

CHARTER

of the

CITY OF BURKBURNETT

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ARTICLE I

Corporate Name

Section 1. CORPORATE NAME.

That all the inhabitants of the City of Burk Burnett, in Wichita County, Texas, as the boundaries and limits of said city are herein established, shall be a body politic, incorporated under and to be known by the name and style of the "CITY OF BURKBURNETT," with such powers, rights and duties as are herein provided.

(Adopted May 8, 1923)

ARTICLE II

Municipal Boundaries

Section 1. BOUNDARIES.

That all the territory in Wichita County, Texas, contained within the following limits be and the same is hereby created into a city to be known as the City of Burk Burnett, as aforesaid, to-wit:

Beginning at a point on the North line of Ninth Street, the same being the original Northeast corner of Burk Burnett, Texas, as shown by map recorded in Deed Book 46, page 364, Wichita County records;

Thence North 67 degrees, 30 minutes East with the prolongation of the North line of Ninth Street, 50 feet to the East line of Avenue F;

Thence South 22 degrees, 30 minutes East with the East line of Avenue F, 250 feet to the South line of the Meridian road;

Thence East with the South line of the Meridian road 2,574.8 feet to the East line of Outer Block No. 16, as shown by map recorded in Deed Book 47, page 439;

Thence South with the East line of Outer Block No. 16, 1,290 feet to the Southeast corner of said Outer Block No. 16;

Thence East with the South line of Outer Block No. 17, 660 feet to the Southeast corner of said Outer Block No. 17;

Thence South with the East lines of Outer Blocks Nos. 18 and 25 and Block No. 9 of the Red River Valley Lands Map, of which is recorded in Deed Book 46, page 353, 3,960 feet to a point 653.5 feet North of the Southeast corner of said Block No. 9, Red River Valley Lands;

Thence West with the North line of Lelia Park Avenue, 2,595.7 feet to the East line of Avenue D, said point being 33 feet East of the center of the concrete roadway;

Thence South with the East line of Avenue D, 164.5 feet;

Thence West with the North line of the A.L. Gregg tract out of the G.W. Darby survey, Abstract No. 419, 3,807.4 feet;

Thence North parallel with the East line of the Wm. P. Dubose survey, Abstract No. 335, 2,496.7 feet to a point 25 feet South of the center line of the concrete roadway on the Burk-Clara Road;

Thence South 87 degrees, 30 minutes West, parallel with the Burk-Clara Road, 18 feet;

Thence North with the West line of the Nunley three acre tract out of the Wm. P. Dubose survey, 714 feet;

Thence North 87 degrees, 30 minutes East, parallel with the Burk-Clara Road, 1,188 feet to a point on the East line of the Wm. P. Dubose survey;

Thence North with the East line of the Wm. P. Dubose survey 1,582.5 feet to the intersection of the East line of the Wm. P. Dubose survey and the prolongation of the North line of Ninth Street;

Thence North 67 degrees, 30 minutes East with the North line of Ninth Street 2,030 feet to the place of beginning.

(Adopted May 8, 1923)

Section 2. EXTENSION OF CITY LIMITS.

The governing body of the City of Burk Burnett, may, at any time by resolution or ordinance, submit the matter of extending the boundary limits of said city and annexing additional territory lying adjacent to said city, to the vote of the inhabitants of said city who are qualified to vote for members of the state legislature, and should a majority of the persons voting at such election vote to so extend the city limits and annex such additional territory, the governing body of said city shall pass an ordinance extending said limits and annexing said territory and from thenceforth the territory so annexed shall be a part of

said city; and the inhabitants thereof shall be entitled to all the rights and privileges of other citizens and subject to all the provisions of this Charter and all ordinances passed hereunder.

(Adopted May 8, 1923)

Section 3. PLATTING OF PROPERTY.

That should any property lying within the city limits, as the city limits are herein established, or may be hereafter established, or should any property lying without and adjacent to the city limits, be hereafter platted into blocks and lots, the owner or owners of said property shall plat and lay the same off to conform to the streets and alleys of the city abutting on same, and shall, before making such plat or map an official record of the county and before same is filed for record in the office of the County Clerk of Wichita County, file with the governing body of the city a true copy thereof; and which said map the governing body of the city shall cause to be verified and, if found correct, shall be approved by said governing body; provided, that in no case shall the City of Burkburnett be required to pay for any of said streets or alleys, at whatever date opened, but when opened by reason of the platting of said property, at whatever date platted, they shall become, by such act, property of the City of Burkburnett, if within the corporate boundaries, for use as public highways, and shall be maintained and cared for as such.

(Adopted May 8, 1923)

ARTICLE III

Corporate Powers

Section 1. GENERAL.

The City of Burkburnett, made a body politic and corporate by the legal adoption of this Charter, shall have perpetual succession; may use a common seal, may sue and be sued, may contract and be contracted with, implead and be impleaded in all courts and places and in all matters whatever; may take, hold, and purchase such lands, within or without the city limits, as may be needed for corporate purposes of said city, and may sell any real estate or personal property owned by it; perform and render all public services, and when deemed expedient may condemn property for corporate use, and may hold, manage and control the same, and shall be subject to all the duties and obligations now pertaining to or incumbent upon said city as a corporation, not in conflict with the provisions of this Charter, and shall enjoy all rights, immunities, powers, privileges and franchises now possessed by said city and herein conferred and granted.

(Adopted May 8, 1923)

Section 2. POWERS; ORDINANCES.

The City of Burkburnett shall have the power to enact and enforce all ordinances necessary to protect health, life and property, and to prevent and summarily abate and remove all nuisances, and preserve and enforce good government, and order and security of the city and its inhabitants; and to enact and enforce ordinances on any and all subjects; provided that no ordinance shall be enacted inconsistent with the provisions of this Charter, or General Laws or Constitution of the State of Texas; it being the intention to obtain, by the adoption of this Charter, full power of local government, and the City of Burkburnett shall have and exercise all the powers of local government, granted to cities having more than five thousand inhabitants by what is known as the Home Rule Amendment to the Constitution of the State of Texas, and by the Home Rule Enabling Act passed by the legislature of Texas in 1913, and now known as Chapter 17 of Title 22 of the Revised Statutes of this State.

(Adopted May 8, 1923)

Section 3. STYLE OF ORDINANCES.

The style of all ordinances of the City of Burkburnett shall be: "Be it ordained by the Board of Commissioners of the City of Burkburnett," but the same may be omitted when the ordinances of the city are codified and published in book or pamphlet form by the City of Burkburnett, or under the authority of its governing body.

(Adopted May 8, 1923)

Section 4. REAL ESTATE, ETC. OWNED BY THE CITY.

All real estate owned in fee simple title, or held by lease, sufferance, easement or otherwise; all public buildings, fire stations, parks, streets and alleys, and all property, whether real or personal, of whatever kind, character or description now owned or controlled by the City of Burkburnett, shall vest in, inure to, remain and be the property of said City of Burkburnett under this Charter; and all causes of action, choices in action, rights or privileges of every kind and character and all property of whatsoever character or description which may have been held, and is now held, controlled or used by said City of Burkburnett for public uses or in trust for the public, shall vest in and remain and inure to the City of Burkburnett under this Charter, and all suits and pending actions to which the City of Burkburnett heretofore was or now is a party, plaintiff or defendant, shall in no wise be affected or terminated by the adoption of this Charter, but shall be continued unabated.

(Adopted May 8, 1923; Am. Ord. 871, passed 2-16-15, as adopted by election held on 5-9-15)

Section 5. ACQUISITION OF PROPERTY.

The City of Burkburnett shall have the power and authority to acquire by purchase, gift, devise, deed, condemnation or otherwise any character of property, within or without its municipal boundaries, including any charitable or trust funds.

(Adopted May 8, 1923)

Section 6. PUBLIC PROPERTY EXEMPT FROM EXECUTION.

No public property, or any other character of property, owned or held by the City of Burkburnett, shall be subject to any execution of any kind or nature.

(Adopted May 8, 1923)

Section 7. CITY FUNDS NOT SUBJECT TO GARNISHMENT.

No funds of the City of Burkburnett shall be subject to garnishment, and the City of Burkburnett shall never be required to answer in any garnishment proceedings.

(Adopted May 8, 1923)

Section 8. EXEMPTION FROM LIABILITY FOR DAMAGES.

The City of Burkburnett shall not be liable to any person for damages caused from public buildings or structures, streets, alleys, avenues, highways, public grounds, crossings, bridges and sidewalks being out of repair from the negligence of the city, its officers, agents or employees, unless the same shall have remained so for ten days after special notice in writing has been given to the Mayor of said city, or to the City Manager; provided, the City of Burkburnett shall not be liable, under any circumstances, for damages suffered by any person by reason of any sidewalk, street or other public thoroughfare being out of repair if it appears that the defect in such sidewalk, street or other public thoroughfare consists of the failure on the part of the abutting property owner to provide adequate sidewalks in front of and abutting on his property, for failure of such property owner to pave or otherwise improve that part of the street or other public thoroughfare made incumbent upon him to pave or otherwise improve under this Charter or any valid ordinance of the City of Burkburnett; and the City of Burkburnett shall be exempt from liability for claims for damages growing out of torts due to any act of negligence on the part of its officers, agents or employees.

(Adopted May 8, 1923)

Section 9. CITY NOT REQUIRED TO GIVE BOND.

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

(Adopted May 8, 1923)

Section 10. RIGHT OF EMINENT DOMAIN.

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

(Adopted May 8, 1923; Am. Ord. 871, passed 2-16-15, as adopted by election held on 5-9-15)

Section 11. CONTROL AND IMPROVEMENT OF STREETS, ETC.

The City of Burkburnett shall have exclusive dominion, control and jurisdiction, in, over and under the public streets, avenues, alleys, highways and boulevards and public grounds of the city, and to provide for the improvement of any public street, alley, highway, avenue or boulevard, by paving, raising, grading, filling or otherwise improving the same and to charge the cost of making such improvements against the abutting property, by fixing a lien against the same, and a personal charge against the owner according to an assessment specially levied therefor in an amount not to exceed the special benefit any such property received in enhanced value by reason of making such improvement and to provide for the issuance of assignable certificates covering the payments for said costs; provided, that in no event shall more than three-fourths of the costs of such improvement be charged to the owner and made a lien against said abutting property; provided, further that all railways shall pay the cost of maintaining railroad crossings with public streets to a standard which is not less than that required by applicable law but the city may assist in improving railroad crossings to a standard in excess of the minimum applicable standards.

(Adopted May 8, 1923; Am. Ord. 780, passed 5-11-10, as amended by election held on May 8, 2010)

Section 12. ASSESSING COST OF STREET IMPROVEMENTS AGAINST OWNERS.

The governing body of the City of Burk Burnett shall have full power to pass all ordinances or resolutions necessary or proper to give full force and effect to the provisions contained in the next preceding section of this Article, and all ordinances or resolutions necessary or proper to give full force and effect to all the provisions contained in Chapter II of Title 22 of the Revised Civil Statutes of this State, and it shall be the duty of said governing body to pass and adopt all such ordinances or resolutions as soon as practicable after this Charter takes effect.

