

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS, PROPOSING AMENDMENTS TO ARTICLE I, INCORPORATION, FORM OF GOVERNMENT AND POWERS, ARTICLE II, THE COUNCIL, ARTICLE V, LEGAL DEPARTMENT AND CORPORATION COURT, ARTICLE VI, PLANNING AND ZONING, ARTICLE VIII, REVENUE AND TAXATION, ARTICLE X, GENERAL PROVISIONS; CALLING AN ELECTION ON SAID ISSUES; PROVIDING FOR PUBLIC NOTICE AND AN EFFECTIVE DATE.

WHEREAS, the City Council of the City of Abilene hereby calls an election for the first Saturday in May, 1997. Said election will allow the voters to determine whether the Charter should be changed as hereinafter set out.

WHEREAS, Section 9.004 of the Local Government Code, provides that a Charter election shall be held not less than thirty (30) days after the passage of this Ordinance calling for Charter Amendment; and,

WHEREAS, Section 41.001 of the Election Code, provides that the next earliest time for the Charter election is the first Saturday in May (May 3, 1997); now, therefore,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS:

That the following proposed Charter changes be submitted for vote on May 3, 1997:

PART 1: That Section 7, Qualifications, of Article II, The Council, of the Charter of the City of Abilene, Texas, be submitted for amendment, and if approved by a majority vote, be changed to read as follows:

QUALIFICATIONS

Section 7. At the time of his election to office, each Councilman and the Mayor shall be at least eighteen years of age, shall be a citizen and qualified voter of the State of Texas and the City and shall be a taxpayer to the City. At the time of his election to office each Councilman and Mayor shall have resided within the City of Abilene for at least twelve months. Three Councilmen shall be residents of the area of the City north of the Texas and Pacific Railway Company main line, as

located in the City on the effective date of this Charter, and the other three Councilmen shall be residents of the area of the City south of such main line. The Mayor may be a resident of any part of the City. Residence requirements shall be effective only as of the date of the election of each Councilman, but a member of the Council or the Mayor ceasing to reside in the City shall immediately forfeit his office. No person shall be entitled to be elected to hold office in the City who owes delinquent taxes to the City. Neither the Mayor nor any member of the Council shall hold any other office or employment under the City Government while he is a member of said Council; nor shall he hold any other paid employment under the City Government within two (2) years thereafter unless such employment be an elective office.

PART 2: That said amendment be presented for "YES" or "NO" vote in the following form:

Shall Section 7 of the City Charter of the City of Abilene be amended to change the age for Mayor and Council members from twenty-one (21) to eighteen (18).

PART 3(a): That Section 3, General Powers of the City, of Article I, Incorporation, Form of Government and Powers, of the Charter of the City of Abilene, Texas, be submitted for amendment, and if approved by a majority vote, be changed to read as follows:

GENERAL POWERS OF THE CITY

Section 3: The City shall be a Home Rule City. It shall have all powers granted to Home Rule Cities by the Constitution and laws of this State, as fully and completely as though they were specifically enumerated in this Charter, together with all the implied powers necessary to carry into execution such granted powers, and the powers are hereby adopted that are conferred upon Cities by Article XI, Section 5, of the Constitution of the State of Texas (Home Rule Amendment). Among other powers, the City shall have the power to contract and to cooperate with the Government of the State of Texas or any agency or any political subdivision thereof, or with the United States Government or any agency thereof, to accomplish any lawful purpose. The City may acquire property within or without its corporate limits for any municipal purpose in fee simple or in any lesser interest or estate by purchase, gift, devise, lease or condemnation, and, subject to the provisions of this Charter, may sell, lease, mortgage, hold, manage, improve and control such property as may now or hereafter be owned by it; may

provide for the expenditure of public funds for a retirement system, group health, life and accident insurance coverage, and surety bonds for City employees and officers; may pass ordinances and enact such regulations as may be expedient for the maintenance of good government order and peace of the City and the welfare, health, morals, comfort and safety of its inhabitants consistent with the provisions of this Charter. The enumeration of particular powers by this Charter shall not be deemed to be exclusive and in addition to the powers enumerated or implied herein the City shall have all powers not prohibited by the Constitution or laws of this State.

