monday in

November. State law would prohibit the City Council from calling a special election on any day other than a uniform election date.

Proposed Amendments:

Sec. 8. - Submission to Electors.

If the Council shall fail to pass an ordinance proposed by initiative petition, or shall pass it in a form different from that set forth in the petition therefor and not agreeable to the committee of the petitioners, or if the Council fails to repeal a referred ordinance, the proposed or referred ordinance shall be submitted to the electors of the City at a ~~regular or~~ special election to be held on the earliest possible uniform election date of the State of Texas, after the City Clerk certifies the submission to the City Council. ~~The Council may, in its discretion, and if no regular election is to be held within such period shall, provide for a special election.~~

Section 19

- Amendment to correct conflict with state law.

Legal Statement:

There is no legal authority for a city charter to confer jurisdiction on, or compel action by, a district judge.

Proposed Amendments:

Sec. 19. - District Judge May Order Election.

Should the City Council fail or refuse to order any of the elections as provided for in this Article, when all the requirements for such elections have been complied with by the petitioning electors in conformity with this Article, then any individual with legal standing may bring suit in any court of competent jurisdiction for the purpose of enforcing the requirements of this Article ~~of this Charter, then it shall be the duty of any one of the District Judges of Harris County, Texas, upon proper application being made therefor to order such elections and to enforce the carrying into effect of the provisions of this Article of this Charter.~~

Article XI Franchise and Public Utilities

Section 2

- Amendment to remove existing unnecessary inefficiencies.

Proposed Amendments:

Sec. 2. - Franchises; Power of Council.

The City Council shall have power by ordinance to grant, amend, renew and extend all franchises of all public utilities of every character operating within the City of Bellaire and for such purposes is granted full power. All ordinances granting, amending, renewing, or extending franchises for public utilities shall be read at ~~three~~ two (2) separate regular meetings of the City Council with such readings being at least ten (10) days apart, and shall not be finally passed until thirty (30) days after the first reading; and no such ordinance shall take effect until sixty (60) days after its final passage; and pending such time, the full text of such ordinance shall be published once each week for ~~four~~ (4) two (2) consecutive weeks in the official newspaper of the City of Bellaire, and the expense of such publication shall be borne by the proponent of the franchise. No public utility franchise shall be transferable except with the approval of the Council expressed by ordinance.

Section 4

- Amendment to add language consistent with the City's form of government.

Proposed Amendments:

Sec. 4. - Right of Regulation.

All grants, renewals, extensions, or amendments of public utility franchises, whether it be so provided in the ordinance or not, shall be subject to the right of the City:

- (1) To repeal the same by ordinance at any time for failure to begin construction or operation within the time prescribed or otherwise to comply with the terms of the franchise, such power to be exercised only after due notice and hearing;
- (2) To require an adequate extension of plant and service, and the maintenance of the plant and fixtures at the highest reasonable standard of efficiency;
- (3) To establish reasonable standards of service and quality of products and prevent unjust discrimination in services or rates;
- (4)
 - a) To prescribe the form of accounts kept by each such utility; provided, that if the utility shall keep its accounts in accordance with the applicable uniform accounting standards, ~~systems of accounts for said utility prescribed by the National Association of Railroad and Public Utility Commissioners, the Federal Power Commission, the Federal Communications Commission, the Railroad Commission of Texas, their successor or successors, this shall be deemed sufficient compliance with this paragraph;~~
 - b) At any time to examine and audit the accounts and other records of any such utility and to require annual and other reports, including reports on local operations by each such public utility;
- (5) To impose such reasonable regulations and restrictions as may be deemed desirable or conducive to the safety, welfare, and accommodation of the public; and
- (6) To at any time require such compensation and rental as may be permitted by the laws of the State of Texas.

Section 8

- Amendment to clarify language which, as currently expressed, is ambiguous.

Proposed Amendments:

Sec. 8. - Franchise Records.

~~Within six (6) months after this Charter takes effect~~ Every public utility and every owner of a public utility franchise shall file with the City, as may be prescribed by ordinance, certified copies of all franchises owned or claimed, or under which such utility is operated in the City of Bellaire. The City shall compile and maintain a public record of public utility franchises.

Article XII General Provisions

Section 2

- Amendment for consistency with state law.

Legal Statement:

This section is inconsistent with State law in that it creates a complete prohibition on having a financial interest in any transaction with the City. Texas Local Government Code Chapter 171, which addresses personal conflicts of interest, requires an acknowledgment of any such conflict and an abstention from discussion and vote.

Proposed Amendments:

Sec. 2. - Personal Interest.

~~No member of the Council or any officer or employee of the City shall have a financial interest, direct or indirect or by reason of ownership of stock in any corporation, in any contract or in the sale to the City or to a contractor supplying the City, of any land or rights of interests in any land, material, supplies, or service. The City Council shall never authorize the expenditure of public funds for the development of any subdivision. Any willful violation of this section shall constitute malfeasance in office, and any officer or employee of the City found guilty thereof shall thereby forfeit his office or position. Any violation of this section with the knowledge express or implied, of the person or corporation contracting with the City shall render the contract voidable by the City Manager or the Council.~~

For purposes of this Section term "City Official" means any individual subject to the requirements of Texas Local Government Code, Chapter 171.

It is hereby prohibited for City Council members or a City Official to violate the rules and regulations regarding conflicts of interests as set out in the Texas Local Government Code, Chapter 171.

Section 10

- Amendment to correct conflict with state law.

Legal Statement:

Texas Elections Code Section 41.001 Uniform Election Dates provides that elections may only be held on a uniform election date as prescribed by the Texas Elections Code which are either the first Saturday in May or the first Tuesday after the first Monday in November. State law would prohibit the City Council from calling a special election on any day other than a uniform election date.

Proposed Amendments:

Sec. 10. - Amending the Charter.

Amendments to this Charter may be framed and submitted to the electors of the City by a Charter commission in the manner provided by law for framing and submitting a new Charter. Amendments may also be proposed and submitted by ordinance, passed by a majority vote of the full membership of the Council, or by a petition signed by not less than twenty-five percentum (25%) of the number of those who voted at the last regular municipal election; provided, however that in the latter case the petition must bear the signatures of at least ten percentum (10%) of the qualified voters of the City. When a Charter amendment petition shall have been filed with the Council in conformity with the provisions of this Charter as to petitions for initiated ordinances, the Council shall forthwith provide by ordinance for submitting such proposed amendment to a vote of the electors. Any ordinance for submitting a Charter amendment to the electors shall provide that such amendment be submitted at the next regular municipal election ~~if one shall occur not less than sixty (60) nor more than one hundred twenty (120) days after the passage of the ordinance; otherwise, it shall provide for the submission of the amendment at a special election to be called and held within the time aforesaid.~~ Not less than thirty (30) days prior to such election, the City clerk shall mail a copy of the proposed amendment or amendments to each qualified voter in said City as appears from the latest rolls of the tax collector. If a proposed amendment be approved by a majority of the electors voting thereon, it shall become a part of the Charter at the time fixed therein. Each amendment shall be confined to one subject; and when more than one amendment shall be submitted at the same time, they shall be so submitted as to enable the electors to vote on each amendment separately.

Section 13

- Amendment to remove existing unnecessary inefficiencies.

Proposed Amendment:

Sec. 13. Non-Substantive Revisions

The Council shall have the power, by ordinance, to make the following non-substantive revisions to the Charter, so long as such revisions do not affect the intent of the Charter: 1) renumbering and rearranging all articles, sections, and paragraphs of this Charter or any amendments; 2) to make any grammatical or typographical

corrections to this Charter; and 3) to make the Charter gender neutral. Upon the passage of any such ordinance, a copy certified by the City Clerk shall be forwarded to the Clerk of the State for filing.

3. REDLINE OF CHARTER WITH PROPOSED 2017 AMENDMENTS

PART I - CHARTER OF THE CITY OF BELLAIRE

FOOTNOTE(S):

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Editor's note—Printed herein is the Charter of the City, as amended through Ord. No. 06-088, adopted Nov. 20, 2006, election of Nov. 7, 2006. Amendments to the ordinance are indicated by parenthetical history notes following amended provisions. The absence of a history note indicates that the provision remains unchanged from the original ordinance. Obvious misspellings and punctuation errors have been corrected without notation. For stylistic purposes, headings and catchlines have been made uniform and the same system of capitalization, citation to state statutes, and expression of numbers in text as appears in the Code of Ordinances has been used. Additions made for clarity are indicated by brackets.

ARTICLE I. - INCORPORATION; FORM OF GOVERNMENT CORPORATE AND GENERAL POWERS

Sec. 1. - Incorporation.

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

The boundaries of the City are those that have been legally established, a full description of which is available in the office of the City Clerk. These boundaries may be changed through annexation, as described in this Article.

(Ord. No. 06-088, 11-20-06)

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 and by this Charter, all powers of the City shall be vested in an elective council, hereinafter referred to as "the Council," which shall enact local legislation, adopt budgets, determine policies, and appoint the City Manager, who shall execute the laws and administer the government of the City.

State Law reference— Form of government in home rule municipality, V.T.C.A., Local Government Code § 26.001.

Sec. 3. - Powers of the City.

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 all the powers granted. The City may acquire property within or without its corporate limits for any City purpose 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; may furnish municipal services, both within and without its corporate limits; 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, security and convenience of the City or its inhabitants; and may pass such ordinances as may be expedient for maintaining and promoting the peace, welfare and government of the City, and for 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 of Bellaire shall have, and may exercise, all powers of local self-government, as well as all powers enumerated for Home Rule municipalities in the Texas Local Government Code, and amendments thereto and hereafter enacted; and any other powers which, under the Constitution and laws of the State of Texas, or the United States, it would be competent for this Charter specifically to enumerate.

(Ord. No. 06-088, 11-20-06)

State Law reference— Home rule municipality has full powers of self government, V.T.C.A., Local Government Code § 51.072; powers of Charter municipalities, Tex. Const. art. 11, sec. 5.

Sec. 4. - Special Provision for Damage Suits.

Before the City of Bellaire shall be liable for damages from any cause, the claimant, or someone in his behalf, shall give the City notice in writing within six (6) months after the occurring of the alleged injury or damage, stating specifically in such notice when, where and how the injury or damage was sustained, and setting forth the extent of the injury or damage as accurately as possible, and giving the names and addresses of all witnesses upon whose testimony such person is relying to establish the injury or damage. No action at law for damages shall be brought against the City for personal injury or damage to property prior to the expiration of sixty (60) days after the notice hereinbefore described has been filed with the City Manager or City Clerk.

(Ord. No. 06-088, 11-20-06)

Sec. 5. - Liability of the City.

The City of Bellaire shall not be liable for personal injury or property loss or damage from any cause, including the negligence of City officials or City employees, in the performance of

governmental functions, ~~including the operation of the water system, the collection and disposition of garbage, the sewer system, the fire department, or any other governmental office, department or agency created by or operating under this Charter except as set forth in the Texas Civil Practices and Remedies Code, Title 5, Governmental Liability, Chapter 101 tort claims.~~

(Ord. No. 06-088, 11-20-06)

Sec. 6. - Eminent Domain.

- (a) General Provisions. The City shall have the 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, except as provided in subsection (b) and (c). ~~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 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, except as provided in subsection (b) and (c). 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.
- (b) Limitations to Eminent Domain. The City's power of eminent domain shall be limited to the taking of private property exclusively for the ownership and the use by the City, Eminent Domain shall be prohibited in those cases.
 - (1) in which the taking is motivated by economic development which involves the intent to resell any interest in the property acquired; and
 - (2) which involves a joint venture or a collaborative arrangement with a private entity.
- (c) Exceptions to Limitations. The limitations in subsection (b) of this section are not intended to apply to
 - (1) a non-adverse (or a willing and friendly) condemnation or a condemnation when the majority of partial interest owners consider the condemnation to be non-adverse; and
 - (2) a condemnation necessary to cure the cloud on title to real estate or any other condition where a condemnation is deemed necessary in lieu of the transfer of title from a willing seller.

(Ord. No. 06-088, 11-20-06)

State Law reference— Municipal power of eminent domain, procedure, V.T.C.A., Local Government Code §§ 251.001—251.002; eminent domain, V.T.C.A., Property Code § 21.001 et seq.

Sec. 7. - Street Powers and Improvements.

The City of Bellaire shall have exclusive dominion, control and jurisdiction in, upon, and over and under the public streets, avenues, alleys and highways of the City, and may provide for the improvement thereof by paving, re-paving, raising, draining, or otherwise and shall also include, but not be limited to, the right to supervise, regulate and otherwise control, locate, relocate, remove, or prohibit the location of, all utility pipes, lines, wires, or other property. In addition, the City shall have the power to lay out, establish, open, alter, widen, lower, extend, grade, abandon, discontinue, abolish, close, care for, pave, supervise, maintain and improve streets, alleys, sidewalks, parks, squares, public places and bridges; and regulate and/or restrict the use thereof; and require the removal from the streets, sidewalks, alleys and other public property or places of all obstructions, trespasses and/or encroachments of every nature or character.

Sec. 8. Street Improvements.

~~The City of Bellaire shall have exclusive dominion, control and jurisdiction in, upon, and over and under the public streets, avenues, alleys and highways of the City, and may provide for the improvement thereof by paving, re paving, raising, draining, or otherwise. The provisions of Chapter 106, 40th Legislature, First Called Session, Acts of 1927, together with existing amendments and all such amendments as hereinafter may be made, are expressly adopted and made a part of this Charter. Such exclusive dominion, control and jurisdiction in, upon, over and under the public streets, avenues, alleys and highways of the City shall also include, but not be limited to, the right to supervise, regulate and otherwise control, locate, relocate, remove, or prohibit the location of, all utility pipes, lines, wires, or other property.~~

Sec. 9. - Extending and Contracting City Limits by Action of the City Council.

The City Council shall have power by ordinance to fix the boundary limits of the City of Bellaire, and to provide for the extension of said boundary limits and the annexation of additional territory lying adjacent to said City, with or without the consent of the territory and/or inhabitants annexed. Upon the passage of such an ordinance by the city council one time, it shall be published in the official newspaper of the City of Bellaire one time. After at least thirty (30) days have elapsed from the date of such publication, said ordinance in original or amended form as said city council in its judgment may determine, shall be acted upon again, and if passed the territory so annexed shall thereupon become a part of the City of Bellaire, and any inhabitants thereof shall be entitled to all rights and privileges of other citizens of said City, and shall be bound by the acts, ordinances, resolutions and regulations of said City.

Any amendment to an ordinance annexing additional territory shall be advertised at least ten (10) days before final passage of the annexing ordinance, but any amendment eliminating from any such annexing ordinance property proposed to be annexed in the original ordinance or any amendment thereto need not be advertised.

Any area of the City may be disannexed pursuant to any procedure allowed under state law and whenever, in the opinion of the City Council, there exists within the corporate limits of the City a territory not suitable or necessary for City purposes, the City Council may discontinue said territory as part of the City by ordinance after conducting a public hearing on the matter.

State Law reference— State law references: General authority to annex, V.T.C.A., Local Government Code, § 43.021 et seq.

Sec. 10. - 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 sewer system; to provide for and fix penalties for failure to make sanitary sewer connections; and shall further have the right to fix charges and compensation to be charged by the City for sewage service, and to provide rules and regulations for the collection thereof.

State Law reference— State law references: Relocation or replacement of water or sewer laterals, V.T.C.A., Local Government Code, § 402.901.

Sec. 11. - Garbage Disposal.

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

Sec. 12. - Indemnification of Elected Officials and City Employees.