(Adopted May 8, 1923)

Section 13. CONSTRUCTION OF SIDEWALKS AND CURBS, ASSESSMENTS.

The City of Burk Burnett shall have the power to provide for the construction and building of such sidewalks, and to charge the entire cost of construction of such sidewalks, including the curbs, against the owner of the abutting property and to make a special charge against the owner for such cost and to provide by special assessment a lien against such property for such costs. Should any person or corporation owning land in the City of Burk Burnett fail or refuse to construct sidewalks and curbs, in front of or abutting on their property, in accordance with this Charter, or any ordinance now in effect in this city, or any ordinance passed by the governing body under this or any other power conferred by this Charter, the city shall have the right to have sidewalks or curbs, both or either, constructed in accordance with such ordinances at the expense of the abutting property owner, and in addition to fixing a lien against the property for the expense thereof, may also recover a personal judgment against such abutting owner in any court having competent jurisdiction of the amount, for the cost and expense in constructing such sidewalks and curbs, with ten percent additional for attorney's fees.

(Adopted May 8, 1923)

Section 14. SIDEWALKS, WHEN DEFECTIVE, MAY BE DECLARED A NUISANCE.

The City of Burk Burnett shall have the power to provide for the construction, improvement or repair of any such sidewalk, or the construction of any such curbs, as is mentioned in the next preceding section by penal ordinances, and to declare defective sidewalks to be a public nuisance.

(Adopted May 8, 1923)

Section 15. STREET POWERS.

The City of Burk Burnett shall have the power to lay out, establish, open, alter, extend, widen, straighten, lower, grade, narrow, care for, supervise, maintain and improve any public street, alley, avenue or boulevard, and for any such purpose to acquire the necessary lands and to appropriate the same under the power of eminent domain. The City of Burk Burnett shall also have the power to vacate and abandon and sell and convey in fee that portion of any street, alley, avenue, boulevard or other public thoroughfare or public grounds, and to convey in fee the same in exchange for other lands over which any street, alley, avenue or boulevard may be laid out, established and opened, and the city's rights to sell and dispose of in fee any part of a street, alley, avenue or boulevard so vacated and abandoned, or the city's right to convey same in exchange for other lands to be used in laying out, opening, widening and straightening any street, shall never be questioned in any of the courts of this State.

(Adopted May 8, 1923)

Section 16. EXCLUSIVE RIGHT TO OWN, MAINTAIN AND OPERATE WATER WORKS, ETC.

The City of Burk Burnett shall have the exclusive right to own, erect, improve, maintain and operate water works systems for the use of said city and its inhabitants; shall regulate the same and have power to prescribe rates for water furnished, and to acquire by purchase, donation, condemnation or otherwise suitable grounds, within or without the limits of the city on which to erect any such works and the necessary right-of-way, and to do and perform whatsoever may be necessary to operate and maintain such water works or water works systems, and to compel the owners of all property and the agents of such owners or persons in control thereof, to pay all charges for water furnished upon such property and to fix a lien upon such property for any such charges. And the governing body of said city shall pass all ordinances or resolutions necessary or proper to give full force and effect to the provisions herein contained with reference to fixing a lien upon the property where such service may be furnished.

(Adopted May 8, 1923)

Section 17. EXCLUSIVE RIGHT TO OWN, OPERATE AND MAINTAIN SEWER SYSTEMS, ETC.

The City of Burk Burnett shall have the exclusive right to own, erect, maintain and operate sewer system or sewage systems and sewage disposal plants, filtering beds and emptying grounds for sewage systems, for the use of said city and its inhabitants; to regulate the same and to have power to prescribe rates for the service so furnished and to acquire by purchase, donation, condemnation or otherwise suitable grounds, within or without the limits of the city, on which to erect any such sewer system or systems, sewage disposal plant or plants, and filtering beds and emptying grounds for sewer systems, and the necessary right-of-way, and to do and perform whatsoever may be necessary to operate and maintain said sewer system or systems, sewage disposal plants, filtering beds and emptying grounds for sewer systems, and to compel owners of property and the agents of such owners or persons in control thereof to pay all charges for sewer service furnished upon such property and to fix a lien upon such property for any such charges. And the governing body of said city

shall pass all ordinances or resolutions necessary or proper to give full force and effect to the provisions herein contained with reference to fixing a lien upon the property where such service may be furnished.

(Adopted May 8, 1923)

Section 18. ACQUISITION AND OWNERSHIP OF OTHER PUBLIC UTILITIES.

The City of Burk Burnett shall have the power to buy, own, construct and to maintain and operate, within or without the city limits, a system or systems, of gas, or electric lighting plants, power plants, telephones, street railways, fertilizing plants, abattoirs, municipal railway terminals, loading and unloading devices, and shipping facilities, or any other public services or public utilities and to demand and receive compensation for services furnished for private purposes or otherwise, and to exercise the right to eminent domain for the appropriations of lands, rights-of-way or anything whatsoever that may be proper and necessary to efficiently carry out said objects. And said City of Burk Burnett shall have the power to acquire by lease, purchase or condemnation, the property or any part thereof of any person, firm or corporation now or hereafter conducting any such business, for the purpose of operating such public utility or utilities and for the purpose of distributing such service throughout the city or any part thereof, and the governing body of said city shall pass all ordinances or resolutions necessary or proper to give full force and effect to the provisions contained in this section.

(Adopted May 8, 1923; Am. Ord. 871, passed 2-16-15, as adopted by election held on 5-9-15)

Section 19. METHOD OR ARRIVING AT VALUE OF PUBLIC UTILITY, WHETHER BY PURCHASE OR CONDEMNATION.

That, in acquiring any such privately owned utility, as is mentioned in the next preceding section of this Article, if by purchase, and should the owner or owners of such utility and the governing body of said city be unable to agree upon the price, the terms of such purchase shall be determined by a Board of Arbitration consisting of three members to be appointed as follows: One member by the owner or owners of the utility to be purchased; one member by the governing body of the City of Burk Burnett; and the third member to be selected by these two. If the two members shall be unable to agree upon the third member of said Board, then such third member shall be appointed by the County Judge of Wichita County, Texas. If such utility, however, should be acquired by condemnation proceedings, such proceedings shall 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 such cases.

(Adopted May 8, 1923)

Section 20. FAIR VALUATION.

Said Board of Arbitration, provided for in the next preceding section of this Article, in arriving at a fair evaluation at which said utility may be sold to the city, shall not take into consideration the value of any franchise or grant held by the owner or owners of the utility from the city or any other intangible value of such utility, but merely a fair value for the tangible property in use by the utility in its business of supplying the public with such service as it may then be furnishing.

(Adopted May 8, 1923)

Section 21. FUNDS FOR ACQUISITION OF PUBLIC UTILITY.

That should the City of Burk Burnett at any time determine to acquire any public utility by purchase, condemnation or otherwise, as herein provided, said city shall have the power to obtain the funds for the purpose of acquiring such public utility and paying the compensation therefor by issuing bonds or notes, or other evidence of indebtedness and shall secure the same by fixing a lien upon the property constituting the public utility so acquired and said security shall apply alone to said property so pledged.

(Adopted May 8, 1923)

Section 22. AFTER ACQUIRING PARTICULAR UTILITY, CITY'S RIGHT EXCLUSIVE.

That should the City of Burk Burnett acquire by purchase, condemnation or otherwise, any public service utility mentioned in section 18 of this Article, for the purpose of servicing said city and the inhabitants thereof, its right to operate and maintain such public service utility so acquired shall thereafter be exclusive.

(Adopted May 8, 1923)

Section 23. PUBLIC UTILITY PRODUCTS, RIGHT TO MANUFACTURE OR PURCHASE.

The City of Burk Burnett shall have the authority to manufacture its own electricity, gas or anything else that may be needed or used by it or the inhabitants of said city; to make contracts with any person, firm or corporation for the purchase of gas, electricity or any other commodity or articles used by it or the public, and to sell same to the public as may be determined by the governing body of said city.

(Adopted May 8, 1923)

Section 24. PARKS, PLAYGROUNDS, ETC.

The City of Burk Burnett shall have exclusive control of all city parks and playgrounds, whether within or without the city

limits, and to control, regulate and remove all obstructions and prevent all encroachments thereupon; to provide for raising, grading, filling, terracing, landscape gardening, erecting buildings and other structures, providing amusements therein, for establishing walks and paving driveways around, in and through said parks, playgrounds and other public grounds; to have power to police all parks or grounds, speedways, or boulevards owned by it and lying outside of the municipal boundaries.

(Adopted May 8, 1923)

Section 25. UNDERGROUND CONSTRUCTION, FIRE LIMITS.

The City of Burkburnett shall have the power to require the placing of all wires or other overhead construction of public utilities under the surface of the ground on all streets, avenues and other public grounds within the fire limits of said city, as said fire limits are established in this Charter, or as the same may hereafter be added to by the governing body of said city, or to require the utilities now operating within said city to remove such overhead construction to the alleys where it may be re-constructed above grounds provided that where necessary in order to feed the alleys one main aerial lead may be permitted, and provided, further, that each telephone company now or hereafter using the streets, avenues or other public grounds within said city, may maintain not more than one open wire aerial toll lead. The work of changing all overhead construction to underground, or removing same from the streets, avenues and other public grounds to the alleys, within said fire limits by the public service utilities now operating in the City of Burkburnett, shall be completed within twelve months after official notice has been served by the governing body of said city; and it shall be the duty of the governing body of said city, immediately after this Charter shall become effective, to pass and adopt all ordinances or resolutions necessary and proper to give full force and effect to the provisions contained in this section, and to the end that same may be fully complied with by all public service utilities within the time herein fixed.

(Adopted May 8, 1923)

Section 26. UNDERGROUND CONSTRUCTION, OUTSIDE FIRE LIMITS.

The City of Burkburnett shall have the power to require the placing of all wires or other overhead construction of public utilities, under the surface of the ground on all streets, avenues, and other public grounds outside the fire limits, where underground construction is feasible and where not feasible, to require the utilities now operating within said city outside of the fire limits to remove such overhead construction to the alleys, where it may be constructed above ground; provided, that where necessary, in order to feed the alleys, one main aerial lead may be permitted covering each eight blocks of territory. The work of changing all overhead construction to underground, or removing same from the streets, avenues and other public grounds to the alleys, outside the fire limits, by the public service utilities now operating in the City of Burkburnett, shall be completed on or before twelve months after official notice has been served by the governing body of said city; and it shall be the duty of the governing body of said city, immediately after this Charter shall become effective, to pass and adopt all ordinances or resolutions necessary and proper to give full force and effect to the provisions contained in this section, and to the end that same may be fully complied with by all public service utilities within the time herein fixed.

(Adopted May 8, 1923)

Section 27. OVERHEAD CONSTRUCTION, NEW WORK.