PART 3(b): That Section 5, Street Development and Improvement, of Article I, Incorporation, Form of Government and Powers, of the Charter of the City of Abilene, Texas, be submitted for amendment, and if approved by a majority vote, be changed to read as follows:

STREET DEVELOPMENT AND IMPROVEMENT

Section 5: The City shall have the power, in connection with its power to develop and improve or cause to be developed and improved any and all public streets, sidewalks, waterways, alleys and other public ways within the corporate limits of the City, to assess the cost of such development and improvement partly or entirely by assessments levied as a lien against the property abutting thereon and against the owners thereof. These assessments may be levied in any amount and under any procedures not prohibited by the Constitution or Statutes of the State of Texas, and may prescribe the time, terms and conditions of payment thereof, the rate of interest, and may include reasonable attorney's fees and costs of collection, if incurred, but no assessment may be made against land or owners of land in excess of the enhancement in value to the property occasioned by such development or improvement. If improvements be ordered constructed in any part of any area used or occupied by the tracks or facilities of any railway or public utility, then the City shall have the power to assess the whole cost of improvements in such area and the added costs of improvements in areas adjacent thereto made necessary by such use or occupancy against such railway or utility, and shall have the power, by ordinance, to provide for the enforcement of such assessment. As an alternative and cumulative method of developing, improving and paving any and all public streets, sidewalks, waterways, alleys, highways and other public ways within its corporate limits, the City shall have the power and authority to proceed in accordance with V.T.C.A. Transportation Code, Chapter 313, Street Improvements and Assessments In Certain Municipalities.

PART 3(c): That Section 7, Qualifications, of Article II, The Council, of the Charter of the City of Abilene, Texas, be submitted for amendment, and if approved by a majority vote, be changed to read as follows:

QUALIFICATIONS

Section 7. At the time of his election to office, each Councilman and the Mayor shall be at least twenty-one years of age, shall be a citizen and qualified voter of the State of Texas and the City. At the time of his election to office each Councilman and Mayor shall have resided within the City of Abilene for at least twelve months. Three Councilmen shall be residents of the area of the City north of the Texas and Pacific Railway Company main line, as located in the City on the effective date of this Charter, and the other three Councilmen shall be residents of the area of the City south of such main line. The Mayor may be a resident of any part of the City. Residence requirements shall be effective only as of the date of the election of each Councilman, but a member of the Council or the Mayor ceasing to reside in the City shall immediately forfeit his office. Neither the Mayor nor any member of the Council shall hold any other office or employment under the City Government while he is a member of said Council; nor shall he hold any other paid employment under the City Government within two (2) years thereafter unless such employment be an elective office.

Note: If the age provision and this provision is approved, the reference to taxpayer and delinquent taxpayer will be deleted and the age changed from 21 to 18. The age and taxpayer requirements are separate provisions.

PART 3(d): That Section 75, Corporation Court, Section 76, Judge of the Corporation Court, Section 77, Assistant Corporation Court Judge, Section 78, Additional Courts, Section 79, Clerk of the Corporation Court, Section 80, Section 81, Costs, Process and Procedure in the Corporation Court of Article V, Legal Department and Corporation Court of the Charter of the City of Abilene, Texas, be submitted for amendment, and if approved by a majority vote, be changed to read as follows:

**ARTICLE V
LEGAL DEPARTMENT AND MUNICIPAL COURT**

MUNICIPAL COURT

Section 75: There shall be a court known as the Municipal Court of

the City, which court shall be deemed always open for the trial of causes, with such jurisdiction, powers and duties as are given and prescribed by the laws of the State of Texas.

JUDGE OF THE MUNICIPAL COURT

Section 76: The Municipal Court shall be presided over by a magistrate who shall be known as the Judge of the Municipal Court. He shall be a competent attorney who is licensed to practice law in the State of Texas and shall be a resident of the City during his tenure of office. He shall be appointed by the Mayor with the approval of the Council for a term of two years, but he shall be subject to removal by the Council for cause, after notice and hearing.

ASSISTANT MUNICIPAL COURT JUDGE

Section 77: In the event the Judge of the Municipal Court is temporarily unable to act for any reason, the Mayor with the approval of the Council, shall appoint a qualified attorney to act in his place.

ADDITIONAL COURTS

Section 78: The Council shall have the power to create and establish additional Municipal Courts and the Mayor with the approval of the Council, may appoint one or more Judges of each Municipal Court, each of whom shall be a magistrate.

CLERK OF THE MUNICIPAL COURT

Section 79: There shall be a Clerk of the Municipal Court who shall be appointed by the City Manager and who shall be responsible to the City Manager. The Clerk shall have the power to administer oaths and affidavits, make certificates, affix the seal of the Court thereto, and otherwise perform any and all acts necessary in issuing process of such Court and conducting the business thereof. There shall be such Deputy Clerks as the Council may authorize. The Clerk of the Municipal Court shall appoint such Deputy Clerks, with the approval of the City Manager. Such Deputy Clerks shall have the authority to act for and on behalf of the Clerk of the Municipal Court.

COSTS, PROCESS AND PROCEDURE IN THE MUNICIPAL COURT

Section 80: The Council shall determine what costs, if any, shall be charged for proceedings in, and for all processes issued by, said Court.

Section 81: The style of all writs issued out of the Municipal Court shall be in the name of the State of Texas.

Note: The word "corporation" in Article V is also changed to "municipal" as above set out.