The City shall provide for the indemnification of all elected and appointed officers and employees of the City, as well as volunteers appointed to serve the City in various capacities, against all claims, demands, causes of action and judgments that may be brought about as a result of their performance of their duties for and on behalf of the City, save and except any such claims, demands or judgments incurred by reason of willful, intentional or illegal acts. The City shall provide for the payment of the costs incurred in the defense of any such covered claims by the said officers, employees and volunteers; provided, however, that refusal to accept defense counsel as provided by the City may, at the discretion of the City, constitute a waiver of any such individual's right to indemnification.

(Ord. No. 87-067, § 1, 11-16-1987)

ARTICLE II. - THE COUNCIL

Sec. 1. - Elections.

- (a) Compliance with Law. All municipal elections in the City of Bellaire, whether regular or special, shall be conducted in accordance with the Texas Election Code, the federal Voting Rights Act and other applicable provisions of law. All elections shall be called by the City Council of the City of Bellaire, pursuant to the provisions of state law, and all candidates for municipal office shall comply fully with the requirements set forth in the Texas Election Code and this Charter.

(b) Composition of Council. The City Council shall be composed of a Mayor and six (6) Councilmen, all of whom shall be elected from the City at large.

(c) Designation of Position. The Councilmen shall be designated and denominated as follows:

Councilman—Position No. 1

Councilman—Position No. 2

Councilman—Position No. 3

Councilman—Position No. 4

Councilman—Position No. 5

Councilman—Position No. 6

Each candidate for municipal office shall, at the time of filing of reelection, designate the position for which he is a candidate.

(d) Terms of Office and Limitations Thereon. Except as provided in the procedure for implementation as hereinafter set forth, the Mayor shall be elected for regular terms of two (2) years each, and Councilmen shall be elected for regular terms of four (4) years each, with the Mayor and three (3) Councilmen being elected at each regular election.

The Mayor shall not serve more than four (4) consecutive terms in that position, and no member of City Council shall serve more than two (2) consecutive terms as a Councilman. Any portion of a term served shall count as one (1) term in calculating the total number of consecutive terms served.

(e) Election Dates. Regular elections of the Mayor and the City Council shall be held in every odd-numbered year on the uniform election date specified by the Texas Election Code for the month of November. The Mayor shall be elected at each such election. Beginning in November of 1989 and continuing every four (4) years thereafter, Councilman - Position No. 1, Councilman - Position No. 3 and Councilman - Position No. 5 shall be elected for four (4) year terms; and beginning in November of 1991 and continuing every four (4) years thereafter, Councilman - Position No. 2, Councilman - Position No. 4 and Councilman - Position No. 6 shall be elected for four (4) year terms.

Dates for run-off elections, if any, shall be established by ordinance duly enacted by the City Council of the City of Bellaire, calling the regular election which is the basis for any such run-off as may be required.

(f) Election by Majority Vote. The candidate for each office who received a majority of the votes cast for that office shall be declared elected to the office. When the number of candidates for any office is more than two (2) and no candidate received a majority of the votes cast for that office at the regular election, then a run-off election for such office shall be held at a time designated by ordinance duly enacted by the City Council of the City of Bellaire, at which run-off election the names of the two (2) candidates for said office who received the largest number of votes at the regular election shall be printed on the ballot. The candidate receiving the highest number of votes at the regular election shall be placed first on the run-off ballot,

and the candidate receiving the next highest number of votes shall be placed second. In the event of a tie vote between the two (2) candidates receiving the highest number of votes at the regular election, then a drawing shall be held for places on the run-off ballot. The candidate receiving a majority of the votes cast for said office at the run-off election shall be declared duly elected.

(g) **Induction of Council into Office.** Any person elected to office as Mayor or as a member of the City Council shall, prior to assuming such position, take an oath of office as prescribed by the Constitution of the State of Texas. Said oath may be taken before an officer of this State authorized to administer oaths.

All candidates elected to office at regular elections held in November of odd-numbered years shall qualify and assume the duties of office at the first regular meeting in January next following the date of the regular election.

(Ord. No. 87-067, § 2, 11-16-1987; Ord. No. 06-088, 11-20-06)

Sec. 2. - Qualifications.

To be eligible to be a candidate for, or elected to, office as Mayor or City Councilman of the City of Bellaire, or to continue to hold any such office, a person must:

- (1) Be a United States citizen;
- (2) Be twenty-one (21) years of age or older on the first day of the term to be filled at the election;
- (3) Have not been determined mentally incompetent by a final judgment of a court;
- (4) Have not been finally convicted of a felony from which the person has not been pardoned or otherwise released from the resulting disabilities;
- (5) Have resided continuously in the State of Texas and within the corporate limits of the City of Bellaire for twelve (12) months immediately preceding the filing deadline of the regular election; and
- (6) Be a qualified, registered voter of the State of Texas, County of Harris.

In addition, all candidates or persons elected to office as Mayor or City Councilman of the City of Bellaire shall meet all other requirements for office holders as may, from time to time, be specified by the Constitution and general laws of the State of Texas. If, at any time, any person holding the office of Mayor or City Councilman of the City of Bellaire no longer possesses all of the qualifications specified in this Section or is convicted of a felony or an offense involving moral turpitude while in office, such office shall after a public hearing and determination by City Council pursuant to Section 16 be declared immediately and automatically become vacant.

(Ord. No. 87-067, § 3, 11-16-1987; Ord. No. 06-088, 11-20-06)

Sec. 3. - Compensation of Members of the City Council.

The Mayor shall receive as compensation for his services the sum of Seventy-five Dollars (\$75.00) per month.

Each Councilman shall receive as compensation the sum of ~~Ten Dollars (\$10.00) for each meeting of the City Council attended by him, provided that no Councilman shall receive a greater compensation than~~ Fifty Dollars (\$50.00) per month.

The rate of compensation may be changed by the Council; however, no increase in the rate of compensation shall take effect unless ratified by a majority of the voters in the next regular City election. The City shall pay or reimburse reasonable expenses incurred by the Mayor or Council Members in the performance of specific duties, limited to the amount appropriated for such expenses in the current budget.

Sec. 4. - Presiding Officer—Duties of the Mayor.

The Mayor shall preside over the meetings of the City Council, and perform such other duties consistent with the office as may be imposed upon him by this Charter, and by ordinances and resolutions passed in pursuance hereof. He may participate in the discussions of all matters coming before the Council, and shall be entitled to vote as a member thereof, but shall have no veto power. He shall sign, after authorization by a majority of the City Council, all contracts and conveyances made or entered into by the City, and all bonds issued under the provisions of this Charter. He shall be recognized as the official head of the City by the courts for the purpose of serving civil process, by the Governor for the purpose of enforcing military law, and for all ceremonial purposes. In time of danger or emergency, the Mayor may, with the consent of the City Council, take command of the police and govern the City by proclamation and maintain order and enforce all laws.

Sec. 5. - Mayor Pro Tempore.

The City Council shall elect a Mayor Pro Tempore, who shall act as, and have all the powers of the Mayor during the absence or disability of the Mayor, and if a vacancy should occur in the office of Mayor, shall act as, and have all the powers of the, becom Mayor until the next regular election, at which election a Mayor shall be elected to fill the full or unexpired term, as the case may be. The Mayor Pro Tempore's office shall not be considered vacant during any such time he or she is acting as the Mayor.

Sec. 6. - Vacancies in Council.

Vacancies in ~~Council~~the office of Mayor, the effective date of which shall be determined in accordance with the provisions of the Texas Election Code, shall be filled by a candidate possessing all of the qualifications outlined in Section 2 of this Article, at an election called for that purpose pursuant to the provisions of the Texas Constitution and the Texas Election Code.

In the event of a vacancy in the office of City Councilmember, the effective date of which shall be determined in accordance with the provisions of the Texas Election Code, if there are 365 days or more remaining on the term of the vacated office, the City Council shall call a special election to fill such vacancy. If there are fewer than 365 days remaining in the term of the vacant

office, the City Council may, by majority vote of the remaining Members of City Council, at its discretion, leave the office vacant, appoint a new Councilmember to fill such vacancy or call a special election to fill such vacancy.

(Ord. No. 87-067, § 4, 11-16-1987)

Sec. 7. - Absence from Council Meetings.

If any member shall be absent from Council meetings for a continuous period of two (2) months, at the discretion of the Council he shall forfeit his office, and the vacancy so created shall be filled in accordance with the provisions of this Charter.

Sec. 8. - Powers.

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

- (1) Enact all ordinances;
- (2) Appoint and remove the City Manager, the City Clerk, the City Attorney, and City Auditors;
- (3) Establish other administrative departments and distribute the work of divisions;
- (4) Adopt the budget of the City;
- (5) Authorize the issuance of bonds by a bond ordinance, as provided elsewhere in this Charter;
- (6) Inquire into the conduct of any office, department or agency of the City and make investigations as to municipal affairs;
- (7) Appoint members to various boards and commissions, as provided by ordinance;
- (8) Appoint members to various boards and commissions, as provided by state law;
- (9) Adopt and modify the official map of the City;
- (10) Provide for the establishment and designation of fire limits and to prescribe the kind and character of buildings or structures or improvements to be erected therein, and to provide for the erection of fireproof buildings within certain limits, and to provide for the condemnation of dangerous structures or buildings or dilapidated buildings or buildings calculated to increase the fire hazard, and the manner of their removal or destruction; and
- (11) Exercise all powers as shall be provided for under the Texas Property Tax Code and the general laws of this State, relating to the levy and collection of taxes.

(Ord. No. 87-067, § 5, 11-16-1987; Ord. No. 06-088, 11-20-06)

Sec. 9. - Appointment of City Manager.

The Council shall appoint an officer of the City who shall have the title of City Manager, and who shall have the powers and perform the duties provided 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.

Sec. 10. - Removal of City Manager.

The Council shall appoint the City Manager for an indefinite term, and may remove him at will with or without cause by a majority vote of its members.

Sec. 11. - Council Not to Interfere in Appointments or Removals.

~~Neither the Council nor any of its members shall direct the appointment of any person to office, and such power is confided solely to the City Manager. The City Council shall have no power to remove any person appointed by the City Manager and shall have only the power to appoint and/or remove the City Manager. The Council shall deal with the administrative service solely through the City Manager, and neither the Council nor any member thereof shall give orders to any subordinate of the City Manager, either publicly or privately.~~

Neither the City Council nor the Mayor or any Councilmember shall in any manner dictate the appointment or removal of any city administrative officers or employees whom the City Manager or any of his subordinates are empowered to appoint, unless otherwise provided in this Charter. However, the City Council may, at a properly noticed meeting, express its views and fully and freely discuss with the City Manager anything pertaining to appointment and removal of such officers and employees. Further, except for the purpose of inquiries and investigations, unless otherwise provided in this Charter, the City Council, Councilmembers and the Mayor shall deal with City officers and employees who are subject to the direction and supervision of the City Manager solely through the City Manager, and neither the City Council nor Councilmembers nor the Mayor shall give orders to any such officer or employee, either publicly or privately.

(Ord. No. 83-022, § 1, 4-18-1983)

Sec. 12. - Administrative Departments.

There shall be such administrative departments as are established by this Charter and such other administrative departments as may be established by ordinance. All administrative departments, except as otherwise provided in this Charter, shall be under the control and direction of the City Manager.

(Ord. No. 06-088, 11-20-06)

Sec. 13. - City Clerk.

The Council shall appoint ~~some person to serve as a~~ City Clerk of the Council. The City Clerk shall report to the City Council. He shall give notices of its meetings, shall keep the official copy of this Charter ~~and the journal of the Council's proceedings,~~ shall authenticate by his signature

and record in full in a book kept for the purpose all ordinances and resolutions, and shall perform such other duties as the City Manager shall assign to him.

Sec. 14. - Municipal Court.

There is hereby established a Municipal Court of the City of Bellaire. The City Council shall appoint a Municipal Court Judge to serve a term- of office of two (2) years. A Municipal Court Judge who is not reappointed by the 91st day following the expiration of a term of office shall, absent action by the City Council, continue to serve for another term of office beginning on the date the previous term of office expired. as it shall prescribe and The City Council shall appoint such other associate judge or judges as it shall determine to be necessary and appropriate, for such terms as it shall provide. Such judge(s) may be removed for incompetency, misconduct or malfeasance. The compensation for the judge(s) of the Municipal Court shall be fixed by the City Council. The City Council shall have the power to make temporary or relief appointments of Municipal Court Judges, in the event of emergencies, for shorter periods of time than provided for the term(s) of the Municipal Court Judge and associate judge(s).

All costs and fines imposed by the Municipal Court, or by any court in cases appealed from judgments of the Municipal Court, shall be paid into the city treasury for the use and benefit of the City.

The City Council shall, by ordinance, appoint a Clerk of the Municipal Court and as many Deputy Clerks as shall be necessary. The Clerk of said Court or any Deputy City Clerk shall have power to administer oaths and affidavits, make certificates, affix the seal of said Court thereto and generally do and perform any and all acts usual and necessary by clerks of courts in issuing process of said courts and conducting the business thereof. In the event of the absence or unavailability of the Clerk or Deputy Clerk to serve, any Judge of the Municipal Court may appoint a temporary replacement who shall have the same powers and duties as herein provided for the Clerk or any Deputy Clerk.

(Ord. No. 83-022, § 3, 4-18-1983)

Sec. 15. - Meetings of Council.

The City Council shall meet regularly at such times as may be prescribed by its rules, but not less frequently than twice each month. All meetings of the Council shall be subject to the Texas Open Meetings Act open to the public; special meetings shall be called by the City Clerk upon request of the Mayor, City Manager, or a majority of the members of the Council.

Four (4) members of the Council, of whom the Mayor shall be counted as one, shall constitute a quorum for the transaction of business. The affirmative vote of four (4) members shall be required for the transaction of business. A smaller number may adjourn from time to time.

(Ord. No. 87-067, § 6, 11-16-1987)

Sec. 16. - Council to be Judge of Qualifications of its Members; Hearings; Process.

A. General. The Council shall be the judge of the election and qualifications of its members, and shall have the power to investigate and to remove any member for malfeasance or nonfeasance

in office, after public hearing, by a two-thirds (2/3) vote of the whole Council; for such purpose it shall have power to administer oaths, subpoena witnesses, compel and require the production of books, papers, and other evidence material to the inquiry. The City Council shall provide, by ordinance, penalties for contempt in failing or refusing to obey any such subpoena or to produce any such books, papers or other evidence. The City Council shall have the power to punish any such contempt in the manner provided by such ordinance.~~records~~.

B. Hearings Process for Forfeitures of Office and Prohibitions.

1. All hearings held under this subsection shall be conducted in open session, except that the City Council may conduct a closed session to get advice from its attorney pursuant to the Texas Open Meetings Act;

2. The office holder subject to any investigation and/or hearing under this section shall be entitled to written notice of the specific allegations made against them;

3. A special meeting shall be called to hold the hearing; the office holder who is the subject of the hearing shall not sit at the dais and shall not participate in deliberation or vote; and City Council shall adopt by ordinance rules of procedures to be followed which rules shall not be amended or repealed for a particular public hearing after written notice has been provided to the office holder; except and unless, agreed to by the office holder;

4. The City Council shall state the nature of the hearing and the allegations to be considered, shall be provided the results of any investigation and a presentation of the evidence against the office holder including, but not limited to testimony from individuals; the individual who is subject to the hearing shall be provided an opportunity to respond to the allegations and present any relevant evidence including, but not limited to, testimony from individuals; and City Council may ask questions of any individual; and

5. No public comment shall be allowed unless agreed to by a majority vote of the members of City Council present and rules for public comment, if allowed, shall be set by City Council.