That no franchise shall hereafter be granted, and no franchise now in effect shall be amended or renewed by the governing body of the City of Burkburnett, permitting such overhead construction as is mentioned in the next two preceding sections of this Article, except in alleys and in accordance with the provisions contained in said sections; and provided, further, that all new construction put in by public service utilities now operating in the City of Burkburnett shall be underground, or in the alleys and in accordance with the provisions contained in said sections 25 and 26 of this Article.

(Adopted May 8, 1923)

Section 28. FUNDS OF WATER AND SEWER DEPARTMENTS TO BE SACRED.

That all receipts from the Water Works and Sewer Departments, and which Departments are now operated as if one utility, shall hereafter constitute a separate and sacred fund, which shall be used for not other purpose than the extension, improvement, operation, maintenance, repair and betterment of said water works and sewer systems; provided, that the governing body of the city may pledge the receipts and revenues of said Departments for the purpose of making any such improvements to said water works and sewer systems, and the payment of the principal and providing an interest and Sinking Fund for any bonds issued therefor, and under such regulations as are provided by this Charter and ordinances passed in pursuance thereof.

(Adopted May 8, 1923)

Section 29. FUNDS OF UTILITIES HEREAFTER ACQUIRED SHALL BE SACRED TO SUCH UTILITY.

That should the City of Burkburnett hereafter acquire by purchase, condemnation or otherwise, any public service utility, as it is empowered to do under section 18 of this Article, then the receipts and revenues from such utility shall constitute a separate and sacred fund, and which shall be used for no other purposes than to pay the purchase price, and the extension, improvement, operation, maintenance, repair and betterment of such utility; provided, however, the governing body of the city may pledge such receipts and revenues for the purpose of acquiring such utility and making any of such improvements, and the payment of the principal and providing an Interest and Sinking Fund for any bonds issued for said purpose.

(Adopted May 8, 1923)

Section 30. RESERVED.

(Adopted May 8, 1923; Am. Ord. 871, passed 2-16-15, as adopted by election held on 5-9-15)

Section 31. RESERVED.

(Adopted May 8, 1923; Am. Ord. 871, passed 2-16-15, as adopted by election held on 5-9-15)

Section 32. RESERVED.

(Adopted May 8, 1923; Am. Ord. 871, passed 2-16-15, as adopted by election held on 5-9-15)

Section 33. DANGEROUS BUILDINGS, CONDEMNATION AND REMOVAL THEREOF.

The City of Burk Burnett shall have the power to provide for the condemnation of damaged structures or buildings or dilapidated building or buildings calculated to increase the fire hazard within the fire limits, and to prescribe the manner of their removal. or destruction. And the governing body of the City of Burk Burnett shall have power to pass all ordinances or resolutions necessary or proper to give full force and effect to the provisions contained in this section to the end that the fire hazards now existing within the fire limits prescribed by this Charter may be reduced to the minimum.

(Adopted May 8, 1923)

Section 34. OTHER ENUMERATED POWERS.

In addition to the powers hereinbefore specifically enumerated, said city shall have the power to define all nuisances, prohibit the same within the city and outside the city limits for a distance of five thousand feet.

To police all parks, grounds, speed ways, streets, avenues and alleys owned by said city within or without the city limits.

To prohibit the pollution of all sources of water supply of said city, and to provide for the protection of water sheds.

To inspect dairies, slaughter pens, and slaughter houses, inside and outside the city limits of the city, from which meat or milk is furnished to the inhabitants of the city.

To license, operate and control the operation of all character of vehicles using public streets, and to prescribe the speed of the same, the qualifications of the operator of the same, and the lighting of the same by night and to provide for the giving of bond or other security for the operation of same.

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

To license any lawful business, occupation or calling that is susceptible to the control of the police power.

To license, regulate, control or prohibit the erection of signs or bill boards within the corporate limits of said city.

To provide for Police and Fire Departments.

To provide for a Health Department and to establish all necessary rules and regulations protecting the health of the city and the establishment of quarantine stations and pest houses, emergency hospitals and hospitals, and to provide for the adoption of necessary quarantine laws to protect the inhabitants against contagious or infectious diseases.

To require property owners to make connections with the sewer system with their premises and to provide for fixing a lien against any property owner's premises, who fails or refuses to make sanitary sewer connections and to charge the cost against said owner and make it a personal liability, also provide for fixing penalties for failure to make sanitary sewer connections, provided the sewer system is owned and operated by the city.

To provide that gas companies, street car companies, telephone companies, telegraph companies and electric light companies or any other companies or individuals enjoying a franchise now or hereafter from the city to make and furnish extension of their service to such territory within the corporate limits as may be prescribed from time to time by ordinance.

To provide for the regulation and control of plumbers and plumbing works and to require efficiency in the same.

To provide for the inspection of weights, measures and meters and fix a standard of such weights, measures and meters, and to require conformity to such standards, and to provide penalties for failure to use or conform to the same, and to provide for inspection fees.

To provide for the issuance of permits for erecting all buildings; for the inspection of the construction of buildings, in respect to proper wiring for electric lights and other electric appliances; piping for gas, flues, chimneys, plumbing and sewer connections, and to enforce proper regulations in regard thereto.

To provide for the enforcement of all ordinances enacted by the city, by a fine not to exceed the amount allowed by state law; provided, that no ordinances enacted by the city shall prescribe a greater or less penalty than is prescribed for a like offense by the laws of this State.

(Adopted May 8, 1923; Am. Ord. 871, passed 2-16-15, as adopted by election held on 5-9-15)

Section 35. CLEANSING PREMISES, ABATING UNHEALTHFUL PLACES, ETC.

The governing body of the City of Burk Burnett shall have the power to require the filling up, drainage and regulating of any lot or lots, ground or yards, or any other places in said city which shall be unwholesome, or have stagnant water therein, or from any other cause be in such condition as to be liable to produce disease; also to cause all premises to be inspected and to impose fines on the owners of houses under which stagnant water may be found, or upon whose premises such stagnant water may be found and to pass such ordinances as it may deem necessary for the purposes aforesaid and for making, filling up, altering or repairing of all sinks, and privies, and directing the mode and material for constructing them in future, and for cleansing and disinfecting the same; and for cleansing of any house, building, establishment, lot, yard or ground from filth, carrion or impure or unwholesome matter of any kind; also to require the owner of any lot or lots within said city to keep the same free from weeds, rubbish, brush and any and all other objectionables, unsightly or unsanitary matter of whatever nature, and in the event such owner fails or refuses so to do; within ten days after notice in writing, or by letter addressed to such owner at his post office address, or by publication as many as two times within ten consecutive days, if personal service may not be had as aforesaid, or the owner's address be not known, said city may do such work or may cause the same to be done and pay therefor and charge the expenses incurred in doing or having such work done or improvements made to the owner of such property, as herein provided; and to punish any owner or occupant violating the provisions of any ordinance so passed, as aforesaid; and the governing body of the City of Burk Burnett shall also in addition to the foregoing remedy, have the power to cause any of the improvements above mentioned to be done at the expense of the city, on account of the owners, and cause the expense thereof to be assessed on the real estate, or lot or lots upon which such expense is incurred; and, on filing with the County Clerk of Wichita County, Texas, a statement by the Mayor or City Health Officer of said city shall have a privileged lien thereon, second only to tax liens and liens for street improvements to secure the expenditures so made, and ten percent interest on the amount from the date of such payment. For any such expenditures, and interest, as aforesaid, suit may be instituted and recovery and foreclosure had in the name of the City of Burk Burnett in any court having jurisdiction; and the statement so made, as aforesaid, or a certified copy thereof, shall be prima facie proof of the amount expended in such work or improvements.

(Adopted May 8, 1923)

Section 36. ENUMERATED POWERS NOT EXCLUSIVE.

The enumeration of particular powers by this Charter shall not be held or deemed to be exclusive, but, in addition to the powers enumerated herein, implied thereby or appropriate to the exercise thereof, the City of Burk Burnett shall have and may exercise all other powers which, under the Constitution and laws of this State, it would be competent for this Charter to specifically enumerate.

(Adopted May 8, 1923; Am. Ord. 871, passed 2-16-15, as adopted by election held on 5-9-15)

ARTICLE IV

Municipal Government

Section 1. GOVERNING BODY.

The governing body of the City of Burk Burnett shall consist of seven commissioners, one of whom shall be the Mayor, and said body shall be known as the "Board of Commissioners."

(Adopted May 8, 1923; as amended by election held on April 4, 1967)

Section 2. ELECTIVE OFFICERS.

The elective officers of the City of Burk Burnett shall consist of a mayor and six (6) commissioners. The mayor and commissioners shall be elected from the City at large by the qualified voters and serve for a term of three (3) years, and until their successors have been elected and duly qualified.

Beginning at the May 2019 election, the qualified voters of the City shall elect the mayor and commissioners for Place 1 and Place 2. Individuals running for mayor will run for the position of mayor. The individual receiving the highest number of votes shall serve as mayor for a term of three years. Individuals running for commissioner will run for the position of commissioner. The individual running for commissioner receiving the highest vote total will fill Place 1 for a term of two years. The individual receiving the second highest vote total will fill Place 2 for a term of two years. After the completion of the initial term of two years, all subsequent elections for Place 1 and Place 2 shall be for a term of three years.

Beginning at the City election held in May 2020, the qualified voters of the City shall elect the commissioners for Place 3, Place 4, Place 5 and Place 6. The individual receiving the highest vote total will fill Place 5 for a term of three years. The individual receiving the second highest vote total will fill Place 6 for a term of three years. The individual receiving the third highest vote total will fill Place 3 for a term of two years. The individual receiving the fourth highest vote total will fill Place 4 for a term of two years. After the completion of the initial term of two years, all subsequent elections for Place 3 and Place 4 shall be for a term of three years.

Provided that if at any election, special or general, two or more candidates receive the same number of votes said

candidates shall cast lots to determine who shall be entitled to the office.

(Adopted May 8, 1923; as amended by election held on April 4, 1967; Am. Ord. 933, passed 5-14-18; as amended by election held on May 5, 2018)

Section 3. OFFICERS, OATH OF.

All officers of the city, whether elective or appointive, shall qualify by taking the oath prescribed by the Constitution of this State, and by executing such bond as may be required under the provisions of this Charter and the ordinances and resolutions of the city.

(Adopted May 8, 1923)

Section 4. FIRST ELECTION OF COMMISSIONERS UNDER THIS CHARTER.

Should this Charter be adopted, it shall become the duty of the present Mayor and City Council to call an election to be held within ten days after the adoption of this Charter for the election of five commissioners for the terms as specified in section 2 of this Article; and the five candidates receiving a plurality of the votes cast at such election shall be declared elected and shall immediately qualify under this Charter, and the Board of five Commissioners shall succeed the present Mayor and City Council as the governing body of the City of Burk Burnett.

(Adopted May 8, 1923)

Section 5. TERM LIMITS.