PART 3(e): That Section 86, Board of Adjustment, of Article VI, Planning and Zoning, of the Charter of the City of Abilene, Texas, be submitted for amendment, and if approved by a majority vote, be changed to read as follows:

BOARD OF ADJUSTMENT

Section 86: The Mayor, with the approval of the Council, shall appoint a Board of Adjustment.

PART 3(f): That Section 98, City Tax Assessor and Collector, Section 99, Power of Taxation, Sections 100, 101, 102, Assessments, Sections 103, 104, 105, Board of Equalization, Section 106, Tax Payments, Sections 107, 108, 109, Tax Liens and Liability of Article VIII, Revenue and Taxation, of the Charter of the City of Abilene, Texas, be submitted for amendment, and if approved by a majority vote, be repealed as said sections are now covered by state law. The subsequent Charter sections and articles are renumbered so as to replace these repealed sections and articles.

PART 3(g): That Section 121, Official Oath, of Article X, General Provisions, of the Charter of the City of Abilene, Texas, be submitted for amendment, and if approved by a majority vote, be changed to read as follows:

OFFICIAL OATH

Section 121: All officers of the City shall, before entering upon the duties of their respective offices, take and subscribe the official oath prescribed in the Constitution of the State of Texas. Oath of Office shall be administered by the Mayor, Mayor Pro Tempore, or any other person authorized by law to administer oaths.

PART 3(h): That Section 125, Notice of Injury or Damage, of Article X, General Provisions, of the Charter of the City of Abilene, Texas, be submitted for amendment, and if approved by a majority vote, be changed to read as follows:

NOTICE OF INJURY OR DAMAGE

Section 125: The City shall never be liable for any personal injury,

whether resulting in death or not, unless the person injured or someone in his behalf, or in the event the injury results in death, the person or persons who may have a cause of action under the law by reason of such death injury, shall file a notice in writing with the City Secretary within six (6) months after the same has occurred, stating specifically in such notice when, where and how the exact injury occurred, the full extent of the injury, the amount of damages claimed or asserted, and a list of persons, if known, who witnessed the injury. The City shall never be liable for any claim for damage or injury to personal property unless the person whose personal property has been injured or damaged, or someone in his behalf, shall file a claim in writing with the City Secretary within six (6) months after said damage or injury occurred, stating specifically when, where and how the injury was sustained. The person giving notice under this Section shall subscribe his name to the notice under oath that the statements and facts contained in said notice are true and correct.

PART 3(i): That Section 133, Ethics, of Article X, General Provisions, of the Charter of the City of Abilene, Texas, be submitted for amendment, and if approved by a majority vote, be changed to read as follows:

ETHICS

Section 133: No officer or employee having a direct or indirect interest in any proposed or existing contract, purchase, work, sale or service to or by the City shall vote or render a decision, or use his position, authority or influence in a manner that would result in his financial betterment to any degree. Further, any elected officer shall publicly disclose any such interest upon assumption of office or prior to consideration of any such matters.

PART 3(j): That Section 73, Assistant City Attorneys, of Article V, Legal Department and Corporation Court, of the Charter of the City of Abilene, Texas, be submitted for amendment, and if approved by a majority vote, be changed to read as follows:

ASSISTANT CITY ATTORNEYS

Section 73: There shall be such Assistant City Attorneys as may be authorized by the Council and appointed by the City Attorney, with the approval of the Council. Such Assistant City Attorneys shall be authorized to act for and on behalf of the City Attorney. Services of an Assistant City Attorney may be terminated by the City Attorney or by the Council in case the office of the City Attorney is vacant.

PART 4: That said amendments be presented for "YES" or "NO" vote in the following form:

Shall numerous sections of the City Charter be amended to conform to the current state law and shall the requirement for Council consent for termination of an Assistant City Attorney be deleted to bring it into conformity with other equivalent positions under the City Charter.

PART 5: That a copy of this Ordinance shall be published in its entirety in the Abilene Reporter News.

PART 6: That this Ordinance shall take effect immediately from and after its date of final passage.

PART 7: That an election is hereby called on May 3, 1997, on said aforementioned Charter amendments. If said City Charter amendments shall receive a majority of "YES" votes, it shall be declared passed. Said amendments passing by a majority vote shall be entered upon the records of the City of Abilene and be declared by the Council of Abilene to be adopted and shall be effective henceforth.

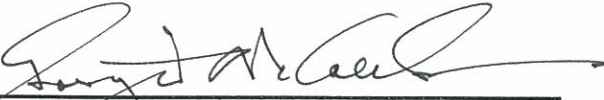
PASSED ON FIRST READING, this 13 day of February, A.D. 1997.

PASSED ON SECOND AND FINAL READING, this 27 day of February, 1997.

ATTEST:



CITY SECRETARY



MAYOR

APPROVED:



CITY ATTORNEY