Sec. 17. - Rules of Procedure; Journal.

The Council shall determine its own rules and order of business. ~~It shall keep a journal of its proceedings and the journal shall be open to public inspection.~~

Sec. 18. - Ordinances.

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

Sec. 19. - Procedure for Passage of Ordinances.

The affirmative vote of four (4) members of the Council shall be necessary to adopt any ordinance or resolution. Every ordinance shall be in written form and, upon passage, shall take effect at the time indicated therein, or if no time be specified, then immediately after passage and approval; provided that any penalty, fine or forfeiture for a violation of ordinance provisions shall become effective not less than ten days from the date of its publication. The City Clerk shall give

notice of the passage of every ordinance imposing a penalty, fine or forfeiture for a violation of the provisions thereof, by causing the ordinance in full or its caption, including the penalty, to be published in the official newspaper of the City of Bellaire at least one time within ten (10) days after the passage of said ordinance. He shall note on every ordinance, the caption of or which is hereby required to be published, and on the record thereof, the fact that same has been published as required by the Charter, the name of the newspaper and the date of such publication, which shall be *prima facie* evidence of the legal publication and promulgation of such ordinance; provided, that the provisions of this section shall not apply to the correction, amendment, revision and codification of the ordinances of the City for publication in book or pamphlet form. Except as otherwise provided in Section 9 of Article I, and Section 2 of Article XI of this Charter, it shall not be necessary to the validity of any ordinance that it shall be read more than one time or considered at more than one session of the City Council. Every ordinance shall be authenticated by the signature of the Mayor and City Clerk, and shall be systematically recorded in an ordinance book in a manner approved by the Council. It shall only be necessary to record the caption or title of ordinances in the minutes or journal of Council meetings. The City Council shall have power to cause the ordinances of the City to be corrected, amended, revised, codified and printed in code form as often as the Council deems advisable, and such printed code, when adopted by the Council, shall be in full force and effect without the necessity of publishing the same or any part thereof in a newspaper. Such printed code shall be admitted in evidence in all courts and places without further proof.

Sec. 20. - Investigation by Council.

The Council shall have the power to inquire into the conduct of any office, department, agency, or officer of the City and to make investigations as to municipal affairs, and for the purpose may subpoena witnesses, administer oaths, and compel the production of books, papers, and other evidence. Failure to obey such subpoena or to produce books, papers or other evidence as ordered under the provisions of this section shall constitute a misdemeanor and shall be punishable by fine not to exceed Three Hundred (\$300.00) ~~Two Hundred (\$200.00)~~ Dollars for each offense.

Sec. 21. - Independent Audit.

Prior to the end of each fiscal year, the Council shall designate a certified public accountant who, as of the end of that fiscal year, shall make an independent audit of accounts and other evidences of financial transactions of the city government, and shall submit a sworn report to the Council. Notice shall be given by publication in provided on the official website~~newspaper~~ of the City of Bellaire that the annual audit is on file at the City Hall for inspection. Such accountant shall have no personal interest, direct or indirect, in the fiscal affairs of the city government. They shall not maintain accounts or record of the City business, but, within specifications approved by the Council, shall post-audit the books and documents kept by the Department of Finance and any separate or subordinate accounts kept by any other office, department or agency of the city government. Such accountants may make monthly checks, or a general audit at more frequent intervals as the Council may direct.

State Law reference— Audit of municipal finances, V.T.C.A., Local Government Code §§ 103.001—103.004.

ARTICLE III. - THE CITY MANAGER

Sec. 1. - The City Manager; Qualifications.

The City Manager shall be chosen by the Council solely on the basis of his executive and administrative qualifications with special reference to his actual experience in, or his knowledge of, accepted practice in respect to the duties of his office as hereinafter set forth.

The City Manager shall provide a fidelity bond with such surety and in such amount as the Council may require, except that such bond shall be in an amount of not less than Ten Thousand Dollars (\$10,000.00). The premiums on such bond shall be paid by the City of Bellaire.

Sec. 2. - The City Manager; Powers and Duties.

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

- (a) Appoint and remove all officers and employees of the City appointed by him, 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;
- (b) Prepare the budget annually and submit it to the Council and be responsible for its administration after adoption;
- (c) Prepare and submit to the Council as of the end of the fiscal year a complete report on the finances and administrative activities of the City for the preceding year;
- (d) Keep the Council advised of the financial condition and future need of the City and make such recommendations as may seem to him desirable;
- (e) Sign all documents, contracts and conveyances made or entered into by the City, and all bonds, pursuant to any relevant policy adopted by City Council, except where the City Council has authorized the Mayor to sign said document as provided for in Article II Section 4 of this Charter. and
- (ef) Perform such other duties as may be prescribed by this Charter or required of him by the Council, not inconsistent with this Charter.

Sec. 3. - 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 Clerk a qualified administrative officer of the City. In the event of failure of the Manager to make such designation, the Council may by resolution appoint an officer of the City to perform the duties of the Manager until he shall return, or his disability shall cease, or he shall be replaced.

Sec. 4. - Directors of Departments.

At the head of each administrative department there shall be a director, who shall have supervision and control of the department subject to the City Manager, except as otherwise provided by this Charter.

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

(Ord. No. 83-022, § 2, 4-18-1983)

Sec. 5. - Departmental Divisions.

The work of each administrative department may be distributed among such divisions thereof as may be established by ordinance upon the recommendation of the City Manager.

ARTICLE IV. - DEPARTMENT OF LAW

Sec. 1. - Director; Appointment.

There shall be a department of law, the head of which shall be the attorney for the City, who shall be employed by the City Council.

Sec. 2. - Qualifications.

The attorney for the City shall be a qualified attorney-at-law who is licensed to practice in the State of Texas, and who shall have been a practicing attorney in the State of Texas for at least five (5) years next preceding his employment.

Sec. 3. - Powers and Duties.

The attorney for the City shall be the chief legal advisor of the Council, of all offices, departments, and agencies and of all officers and employees in matters relating to their official powers and duties. He shall perform such other duties as may be specified by the Council, which shall fix his compensation.

ARTICLE V. - THE BUDGET

FOOTNOTE(S):

--- (2) ---

State Law reference— Municipal budget, V.T.C.A., Local Government Code §§ 102.001—102.111.

Sec. 1. - Fiscal Year.

The fiscal year of the City government 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. As used in this Article, the term "budget year" shall mean the fiscal year for which any particular budget is adopted and in which it is administered.

(Ord. No. 06-088, 11-20-06)

Sec. 2. - Annual Budget.

- (a) Scope. The annual budget must specify appropriations for capital expenditures and for expenditures directed by Council for services and for the operation of city departments, offices and agencies. It must comply with fund requirements of bond covenants.
- (b) Preparation. The City Manager shall submit a proposed annual budget to the Council in sufficient time to permit council to review and revise it. Said budget shall be prepared by the City Manager and filed with the City Clerk not less than thirty (30) days prior to the time and the City Council adopts said budget.
- (c) Public Hearing. A public hearing shall be held not less than fifteen (15) days subsequent to the time the budget is filed, as provided herein, but prior to the time the City Council adopts said budget and sets the tax levy. Notice of the date, time and place of such public hearing shall be published in a newspaper of general circulation not less than fifteen (15) days prior to the date of the hearing.
- (d) Adoption. Before taxes are levied, but after a public hearing or hearings, Council shall adopt the annual budget. Council may amend the proposed budget but shall not delete or decrease appropriations required for debt service, or by law, and shall not authorize expenditures in excess of the total of estimated income plus funds available from earlier years.
- (e) Failure to Adopt. If the Council fails to adopt the annual budget before the start of the fiscal year to which it applies, appropriations of the last budget adopted shall be considered as adopted for the current fiscal year on a month-to-month, pro-rata basis until the next budget is adopted.
- (f) Public Record. The adopted budget shall be a public record. Copies shall be made available to the public, upon request, or examination and review, as shall copies of the previous year's budget for comparison purposes. A true copy of said approved budget shall be filed in the office of the County Clerk of Harris County, Texas.

(Ord. No. 83-022, § 4, 4-18-1983; Ord. No. 06-088, 11-20-06)

ARTICLE VI. - BORROWING FOR CAPITAL IMPROVEMENTS

FOOTNOTE(S):

--- (3) ---

State Law reference— Home-rule municipal authority to issue bonds, V.T.C.A., Government Code § 1331.052; Public Security Procedures Act, V.T.C.A., Government Code § 1201.001 et seq.

Sec. 1. - Power to Incur Indebtedness by Issuing Bonds, Warrants and Notes.

The City of Bellaire shall have the right and power to borrow money on the credit of the City for any lawful public purpose, including without limitation permanent public improvements, as may be determined by the City Council, and to issue bonds, warrants, notes, or other evidence of indebtedness of the City therefor in accordance with state law.

Sec. 2. ~~Bond Ordinance; Vote Required.~~

~~The issuance of tax bonds must be approved by a majority of the qualified voters voting at an election called for that purpose.~~

~~The City shall authorize the issuance of bonds by a "bond ordinance" passed by the affirmative votes of the majority of all members of its Council. Revenue bonds may be issued by the Council in accordance with state law.~~

~~The bond ordinance and the manner of conducting the election shall in all respects conform to this Charter and the general laws of the State.~~

~~(Ord. No. 06-088, 11-20-06)~~

Sec. 3. ~~Issuance of Bonds.~~

~~When an issue of bonds has been authorized, the City shall have the power to issue serial bonds or otherwise as in its opinion may seem best as provided in the ordinance authorizing their issuance, not to exceed thirty (30) years. However, all character of securities issued for street improvements shall be for a period of not exceeding twenty (20) years. All bonds shall specify on their face for what purpose they are issued, and they shall be invalid if sold for less than their par value, plus accrued interest. When any such bonds are issued by the City a fund shall be provided to pay the bonds at maturity. The regulations of this section shall likewise govern warrants, notes and other evidences of indebtedness.~~

Sec. 4. ~~Public Sale.~~

~~All bonds issued under this Charter shall be sold at public sale upon sealed proposals after at least ten (10) days' notice published at least once in a publication carrying municipal bond notices and devoted primarily to financial news, and at least ten (10) days notice published at least once in the official newspaper of the City.~~

~~If no satisfactory bid is received under the above procedure, the Council may have the power to negotiate a sale at a better price within a ten-day period following the opening of bids; otherwise, the sale of bonds must be readvertised.~~

Sec. 5. ~~Register of Bonds.~~

~~The City Council shall cause to be kept for and on behalf of the City a complete register and set of books showing all bonds, warrants and other evidences of indebtedness issued by the City,~~

~~the date and amount thereof, the rate of interest, maturity, all bonds, warrants or other evidences of indebtedness surrendered, all transactions of the City Council having reference to the refunding of any of the indebtedness of the City, and all other information that may be desired or required. Records with reference to bonds and warrants and other evidences of indebtedness shall be kept separately. When bonds, or warrants, or other evidences of indebtedness, or their coupons, are paid, their payment or cancellation shall be noted in said register.~~

ARTICLE VII. - FINANCE ADMINISTRATION

FOOTNOTE(S):

--- (4) ---

State Law reference— General fiscal powers of home-rule municipality, V.T.C.A., Local Government Code § 101.022.

Sec. 1. - Director of Finance; Appointment.

There shall be a Department of Finance, the head of which shall be appointed by the City Manager. The person appointed to head the Department of Finance shall not be the City Manager.

(Ord. No. 83-022, § 5, 4-18-1983)

Sec. 2. - Director of Finance; Qualifications.

The Director of Finance shall have knowledge of municipal accounting and taxation and shall have had experience in budgeting and financial control.

Sec. 3. - Director of Finance; Surety Bond.

The Director of Finance shall provide a bond with such surety and in such amount as the Council may require, except that such bond shall be in an amount of not less than Ten Thousand Dollars (\$10,000.00). The premiums on such bond shall be paid by the City of Bellaire.

Sec. 4. - Director of Finance; Powers and Duties.

Under the direction of the City Manager, the Director of Finance shall have charge of the administration of the financial affairs of the City and to that end, he shall have authority and shall be required to:

- (1) Supervise and be responsible for the disbursement of all moneys and have control over all expenditures to ensure that budget appropriations are not exceeded;
- (2) Maintain a general accounting system for the city government and each of its offices, departments and agencies; keep books for and exercise financial budgetary control over each office, department and agency; keep separate accounts for the items of appropriation contained in the city budget, each of which accounts shall show the amount of the appropriation, the amounts paid therefrom, the unpaid obligations against it and the

unencumbered balance; require reports of receipts and disbursements from each receiving and spending agency of the city government to be made daily or at such intervals as he may deem expedient;

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

(Ord. No. 83-022, § 6, 4-18-1983; Ord. No. 06-088, 11-20-06)

Sec. 5. - Transfer of Appropriations.

The City Manager may at any time, with the approval of the Council, transfer any unencumbered appropriation balance or portion thereof between general classifications of expenditures within an office, department or agency. At the request of the City Manager, and within the last three months of the budget year, the Council may by resolution transfer any unencumbered appropriation balance or portion thereof from one office, department or agency to another.

Sec. 6. - Accounting Supervision and Control.

Under the direction of the City Manager, the Director of Finance shall have the power and shall be required to:

- (1) Prescribe the forms of receipts, vouchers, bills or claims to be used by all the offices, departments and agencies of the City government, with the approval of the City Council;

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

(Ord. No. 83-022, § 7, 4-18-1983)

Sec. 7. - Appropriations Lapse at End of Year.

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

Sec. 8. - Fees Shall be Paid to City Government.

~~All fees for City services received by any officer or employee shall belong to the City Government, and shall be paid to the Department of Finance at such times as required by the Director of Finance.~~

Sec. 9. - Division of Purchases [Deleted].

(Ord. No. 06-088, 11-20-06)

Sec. 10. - Sale of City Property; Procedure.

The sale or disposal of any City property shall be in accordance with laws established by the State of Texas.

(Ord. No. 06-088, 11-20-06)

Sec. 11. - Purchase Procedure.

- (a) All purchases made and contracts executed by the City shall be pursuant to a requisition from the head of the office, department or agency whose appropriations will be charged, and no contract or order shall be binding upon the City unless and until the City Manager certifies that there is to the credit of such office, department or agency a sufficient unencumbered appropriation and allotment balance to pay for the supplies, materials, equipment, or contractual services for which the contract or order is issued. All purchases made and contracts executed by the City shall be made in accordance with the requirements of this Charter and all applicable requirements of the constitution and statutes of the State of Texas. All contracts for purchases or expenditures must be expressly approved in advance by the City Council, except that the City Council may by ordinance confer upon the City Manager general authority

to contract for expenditures without further approval of the City Council for all budgeted items the cost of which does not exceed the constitutional and statutory requirements for competitive bidding. However, (i) for purchasing insurance or employee benefits, the City shall use the request-for-proposals process described in subsection "b", below, in those instances when the use of competitive bidding would otherwise be required, and (ii) when letting contracts, the City shall always have the right to reject any and all bids and determine the most advantageous bid for the City.

(b) The request-for-proposals process is as follows: (i) A request for proposals must solicit quotations and must specify the relative importance of price and other evaluation factors; (ii) discussions may be conducted with proposers determined to be qualified; (iii) such qualified proposers shall be treated fairly and equally with respect to any opportunity for discussion and revision of proposals; (iv) to obtain the best final offers, revisions may be permitted after submissions.