A candidate for a position as a member of the Board of Commissioners of the City of Burk Burnett shall not be eligible to run for that office if such person has served, or is in the process of completing, five consecutive terms on the Board of Commissioners at the time such person files for election. For purposes of this provision: (i) a person serving a partial term of one year or less shall not be considered to have served a full term but a person serving a partial term of more than one year shall be considered to have served a full term and (ii) the remainder of the term of any person serving on the Board of Commissioners at the time this amendment is approved shall not be considered as part of the five term limitation set forth in this Section.

(Adopted May 8, 1923; Am. Ord. 633, passed 2-5-02)

Section 6. VACANCIES IN OFFICE.

(A) A single vacancy in the Board of Commissioners for an unexpired term of twelve (12) months or less shall be filled within thirty (30) days of the occurrence of the vacancy by an affirmative vote of at least four of the remaining members of the Board by selection of a person qualified for the position as described in this Charter. This appointee shall serve until the position can be filled at the next regular City election. Vacancies for an unexpired term of greater than twelve (12) months 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.

(B) When more than one vacancy shall develop at any one time, a special election shall be called by the Board of Commissioners for the next date available under the Texas Election Code to fill the vacancies in the same manner as described herein for regular elections. However, if the vacancies occur within ninety (90) days of a regular election, then no special election shall be called and the remaining Commissioners shall appoint qualified persons to fill the vacancies until the regular election.

(Adopted May 8, 1923; Am. Ord. 633, passed 2-5-02; Am. Ord. 780, passed 5-11-10, as amended by election held on May 8, 2010; Am. Ord. 933, passed 5-14-18; as amended by election held on May 5, 2018)

Section 7. MAYOR PRO-TEM.

At the first meeting of the Board of Commissioners held after each general election in May, the Board shall elect one of its members to preside as Mayor Pro-Tem. The Mayor Pro-Tem shall have and exercise all powers of Mayor in the absence of the Mayor or during the disability from any cause of the Mayor.

(Adopted May 8, 1923; Am. Ord. 633, passed 2-5-02; Am. Ord. 933, passed 5-14-18; as amended by election held on May 5, 2018)

Section 8. COMMISSIONERS, THEIR QUALIFICATIONS.

Each member of the Board of Commissioners shall be a resident citizen of the City of Burk Burnett; shall have the qualification of an elector therein, and shall have been such resident citizen of the City of Burk Burnett for a period of not less than one year immediately preceding his election; provided, however, that any qualified elector, who shall have been a resident for a period of not less than one year immediately preceding his election of any of the territory not formerly within the corporate limits of said city, but which is annexed under this Charter, or that may hereafter be annexed in conformity to the provisions of this Charter, shall be eligible to said office.

(Adopted May 8, 1923; Am. Ord. 633, passed 2-5-02)

Section 9. COMPENSATION OF COMMISSIONERS.

The members constituting the Board of Commissioners shall receive as compensation for their services the sum of five dollars for each meeting of the Board attended by them, but they shall receive in no year more than the sum of one hundred and twenty five dollars.

(Adopted May 8, 1923)

Section 10. RESERVED.

Former section 10, Restrictions upon Commissioners, was repealed by municipal election on February 2, 2002.

Section 11. LEGISLATIVE BODY.

The Board of Commissioners shall constitute the Legislative and Governing Body of the city, and shall have and exercise all the powers and authority herein granted. It shall pass and adopt all needful ordinances and resolutions, and adopt all the necessary regulations governing the different departments of the city and not inconsistent with the provisions of this Charter and the Constitution and General Laws of this State.

(Adopted May 8, 1923)

Section 12. DUTIES OF MAYOR.

The mayor of the City of Burk Burnett shall preside over the meetings of said Board and perform such other duties consistent with the office as may be imposed upon him by this Charter and ordinances and resolutions passed in pursuance hereof. He may participate in the discussion of all matters coming before the Board and shall be entitled to a vote as a member thereof on all legislative and other matters but shall have no veto power. He shall sign all contracts entered into by the City and all bonds issued under the provisions of this Charter, and shall be the chief executive officer of the City. 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 times of danger and emergency, the Mayor, may, with the consent of the Board of Commissioners, take command of the police and govern the City by proclamation and maintain order and enforce all laws.

(Adopted May 8, 1923; Am. Ord. 933, passed 5-14-18; as amended by election held on May 5, 2018)

Section 13. MEETINGS OF THE BOARD OF COMMISSIONERS.

The Board of Commissioners shall meet in regularly scheduled meetings at least once each month at such time as the members may prescribe by rule.

(Adopted May 8, 1923; Am. Ord. 633, passed 2-5-02)

Section 14. SPECIAL MEETINGS OF THE BOARD.

The Mayor, any member of the Board of Commissioners, or the City Manager, may call special meetings of the Board of Commissioners at any time following notice, as required by state law, which shall in addition to any other requirements regarding service be served on each member of the Board personally or by leaving same at the usual place of business or residence of such members. A special meeting may be held at any time without written notice to members of the Board provided all members of the Board are present and provided notice of the meeting is given in accordance with state law.

(Adopted May 8, 1923; Am. Ord. 633, passed 2-5-02)

Section 15. BOARD TO BE JUDGE OF ELECTION OF ITS MEMBERS.

The Board of Commissioners shall be the judge of the election and qualification of its own members.

(Adopted May 8, 1923)

Section 16. RULES OF THE BOARD.

The Board of Commissioners shall determine its own rules of procedure. The Board may remove any member upon a vote in compliance with Article IV, Section 17 of this charter finding that a member: (i) lacks, at any time during the term of office, any qualification for office prescribed by law or by this charter, (ii) violates any express prohibition of this Charter or (iii) fails to attend three consecutive regular meetings of the Board of Commissioners without the approval of the Board of Commissioners.

(Adopted May 8, 1923; Am. Ord. 633, passed 2-5-02)

Section 17. LEGISLATIVE PROCEDURE.

A majority of the members of the Board of Commissioners shall constitute a quorum to do business and the affirmative vote of a majority of the entire Board shall be necessary to adopt any ordinance or resolution. All meetings of the Board shall be public, except when otherwise directed by the Board, and minutes of its proceedings shall be kept, to which any citizen may have access at all reasonable times and which shall constitute one of the archives of the city. The vote upon the passage of all ordinances and resolutions shall be taken by the "ayes" and "nays" and entered upon the minutes, and every ordinance or resolution, upon its final passage, shall be recorded in a book kept for that purpose, and shall be authenticated

by the signature of the presiding officer and the person performing the duties of City Clerk or Secretary.

(Adopted May 8, 1923; as amended by election held on April 4, 1967)

Section 18. ORDINANCES, ENACTMENT OF.

(A) Each proposed ordinance or resolution shall be introduced in written or printed form, and shall not contain more than one subject, which shall be clearly expressed in the title.

(B) Seventy-two (72) hours prior to the meeting at which a measure will be considered, a draft of the measure shall be filed with the City Clerk, and notice of that filing shall be posted at City Hall. The notice shall consist of the caption of the measure.

(C) The filing requirement set forth in subsection (B) preceding shall not apply to measures which are required because of an emergency. For purposes of this provision, an "emergency" shall mean a matter involving an urgent public necessity because of an imminent threat to public health and safety or a reasonably unforeseen situation. The factual basis for the emergency shall be clearly stated in the measure. An emergency measure otherwise subject to the filing requirement of subsection (B) above but that does not comply with the filing requirement because of an emergency may not be passed unless four members of the Board of Commissioners vote in its favor; regardless of the number of Commissioners present at the meeting at which the measure is considered. Nothing in this section shall be construed to prohibit amendments to measures subject to the terms of this section when such measures are considered by the Board of Commissioners.

(Adopted May 8, 1923; Am. Ord. 633, passed 2-5-02; Am. Ord. 871, passed 2-16-15, as adopted by election held on 5-9-15)

Section 19. RESERVED.

Former section 19, Emergency Measures, Defined, was repealed by municipal election on February 2, 2002.

Section 20. ORDINANCES, WHEN AND HOW PUBLISHED.

Every ordinance imposing any penalty, fine, imprisonment or forfeiture shall, after the passage thereof, be published in every issue of the official paper for ten days; if the official paper be published weekly, the publication shall be made in one issue thereof; and proof of such publication shall be made by the printer or publisher of such paper, making affidavit before some officer authorized by law to administer oaths, and filed with the person performing the duties of City Clerk or Secretary and shall be *prima facie* evidence of such publication and promulgation of such ordinance in all courts of the State, and such ordinance so published shall take effect, and be in force, from and after the publication thereof, unless otherwise expressly provided. Ordinances not required to be published shall take effect, and be in force from and after the passage, unless otherwise provided.

(Adopted May 8, 1923)

Section 21. OFFICIAL ORGAN, CONTRACT FOR PUBLISHING, ETC.

The Board of Commissioners shall, as soon as may be after the commencement of each fiscal or municipal year, enter into contract with a public newspaper of the city as the official paper thereof, and to continue as such until another is selected, and shall cause to be published all ordinances, notices and other matters required by this Charter or by the ordinances of the city to be published.

(Adopted May 8, 1923)

Section 22. INDEX OF CHARTER AND REVISION AND CODIFICATION OF LAWS.

Should this Charter be adopted by the qualified electors of the city, then it shall become the duty of the Board of Commissioners, as soon thereafter as practical, to employ some competent attorney, who shall be well experienced in municipal law to carefully search the various records of the city and compile and report to said Board a list of the ordinances and resolutions then in force, with his recommendations as to which are obsolete and should be repealed or revised and which should continue in force. And said Board shall pass such ordinances or resolutions as may be necessary to repeal all such obsolete ordinances as may then appear to be in force, and pass and adopt such additional ordinances, in lieu thereof, as may be necessary to properly protect health, life and property and to prevent and summarily abate and remove all nuisances and to preserve and enforce good government, order and security of the city and its inhabitants, and such additional ordinances and resolutions as may be necessary to put into effect those provisions of this Charter which are not self-enacting and in aid of such other provisions as to said Board may seem necessary, including ordinances and resolutions covering departmental regulations, and after said obsolete laws shall have been repealed and such additional ordinances mentioned above shall have been passed by said Board, it shall be the duty of said Board to cause this Charter to be properly indexed and the then laws of said city to be carefully codified, by said attorney so employed, and this Charter and said laws published in book or pamphlet form "By authority of the Board of Commissioners of the City of Burk Burnett."

(Adopted May 8, 1923)

Section 23. ORDINANCE, REVISION AND AMENDMENT.

The Code of Ordinances and ordinances of the city may be amended by ordinance. The ordinance amending the Code of Ordinances or an ordinance may contain only the portion of the Code of Ordinances or ordinance that is being amended.

(Adopted May 8, 1923; Am. Ord. 871, passed 2-16-15, as adopted by election held on 5-9-15)

Section 24. ORDINANCES, ADMISSIBILITY AS EVIDENCE.

Any ordinance or resolution appearing of record in the book mentioned in section 17 of this Article or a copy thereof duly certified by the person performing the duties of the City Clerk or Secretary, under the seal of said city, and all ordinances or resolutions of the City of Burk Burnett, published in book or pamphlet form and purporting to be published "By Authority of the Board of Commissioners of the City of Burk Burnett," shall be received by all courts of this State as prima facie evidence of the due passage and publication of such ordinance or resolution.