(Ord. No. 06-088, 11-20-06)

Sec. 12. - Accounting of Property.

The Director of Finance shall maintain, or cause to be maintained, reliable accounts of the City's investment in permanent property by departments, and shall fix responsibility for the custody and property use of all City owned equipment, structures, and land.

He shall be responsible for the accounting control of all permanent property of the City.

~~As used herein, the term "equipment" means all items of movable property purchased by, or assigned to, a department or division which cost or have a value of Five Dollars (\$5.00) each, or more, and can normally be expected to have a useful life of one year or more.~~

The head of each department shall be held accountable for the safekeeping of all movable equipment in his department.

Sec. 13. - [Deleted].

(Ord. No. 83-022, § 9, 4-18-1983)

Sec. 14. - Accounting Control of Purchases.

All purchases made and contracts executed by the division of purchases shall be pursuant to a written requisition from the head of the office, department or agency whose appropriation will be charged, and no contract or order shall be issued to any vendor unless and until the Director of Finance certifies that there is to the credit of such office, department or agency a sufficient unencumbered balance to pay for the supplies, material, equipment or contractual services for which the contract or order is to be issued.

Sec. 15. - Disbursement of Funds.

The City Council of the City of Bellaire shall adopt a written statement of policies, procedures and guidelines for the disbursement of funds from the city depository, which written statement may include, but shall not be limited to, the manual or mechanical issuance of checks, vouchers or

warrants, electronic transfer of funds, the use of appropriate computer systems, and such other guidelines as shall constitute sound business and professional accounting practice.

(Ord. No. 87-067, § 7, 11-16-1987)

Sec. 16. City May Carry Own Paper.

~~The City shall have the power to purchase or otherwise acquire improvement certificates and/or mechanic's lien contracts of the owners of property abutting or adjacent to public improvements authorized by the City Council and thereafter constructed in the City. Moneys from the City's general fund may be used for such purchases and/or the proceeds of bonds may be used where such proceeds could lawfully be expended directly for such improvements, or in aid thereof.~~

Sec. 17. Borrowing in Anticipation of Property Taxes.

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

Sec. 18. Borrowing in Anticipation of Other Revenues.

~~In any budget year, in anticipation of the collection or receipt of other revenues of that budget year, the Council may by resolution authorize the borrowing of money by the issuance of negotiable notes of the City, each of which shall be designated "special revenue note for the year 19_____ " (stating the budget year). Such notes may be renewed from time to time, but all such notes, together with the renewals, shall mature and be payable not later than the end of the fiscal year in which the original notes shall have been issued.~~

Sec. 19. Sales of Notes, Report of Sale.

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

ARTICLE VIII. - TAX ADMINISTRATION REPEALED

(Ord. No. 87-067, § 8, 11-16-1987)

FOOTNOTE(S):

--- (5) ---

Editor's note—Now addressed in the Texas Tax Code.

ARTICLE IX. - NOMINATIONS AND ELECTIONS REPEALED

(Ord. No. 87-067, § 9, 11-16-1987)

FOOTNOTE(S):

--- (6) ---

Editor's note—See article II of this Charter.

ARTICLE X. - INITIATIVE, REFERENDUM AND RECALL

FOOTNOTE(S):

--- (7) ---

State Law reference— Election Code, V.T.C.A., Election Code § 1.001 et seq.

Sec. 1. - Power of Initiative.

The electors shall have power to propose any ordinance except an ordinance appropriating money or authorizing the levy of taxes, and to adopt or reject the same at the polls, such power being known as the initiative. Any initiative ordinance may be submitted to the Council by a petition signed by qualified electors of the City equal in number to at least six percent (6%) of the number of voters registered to vote at the last general City election~~twenty five percent (25%) of the number of votes cast at the last regular municipal election~~; provided, however, that the petition shall contain the signatures of at least two hundred (200) qualified electors of the City. Bond elections may be initiated by petition to the City Council as above provided.

Sec. 2. - Power of Referendum.

The electors shall have power to approve or reject at the polls any ordinance passed by the Council, or submitted by the Council to a vote of the electors, such power being known as the referendum. Ordinances submitted to the Council by initiative petition and passed by the Council without change shall be subject to the referendum in the same manner as other ordinances. Within ~~twenty (20) thirty (30)~~ days after the enactment by the Council of any ordinance which is subject to a referendum, a petition signed by qualified electors of the City equal in number to at least six percent (6%) of the number of voters registered to vote at the last general City election~~twenty five percent (25%) of the number of votes cast at the last preceding regular municipal election~~ may be filed with the City Clerk requesting that any such ordinance be either repealed or submitted to a vote of the electors; provided, however, that such petition shall contain the signatures of at least two hundred (200) qualified electors of the City.

Sec. 3. - Form of Petitions; Committee of Petitioners.

Initiative petition papers shall contain the full text of the proposed ordinance. The signatures to initiative or referendum petitions need not all be appended to one paper, but to each separate petition there shall be attached a statement of the circulator thereof as provided by this section. Each signer of any petition paper shall sign his name in ink or indelible pencil and shall indicate

after his name his place of residence by street and number, or other description sufficient to identify [identify] the place. There shall appear on each petition the names and address of five (5) electors, who, as a committee of the petitioners, shall be regarded as responsible for the circulation and filing of the petition. Attached to each separate petition paper there shall be an affidavit of the circulator thereof that he, and he only, personally circulated the foregoing paper, that it bears a stated number of signatures, that all signatures appended thereto were made in his presence, and that he believes them to be the genuine signatures of the persons whose names they purport to be.

Sec. 4. - Filing, Examination and Certification of Petitions.

All petition papers comprising an initiative or referendum petition shall be assembled and filed with the City Clerk as one instrument. Within twenty (20) days after a petition is filed, the City Clerk shall determine whether each paper of the petition has a proper statement of the circulator and whether the petition is signed by a sufficient number of qualified electors. The City Clerk shall declare any petition paper entirely invalid which does not have attached thereto an affidavit signed by the circulator thereof. If a petition paper is found to be signed by more persons than the number of signatures certified by the circulator, the last signatures in excess of the number certified shall be disregarded. If a petition paper is found to be signed by fewer persons than the number certified, the signatures shall be accepted unless void on other grounds. After completing his examination of the petition, the City Clerk shall certify the result thereof to the Council at its next regular meeting. If he shall certify that the petition is insufficient he shall set forth in his certificate the particulars in which it is defective and shall at once notify the committee of the petitioners of his findings.

Sec. 5. - Amendment of Petitions.

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

Sec. 6. - Effect of Certification of Referendum Petition.

When a referendum petition, or amended petition as defined in Section 5 of this Charter, has been certified as sufficient by the City Clerk, the ordinance specified in the petition shall not go into effect, or further action thereunder shall be suspended if it shall have gone into effect, until and unless approved by the electors, as hereinafter provided.

Sec. 7. - Consideration by Council.

Whenever Council receives a certified initiative or referendum petition from the City Clerk, it shall proceed at once to consider such petition.

A proposed initiative ordinance shall be read and provision shall be made for a public hearing upon the proposed ordinance. The Council shall take final action on the ordinance not later than

sixty (60) days from the date on which such ordinance was submitted to the Council by the City Clerk.

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

Sec. 8. - Submission to Electors.

If the Council shall fail to pass an ordinance proposed by initiative petition, or shall pass it in a form different from that set forth in the petition therefor and not agreeable to the committee of the petitioners, or if the Council fails to repeal a referred ordinance, the proposed or referred ordinance shall be submitted to the electors of the City at a regular or special election to be held on the earliest possible uniform election date of the State of Texas, after the City Clerk certifies the submission to the City Council. ~~The Council may, in its discretion, and if no regular election is to be held within such period shall, provide for a special election.~~

(Ord. No. 06-088, 11-20-06)

Sec. 9. - Form of Ballot for Initiated and Referred Ordinances.

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

Sec. 10. - Results of Election.

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

Sec. 11. - Repealing Ordinance; Publication.

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

Sec. 12. - Recall: General.

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

Sec. 13. - Recall Procedure.

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

Sec. 14. - Recall Petitions.

The recall petition to be effective must be returned and filed with the City Clerk within thirty (30) days after the filing of the affidavit required in Section 13 and it must be signed by qualified electors of the City equal in number to at least fourteen percent (14%) of the number of voters registered to vote at the last general City election ~~fifty-one percent (51%) of the total number of votes cast at the last general municipal election~~, and shall conform to the provisions of Section 3 herein. No petition paper shall be accepted as part of a petition unless it bears the signature of the City Clerk as required in Section 13 herein.

Sec. 15. - Recall Election.

The City Clerk shall at once examine the recall petition and if he finds it sufficient and in compliance with the provisions of this Article of the Charter, he shall within five (5) days submit it to the City Council with his certificate to that effect and notify the officer sought to be recalled of such action. If the officer whose removal is sought does not resign within five (5) days after such notice the City Council shall thereupon order and fix a date for holding a recall election, the date of which shall be as soon as possible after the date the petition was presented to the City Council and at the earliest date permitted by the state election code.

(Ord. No. 06-088, 11-20-06)

Sec. 16. - Ballots in Recall Election.

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

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

"For the recall of (name of person)"

"Against the recall of (name of person)"

Sec. 17. - Results of Recall Election.

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

Sec. 18. - Limitations on Recalls.

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

Sec. 19. - District Judge May Order Election.

Should the City Council fail or refuse to order any of the elections as provided for in this Article, when all the requirements for such elections have been complied with by the petitioning electors in conformity with this Article, then any individual with legal standing may bring suit in any court of competent jurisdiction for the purpose of enforcing the requirements of this Article of this Charter, then it shall be the duty of any one of the District Judges of Harris County, Texas, upon proper application being made therefor to order such elections and to enforce the carrying into effect of the provisions of this Article of this Charter.

ARTICLE XI. - FRANCHISES AND PUBLIC UTILITIES

FOOTNOTE(S):

--- (8) ---

State Law reference— General powers of municipal utility systems, V.T.C.A., Local Government Code § 402.001; certain public services and utilities in home-rule municipalities, V.T.C.A., Local Government Code § 402.002.

Sec. 1. - Powers of the City.

In addition to the City's power to buy, own, construct, maintain and operate utilities and to manufacture and distribute electricity, gas, or anything else that may be needed or used by the public (see powers made part of this Charter in Article I, Section 3), the City shall have further powers as may now or thereafter be granted under the Constitution and laws of the State of Texas.

Sec. 2. - Franchises; Power of Council.

The City Council shall have power by ordinance to grant, amend, renew and extend all franchises of all public utilities of every character operating within the City of Bellaire and for such purposes is granted full power. All ordinances granting, amending, renewing, or extending franchises for public utilities shall be read at three two (2) separate regular meetings of the City Council, with such readings being at least ten (10) days apart, and shall not be finally passed until thirty (30) days after the first reading; and no such ordinance shall take effect until sixty (60) days after its final passage; and pending such time, the full text of such ordinance shall be published

once each week for ~~four (4)~~two (2) consecutive weeks in the official newspaper of the City of Bellaire, and the expense of such publication shall be borne by the proponent of the franchise. No public utility franchise shall be transferable except with the approval of the Council expressed by ordinance.

Sec. 3. - Franchise Value Not to Be Allowed. [Deleted].

(Ord. No. 06-088, 11-20-06)

Sec. 4. - Right of Regulation.

All grants, renewals, extensions, or amendments of public utility franchises, whether it be so provided in the ordinance or not, shall be subject to the right of the City:

- (1) To repeal the same by ordinance at any time for failure to begin construction or operation within the time prescribed or otherwise to comply with the terms of the franchise, such power to be exercised only after due notice and hearing;
- (2) To require an adequate extension of plant and service, and the maintenance of the plant and fixtures at the highest reasonable standard of efficiency;
- (3) To establish reasonable standards of service and quality of products and prevent unjust discrimination in services or rates;
- (4)
 - a) To prescribe the form of accounts kept by each such utility; provided, that if the utility shall keep its accounts in accordance with the ~~applicable~~ uniform ~~systems of accounts for said utility prescribed by the National Association of Railroad and Public Utility Commissioners, the Federal Power Commission, the Federal Communications Commission, the Railroad Commission of Texas, their successors or successors, this shall be deemed sufficient compliance with this paragraph~~ accounting standards;
 - b) At any time to examine and audit the accounts and other records of any such utility and to require annual and other reports, including reports on local operations by each such public utility;
- (5) To impose such reasonable regulations and restrictions as may be deemed desirable or conducive to the safety, welfare, and accommodation of the public; and
- (6) To at any time require such compensation and rental as may be permitted by the laws of the State of Texas.

Sec. 5. - Consent of Property Owners.

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

Sec. 6. - Extensions.

All extensions of public utilities within the City limits shall become a part of the aggregate property of the public utility, shall be operated as such, and shall be subject to all the obligations and reserved rights contained in this Charter and in any original grant hereafter made. The right to use and maintain any extension shall terminate with the original grant and shall be terminable as provided in Section 4. In case of an extension of a public utility operated under a franchise hereafter granted, such right shall be terminable at the same time and under the same conditions as the original grant.

Sec. 7. - Other Conditions.

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

Sec. 8. - Franchise Records.

~~Within six (6) months after this Charter takes effect~~ Every public utility and every owner of a public utility franchise shall file with the City, as may be prescribed by ordinance, certified copies of all franchises owned or claimed, or under which such utility is operated in the City of Bellaire. The City shall compile and maintain a public record of public utility franchises.

Sec. 9. - Accounts of Municipally Owned Utilities.

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

Sec. 10. - Regulation of Rates and Service. [Deleted].

(Ord. No. 06-088, 11-20-06)

ARTICLE XII. - 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 and under reasonable regulations established by the City Manager.

Sec. 2. - Personal Interest.

For purposes of this Section term "City Official" means any individual subject to the requirements of Texas Local Government Code, Chapter 171.

It is hereby prohibited for City Council members or a City Official to violate the rules and regulations regarding conflicts of interests as set out in the Texas Local Government Code, Chapter 171. No member of the Council or any officer or employee of the City shall have a financial interest, direct or indirect or by reason of ownership of stock in any corporation, in any contract or in the sale to the City or to a contractor supplying the City, of any land or rights of interests in any land, material, supplies, or service. The City Council shall never authorize the expenditure of public funds for the development of any subdivision. Any willful violation of this section shall constitute malfeasance in office, and any officer or employee of the City found guilty thereof shall thereby forfeit his office or position. Any violation of this section with the knowledge express or implied, of the person or corporation contracting with the City shall render the contract voidable by the City Manager or the Council.

State Law reference— Regulation of conflicts of interest, V.T.C.A., Local Government Code § 171.001 et seq.

Sec. 3. - Oath of Office.

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

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

State Law reference— Official oath, Tex. Const. art. 16, sec. 1.

Sec. 4. - Public Library. [Deleted].

(Ord. No. 06-088, 11-20-06)

Sec. 5. - Zoning Ordinance.

For the purpose of promoting the health, safety, morals or general welfare of the City, the Council may by ordinance regulate the location, height, bulk and size, and manner of construction of buildings and other structures, the size of yards, courts and other open spaces, and density of population and the uses of buildings, structures and land for trade, industry, business, residence or other purposes. Such ordinances may provide that the Board of Adjustment may, in appropriate cases and subject to appropriate principles, standards, rules, conditions and safeguards set forth in the ordinance, make special exceptions to their general purpose and intent. Such ordinances may provide that the Board of Adjustment may authorize variances from the strict application of the regulations in such situations and subject to such limitations as may be set forth by ordinance. All of the powers granted by Title 28, Chapter 4, Article 1011A to 1011J, both inclusive, of the 1925 Revised Civil Statutes of Texas, together with existing amendments and all amendments as hereinafter may be made relating to zoning in cities, are hereby adopted and made a part of this Charter.

Sec. 6. - Provisions Relating to Assignment, Execution and Garnishment.

The property, real and personal, belonging to the City shall not be liable to be sold or appropriated under any writ of execution or cost bill. 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, except as required by state or federal law.

(Ord. No. 06-088, 11-20-06)

Sec. 7. - City Not Required to Give Security or Execute Bond.

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

Sec. 8. - Effect of This Charter on Existing Law.

All ordinances, resolutions, rules and regulations now in force under the City government of Bellaire and not in conflict with the provisions of this Charter, shall remain in force under this Charter until altered, amended or repealed by the Council after this Charter takes effect.

Sec. 9. - Interim Municipal Government. [Deleted].

(Ord. No. 06-088, 11-20-06)

Sec. 10. - Amending the Charter.

Amendments to this Charter may be framed and submitted to the electors of the City by a Charter commission in the manner provided by law for framing and submitting a new Charter. Amendments may also be proposed and submitted by ordinance, passed by a majority vote of the full membership of the Council, or by a petition signed by not less than twenty-five percentum (25%) of the number of those who voted at the last regular municipal election; provided, however that in the latter case the petition must bear the signatures of at least ten percentum (10%) of the qualified voters of the City. When a Charter amendment petition shall have been filed with the Council in conformity with the provisions of this Charter as to petitions for initiated ordinances, the Council shall forthwith provide by ordinance for submitting such proposed amendment to a vote of the electors. Any ordinance for submitting a Charter amendment to the electors shall provide that such amendment be submitted at the next regular municipal election ~~if one shall occur not less than sixty (60) nor more than one hundred twenty (120) days after the passage of the ordinance; otherwise, it shall provide for the submission of the amendment at a special election to be called and held within the time aforesaid.~~ Not less than thirty (30) days prior to such election, the City clerk shall mail a copy of the proposed amendment or amendments to each qualified voter in said City as appears from the latest rolls of the tax collector. If a proposed amendment be approved by a majority of the electors voting thereon, it shall become a part of the Charter at the time fixed therein. Each amendment shall be confined to one subject; and when more than one amendment shall be submitted at the same time, they shall be so submitted as to enable the electors to vote on each amendment separately.

Sec. 11. - Separability Clause.

If any section or part of section of this Charter shall be held invalid by a Court of competent jurisdiction, such holding shall not affect the remainder of this Charter nor the context in which such Section or part of Section so held invalid may appear, except to the extent that an entire Section or part of Section may be inseparably connected in meaning and effect with the Section or part of Section to which such holding shall directly apply.

Sec. 12. - Submission of Charter to Electors.

The Charter Commission in preparing this Charter finds and decides that it is impracticable to segregate each subject so as to permit a vote of "Yes" or "No" on the same, for the reason that the Charter is so constructed that in order to enable it to work and function it is necessary that it should be adopted in its entirety. For these reasons the Charter Commission directs that the said Charter be voted upon as a whole, and that it shall be submitted to the qualified voters of the City of Bellaire at an election to be held for that purpose on the 2nd day of April, A.D. 1949. If a majority of the qualified electors voting in such election shall vote in favor of the adoption of this Charter, it shall then and there become effective as the Charter of the City of Bellaire, and after the returns have been canvassed, the same shall be declared adopted, and the City Clerk shall file an official copy of the Charter with the records of the City. The Clerk shall furnish the Mayor a copy of said Charter, which copy of the Charter so adopted, authenticated and certified by his signature and the seal of the City, shall be forwarded by the Mayor to the Secretary of State of the State of Texas and shall show the approval of such Charter by majority vote of the qualified electors voting at such election.

In not less than thirty (30) days prior to such election, the City Council shall cause the City Secretary to mail a copy of this Charter to each qualified voter of the City of Bellaire as appears from the Tax Collector's roll for the year ending January 31, preceding said election.

The original Home Rule Charter for the City of Bellaire, Texas as adopted April 2, 1949, was signed by the following Bellaire Charter Commission members, and is on file in the office of the City Clerk.

Wm. T. Burks, Chairman

R.E. Turrentine, Jr., Vice-Chairman

Richards A. Rowland, Secretary

Lawrence Davis

James G. V. Dee

Cliff Dowd

David F. Engle

W. C. Gardiner

R. S. Giles

Charles Gribble, Jr.

O. C. Luhring

R. B. Melanson

C. A. Watson

A. B. White

W. H. Winn

Sec. 13. - Non-Substantive Revisions~~Rearrangement and Renumbering of Charter and Elimination.~~

The City Council shall have the power by ordinance to make the following non-substantive revisions to the Charter, so long as such revisions do not affect the intent of the Charter: 1) renumbering and rearranging all articles, sections, and paragraphs of this Charter or any amendments; 2) to make any grammatical or typographical corrections to this Charter; and 3) to make the Charter gender neutral. Upon the passage of any such ordinance, a copy certified by the City Clerk shall be forwarded to the Clerk of the State for filing. ~~renumber and rearrange all articles, sections and paragraphs of this Charter, or any amendments thereto. The City Council shall have the further power by ordinance to eliminate gender specific references within the various provisions of this Charter and to substitute gender neutral terms, as it shall deem~~

appropriate. Upon the passage of any such ordinances, a copy thereof, certified by the City Clerk, shall be forwarded to the Secretary of State of the State of Texas for filing.

(Ord. No. 06-088, 11-20-06)

CHARTER COMPARATIVE TABLE ORDINANCES

This table shows the location of the sections of the basic Charter and any amendments thereto.

| Ordinance Number | Date | Section | Section this Charter |
|------------------|------------|---------|----------------------------|
| 83-022 | 4-18-1983 | 1 | Art. II, § 11 |
| | | 2 | Art. III, § 4 |
| | | 3 | Art. II, § 14 |
| | | 4 | Art. V, § 2 |
| | | 5 | Art. VII, § 1 |
| | | 6 | Art. VII, § 4 |
| | | 7 | Art. VII, § 6 |
| | | 8 | Art. VII, § 11 |
| | | 9 | Art. VII, § 13 |
| 87-067 | 11-16-1987 | 1 | Art. I, § 12 |
| | | 2, 3 | Art. II, § 1, Art. II, § 2 |
| | | 4 | Art. II, § 6 |
| | | 5 | Art. II, § 8 |
| | | 6 | Art. II, § 15 |
| | | 7 | Art. VII, § 15 |

| | | | |
|--------|------------|------|-------------------------|
| | | 8, 9 | Art. VIII, Art. IX |
| 06-088 | 11- 7-2006 | | Art. I, §§ 3—6 |
| | | | Art. II, §§ 1, 2, 8, 12 |
| | | | Art. V, §§ 1, 2 |
| | | | Art. VI, § 2 |
| | | | Art. VII, § 4 |
| | | Rpld | Art. VII, § 9 |
| | | | Art. VII, §§ 10, 11 |
| | | | Art. X, §§ 8, 15 |
| | | Rpld | Art. XI, §§ 3, 10 |
| | | Rpld | Art. XII, § 4 |
| | | | Art. XII, § 6 |
| | | Rpld | Art. XII, § 9 |
| | | | Art. XII, § 13 |

4. "CLEAN" VERSION OF CHARTER WITH PROPOSED 2017 AMENDMENTS

PART I - CHARTER OF THE CITY OF BELLAIRE

FOOTNOTE(S):

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Editor's note—Printed herein is the Charter of the City, as amended through Ord. No. 06-088, adopted Nov. 20, 2006, election of Nov. 7, 2006. Amendments to the ordinance are indicated by parenthetical history notes following amended provisions. The absence of a history note indicates that the provision remains unchanged from the original ordinance. Obvious misspellings and punctuation errors have been corrected without notation. For stylistic purposes, headings and catchlines have been made uniform and the same system of capitalization, citation to state statutes, and expression of numbers in text as appears in the Code of Ordinances has been used. Additions made for clarity are indicated by brackets.

ARTICLE I. - INCORPORATION; FORM OF GOVERNMENT CORPORATE AND GENERAL POWERS

Sec. 1. - Incorporation.

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

The boundaries of the City are those that have been legally established, a full description of which is available in the office of the City Clerk. These boundaries may be changed through annexation, as described in this Article.

(Ord. No. 06-088, 11-20-06)

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 and by this Charter, all powers of the City shall be vested in an elective council, hereinafter referred to as "the Council," which shall enact local legislation, adopt budgets, determine policies, and appoint the City Manager, who shall execute the laws and administer the government of the City.

State Law reference— Form of government in home rule municipality, V.T.C.A., Local Government Code § 26.001.

Sec. 3. - Powers of the City.

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 all the powers granted. The City may acquire property within or without its corporate limits for any City purpose 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; may furnish municipal services, both within and without its corporate limits; 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, security and convenience of the City or its inhabitants; and may pass such ordinances as may be expedient for maintaining and promoting the peace, welfare and government of the City, and for 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 of Bellaire shall have, and may exercise, all powers of local self-government, as well as all powers enumerated for Home Rule municipalities in the Texas Local Government Code, and amendments thereto and hereafter enacted; and any other powers which, under the Constitution and laws of the State of Texas, or the United States, it would be competent for this Charter specifically to enumerate.

(Ord. No. 06-088, 11-20-06)

State Law reference— Home rule municipality has full powers of self government, V.T.C.A., Local Government Code § 51.072; powers of Charter municipalities, Tex. Const. art. 11, sec. 5.

Sec. 4. - Special Provision for Damage Suits.

Before the City of Bellaire shall be liable for damages from any cause, the claimant, or someone in his behalf, shall give the City notice in writing within six (6) months after the occurring of the alleged injury or damage, stating specifically in such notice when, where and how the injury or damage was sustained, and setting forth the extent of the injury or damage as accurately as possible, and giving the names and addresses of all witnesses upon whose testimony such person is relying to establish the injury or damage. No action at law for damages shall be brought against the City for personal injury or damage to property prior to the expiration of sixty (60) days after the notice hereinbefore described has been filed with the City Manager or City Clerk.

(Ord. No. 06-088, 11-20-06)

Sec. 5. - Liability of the City.

The City of Bellaire shall not be liable for personal injury or property loss or damage from any cause, including the negligence of City officials or City employees, in the performance of

governmental functions except as set forth in the Texas Civil Practices and Remedies Code, Title 5, Governmental Liability, Chapter 101 tort claims.

(Ord. No. 06-088, 11-20-06)

Sec. 6. - Eminent Domain.

- (a) General Provisions. The City shall have the 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, except as provided in subsection (b) and (c). The City may also exercise the power of eminent domain in any other manner 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, except as provided in subsection (b) and (c). 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.
- (b) Limitations to Eminent Domain. The City's power of eminent domain shall be limited to the taking of private property exclusively for the ownership and the use by the City, Eminent Domain shall be prohibited in those cases.
 - (1) in which the taking is motivated by economic development which involves the intent to resell any interest in the property acquired; and
 - (2) which involves a joint venture or a collaborative arrangement with a private entity.
- (c) Exceptions to Limitations. The limitations in subsection (b) of this section are not intended to apply to
 - (1) a non-adverse (or a willing and friendly) condemnation or a condemnation when the majority of partial interest owners consider the condemnation to be non-adverse; and
 - (2) a condemnation necessary to cure the cloud on title to real estate or any other condition where a condemnation is deemed necessary in lieu of the transfer of title from a willing seller.

(Ord. No. 06-088, 11-20-06)

State Law reference— Municipal power of eminent domain, procedure, V.T.C.A., Local Government Code §§ 251.001—251.002; eminent domain, V.T.C.A., Property Code § 21.001 et seq.

Sec. 7. - Street Powers and Improvements.

The City of Bellaire shall have exclusive dominion, control and jurisdiction in, upon, and over and under the public streets, avenues, alleys and highways of the City, and may provide for the improvement thereof by paving, re-paving, raising, draining, or otherwise and shall also include, but not be limited to, the right to supervise, regulate and otherwise control, locate, relocate, remove, or prohibit the location of, all utility pipes, lines, wires, or other property. In addition, the City shall have the power to lay out, establish, open, alter, widen, lower, extend, grade, abandon,

discontinue, abolish, close, care for, pave, supervise, maintain and improve streets, alleys, sidewalks, parks, squares, public places and bridges; and regulate and/or restrict the use thereof; and require the removal from the streets, sidewalks, alleys and other public property or places of all obstructions, trespasses and/or encroachments of every nature or character.

Sec. 9. - Extending and Contracting City Limits by Action of the City Council.

The City Council shall have power by ordinance to fix the boundary limits of the City of Bellaire, and to provide for the extension of said boundary limits and the annexation of additional territory lying adjacent to said City, with or without the consent of the territory and/or inhabitants annexed. Upon the passage of such an ordinance by the city council one time, it shall be published in the official newspaper of the City of Bellaire one time. After at least thirty (30) days have elapsed from the date of such publication, said ordinance in original or amended form as said city council in its judgment may determine, shall be acted upon again, and if passed the territory so annexed shall thereupon become a part of the City of Bellaire, and any inhabitants thereof shall be entitled to all rights and privileges of other citizens of said City, and shall be bound by the acts, ordinances, resolutions and regulations of said City.

Any amendment to an ordinance annexing additional territory shall be advertised at least ten (10) days before final passage of the annexing ordinance, but any amendment eliminating from any such annexing ordinance property proposed to be annexed in the original ordinance or any amendment thereto need not be advertised.

Any area of the City may be disannexed pursuant to any procedure allowed under state law and whenever, in the opinion of the City Council, there exists within the corporate limits of the City a territory not suitable or necessary for City purposes, the City Council may discontinue said territory as part of the City by ordinance after conducting a public hearing on the matter.

State Law reference— State law references: General authority to annex, V.T.C.A., Local Government Code, § 43.021 et seq.

Sec. 10. - 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 sewer system; to provide for and fix penalties for failure to make sanitary sewer connections; and shall further have the right to fix charges and compensation to be charged by the City for sewage service, and to provide rules and regulations for the collection thereof.

State Law reference— State law references: Relocation or replacement of water or sewer laterals, V.T.C.A., Local Government Code, § 402.901.

Sec. 11. - Garbage Disposal.

The City Council shall have the right by ordinance to adopt and prescribe rules and regulations for the handling and disposition of all recycling, garbage, trash and rubbish within the City of

Bellaire, and shall further have the right to fix charges and compensation to be charged by the City for the removal of recycling, garbage, trash and rubbish, and to provide rules and regulations for the collection of such charges and compensation.

Sec. 12. - Indemnification of Elected Officials and City Employees.

The City shall provide for the indemnification of all elected and appointed officers and employees of the City, as well as volunteers appointed to serve the City in various capacities, against all claims, demands, causes of action and judgments that may be brought about as a result of their performance of their duties for and on behalf of the City, save and except any such claims, demands or judgments incurred by reason of willful, intentional or illegal acts. The City shall provide for the payment of the costs incurred in the defense of any such covered claims by the said officers, employees and volunteers; provided, however, that refusal to accept defense counsel as provided by the City may, at the discretion of the City, constitute a waiver of any such individual's right to indemnification.

(Ord. No. 87-067, § 1, 11-16-1987)

ARTICLE II. - THE COUNCIL

Sec. 1. - Elections.