(Adopted May 8, 1923)

Section 25. CONTRACTS FOR PERSONAL SERVICES.

No contract shall ever be made which binds the city for personal services to be rendered for any stated period of time, but all appointive officers and employees shall be subject to preemptory discharge, and when discharged shall only be entitled to compensation up to and including the date of their discharge, any provision to the contrary in this Charter notwithstanding.

(Adopted May 8, 1923)

Section 26. DEPARTMENTS MAY BE CONSOLIDATED, ETC.

The Board of Commissioners may abolish or consolidate such offices and departments as it may deem to the best interest of the city, and may divide the administration of any such departments as it may deem advisable; create new departments and may discontinue any offices or departments at its discretion, except as to the offices of City Manager and City Comptroller.

(Adopted May 8, 1923)

Section 27. COMPENSATION, APPOINTIVE OFFICERS, ETC.

The Commission may fix and determine the salaries and wages of all appointive officers and employees of the city.

(Adopted May 8, 1923; as amended by election held on April 4, 1967)

Section 28. PAYMENT OF CLAIM.

No warrant for the payment of any claim shall be issued by the city unless such claim shall be evidenced by an invoice or itemized account, and approved by the City Manager and audited and approve by the Comptroller, and all warrants shall be signed by the City Manager and countersigned by the Comptroller.

(Adopted May 8, 1923)

Section 29. RESERVED.

Former section 29, Nepotism, was repealed by municipal election on February 2, 2002.

Section 30. RESERVED.

Former section 30, Hours of Service Upon Public Works, was repealed by municipal election on February 2, 2002.

Section 31. OFFICIAL BONDS OF CITY MANAGER AND COMPTROLLER.

The City Manager shall give an official bond in the sum of not less than Five Thousand (\$5,000.00) Dollars, and the Comptroller an official bond in the sum of not less than Fifteen Thousand (\$15,000.00) Dollars, payable to the City of Burk Burnett and conditioned for the faithful discharge of the duties of such respective officers and for the faithful accounting for all monies, credits and things of value coming into the hands of such respective officers; and such bonds shall be signed as surety by some surety company authorized to do business under the laws of this State, and the premium on such bonds shall be paid by the City of Burk Burnett.

(Adopted May 8, 1923)

Section 32. OFFICIAL BOND FOR OTHER OFFICERS AND EMPLOYEES.

The Board of Commissioners shall have the right to require official bond from other appointive officers and employees of the city, in such amounts as said Board may from time to time fix by ordinance or resolution, and conditioned for the faithful discharge of the duties of such officers or employees, and for the faithful accounting for all monies, credits and things of value coming into the hands of such officers or employees, and all such bonds shall be signed as surety by some surety company authorized to do business under the laws of this State, and the premiums accruing thereon shall be paid by the City of Burk Burnett.

(Adopted May 8, 1923)

Section 33. AUDIT AND EXAMINATION OF THE CITY BOOKS AND ACCOUNTS.

The Board of Commissioners shall cause a continuous audit to be made of the books of accounts of each and every department of the city. Such audit shall be made by a certified public accountant, who shall be selected by said Board and contract entered into from year to year, and, if practicable, such contract shall provide that the books of the city shall be audited annually or in accordance with state law, the audit to be made at the close of the fiscal year and such auditor's report to the Board, in a condensed form, shall be published at least once in the official paper of the city.

(Adopted May 8, 1923; Am. Ord. 871, passed 2-16-15, as adopted by election held on 5-9-15)

ARTICLE IVa

Recall of Officers

Section 1. SCOPE OF RECALL.

Any member of the Board of Commissioners, whether elected to office by the qualified electors of the city or elected by said Board to fill a vacancy, shall be subject to recall and removal from office by the qualified electors of the city as in this Charter provided.

(Adopted May 8, 1923; Am. Ord. 871, passed 2-16-15, as adopted by election held on 5-9-15)

Section 2. PETITIONS FOR RECALL.

Before the question of recall of such officers shall be submitted to the qualified electors of the city, a petition demanding such question to be so submitted shall first be filed with the person performing the duties of City Clerk or Secretary, which said petition shall be signed by at least thirty percent of the qualified voters of the city, to be determined by the latest poll tax list of said city. Each signer of such recall petition shall personally sign his name thereto in ink or indelible pencil, and shall write after his name, his place of residence, giving name of street and number, and shall also write thereon the day of the month and year his signature was affixed.

(Adopted May 8, 1923)

Section 3. FORM OF RECALL PETITION.

The recall petition mentioned above must be addressed to the Board of Commissioners of the City of Burkburnett, and must distinctly and specifically point out the ground or grounds upon which such petition for removal is predicated, and if there be more than one ground, such as for incompetency, misconduct, or malfeasance in office, shall specifically state each ground with such certainty as to give the officer sought to be removed notice of the matters and things with which he is charged. Said petition shall be signed by the requisite number of qualified electors as provided in section 2 of this Article. The signatures shall be verified by oath in the following form:

"State of Texas,

County of Wichita:

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

Sworn to and subscribed before me this day of 19 .

Notary Public in and for Wichita County, Texas."

(Adopted May 8, 1923)

Section 4. VARIOUS PAPERS CONSTITUTE PETITION.

The petition may consist of one or more subscription lists circulated separately and the signatures thereto may be upon the paper or papers containing the form of petition, or upon other papers attached thereto. Verification provided for in the next preceding section of this Article may be made by one or more petitioners, and the several parts of the petition may be filed separately and by different persons, but no signatures of such petition shall remain effective or be counted which were placed thereon more than thirty days prior to the filing of such petition or petitions with the person performing the duties of City Clerk or City Secretary. All papers and documents comprising a single petition, that is, all papers comprising a recall petition, shall be filed with the person performing the duties of City Clerk or City Secretary on the same day, and said Clerk shall immediately notify in writing the officer so sought to be removed.

(Adopted May 8, 1923)

Section 5. CERTIFICATE TO PETITION.

Within twenty (20) days after the date of the filing of the papers constituting the recall petition, the City Clerk shall certify to the Board of Commissioners the number of qualified voters within the City of Burk Burnett, shall further certify the number of qualified voters signing said petition, and shall present such petition and their certificate thereto to said Board. The City Clerk shall declare void any papers constituting the recall petition which does not meet the requirements of Section 3 of this Article. If the papers constituting the recall petition are found by the City Clerk to be insufficient, the City Clerk shall notify the person filing the petition. The person filing the petition shall have fifteen (15) days from the date of such notice to file an amended or supplementary petition signed and filed as prescribed in the original petition. Within ten (10) days after the person files the supplemental petition, the City Clerk shall examine the amended or supplemental petition and certify its sufficiency. If the City Clerk finds the amended or supplementary petition to be insufficient, there shall be no further proceedings on the petition.

(Adopted May 8, 1923; Am. Ord. 871, passed 2-16-15, as adopted by election held on 5-9-15)

Section 6. ELECTION TO BE CALLED.

If the commissioner whose removal is sought does not resign within five days after such recall petition shall have been duly certified to the Board of Commissioners, as provided in the next preceding section of this Article, then it shall become the duty of said Board of Commissioners to order an election and fix a date for holding such recall election, and the date of which election shall not be less than fifteen nor more than thirty days from the time such petition was presented to the Board of Commissioners.

(Adopted May 8, 1923)

Section 7. RECALL ELECTION, FORM OF BALLOT.

The form of ballot to be used at such recall election shall be as follows:

"SHALL (name of person) BE REMOVED FROM THE OFFICE OF COMMISSIONER BY RECALL?"

Immediately following the above question there shall be provided on the ballot, in separate lines, in the order here set out, the words:

"For the Recall of (Name of the Person)."

"Against the Recall of (Name of the Person)."

Should a majority of the votes cast at such recall election be for the recall of such commissioner named on the ballot, he shall, regardless of any technical defects in the recall petition, be deemed removed from office. Should a majority of the votes cast at such recall election, however, be against the recall of the officer named on the ballot, such commissioner shall continue in office for the remainder of his term, subject to recall as before.

(Adopted May 8, 1923)

Section 8. RECALL, RESTRICTIONS THEREON.

No recall petition shall be filed against any commissioner of the Board of Commissioners of the City of Burk Burnett, within six months after his election, nor within six months after an election for such officer's recall.

(Adopted May 8, 1923)

Section 9. BOARD OF COMMISSIONERS, FAILURE TO CALL AN ELECTION.

In case all of the requirements of this Charter shall have been met and the Board of Commissioners shall fail or refuse to receive the recall petition, or order such recall election, or discharge any other duties imposed upon said Board by the provisions of this Charter with reference to such recall, then the County Judge of Wichita County, Texas, shall discharge any of such duties herein provided to be discharged by the Board of Commissioners.

(Adopted May 8, 1923)

Section 10. ONE OR MORE COMMISSIONERS MAY BE RECALLED SAME ELECTION.

One or more commissioners may be recalled at the same election, and if, in such recall election, there shall as a result of such election, remain one or more commissioners, who is not recalled, then such commissioner or commissioners not recalled shall discharge all of the duties incumbent upon the governing body of said city until the vacancy or vacancies created at such recall election are filled by an election for that purpose, but if in any proposed recall election it is proposed and submitted to recall all members constituting said Board of Commissioners, then there shall be placed on said ballot under the question of recall, the names of candidates to fill the vacancies proposed to be created by such election, but the names of such commissioners proposed to be recalled, shall not appear on the ballot as candidates.

(Adopted May 8, 1923)

Section 11. VACANCIES IN BOARD DUE TO RECALL, HOW FILLED.

If at any recall election it is not proposed and submitted to recall all of the members constituting said Board of Commissioners, but only one or more and fewer than all, and such election shall result in favor of the recall of one or more of said commissioners, proposed to be recalled, then it shall be the duty of the remaining commissioners not recalled and constituting the governing body of the city, within five days after such election is held,, to meet, canvass the returns, declare the result of the election and on the same date order an election to fill such vacancy or vacancies, which election shall be held within not less than ten nor more than twenty days after the same shall have been ordered. No vacancy caused by recall shall be filled by the Board of Commissioners.

(Adopted May 8, 1923)

ARTICLE IVb

Legislation by the People, Initiative and Referendum

Section 1. GENERAL POWER.

The qualified electors of the City of Burk Burnett, in addition to the method of legislation hereinbefore provided, shall have the power of direct legislation by the Initiative and Referendum.

(Adopted May 8, 1923)

Section 2. INITIATIVE.