- (a) **Compliance with Law.** All municipal elections in the City of Bellaire, whether regular or special, shall be conducted in accordance with the Texas Election Code, the federal Voting Rights Act and other applicable provisions of law. All elections shall be called by the City Council of the City of Bellaire, pursuant to the provisions of state law, and all candidates for municipal office shall comply fully with the requirements set forth in the Texas Election Code and this Charter.
- (b) **Composition of Council.** The City Council shall be composed of a Mayor and six (6) Councilmen, all of whom shall be elected from the City at large.
- (c) **Designation of Position.** The Councilmen shall be designated and denominated as follows:

Councilman—Position No. 1

Councilman—Position No. 2

Councilman—Position No. 3

Councilman—Position No. 4

Councilman—Position No. 5

Councilman—Position No. 6

Each candidate for municipal office shall, at the time of filing of reelection, designate the position for which he is a candidate.

- (d) **Terms of Office and Limitations Thereon.** Except as provided in the procedure for implementation as hereinafter set forth, the Mayor shall be elected for regular terms of two

(2) years each, and Councilmen shall be elected for regular terms of four (4) years each, with the Mayor and three (3) Councilmen being elected at each regular election.

The Mayor shall not serve more than four (4) consecutive terms in that position, and no member of City Council shall serve more than two (2) consecutive terms as a Councilman. Any portion of a term served shall count as one (1) term in calculating the total number of consecutive terms served.

- (e) **Election Dates.** Regular elections of the Mayor and the City Council shall be held in every odd-numbered year on the uniform election date specified by the Texas Election Code for the month of November. The Mayor shall be elected at each such election. Beginning in November of 1989 and continuing every four (4) years thereafter, Councilman - Position No. 1, Councilman - Position No. 3 and Councilman - Position No. 5 shall be elected for four (4) year terms; and beginning in November of 1991 and continuing every four (4) years thereafter, Councilman - Position No. 2, Councilman - Position No. 4 and Councilman - Position No. 6 shall be elected for four (4) year terms.

Dates for run-off elections, if any, shall be established by ordinance duly enacted by the City Council of the City of Bellaire, calling the regular election which is the basis for any such run-off as may be required.

- (f) **Election by Majority Vote.** The candidate for each office who received a majority of the votes cast for that office shall be declared elected to the office. When the number of candidates for any office is more than two (2) and no candidate received a majority of the votes cast for that office at the regular election, then a run-off election for such office shall be held at a time designated by ordinance duly enacted by the City Council of the City of Bellaire, at which run-off election the names of the two (2) candidates for said office who received the largest number of votes at the regular election shall be printed on the ballot. The candidate receiving the highest number of votes at the regular election shall be placed first on the run-off ballot, and the candidate receiving the next highest number of votes shall be placed second. In the event of a tie vote between the two (2) candidates receiving the highest number of votes at the regular election, then a drawing shall be held for places on the run-off ballot. The candidate receiving a majority of the votes cast for said office at the run-off election shall be declared duly elected.
- (g) **Induction of Council into Office.** Any person elected to office as Mayor or as a member of the City Council shall, prior to assuming such position, take an oath of office as prescribed by the Constitution of the State of Texas. Said oath may be taken before an officer of this State authorized to administer oaths.

All candidates elected to office at regular elections held in November of odd-numbered years shall qualify and assume the duties of office at the first regular meeting in January next following the date of the regular election.

(Ord. No. 87-067, § 2, 11-16-1987; Ord. No. 06-088, 11-20-06)

Sec. 2. - Qualifications.

To be eligible to be a candidate for, or elected to, office as Mayor or City Councilman of the City of Bellaire, or to continue to hold any such office, a person must:

- (1) Be a United States citizen;
- (2) Be twenty-one (21) years of age or older on the first day of the term to be filled at the election;
- (3) Have not been determined mentally incompetent by a final judgment of a court;
- (4) Have not been finally convicted of a felony from which the person has not been pardoned or otherwise released from the resulting disabilities;
- (5) Have resided continuously in the State of Texas and within the corporate limits of the City of Bellaire for twelve (12) months immediately preceding the filing deadline of the regular election; and
- (6) Be a qualified, registered voter of the State of Texas, County of Harris.

In addition, all candidates or persons elected to office as Mayor or City Councilman of the City of Bellaire shall meet all other requirements for office holders as may, from time to time, be specified by the Constitution and general laws of the State of Texas. If, at any time, any person holding the office of Mayor or City Councilman of the City of Bellaire no longer possesses all of the qualifications specified in this Section or is convicted of a felony or an offense involving moral turpitude while in office, such office shall after a public hearing and determination by City Council pursuant to Section 16 be declared vacant.

(Ord. No. 87-067, § 3, 11-16-1987; Ord. No. 06-088, 11-20-06)

Sec. 3. - Compensation of Members of the City Council.

The Mayor shall receive as compensation for his services the sum of Seventy-five Dollars (\$75.00) per month.

Each Councilman shall receive as compensation the sum of Fifty Dollars (\$50.00) per month.

The rate of compensation may be changed by the Council; however, no increase in the rate of compensation shall take effect unless ratified by a majority of the voters in the next regular City election. The City shall pay or reimburse reasonable expenses incurred by the Mayor or Council Members in the performance of specific duties, limited to the amount appropriated for such expenses in the current budget.

Sec. 4. - Presiding Officer—Duties of the Mayor.

The Mayor shall preside over the meetings of the City Council, and perform such other duties consistent with the office as may be imposed upon him by this Charter, and by ordinances and resolutions passed in pursuance hereof. He may participate in the discussions of all matters coming before the Council, and shall be entitled to vote as a member thereof, but shall have no veto power. He shall sign, after authorization by a majority of the City Council, all contracts and conveyances made or entered into by the City, and all bonds issued under the provisions of this Charter. He

shall be recognized as the official head of the City by the courts for the purpose of serving civil process, by the Governor for the purpose of enforcing military law, and for all ceremonial purposes. In time of danger or emergency, the Mayor may, with the consent of the City Council, take command of the police and govern the City by proclamation and maintain order and enforce all laws.

Sec. 5. - Mayor Pro Tempore.

The City Council shall elect a Mayor Pro Tempore, who shall act as, and have all the powers of the Mayor during the absence or disability of the Mayor, and if a vacancy should occur in the office of Mayor, shall act as, and have all the powers of the, Mayor until the next regular election, at which election a Mayor shall be elected to fill the full or unexpired term, as the case may be. The Mayor Pro Tempore's office shall not be considered vacant during any such time he or she is acting as the Mayor.

Sec. 6. - Vacancies in Council.

Vacancies in the office of Mayor, the effective date of which shall be determined in accordance with the provisions of the Texas Election Code, shall be filled by a candidate possessing all of the qualifications outlined in Section 2 of this Article, at an election called for that purpose pursuant to the provisions of the Texas Constitution and the Texas Election Code.

In the event of a vacancy in the office of City Councilmember, the effective date of which shall be determined in accordance with the provisions of the Texas Election Code, if there are 365 days or more remaining on the term of the vacated office, the City Council shall call a special election to fill such vacancy. If there are fewer than 365 days remaining in the term of the vacant office, the City Council may, by majority vote of the remaining Members of City Council, at its discretion, leave the office vacant, appoint a new Councilmember to fill such vacancy or call a special election to fill such vacancy.

(Ord. No. 87-067, § 4, 11-16-1987)

Sec. 7. - Absence from Council Meetings.

If any member shall be absent from Council meetings for a continuous period of two (2) months, at the discretion of the Council he shall forfeit his office, and the vacancy so created shall be filled in accordance with the provisions of this Charter.

Sec. 8. - Powers.

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

- (1) Enact all ordinances;
- (2) Appoint and remove the City Manager, the City Clerk, the City Attorney, and City Auditors;

- (3) Establish other administrative departments and distribute the work of divisions;
- (4) Adopt the budget of the City;
- (5) Authorize the issuance of bonds by a bond ordinance, as provided elsewhere in this Charter;
- (6) Inquire into the conduct of any office, department or agency of the City and make investigations as to municipal affairs;
- (7) Appoint members to various boards and commissions, as provided by ordinance;
- (8) Appoint members to various boards and commissions, as provided by state law;
- (9) Adopt and modify the official map of the City;
- (10) Provide for the establishment and designation of fire limits and to prescribe the kind and character of buildings or structures or improvements to be erected therein, and to provide for the erection of fireproof buildings within certain limits, and to provide for the condemnation of dangerous structures or buildings or dilapidated buildings or buildings calculated to increase the fire hazard, and the manner of their removal or destruction; and
- (11) Exercise all powers as shall be provided for under the Texas Property Tax Code and the general laws of this State, relating to the levy and collection of taxes.

(Ord. No. 87-067, § 5, 11-16-1987; Ord. No. 06-088, 11-20-06)

Sec. 9. - Appointment of City Manager.

The Council shall appoint an officer of the City who shall have the title of City Manager, and who shall have the powers and perform the duties provided 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.

Sec. 10. - Removal of City Manager.

The Council shall appoint the City Manager for an indefinite term, and may remove him at will with or without cause by a majority vote of its members.

Sec. 11. - Council Not to Interfere in Appointments or Removals.

Neither the City Council nor the Mayor or any Councilmember shall in any manner dictate the appointment or removal of any city administrative officers or employees whom the City Manager or any of his subordinates are empowered to appoint, unless otherwise provided in this Charter. However, the City Council may, at a properly noticed meeting, express its views and fully and freely discuss with the City Manager anything pertaining to appointment and removal of such officers and employees. Further, except for the purpose of inquiries and investigations, unless otherwise provided in this Charter, the City Council, Councilmembers and the Mayor shall deal with City officers and employees who are subject to the direction and supervision of the City Manager solely through the City Manager, and neither the City Council nor Councilmembers nor the Mayor shall give orders to any such officer or employee, either publicly or privately.

(Ord. No. 83-022, § 1, 4-18-1983)

Sec. 12. - Administrative Departments.

There shall be such administrative departments as are established by this Charter and such other administrative departments as may be established by ordinance. All administrative departments, except as otherwise provided in this Charter, shall be under the control and direction of the City Manager.

(Ord. No. 06-088, 11-20-06)

Sec. 13. - City Clerk.

The Council shall appoint a City Clerk of the Council. The City Clerk shall report to the City Council. He shall give notices of its meetings, shall keep the official copy of this Charter, shall authenticate by his signature and record in full in a book kept for the purpose all ordinances and resolutions, and shall perform such other duties as the City Manager shall assign to him.

Sec. 14. - Municipal Court.

There is hereby established a Municipal Court of the City of Bellaire. The City Council shall appoint a Municipal Court Judge to serve a term of office of two (2) years. A Municipal Court Judge who is not reappointed by the 91st day following the expiration of a term of office shall, absent action by the City Council, continue to serve for another term of office beginning on the date the previous term of office expired. The City Council shall appoint such other associate judge or judges as it shall determine to be necessary and appropriate, for such terms as it shall provide. Such judge(s) may be removed for incompetency, misconduct or malfeasance. The compensation for the judge(s) of the Municipal Court shall be fixed by the City Council. The City Council shall have the power to make temporary or relief appointments of Municipal Court Judges, in the event of emergencies, for shorter periods of time than provided for the term(s) of the Municipal Court Judge and associate judge(s).

All costs and fines imposed by the Municipal Court, or by any court in cases appealed from judgments of the Municipal Court, shall be paid into the city treasury for the use and benefit of the City.

(Ord. No. 83-022, § 3, 4-18-1983)

Sec. 15. - Meetings of Council.

The City Council shall meet regularly at such times as may be prescribed by its rules, but not less frequently than twice each month. All meetings of the Council shall be subject to the Texas Open Meetings Act ; special meetings shall be called by the City Clerk upon request of the Mayor, City Manager, or a majority of the members of the Council.

Four (4) members of the Council, of whom the Mayor shall be counted as one, shall constitute a quorum for the transaction of business. The affirmative vote of four (4) members shall be required for the transaction of business. A smaller number may adjourn from time to time.

(Ord. No. 87-067, § 6, 11-16-1987)

Sec. 16. - Council to be Judge of Qualifications of its Members; **Hearings; Process.**

A. General. The Council shall be the judge of the election and qualifications of its members, and shall have the power to investigate and to remove any member for malfeasance or nonfeasance in office, after public hearing, by a two-thirds (2/3) vote of the whole Council; for such purpose it shall have power to administer oaths, subpoena witnesses, compel the production of books, papers, and other evidence material to the inquiry. The City Council shall provide, by ordinance, penalties for contempt in failing or refusing to obey any such subpoena or to produce any such books, papers or other evidence. The City Council shall have the power to punish any such contempt in the manner provided by such ordinance..

B. Hearings Process for Forfeitures of Office and Prohibitions.

1. All hearings held under this subsection shall be conducted in open session, except that the City Council may conduct a closed session to get advice from its attorney pursuant to the Texas Open Meetings Act;
2. The office holder subject to any investigation and/or hearing under this section shall be entitled to written notice of the specific allegations made against them;
3. A special meeting shall be called to hold the hearing; the office holder who is the subject of the hearing shall not sit at the dais and shall not participate in deliberation or vote; and City Council shall adopt by ordinance rules of procedures to be followed which rules shall not be amended or repealed for a particular public hearing after written notice has been provided to the office holder; except and unless, agreed to by the office holder;
4. The City Council shall state the nature of the hearing and the allegations to be considered, shall be provided the results of any investigation and a presentation of the evidence against the office holder including, but not limited to testimony from individuals; the individual who is subject to the hearing shall be provided an opportunity to respond to the allegations and present any relevant evidence including, but not limited to, testimony from individuals; and City Council may ask questions of any individual; and
5. No public comment shall be allowed unless agreed to by a majority vote of the members of City Council present and rules for public comment, if allowed, shall be set by City Council.

Sec. 17. - Rules of Procedure.

The Council shall determine its own rules and order of business.

Sec. 18. - Ordinances.

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

Sec. 19. - Procedure for Passage of Ordinances.

The affirmative vote of four (4) members of the Council shall be necessary to adopt any ordinance or resolution. Every ordinance shall be in written form and, upon passage, shall take effect at the time indicated therein, or if no time be specified, then immediately after passage and approval; provided that any penalty, fine or forfeiture for a violation of ordinance provisions shall become effective not less than ten days from the date of its publication. The City Clerk shall give notice of the passage of every ordinance imposing a penalty, fine or forfeiture for a violation of the provisions thereof, by causing the ordinance in full or its caption, including the penalty, to be published in the official newspaper of the City of Bellaire at least one time within ten (10) days after the passage of said ordinance. He shall note on every ordinance, the caption of or which is hereby required to be published, and on the record thereof, the fact that same has been published as required by the Charter, the name of the newspaper and the date of such publication, which shall be *prima facie* evidence of the legal publication and promulgation of such ordinance; provided, that the provisions of this section shall not apply to the correction, amendment, revision and codification of the ordinances of the City for publication in book or pamphlet form. Except as otherwise provided in Section 9 of Article I, and Section 2 of Article XI of this Charter, it shall not be necessary to the validity of any ordinance that it shall be read more than one time or considered at more than one session of the City Council. Every ordinance shall be authenticated by the signature of the Mayor and City Clerk, and shall be systematically recorded in an ordinance book in a manner approved by the Council. It shall only be necessary to record the caption or title of ordinances in the minutes or journal of Council meetings. The City Council shall have power to cause the ordinances of the City to be corrected, amended, revised, codified and printed in code form as often as the Council deems advisable, and such printed code, when adopted by the Council, shall be in full force and effect without the necessity of publishing the same or any part thereof in a newspaper. Such printed code shall be admitted in evidence in all courts and places without further proof.