The initiative shall be exercised in the following manner:

- (a) PETITION: A petition signed and verified in the manner and form required for recall petition in Article IVa by qualified electors equal to twenty percent of the total qualified electors of said city, as shown by its latest poll tax list, accompanied by the proposed legislation or measure in the form of a proposed ordinance or resolution, which must be written or printed, and requesting that such ordinance or resolution be submitted to a vote of the qualified electors, if not passed by the Board of Commissioners, shall be filed with the person performing the duties of City Clerk or Secretary.
- (b) CERTIFICATE: Within five days after the filing of such petition the person performing the duties of City Clerk or Secretary shall certify the number of qualified voters residing in said City of Burk Burnett, as shown by its latest poll tax list, and the number of signers of such petition, and shall present said certificate, petition and proposed ordinance or resolution to the Board of Commissioners.
- (c) ACTION UPON PETITION BY BOARD OF COMMISSIONERS: Upon presentation to it of the certificate, petition and draft of proposed ordinance or resolution, as in this Charter provided, it shall become the duty of the Board of Commissioners, within ten days after the receipt thereof, except as otherwise provided, in this Charter, to pass and adopt such ordinance or resolution without alteration or to submit same to a popular vote at a special election to be held within thirty days from the date of such presentation; provided, however, that if any other municipal election is to be held within sixty days after the filing of the petition, said proposed ordinance or resolution shall be submitted without alteration to the qualified voters of said city at such election.

(Adopted May 8, 1923)

Section 3. REFERENDUM.

If, prior to the date when an ordinance or resolution shall take effect, or within thirty days after the publication of same, a petition signed and verified as required for recall petition in Article IVa and by section 2 (a) hereof, by the qualified voters of said city equal in number to twenty percent of the total qualified voters of said city, as shown by its latest poll tax list, shall be filed with the person performing the duties of City Clerk or Secretary, protesting against the enforcement or enactment of such ordinance or resolution, it shall be suspended from taking effect and no action theretofore taken under such ordinance or resolution shall be legal and valid. Immediately upon the filing of such petition, the person performing the duties of City Clerk or Secretary shall do all things required by section 2 (a) of this Article. Thereupon the Board of Commissioners shall immediately re-consider such ordinance or resolution and, if it does not entirely repeal the same, shall submit it to popular vote at the next municipal election, or said Board may, in its discretion call a special election for that purpose; and such ordinance or resolution shall not take effect unless a majority of the qualified electors voting thereon at such election shall vote in favor thereof.

(Adopted May 8, 1923)

Section 4. VOLUNTARY SUBMISSION OF LEGISLATION BY THE BOARD.

The Board of Commissioners, of its own motion, and by a majority vote of its members, may submit to popular vote for adoption or rejection or repeal at any election any proposed ordinance or resolution or measure, in the same manner and with the same force and effect as provided in this Article for submission on petition.

(Adopted May 8, 1923)

Section 5. FORM OF BALLOTS.

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

"For the Ordinance." and

"Against the Ordinance." or

"For the Resolution." and

"Against the Resolution."

(Adopted May 8, 1923)

Section 6. PUBLICATION OF PROPOSED AND REFERRED ORDINANCES.

The person performing the duties of City Clerk or Secretary shall publish, at least once in the official organ of the city, every proposed or referred ordinance or resolution, within fifteen days before the date of the election; and shall have such other notices, and do such other things relative to such election as are required in general municipal elections, or by the ordinance or resolution calling said election.

(Adopted May 8, 1923)

Section 7. ADOPTION OF ORDINANCES.

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

(Adopted May 8, 1923)

Section 8. INCONSISTENT ORDINANCES.

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

(Adopted May 8, 1923)

Section 9. ORDINANCES PASSED BY POPULAR VOTE, REPEAL OR AMENDMENT.

No ordinance or resolution which may have been passed by the Board of Commissioners upon a petition, or adopted by popular vote, under the provisions of this Article, shall be repealed or amended, except by the Board of Commissioners in response to a referendum petition or by popular or by popular vote thereon.

(Adopted May 8, 1923)

Section 10. NUMBER OF ELECTIONS.

There shall not be held under this Article more than one special election in any period of six months.

(Adopted May 8, 1923)

Section 11. FURTHER REGULATIONS BY BOARD OF COMMISSIONERS.

The Board of Commissioners may pass ordinances or resolutions providing other and further regulations for carrying out the provisions of this Article not inconsistent herewith.

(Adopted May 8, 1923)

Section 12. FRANCHISE ORDINANCE.

Nothing contained in this Article shall be construed to be in conflict with any of the provisions of Article VIII of this Charter pertaining to the ordinances, granting of franchises or special privileges or the referendum thereon.

(Adopted May 8, 1923)

ARTICLE V

City Manager

Section 1. APPOINTMENT.

The Board of Commissioners shall appoint the City Manager at the organization meeting of said Board or as soon thereafter as practicable, who shall be the administrative head of the municipal government, under the direction and supervision of said Board.

(Adopted May 8, 1923)

Section 2. RESIDENCE OF CITY MANAGER.

The City Manager may or may not be a resident of the City of Burkburnett when appointed. The individual hired as City Manager will have ninety (90) days from their appointment as City Manager to move within five (5) miles of the City limits of the City of Burkburnett and within Texas and must continue to reside within five (5) miles of the City limits of the City of Burkburnett and within Texas during their term of employment as City Manager.

(Adopted May 8, 1923; Am. Ord. 871, passed 2-16-15, as adopted by election held on 5-9-15; Am. Ord. 1038, passed 5-15-23, as adopted by election held on 5-6-23)

Section 3. TERM OF OFFICE.

The City Manager shall be appointed for an indefinite period and shall be subject to discharge at the will of the Board of Commissioners.

(Adopted May 8, 1923)

Section 4. ABSENCE OR DISABILITY OF CITY MANAGER.

During the absence or disability of the City Manager the Board of Commissioners shall designate some properly qualified person to perform the duties of said office.

(Adopted May 8, 1923)

Section 5. POWERS AND DUTIES.

The powers and duties of the City Manager shall be:

- (a) To devote all his working time and attention to the affairs of the city and be responsible to the Board of Commissioners for the efficient administration of its affairs;
- (b) To see that all laws and ordinances are enforced;
- (c) With the advice and consent of the Board of Commissioners to appoint and remove all heads of departments (except where this Charter places in the Board of Commissioners such power of appointment), and all subordinate employees of the city;
- (d) To exercise supervision and control over all departments created by this Charter or that may hereafter be created by the Board of Commissioners, except as otherwise provided herein;
- (e) To attend all meetings of the Board of Commissioners, with the right to take part in the discussions, but having no vote and he shall be notified of all special meetings of said Board in the time and manner this Charter requires such notice to be given to the members of said Board;
- (f) To see that all terms and conditions imposed in favor of the city or its inhabitants, in any public utility franchise are faithfully kept and performed, and upon knowledge of any violation thereof to call the same to the attention of the Board of Commissioners;
- (g) To act as Budget Commissioner and as such to prepare and submit to the Board of Commissioners prior to the beginning of each fiscal year, a budget of proposed expenditures for the ensuing year, showing in as much detail as practicable the estimated amounts required by months for the efficient operation of each department of the city government and the reasons for such estimated expenditures;
- (h) To make a full written report to the Board of Commissioners as soon after the close of each month's accounts as possible, showing the operation and expenditures of each department of the city government for the preceding month, and a comparison of such monthly expenditures, by departments, with the monthly allowances made for such departments in the annual budget, and to keep said Board fully advised at all times as to the financial condition and needs of the city;
- (i) To act as purchasing agent for the city and to purchase all merchandise, materials and supplies needed by the city; to establish a suitable storehouse where such supplies shall be kept, and from which same shall be issued as needed, and to adopt such rules and regulations governing requisitions and the transaction of business between himself, as such purchasing agent, and the heads of the departments, officers and employees of the city, as the Board of Commissioners may approve;
- (j) To recommend to the Board of Commissioners the salaries to be paid each appointive officer and subordinate employee of the city, and it shall be the duty of said Board to pass ordinances or resolutions from time to time, fixing rates of compensation;
- (k) To recommend to the Board of Commissioners in writing, from time to time, for adoption, such measures as he may deem necessary or expedient, and;

(I) To do and perform such other duties as may be prescribed by this Charter or be required of him by the ordinances and resolutions of the Board of Commissioners.

(Adopted May 8, 1923)

Section 6. COMPENSATION OF CITY MANAGER.

The City Manager shall receive such compensation as the Board of Commissioners shall fix from time to time by ordinance or resolution. (Adopted May 8, 1923; as amended by election held on April 4, 1967)

ARTICLE VI

Finance

Section 1. FISCAL YEAR.

The fiscal year of the City shall be established, from time to time, by the Board of Commissioners by resolution.

(Adopted May 8, 1923; Am. Ord. 633, passed 2-5-02)

Section 2. ANNUAL BUDGET.

(A) City Manager's Duties. Each year the City Manager shall: (i) gather the appropriate information required to prepare a proposed budget; (ii) prepare a proposed budget each year in consultation with the Board of Commissioners; and (iii) file the proposed budget with the municipal clerk.

(B) Municipal Clerk's Duties. The Municipal Clerk shall: (i) accept the proposed budget for filing, (ii) maintain the proposed budget so that it is available for public inspection as required by state law, and (iii) publish notice of the hearing on the proposed budget set by the Board of Commissioners.

(C) Contents of Annual Budget. The proposed annual budget shall contain all information now or hereafter required for annual municipal budgets by state law and such other information as may be required by the Board of Commissioners.

(Adopted May 8, 1923; Am. Ord. 633, passed 2-5-02)

Section 3. ANNUAL AUDIT.

(A) Requirement for Annual Audit. Annually the Board of Commissioners shall select and contract with a certified public accounting firm which has experience in municipal finance for the purpose of rendering an independent audit of all accounts and other financial records of the City. After completion of any audit by the City, the auditor shall prepare a written report, and shall submit the report to the Board of Commissioners at a meeting of the Board of Commissioners.

(B) Timing for Completion of the Audit. The audit report shall be submitted to the Board of Commissioners within 120 days after the end of the preceding fiscal year for which the audit is being conducted unless an extension has been granted by resolution of the Board of Commissioners.

(C) Availability of the Audit. The audit report shall be made available to the public at cost, upon request.

(D) Selection and Qualifications of Auditor. The personnel of the firm conducting the audit shall not hold any public office in the City nor have any personal interest, direct or indirect, in the fiscal affairs of the City or any of its offices. Unless waived by the Board of Commissioners, the Board of Commissioners shall annually solicit bids for the audit from qualified public accounting firms. Bid solicitation and advertisement shall be according to such rules as may be prescribed by the Board of Commissioners. The Board of Commissioners, when selecting a public accounting firm to conduct the audit, shall do so on the basis of the firm's experience, expertise, efficiency and ability to timely complete the audit and the cost to be charged for the audit. The Board of Commissioners shall not be required to accept the lowest bid for the audit.

(Adopted May 8, 1923; Am. Ord. 633, passed 2-5-02)

Section 4. OTHER REPORTS.

The Board of Commissioners may, from time to time, direct the City Manager to prepare periodic financial reports pertaining to any aspect of the City's fiscal operations including, without limitation, monthly receipt and disbursement reports, capital project budgets or reports on outstanding indebtedness.

(Adopted May 8, 1923; Am. Ord. 633, passed 2-5-02)

Section 5. INDEBTEDNESS.

Subject to any limitations or requirements of state law the City shall have the authority to issue general obligation bonds, revenue bonds, certificates of obligation or any other public security or debt instrument authorized by applicable law for any purpose permitted by state law or the carry out any of the rights or powers vested in the City by this charter.

(Am. Ord. 633, passed 2-5-02)

Section 6. DEPOSITORY.

The City shall select a depository or depositories for City funds in accordance with the laws of the State of Texas.

(Adopted May 8, 1923; Am. Ord. 633, passed 2-5-02)

ARTICLE VII

Municipal Court

Section 1. ESTABLISHMENT OF THE MUNICIPAL COURT.

A municipal court, known as the "Municipal Court of Burkburnett, Texas" is hereby established. The Municipal Court shall have the jurisdiction, powers, and duties given and prescribed by the laws of the State of Texas.

(Adopted May 8, 1923; Am. Ord. 633, passed 2-5-02)

Section 2. OPTION TO CREATE A MUNICIPAL COURT OF RECORD.

The Board of Commissioners may, by ordinance, create a municipal court of record in accordance with state law in lieu of the municipal court created in Section 1 above. In the event a municipal court of record is created by the Board of Commissioners the name of the municipal court may be changed by the Board of Commissioners to comply with state law.

(Adopted May 8, 1923; Am. Ord. 633, passed 2-5-02)

Section 3. JUDGE OF THE MUNICIPAL COURT.

The Board of Commissioners shall appoint a Judge who shall be known as the "Judge of the Municipal Court." The Board of Commissioners may appoint one or more alternate judges to serve in the absence of the Municipal Judge. The Judge of the Municipal Court and any alternate judges shall satisfy all requirements imposed by state law for municipal court judges. Any judge so appointed may be removed by the Board of Commissioners in their discretion.

(Adopted May 8, 1923; Am. Ord. 633, passed 2-5-02)

Section 4. CLERK OF THE MUNICIPAL COURT.

The City Manager shall appoint a "Clerk of the Municipal Court." The clerk of the Municipal Court shall keep the records and the proceedings of the Court, issue all processes, and generally perform all the duties prescribed by law for clerks of such courts, insofar as those duties are applicable.

(Adopted May 8, 1923; Am. Ord. 633, passed 2-5-02)

ARTICLE VIII

Franchises and Special Privileges

Section 1. FRANCHISES.

The right of control, easement, user and the ownership of and title to the streets, highways, public thoroughfares and property of the City of Burkburnett, its avenues, parks, bridges, and all other public places and property are hereby declared to be inalienable, except by ordinance duly passed by a majority of all of the members of the Board of Commissioners; and no grant of any franchise, or lease or right to use the same, either on, along, through, across, under or over the same by any private corporation, association or individual, shall be granted by the Board of Commissioners, unless submitted to the vote of the legally qualified voters of the city, for a longer period than thirty years; provided, however, that whenever application is made for any grant of franchise, lease, right or privilege in or to the streets and public thoroughfares of the City of Burkburnett by any person or corporation, if they so request, the Board of Commissioners shall submit the same at an election called for said purpose, the expense of which shall be borne by the applicant for said franchise, and at said election, if the majority of the votes cast by legally qualified voters shall be in favor of making said grant, as applied for, said grant may be made for such a term of years as is specified in the ordinance submitting the same at said election; provided, however, that no grant shall be made or authorized for a longer period than fifty years.

(Adopted May 8, 1923)

Section 2. FRANCHISE ORDINANCES MAY BE REFERRED ON MOTION OF BOARD.

The Board of Commissioners may also, upon its own motion submit all applications or ordinances requesting the granting of franchises or special privileges in and to the streets, public thoroughfares and highways of the City of Burk Burnett, to an election, at which the people shall vote upon the proposition there submitted; the expense of which election shall be paid by the applicant or applicants therefor.

(Adopted May 8, 1923)

Section 3. FRANCHISE ORDINANCES MUST BE READ AT THREE REGULAR MEETINGS.

No such franchise shall ever be granted until the ordinance granting the same has been read in full at three regular meetings of the Board of Commissioners, nor shall any such franchise, grant, right or easement ever be made to any private individual, corporation, or association unless it provides for adequate compensation or consideration therefor to be paid to the City of Burk Burnett, and in addition to any other form of compensation, grantee shall pay annually such fixed charge as may be prescribed in the franchise.

(Adopted May 8, 1923)

Section 4. LIMITATIONS UPON GRANT.

Such grant of franchise under and any contract in pursuance thereof shall provide that upon the termination of the grant, the grant, as well as property, if any, of the grantee, in the streets, avenues and public places, shall thereupon without other or further compensation to the grantee, or upon the payment of a fair valuation therefor, (the mode of ascertaining which shall be determined in the grant), be and become the property of the City of Burk Burnett, and the grantee shall never be entitled to any payment or valuation because of any value derived from the franchise or the fact that it is or may be a going concern, duly installed and operated, nor in arriving at the valuation shall any intangible value be taken into consideration, but merely a fair value for the tangible property in use by the utility at that time in its business of supplying the public with such service as it may then be furnishing.

(Adopted May 8, 1923)

Section 5. FRANCHISE, FORFEITURE OF GRANT.

Every such grant shall make adequate provision by way of forfeiture of the grant, or otherwise, to secure efficiency of public service at reasonable rates, and to maintain the property in good order throughout the life of the grant.

(Adopted May 8, 1923)

Section 6. CITY'S RIGHT TO INSPECT BOOKS OF GRANTEE.

The Board of Commissioners may also inspect and examine, or cause to be inspected and examined at all reasonable hours, any books of accounts of such grantee, which books or accounts shall be kept and such reports made in accordance with the forms and methods prescribed by the Board of Commissioners, which, as far as practicable, shall be uniform for all such grantees.

(Adopted May 8, 1923)

Section 7. PUBLICATION OF FRANCHISE ORDINANCE.

Whenever any application is made to the Board of Commissioners of the City of Burk Burnett for any such grant or franchise, lease or right to use the streets, public highways, thoroughfares or public property of the City of Burk Burnett, as is provided for in the preceding section of this Charter, or whenever an ordinance is introduced before the Board of Commissioners proposing to make grant of any franchise, lease or right to use the public highways, streets, thoroughfares and public property of the city of Burk Burnett, publication of said ordinance of such proposed grant or right to use the, streets, public thoroughfares and highways of said city, shall be made by publishing the ordinance as finally proposed to be passed, which shall not thereafter be changed unless again published, setting forth in detail all the rights, powers and privileges granted or proposed to be granted, in some newspaper published in the City of Burk Burnett once a week, for three consecutive weeks, which publication shall be made at the expense of the applicant or person or persons desiring said grant, and no such grant shall be made, or ordinance passed, until after publication in the manner aforesaid, nor shall any such ordinance confirming or making any such grant, lease or right to use the streets, public highways and thoroughfares of the City of Burk Burnett take effect or become a law or contract or vest any rights in the applicants therefor, until after the expiration of thirty days after said ordinance has been duly passed by the Board of Commissioners.

(Adopted May 8, 1923)

Section 8. REFERENDUM.

Pending the passage of any such ordinance or during the time intervening between its final passage and the expiration of the thirty days before which time it shall not take effect, it is hereby made the duty of the Board of Commissioners to order an election, if requested by written petition signed by 10% of the registered voters of Burk Burnett, at which election the registered voters of Burk Burnett shall vote for or against the proposed grant as set forth in detail by the ordinance conferring the rights and privileges upon the applicants therefor, which said ordinance shall be published at length and in full in the call for said election made by the Board of Commissioners, and if at said election the majority of the votes cast shall be for said ordinance and the making of said proposed grant, the same shall thereupon become effective, but if a majority of the votes

cast at said election so held shall be against the passage of said ordinance and the making of said grant, said ordinance shall not pass nor shall it confer any rights, powers or, privileges of any kind whatever upon the applicants therefor, and it shall be the duty of said Board, after canvassing the vote of said election to pass an ordinance repealing the ordinance which has been by it passed, if the same has been passed.

(Adopted May 8, 1923; Am. Ord. 933, passed 5-14-18; as amended by election held on May 5, 2018)

Section 9. ORDINANCE AMENDING OR RENEWING EXISTING GRANTS.

No grant or franchise, or lease or right of user, in, upon, along, through or over the public streets, highways or public thoroughfares of the City of Burk Burnett shall be made or given nor shall any rights of any kind whatever be conferred upon any person, private corporation, individual or association of any kind whatever, except the same be made by ordinance duly passed by the commissioners nor shall any amendment, renewal, extension, or enlargement of any rights, or powers previously granted to any corporation, person or association of persons, in, upon, along, through, under or over the streets of the City of Burk Burnett be made, except in the manner and subject to all the conditions provided in the preceding sections of this Article for the making of original grants and franchises; provided, however, that the provisions of this section shall not apply to the granting of said contracts or such privileges to railway companies for the purpose of reaching and offering railway connections and switch privileges to the owners or users of any industrial plants; it being the intention to permit the Board of Commissioners to grant such rights or privileges to railway companies in the judgment of said Board when expedient, necessary, or advisable.

(Adopted May 8, 1923)

Section 10. OCCUPYING STREETS WITHOUT FRANCHISE.

It shall be unlawful for any person or corporation or association of persons to use or occupy any public ground whatever in the city or any space above, or below any public ground for the purpose of conducting any public utility wherein service is rendered to the public for hire or charge, unless permission is first had from the Board of Commissioners in the manner provided in this Charter. All public utilities whose franchise, or grant, expires by limitation expressed in the grant, shall, within six months from the date of the expiration of the grant or franchise remove all properties belonging to them from the public grounds and restore the grounds and surface of the street to its original condition, unless before the expiration of the grant or within ninety days thereafter a new franchise or extension of the old franchise be granted under the same rules governing the granting of new franchises, as in this Charter provided.

(Adopted May 8, 1923)

Section 11. FORFEITURE OF FRANCHISE.

The Board of Commissioners may enforce all regulations of public utilities, whether such regulations are prescribed in the franchise under which they may be operating or by ordinance passed thereafter or by this Charter, and may for adequate cause enforce the forfeiture of any franchise in any court of competent jurisdiction. Adequate cause may be deemed to be a persistent refusal after due notice to comply with reasonable regulations or demands of the Board of Commissioners, and refusal to obey and comply with the law and the ordinances of the city or any contract.

(Adopted May 8, 1923)

Section 12. GRANT NOT TO BE EXCLUSIVE.

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

(Adopted May 8, 1923)

Section 13. PURCHASE OR LEASE BY CITY.

No grant of franchise or no renewal, extension or amendment of such grant shall be valid unless it specifically reserves to the city the right, at intervals to be set forth in the franchise ordinance, to terminate the same by purchase or lease and operation of the property of the utility used in or conveniently used for the operation of the utility in the interest of the city or elsewhere; nor shall any such grant, renewal or extension be valid which does not either definitely fix and determine the price which shall be paid by the city for property of the public utility and the terms of payment in the event of purchase or lease by the city, or provide the precise means and method whereby such purchase or rental price and terms shall be fixed and determined.