Sec. 20. - Investigation by Council.

The Council shall have the power to inquire into the conduct of any office, department, agency, or officer of the City and to make investigations as to municipal affairs, and for the purpose may subpoena witnesses, administer oaths, and compel the production of books, papers, and other evidence. Failure to obey such subpoena or to produce books, papers or other evidence as ordered under the provisions of this section shall constitute a misdemeanor and shall be punishable by fine not to exceed **Three Hundred (\$300.00) Dollars** for each offense.

Sec. 21. - Independent Audit.

Prior to the end of each fiscal year, the Council shall designate a certified public accountant who, as of the end of that fiscal year, shall make an independent audit of accounts and other evidences of financial transactions of the city government, and shall submit a sworn report to the Council. Notice shall be provided on the official website of the City of Bellaire that the annual audit is on file at the City Hall for inspection. Such accountant shall have no personal interest, direct or indirect, in the fiscal affairs of the city government. They shall not maintain accounts or record of the City business, but, within specifications approved by the Council, shall post-audit the books and documents kept by the Department of Finance and any separate or subordinate accounts kept by any other office, department or agency of the city government. Such accountants may make monthly checks, or a general audit at more frequent intervals as the Council may direct.

State Law reference— Audit of municipal finances, V.T.C.A., Local Government Code §§ 103.001—103.004.

ARTICLE III. - THE CITY MANAGER

Sec. 1. - The City Manager; Qualifications.

The City Manager shall be chosen by the Council solely on the basis of his executive and administrative qualifications with special reference to his actual experience in, or his knowledge of, accepted practice in respect to the duties of his office as hereinafter set forth.

The City Manager shall provide a fidelity bond with such surety and in such amount as the Council may require, except that such bond shall be in an amount of not less than Ten Thousand Dollars (\$10,000.00). The premiums on such bond shall be paid by the City of Bellaire.

Sec. 2. - The City Manager; Powers and Duties.

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

- (a) Appoint and remove all officers and employees of the City appointed by him, 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;
- (b) Prepare the budget annually and submit it to the Council and be responsible for its administration after adoption;
- (c) Prepare and submit to the Council as of the end of the fiscal year a complete report on the finances and administrative activities of the City for the preceding year;
- (d) Keep the Council advised of the financial condition and future need of the City and make such recommendations as may seem to him desirable;
- (e) Sign all documents, contracts and conveyances made or entered into by the City, and all bonds, pursuant to any relevant policy adopted by City Council, except where the City Council has authorized the Mayor to sign said document as provided for in Article II Section 4 of this Charter. and
- (f) Perform such other duties as may be prescribed by this Charter or required of him by the Council, not inconsistent with this Charter.

Sec. 3. - 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 Clerk a qualified administrative officer of the City. In the event of failure of the Manager to make such designation, the Council may by resolution appoint an officer of the City to perform the duties of the Manager until he shall return, or his disability shall cease, or he shall be replaced.

Sec. 4. - Directors of Departments.

At the head of each administrative department there shall be a director, who shall have supervision and control of the department subject to the City Manager, except as otherwise provided by this Charter.

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

(Ord. No. 83-022, § 2, 4-18-1983)

Sec. 5. - Departmental Divisions.

The work of each administrative department may be distributed among such divisions thereof as may be established by ordinance upon the recommendation of the City Manager.

ARTICLE IV. - DEPARTMENT OF LAW

Sec. 1. - Director; Appointment.

There shall be a department of law, the head of which shall be the attorney for the City, who shall be employed by the City Council.

Sec. 2. - Qualifications.

The attorney for the City shall be a qualified attorney-at-law who is licensed to practice in the State of Texas, and who shall have been a practicing attorney in the State of Texas for at least five (5) years next preceding his employment.

Sec. 3. - Powers and Duties.

The attorney for the City shall be the chief legal advisor of the Council, of all offices, departments, and agencies and of all officers and employees in matters relating to their official powers and duties. He shall perform such other duties as may be specified by the Council, which shall fix his compensation.

ARTICLE V. - THE BUDGET

FOOTNOTE(S):

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State Law reference— Municipal budget, V.T.C.A., Local Government Code §§ 102.001—102.111.

Sec. 1. - Fiscal Year.

The fiscal year of the City government 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. As used in this Article, the term "budget year" shall mean the fiscal year for which any particular budget is adopted and in which it is administered.

(Ord. No. 06-088, 11-20-06)

Sec. 2. - Annual Budget.

- (a) Scope. The annual budget must specify appropriations for capital expenditures and for expenditures directed by Council for services and for the operation of city departments, offices and agencies. It must comply with fund requirements of bond covenants.
- (b) Preparation. The City Manager shall submit a proposed annual budget to the Council in sufficient time to permit council to review and revise it. Said budget shall be prepared by the City Manager and filed with the City Clerk not less than thirty (30) days prior to the time and the City Council adopts said budget.
- (c) Public Hearing. A public hearing shall be held not less than fifteen (15) days subsequent to the time the budget is filed, as provided herein, but prior to the time the City Council adopts said budget and sets the tax levy. Notice of the date, time and place of such public hearing shall be published in a newspaper of general circulation not less than fifteen (15) days prior to the date of the hearing.
- (d) Adoption. Before taxes are levied, but after a public hearing or hearings, Council shall adopt the annual budget. Council may amend the proposed budget but shall not delete or decrease appropriations required for debt service, or by law, and shall not authorize expenditures in excess of the total of estimated income plus funds available from earlier years.
- (e) Failure to Adopt. If the Council fails to adopt the annual budget before the start of the fiscal year to which it applies, appropriations of the last budget adopted shall be considered as adopted for the current fiscal year on a month-to-month, pro-rata basis until the next budget is adopted.
- (f) Public Record. The adopted budget shall be a public record. Copies shall be made available to the public, upon request, or examination and review, as shall copies of the previous year's budget for comparison purposes. A true copy of said approved budget shall be filed in the office of the County Clerk of Harris County, Texas.

(Ord. No. 83-022, § 4, 4-18-1983; Ord. No. 06-088, 11-20-06)

ARTICLE VI. - BORROWING FOR CAPITAL IMPROVEMENTS

FOOTNOTE(S):

--- (3) ---

State Law reference— Home-rule municipal authority to issue bonds, V.T.C.A., Government Code § 1331.052; Public Security Procedures Act, V.T.C.A., Government Code § 1201.001 et seq.

Sec. 1. - Power to Incur Indebtedness by Issuing Bonds, Warrants and Notes.

The City of Bellaire shall have the right and power to borrow money on the credit of the City for any lawful public purpose, including without limitation permanent public improvements, as may be determined by the City Council, and to issue bonds, warrants, notes, or other evidence of indebtedness of the City therefor in accordance with state law.

ARTICLE VII. - FINANCE ADMINISTRATION

FOOTNOTE(S):

--- (4) ---

State Law reference— General fiscal powers of home-rule municipality, V.T.C.A., Local Government Code § 101.022.

Sec. 1. - Director of Finance; Appointment.

There shall be a Department of Finance, the head of which shall be appointed by the City Manager. The person appointed to head the Department of Finance shall not be the City Manager.

(Ord. No. 83-022, § 5, 4-18-1983)

Sec. 2. - Director of Finance; Qualifications.

The Director of Finance shall have knowledge of municipal accounting and taxation and shall have had experience in budgeting and financial control.

Sec. 3. - Director of Finance; Surety Bond.

The Director of Finance shall provide a bond with such surety and in such amount as the Council may require, except that such bond shall be in an amount of not less than Ten Thousand Dollars (\$10,000.00). The premiums on such bond shall be paid by the City of Bellaire.

Sec. 4. - Director of Finance; Powers and Duties.

Under the direction of the City Manager, the Director of Finance shall have charge of the administration of the financial affairs of the City and to that end, he shall have authority and shall be required to:

- (1) Supervise and be responsible for the disbursement of all moneys and have control over all expenditures to ensure that budget appropriations are not exceeded;
- (2) Maintain a general accounting system for the city government and each of its offices, departments and agencies; keep books for and exercise financial budgetary control over

each office, department and agency; keep separate accounts for the items of appropriation contained in the city budget, each of which accounts shall show the amount of the appropriation, the amounts paid therefrom, the unpaid obligations against it and the unencumbered balance; require reports of receipts and disbursements from each receiving and spending agency of the city government to be made daily or at such intervals as he may deem expedient;

- (3) Submit to the City Council through the City Manager a monthly statement of all receipts and disbursements in sufficient detail to show the exact financial condition of the City;
- (4) Prepare, as of the end of each fiscal year, a complete financial statement and report;
- (5) Collect all taxes, special assessments, license fees and other revenues of the City or for whose collection the City is responsible and receive all money receivable by the City from the state or federal government, or from any court, or from any office, department or agency of this City;

(Ord. No. 83-022, § 6, 4-18-1983; Ord. No. 06-088, 11-20-06)

Sec. 5. - Transfer of Appropriations.

The City Manager may at any time, with the approval of the Council, transfer any unencumbered appropriation balance or portion thereof between general classifications of expenditures within an office, department or agency. At the request of the City Manager, and within the last three months of the budget year, the Council may by resolution transfer any unencumbered appropriation balance or portion thereof from one office, department or agency to another.

Sec. 6. - Accounting Supervision and Control.

Under the direction of the City Manager, the Director of Finance shall have the power and shall be required to:

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

(Ord. No. 83-022, § 7, 4-18-1983)

Sec. 7. - Appropriations Lapse at End of Year.

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

Sec. 9. - Division of Purchases [Deleted].

(Ord. No. 06-088, 11-20-06)

Sec. 10. - Sale of City Property; Procedure.

The sale or disposal of any City property shall be in accordance with laws established by the State of Texas.

(Ord. No. 06-088, 11-20-06)

Sec. 11. - Purchase Procedure.

- (a) All purchases made and contracts executed by the City shall be pursuant to a requisition from the head of the office, department or agency whose appropriations will be charged, and no contract or order shall be binding upon the City unless and until the City Manager certifies that there is to the credit of such office, department or agency a sufficient unencumbered appropriation and allotment balance to pay for the supplies, materials, equipment, or contractual services for which the contract or order is issued. All purchases made and contracts executed by the City shall be made in accordance with the requirements of this Charter and all applicable requirements of the constitution and statutes of the State of Texas. All contracts for purchases or expenditures must be expressly approved in advance by the City Council, except that the City Council may by ordinance confer upon the City Manager general authority to contract for expenditures without further approval of the City Council for all budgeted items the cost of which does not exceed the constitutional and statutory requirements for competitive bidding. However, (i) for purchasing insurance or employee benefits, the City shall use the request-for-proposals process described in subsection "b", below, in those instances when the use of competitive bidding would otherwise be required, and (ii) when letting contracts, the City shall always have the right to reject any and all bids and determine the most advantageous bid for the City.
- (b) The request-for-proposals process is as follows: (i) A request for proposals must solicit quotations and must specify the relative importance of price and other evaluation factors; (ii) discussions may be conducted with proposers determined to be qualified; (iii) such qualified proposers shall be treated fairly and equally with respect to any opportunity for discussion and revision of proposals; (iv) to obtain the best final offers, revisions may be permitted after submissions.

(Ord. No. 06-088, 11-20-06)

Sec. 12. - Accounting of Property.

The Director of Finance shall maintain, or cause to be maintained, reliable accounts of the City's investment in permanent property by departments, and shall fix responsibility for the custody and property use of all City owned equipment, structures, and land.

He shall be responsible for the accounting control of all permanent property of the City.

The head of each department shall be held accountable for the safekeeping of all movable equipment in his department.

Sec. 13. - [Deleted].

(Ord. No. 83-022, § 9, 4-18-1983)

Sec. 14. - Accounting Control of Purchases.

All purchases made and contracts executed by the division of purchases shall be pursuant to a written requisition from the head of the office, department or agency whose appropriation will be charged, and no contract or order shall be issued to any vendor unless and until the Director of Finance certifies that there is to the credit of such office, department or agency a sufficient unencumbered balance to pay for the supplies, material, equipment or contractual services for which the contract or order is to be issued.

Sec. 15. - Disbursement of Funds.

The City Council of the City of Bellaire shall adopt a written statement of policies, procedures and guidelines for the disbursement of funds from the city depository, which written statement may include, but shall not be limited to, the manual or mechanical issuance of checks, vouchers or warrants, electronic transfer of funds, the use of appropriate computer systems, and such other guidelines as shall constitute sound business and professional accounting practice.

(Ord. No. 87-067, § 7, 11-16-1987)

ARTICLE VIII. - TAX ADMINISTRATION REPEALED

(Ord. No. 87-067, § 8, 11-16-1987)

FOOTNOTE(S):

--- (5) ---

Editor's note—Now addressed in the Texas Tax Code.

ARTICLE IX. - NOMINATIONS AND ELECTIONS REPEALED

(Ord. No. 87-067, § 9, 11-16-1987)

FOOTNOTE(S):

--- (6) ---

Editor's note—See article II of this Charter.

ARTICLE X. - INITIATIVE, REFERENDUM AND RECALL

FOOTNOTE(S):

--- (7) ---

State Law reference— Election Code, V.T.C.A., Election Code § 1.001 et seq.

Sec. 1. - Power of Initiative.

The electors shall have power to propose any ordinance except an ordinance appropriating money or authorizing the levy of taxes, and to adopt or reject the same at the polls, such power being known as the initiative. Any initiative ordinance may be submitted to the Council by a petition signed by qualified electors of the City equal in number to at least six percent (6%) of the number of voters registered to vote at the last general City election; provided, however, that the petition shall contain the signatures of at least two hundred (200) qualified electors of the City. Bond elections may be initiated by petition to the City Council as above provided.

Sec. 2. - Power of Referendum.

The electors shall have power to approve or reject at the polls any ordinance passed by the Council, or submitted by the Council to a vote of the electors, such power being known as the referendum. Ordinances submitted to the Council by initiative petition and passed by the Council without change shall be subject to the referendum in the same manner as other ordinances. Within thirty (30) days after the enactment by the Council of any ordinance which is subject to a referendum, a petition signed by qualified electors of the City equal in number to at least six percent (6%) of the number of voters registered to vote at the last general City election may be filed with the City Clerk requesting that any such ordinance be either repealed or submitted to a vote of the electors; provided, however, that such petition shall contain the signatures of at least two hundred (200) qualified electors of the City.

Sec. 3. - Form of Petitions; Committee of Petitioners.

Initiative petition papers shall contain the full text of the proposed ordinance. The signatures to initiative or referendum petitions need not all be appended to one paper, but to each separate petition there shall be attached a statement of the circulator thereof as provided by this section. Each signer of any petition paper shall sign his name in ink or indelible pencil and shall indicate after his name his place of residence by street and number, or other description sufficient to identify [identify] the place. There shall appear on each petition the names and address of five (5) electors, who, as a committee of the petitioners, shall be regarded as responsible for the circulation and filing of the petition. Attached to each separate petition paper there shall be an affidavit of the circulator thereof that he, and he only, personally circulated the foregoing paper, that it bears a stated number of signatures, that all signatures appended thereto were made in his presence, and that he believes them to be the genuine signatures of the persons whose names they purport to be.

Sec. 4. - Filing, Examination and Certification of Petitions.

All petition papers comprising an initiative or referendum petition shall be assembled and filed with the City Clerk as one instrument. Within twenty (20) days after a petition is filed, the City Clerk shall determine whether each paper of the petition has a proper statement of the circulator and whether the petition is signed by a sufficient number of qualified electors. The City Clerk shall declare any petition paper entirely invalid which does not have attached thereto an affidavit signed by the circulator thereof. If a petition paper is found to be signed by more persons than the number of signatures certified by the circulator, the last signatures in excess of the number certified shall be disregarded. If a petition paper is found to be signed by fewer persons than the number certified, the signatures shall be accepted unless void on other grounds. After completing his examination of the petition, the City Clerk shall certify the result thereof to the Council at its next regular meeting. If he shall certify that the petition is insufficient he shall set forth in his certificate the particulars in which it is defective and shall at once notify the committee of the petitioners of his findings.

Sec. 5. - Amendment of Petitions.

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

Sec. 6. - Effect of Certification of Referendum Petition.

When a referendum petition, or amended petition as defined in Section 5 of this Charter, has been certified as sufficient by the City Clerk, the ordinance specified in the petition shall not go into effect, or further action thereunder shall be suspended if it shall have gone into effect, until and unless approved by the electors, as hereinafter provided.

Sec. 7. - Consideration by Council.

Whenever Council receives a certified initiative or referendum petition from the City Clerk, it shall proceed at once to consider such petition.

A proposed initiative ordinance shall be read and provision shall be made for a public hearing upon the proposed ordinance. The Council shall take final action on the ordinance not later than sixty (60) days from the date on which such ordinance was submitted to the Council by the City Clerk.

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

Sec. 8. - Submission to Electors.

If the Council shall fail to pass an ordinance proposed by initiative petition, or shall pass it in a form different from that set forth in the petition therefor and not agreeable to the committee of

the petitioners, or if the Council fails to repeal a referred ordinance, the proposed or referred ordinance shall be submitted to the electors of the City at a regular or special election to be held on the earliest possible uniform election date of the State of Texas, after the City Clerk certifies the submission to the City Council.

(Ord. No. 06-088, 11-20-06)

Sec. 9. - Form of Ballot for Initiated and Referred Ordinances.

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

Sec. 10. - Results of Election.

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

Sec. 11. - Repealing Ordinance; Publication.

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

Sec. 12. - Recall: General.

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

Sec. 13. - Recall Procedure.

Any elector of the City of Bellaire may make and file with the City Clerk an affidavit containing the name or names of the officer or officers whose removal is sought and a statement of the grounds for removal. The Clerk shall thereupon deliver to the elector making such affidavit copies of petition blanks demanding such removal. Such blanks when issued by the City Clerk shall bear the signature of that officer and be addressed to the City Council, and shall be numbered, dated, and indicate the name of the person to whom issued. The petition blanks when issued shall also indicate the number of such blanks issued and the name of the officer whose removal is sought.

The City Clerk shall enter in a record to be kept in his office the name of the elector to whom the petition blanks were issued and the number issued to said person.

Sec. 14. - Recall Petitions.

The recall petition to be effective must be returned and filed with the City Clerk within thirty (30) days after the filing of the affidavit required in Section 13 and it must be signed by qualified electors of the City equal in number to at least fourteen percent (14%) of the number of voters registered to vote at the last general City election , and shall conform to the provisions of Section 3 herein. No petition paper shall be accepted as part of a petition unless it bears the signature of the City Clerk as required in Section 13 herein.

Sec. 15. - Recall Election.

The City Clerk shall at once examine the recall petition and if he finds it sufficient and in compliance with the provisions of this Article of the Charter, he shall within five (5) days submit it to the City Council with his certificate to that effect and notify the officer sought to be recalled of such action. If the officer whose removal is sought does not resign within five (5) days after such notice the City Council shall thereupon order and fix a date for holding a recall election, the date of which shall be as soon as possible after the date the petition was presented to the City Council and at the earliest date permitted by the state election code.

(Ord. No. 06-088, 11-20-06)

Sec. 16. - Ballots in Recall Election.

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

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

Sec. 17. - Results of Recall Election.

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

Sec. 18. - Limitations on Recalls.

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

Sec. 19. - District Judge May Order Election.

Should the City Council fail or refuse to order any of the elections as provided for in this Article, when all the requirements for such elections have been complied with by the petitioning electors in conformity with this Article, then any individual with legal standing may bring suit in any court of competent jurisdiction for the purpose of enforcing the requirements of this Article.

ARTICLE XI. - FRANCHISES AND PUBLIC UTILITIES

FOOTNOTE(S):

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State Law reference— General powers of municipal utility systems, V.T.C.A., Local Government Code § 402.001; certain public services and utilities in home-rule municipalities, V.T.C.A., Local Government Code § 402.002.

Sec. 1. - Powers of the City.

In addition to the City's power to buy, own, construct, maintain and operate utilities and to manufacture and distribute electricity, gas, or anything else that may be needed or used by the public (see powers made part of this Charter in Article I, Section 3), the City shall have further powers as may now or thereafter be granted under the Constitution and laws of the State of Texas.

Sec. 2. - Franchises; Power of Council.

The City Council shall have power by ordinance to grant, amend, renew and extend all franchises of all public utilities of every character operating within the City of Bellaire and for such purposes is granted full power. All ordinances granting, amending, renewing, or extending franchises for public utilities shall be read at two (2) separate regular meetings of the City Council, with such readings being at least ten (10) days apart, and shall not be finally passed until thirty (30) days after the first reading; and no such ordinance shall take effect until sixty (60) days after its final passage; and pending such time, the full text of such ordinance shall be published once each week for two (2) consecutive weeks in the official newspaper of the City of Bellaire, and the expense of such publication shall be borne by the proponent of the franchise. No public utility franchise shall be transferable except with the approval of the Council expressed by ordinance.

Sec. 3. - Franchise Value Not to Be Allowed. [Deleted].

(Ord. No. 06-088, 11-20-06)

Sec. 4. - Right of Regulation.

All grants, renewals, extensions, or amendments of public utility franchises, whether it be so provided in the ordinance or not, shall be subject to the right of the City:

- (1) To repeal the same by ordinance at any time for failure to begin construction or operation within the time prescribed or otherwise to comply with the terms of the franchise, such power to be exercised only after due notice and hearing;
- (2) To require an adequate extension of plant and service, and the maintenance of the plant and fixtures at the highest reasonable standard of efficiency;
- (3) To establish reasonable standards of service and quality of products and prevent unjust discrimination in services or rates;
- (4)
 - a) To prescribe the form of accounts kept by each such utility; provided, that if the utility shall keep its accounts in accordance with the applicable uniform accounting standards;
 - b) At any time to examine and audit the accounts and other records of any such utility and to require annual and other reports, including reports on local operations by each such public utility;
- (5) To impose such reasonable regulations and restrictions as may be deemed desirable or conducive to the safety, welfare, and accommodation of the public; and
- (6) To at any time require such compensation and rental as may be permitted by the laws of the State of Texas.

Sec. 5. - Consent of Property Owners.

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

Sec. 6. - Extensions.

All extensions of public utilities within the City limits shall become a part of the aggregate property of the public utility, shall be operated as such, and shall be subject to all the obligations and reserved rights contained in this Charter and in any original grant hereafter made. The right to use and maintain any extension shall terminate with the original grant and shall be terminable as provided in Section 4. In case of an extension of a public utility operated under a franchise hereafter granted, such right shall be terminable at the same time and under the same conditions as the original grant.

Sec. 7. - Other Conditions.

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

operate to limit in any way, as specifically stated, the discretion of the Council or the electors of the City in imposing terms and conditions as may be reasonable in connection with any franchise grant.

Sec. 8. - Franchise Records.

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

Sec. 9. - Accounts of Municipally Owned Utilities.

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

Sec. 10. - Regulation of Rates and Service. [Deleted].

(Ord. No. 06-088, 11-20-06)

ARTICLE XII. - 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 and under reasonable regulations established by the City Manager.

Sec. 2. - Personal Interest.

For purposes of this Section term "City Official" means any individual subject to the requirements of Texas Local Government Code, Chapter 171.

It is hereby prohibited for City Council members or a City Official to violate the rules and regulations regarding conflicts of interests as set out in the Texas Local Government Code,

Chapter 171. State Law reference— Regulation of conflicts of interest, V.T.C.A., Local Government Code § 171.001 et seq.

Sec. 3. - Oath of Office.

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

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

State Law reference— Official oath, Tex. Const. art. 16, sec. 1.

Sec. 4. - Public Library. [Deleted].

(Ord. No. 06-088, 11-20-06)

Sec. 5. - Zoning Ordinance.

For the purpose of promoting the health, safety, morals or general welfare of the City, the Council may by ordinance regulate the location, height, bulk and size, and manner of construction of buildings and other structures, the size of yards, courts and other open spaces, and density of population and the uses of buildings, structures and land for trade, industry, business, residence or other purposes. Such ordinances may provide that the Board of Adjustment may, in appropriate cases and subject to appropriate principles, standards, rules, conditions and safeguards set forth in the ordinance, make special exceptions to their general purpose and intent. Such ordinances may provide that the Board of Adjustment may authorize variances from the strict application of the regulations in such situations and subject to such limitations as may be set forth by ordinance. All of the powers granted by Title 28, Chapter 4, Article 1011A to 1011J, both inclusive, of the 1925 Revised Civil Statutes of Texas, together with existing amendments and all amendments as hereinafter may be made relating to zoning in cities, are hereby adopted and made a part of this Charter.

Sec. 6. - Provisions Relating to Assignment, Execution and Garnishment.

The property, real and personal, belonging to the City shall not be liable to be sold or appropriated under any writ of execution or cost bill. 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, except as required by state or federal law.

(Ord. No. 06-088, 11-20-06)

Sec. 7. - City Not Required to Give Security or Execute Bond.

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

Sec. 8. - Effect of This Charter on Existing Law.

All ordinances, resolutions, rules and regulations now in force under the City government of Bellaire and not in conflict with the provisions of this Charter, shall remain in force under this Charter until altered, amended or repealed by the Council after this Charter takes effect.

Sec. 9. - Interim Municipal Government. [Deleted].

(Ord. No. 06-088, 11-20-06)

Sec. 10. - Amending the Charter.

Amendments to this Charter may be framed and submitted to the electors of the City by a Charter commission in the manner provided by law for framing and submitting a new Charter. Amendments may also be proposed and submitted by ordinance, passed by a majority vote of the full membership of the Council, or by a petition signed by not less than twenty-five percentum (25%) of the number of those who voted at the last regular municipal election; provided, however that in the latter case the petition must bear the signatures of at least ten percentum (10%) of the qualified voters of the City. When a Charter amendment petition shall have been filed with the Council in conformity with the provisions of this Charter as to petitions for initiated ordinances, the Council shall forthwith provide by ordinance for submitting such proposed amendment to a vote of the electors. Any ordinance for submitting a Charter amendment to the electors shall provide that such amendment be submitted at the next regular municipal election. Not less than thirty (30) days prior to such election, the City clerk shall mail a copy of the proposed amendment or amendments to each qualified voter in said City as appears from the latest rolls of the tax collector. If a proposed amendment be approved by a majority of the electors voting thereon, it shall become a part of the Charter at the time fixed therein. Each amendment shall be confined to one subject; and when more than one amendment shall be submitted at the same time, they shall be so submitted as to enable the electors to vote on each amendment separately.

Sec. 11. - Separability Clause.

If any section or part of section of this Charter shall be held invalid by a Court of competent jurisdiction, such holding shall not affect the remainder of this Charter nor the context in which such Section or part of Section so held invalid may appear, except to the extent that an entire

Section or part of Section may be inseparably connected in meaning and effect with the Section or part of Section to which such holding shall directly apply.

Sec. 12. - Submission of Charter to Electors.

The Charter Commission in preparing this Charter finds and decides that it is impracticable to segregate each subject so as to permit a vote of "Yes" or "No" on the same, for the reason that the Charter is so constructed that in order to enable it to work and function it is necessary that it should be adopted in its entirety. For these reasons the Charter Commission directs that the said Charter be voted upon as a whole, and that it shall be submitted to the qualified voters of the City of Bellaire at an election to be held for that purpose on the 2nd day of April, A.D. 1949. If a majority of the qualified electors voting in such election shall vote in favor of the adoption of this Charter, it shall then and there become effective as the Charter of the City of Bellaire, and after the returns have been canvassed, the same shall be declared adopted, and the City Clerk shall file an official copy of the Charter with the records of the City. The Clerk shall furnish the Mayor a copy of said Charter, which copy of the Charter so adopted, authenticated and certified by his signature and the seal of the City, shall be forwarded by the Mayor to the Secretary of State of the State of Texas and shall show the approval of such Charter by majority vote of the qualified electors voting at such election.

In not less than thirty (30) days prior to such election, the City Council shall cause the City Secretary to mail a copy of this Charter to each qualified voter of the City of Bellaire as appears from the Tax Collector's roll for the year ending January 31, preceding said election.

The original Home Rule Charter for the City of Bellaire, Texas as adopted April 2, 1949, was signed by the following Bellaire Charter Commission members, and is on file in the office of the City Clerk.

Wm. T. Burks, Chairman

R.E. Turrentine, Jr., Vice-Chairman

Richards A. Rowland, Secretary

Lawrence Davis

James G. V. Dee

Cliff Dowd

David F. Engle

W. C. Gardiner

R. S. Giles

Charles Gribble, Jr.

O. C. Luhring

R. B. Melanson

C. A. Watson

A. B. White

W. H. Winn

Sec. 13. - Non-Substantive Revisions.

The City Council shall have the power by ordinance to make the following non-substantive revisions to the Charter, so long as such revisions do not affect the intent of the Charter: 1) renumbering and rearranging all articles, sections, and paragraphs of this Charter or any amendments; 2) to make any grammatical or typographical corrections to this Charter; and 3) to make the Charter gender neutral. Upon the passage of any such ordinance, a copy certified by the City Clerk shall be forwarded to the Clerk of the State for filing. (Ord. No. 06-088, 11-20-06)

CHARTER COMPARATIVE TABLE ORDINANCES

This table shows the location of the sections of the basic Charter and any amendments thereto.

| Ordinance Number | Date | Section | Section this Charter |
|------------------|------------|---------|----------------------|
| 83-022 | 4-18-1983 | 1 | Art. II, § 11 |
| | | 2 | Art. III, § 4 |
| | | 3 | Art. II, § 14 |
| | | 4 | Art. V, § 2 |
| | | 5 | Art. VII, § 1 |
| | | 6 | Art. VII, § 4 |
| | | 7 | Art. VII, § 6 |
| | | 8 | Art. VII, § 11 |
| | | 9 | Art. VII, § 13 |
| 87-067 | 11-16-1987 | 1 | Art. I, § 12 |

| | | | |
|--------|------------|------|----------------------------|
| | | 2, 3 | Art. II, § 1, Art. II, § 2 |
| | | 4 | Art. II, § 6 |
| | | 5 | Art. II, § 8 |
| | | 6 | Art. II, § 15 |
| | | 7 | Art. VII, § 15 |
| | | 8, 9 | Art. VIII, Art. IX |
| 06-088 | 11- 7-2006 | | Art. I, §§ 3—6 |
| | | | Art. II, §§ 1, 2, 8, 12 |
| | | | Art. V, §§ 1, 2 |
| | | | Art. VI, § 2 |
| | | | Art. VII, § 4 |
| | | Rpld | Art. VII, § 9 |
| | | | Art. VII, §§ 10, 11 |
| | | | Art. X, §§ 8, 15 |
| | | Rpld | Art. XI, §§ 3, 10 |
| | | Rpld | Art. XII, § 4 |
| | | | Art. XII, § 6 |
| | | Rpld | Art. XII, § 9 |
| | | | Art. XII, § 13 |