(Adopted May 8, 1923)

Section 14. PRICE TO EXCLUDE FRANCHISE VALUE.

No ordinance granting a franchise or granting a renewal or extension thereof shall be valid unless it shall expressly provide therein that the price to be paid by the city for the property that may be acquired by it from such utility by purchase, condemnation or otherwise, shall exclude all value of such grant, renewal or extension, and unless it expressly provide that the rental price to be paid by the city shall exclude all value of such grant, extension or renewal.

(Adopted May 8, 1923)

Section 15. VALUATION OF PLANT FOR RATE MAKING PURPOSES.

No grant of franchise and no renewal, extension or amendment of such grant shall be valid unless special contract provision is made therein between the city and the grantee or grantees, and which shall inure to the benefit of the patrons of such grantee or grantees, to the effect that for all rate making purposes, whether before the Board of Commissioners of said city or in the courts of the county, the valuation of such utility shall be the physical value of the plant at the time of such inquiry and in no case in excess of its original construction cost, plus the cost of its additions and betterments, and less reasonable depreciation.

(Adopted May 8, 1923)

Section 16. CONDEMNATION PROCEEDINGS.

Nothing in such ordinances or in this Charter shall prevent the city from acquiring property of any utility by condemnation proceedings or any other method provided by law; which such methods of acquisition shall be in addition to the power of purchase or lease to be reserved in the grant, renewal or extension.

(Adopted May 8, 1923)

Section 17. ASSIGNMENT OF GRANT.

No grant, franchise or other special privilege shall be leased, assigned or otherwise amended except with the consent of the Board of Commissioners expressed by an affirmative vote of at least four of its members.

(Adopted May 8, 1923)

ARTICLE IX

Taxation

Section 1. CITY TAX ASSESSOR-COLLECTOR.

The Board of Commissioners shall have the power to establish the office of City Tax Assessor-Collector. This official shall be appointed by the City Manager, and shall be responsible for the assessment and collection of taxes for any other body possessing the power of taxation and having a contract with the City for such services.

(Adopted May 8, 1923; Am. Ord. 633, passed 2-5-02)

Section 2. POWER OF TAXATION.

The Board of Commissioners shall have the power to levy and collect taxes for any municipal purpose not prohibited by state law or restricted by this Charter.

(Adopted May 8, 1923; Am. Ord. 633, passed 2-5-02)

Section 3. APPRAISAL AND ASSESSMENT OF REAL PROPERTY.

All real property situated within the corporate limits of the City on the first day of January of each year, not expressly exempted by law, shall be subject to yearly taxation by the City. As prescribed by state law, the assessed value of such property shall be One-Hundred (100) percent of its appraised value on January 1 as determined by the Appraisal District authorized by state law to appraise property subject to taxation by the City.

(Adopted May 8, 1923; Am. Ord. 633, passed 2-5-02)

Section 4. TAX RATE.

The tax rate shall be calculated, publicized and adopted in accordance with the State Property Tax Code.

(Adopted May 8, 1923; Am. Ord. 633, passed 2-5-02)

Section 5. HOMESTEAD EXEMPTIONS.

(A) The Board of Commissioners may pass, by ordinance, general homestead exemptions optional homestead exemptions as provided by state law.

(B) The Appraisal District having jurisdiction to appraise property subject to taxation by the City shall prescribe the method and manner in which such exemptions may be secured by qualified property owner(s) according to state law.

(Adopted May 8, 1923; Am. Ord. 633, passed 2-5-02)

Section 6. TAX PAYMENTS.

(A) Method of Payment. All taxes due the City shall be payable as provided by the Property Tax Code. All taxes shall become due and payable upon receipt of the tax bill.

(B) Delinquent Taxes. Taxes shall become delinquent if not paid before February 1 of the year following the year in which imposed. The interest and penalty on delinquent taxes shall be assessed as provided by state law.

(Adopted May 8, 1923; Am. Ord. 633, passed 2-5-02)

Section 7. TAX LIENS AND LIABILITY.

(A) Real and Personal Property. On January 1 of each year, a tax lien in favor of the City attaches to property to secure the payment of all taxes, penalties, and interest ultimately imposed for the year on that property, whether the taxes are imposed in the year the lien attaches. The lien shall have priority over all other claims except for claims for any survivor's allowance, funeral expenses, or expenses of the last illness of a decedent made against the estate of a decedent as provided by law.

(B) Business and Non-Business Personal Property. Upon securing a tax warrant as provided by Chapter 33 of the Texas Tax Code or other applicable state law, the city tax collector, accompanied by a peace officer, may seize, and take possession pending the sale of, as much of any business personal property, or certain non-business taxable personal property as may be reasonably necessary for the payment of all taxes, penalties, and interest owed, as well as all costs of seizure and sale.

(Adopted May 8, 1923; Am. Ord. 633, passed 2-5-02; Am. Ord. 933, passed 5-14-18; as amended by election held on May 5, 2018)

ARTICLE IXa

Reserved

Former Article IXa entitled Board of Appraisement and Equalization was repealed by municipal election on February 2, 2002.

ARTICLE IXb

Reserved

Former Article IXb entitled Fiscal Year Budget System was repealed by municipal election on February 2, 2002.

ARTICLE X

Reserved

Former Article X entitled Bonds was repealed by municipal election on February 2, 2002.

ARTICLE XI

Reserved

Former Article XI entitled City Depository was repealed by municipal election on February 2, 2002.

ARTICLE XII

Reserved

Former Article XII entitled Elections was repealed by municipal election on February 2, 2002.

ARTICLE XIII

General Provisions

Section 1. AMENDMENTS TO CHARTER.

This Charter after its adoption by the qualified voters of the City of Burk Burnett may be amended in accordance with the provisions of an Act of the 33rd Legislature of the State of Texas, entitled "An Act Authorizing Cities Having More Than Five Thousand Inhabitants by Majority Vote of the Qualified Voters of Said City at an Election Held for that Purpose to Adopt and Amend Their Own Charter, Etc." approved April 7, 1913, and any Acts amendatory thereof.

(Adopted May 8, 1923)

Section 2. ORDINANCES CONTINUED IN FORCE.

All ordinances and resolutions in force at the time of the taking effect of this Charter not inconsistent with its provisions, shall continue in full force and effect until amended or repealed.

(Adopted May 8, 1923)

Section 3. CONTINUANCE OF PRESENT OFFICERS.

The offices of Mayor and Alderman of the City of Burk Burnett, as said offices are at present created and constituted by the City of Burk Burnett, are hereby abolished and vacated; and such offices and the salaries, fees and compensation thereof, shall wholly cease and expire at the time when the Board of Commissioners as constituted herein shall be elected and qualified. All other persons holding office at the time this Charter goes into effect shall continue in office and in the performance of their duties until provision shall have otherwise been made in accordance with the provisions of this Charter for the performance of the duties of or the discontinuance of any such office. When such provision shall have been made, the term of any such officer shall expire and the office be abolished. The powers which are conferred and the duties which are imposed upon any officer, board or department of the city under the laws of this State shall, if such officer, board or department is abolished by this Charter, be thereafter exercised and discharged by the officer, board or department upon whom are imposed corresponding functions, duties and powers under the provisions of this Charter.

(Adopted May 8, 1923)

Section 4. CONTINUANCE OF CONTRACTS AND VESTED RIGHTS.

All vested rights of the city shall continue to be vested and shall not in any manner be affected by the adoption of this Charter, unless otherwise herein expressly provided to the contrary. All contracts entered into by the city or for its benefit prior to the taking effect of this Charter shall continue in full force and effect. All public work begun prior to the taking effect of this Charter shall be continued and perfected hereunder. Public improvements for which legislative steps shall have been taken under the laws in force at the time this Charter takes effect may be carried to completion in accordance with the provisions of such laws.

(Adopted May 8, 1923)

Section 5. CONSTRUCTION.

The provisions of this Charter shall be liberally construed for the purpose of obtaining the objects thereof.

(Adopted May 8, 1923)

Section 6. MEANING OF CERTAIN WORDS.

Unless some other meaning is manifest, the word "City" shall be construed to mean the "City of Burk Burnett, Texas," the word "and" may be read "or" and the word "or" may be read "and," if the sense requires it; and words in the present tense include future tense, except when a more restricted meaning is manifest.

(Adopted May 8, 1923)

ARTICLE XIV

Submission of Charter to Qualified Voters

Section 1. QUALIFIED VOTERS, WHO ARE.

Only those who are qualified voters residing within the corporate limits of said City of Burk Burnett and have paid their city poll tax for year 1922, and those who reside in the territory to be added to said City of Burk Burnett by this Charter and who are qualified to vote for members of the State Legislature, shall be permitted to vote in the election for the adoption of this

Charter.

(Adopted May 8, 1923)

Section 2. VOTE ON PROPOSED CHARTER, MANNER, ETC.

This Charter shall be submitted to the qualified voters, for adoption or rejection, on Tuesday, the 8th day of May, A. D. 1923, at which election if a majority of the qualified voters voting in such election shall vote in favor of the adoption of this Charter, it shall thereupon become the Charter of the City of Burk Burnett, Texas, until amended or repealed.

It being impracticable to segregate each subject so that the voter may vote "yes" or "no" on the same, it is hereby prescribed that the form of ballot for use in such election shall be as follows, to-wit:

OFFICIAL BALLOT

City Election

QUESTION: SHALL THE CHARTER FRAMED BY THE
CHARTER COMMISSION BE ADOPTED?

-1-

FOR THE ADOPTION OF THE CHARTER

-2-

AGAINST THE ADOPTION OF THE CHARTER

The present Mayor and City Council of the City of Burk Burnett shall call said election and the same shall be conducted and returns made, and results declared, as provided by the laws of the State of Texas governing municipal elections, and in case a majority of the votes cast at said election shall be in favor of the adoption of this Charter, then an official order shall be entered upon the records of said city, by the Mayor and City Council of the City of Burk Burnett, declaring the same adopted, and the City Secretary shall record, at length, upon the records of the city, in a separate book to be kept in his office for such purpose, this Charter is adopted, and said Secretary shall furnish to the Mayor a copy of this Charter, so adopted and authenticated by his signature and the seal of the city, which copy of the Charter shall be forwarded by the Mayor of the City of Burk Burnett to the Secretary of State, and shall show the approval of this Charter by a majority vote of the qualified voters of the City of Burk Burnett.

Respectfully submitted,

DR. WALLACE MARTIN, Chairman

GLENN R. KINCAID

AUGUST LOHOEFENER

JNO. E. HAYNES

A. R. THOMAS

F. COVINGTON

R. E. FISHER

E. J. WOODWARD

J. D. MAJORS

J. S. MILLS

W. R. HILL

W. D. UTTS

C. O. WALLING

L. J. DICKSON, Secretary