

EJ:DHH:NT:tlb  
DJ 166-012-3  
97-3625  
97-4056

February 20, 1998

Ms. Carolyn Dunn  
City Clerk  
25 South Arizona Place, Suite 302  
Chandler, Arizona 85225-8500

Dear Ms. Dunn:

This refers to seven annexations (Ordinance Nos. 2722, 2720, 2735, 2745, 2769, 2770, and 2776 (1997)), the polling place change, and charter amendments that extend the term limit for mayor from two two-year terms to four two-year terms and apply the new longer limit to the incumbent mayor and councilmembers, for the City of Chandler in Maricopa County, Arizona submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act, 42 U.S.C. 1973c. We received your submissions on November 7, 1997 and December 24, 1997.

Our analysis indicates that the two annexations (Ordinance Nos. 2720 and 2722 (1997)) received the requisite Section 5 preclearance on October 21, 1997. (A copy of our letter is enclosed.) Accordingly, no further determination by the Attorney General is required or appropriate under Section 5. See the Procedures for the Administration of Section 5 (28 C.F.R. 51.35).

The Attorney General does not interpose any objection to the remaining specified changes. However, we note that Section 5 expressly provides that the failure of the Attorney General to object does not bar subsequent litigation to enjoin the enforcement of the changes. See the Procedures for the Administration of Section 5 (28 C.F.R. 51.41).

Sincerely,

Elizabeth Johnson  
Chief, Voting Section

cc: Public File



**Chandler • Arizona**  
*Where Values Make The Difference*

97-9056  
Section 5.02  
No. 97-3625

CIVIL RIGHTS DIVISION  
VOTING SECTION

97 DEC 24 PM 12: 05

December 18, 1997

SUBMISSION UNDER SECTION 5 VOTING RIGHTS ACT

Chief, Voting Section  
Civil Rights Division  
Department of Justice  
P. O. Box 66128  
Washington, D.C. 20035-6128

Dear Sirs:

The City of Chandler of Maricopa County, Arizona, will hold a Regular Election on March 10, 1998 for the qualified electors of the City of Chandler for the purpose of voting for a Mayor and three Councilmembers and a proposal to adopt a local alternative expenditure limitation. A General Election will be held on May 19, 1998, if no candidate receives the majority of votes cast and a runoff is necessary.

Pursuant to Sec. 51.27, the following information is offered:

**Annexations- changes affecting voting boundaries**

There have been four annexations since the last City election held on May 10, 1997. The annexations consisted of the following:

Ordinance No. 2722, annexing approximately 480 acres, was approved by City Council on June 26, 1997. Property is presently undeveloped with no voting population. Intended future use is single family.

Ordinance No. 2735, annexing approximately 77 acres, was approved by the City Council on July 7, 1997. Property is presently agricultural with no voting population. Intended future use is single family.

Ordinance No. 2720, annexing approximately 61 acres, was approved by the City Council on April 24, 1997. Property is presently agricultural with two people living on the annexed parcel. Intended future use is single family.

Ordinance No. 2745, annexing approximately 19 acres, was approved by the City Council on August 14, 1997. Property is presently agricultural with no voting population. Intended future use is single family.

**Office of the City Clerk**

25 South Arizona Place, Suite 302 • Chandler, Arizona 85225-8500 • (602) 786-2231



Department of Justice Submission  
City of Chandler, Arizona  
December 18, 1997  
Page 2

All of the above annexations have been sent for review by the U.S. Department of Justice, Voting Section. Any change in city limits is done by ordinance of the City Council.

The following ordinances were adopted at our City Council meeting of December 15, 1997. The ordinances are effective 30 days after final adoption. They include:

Ordinance No. 2769, annexing approximately 9 acres of land. The property is presently zoned industrial and will accommodate a warehouse in the future. There is no voting population.

Ordinance No. 2770, annexing approximately 39 acres of land. The property is currently agriculture however, future use is intended to be single family. There is no current voting population.

Ordinance No. 2776, annexing approximately 80 acres of land. The property is presently zoned single family and contains 200 lots. There are currently about 130 residences with construction on-going on the remaining lots. These residents will be eligible to vote in the City Election on March 10, 1998.

Copies of these ordinances are enclosed.

**Consolidated Precincts/Changes in Polling Place Locations/Change in term of office**

The City of Chandler regularly consolidates the election precincts. This practice was most recently precleared for our Special City election of May 20, 1997 and our regular Primary and General elections of January 23, 1996 and February 27, 1996. Eleven new precincts have been created due to precinct splits administered by Maricopa County Elections Department. Preclearance has been obtained from the Maricopa County Elections Department.

Polling places for the voting districts for the March 10, 1998 election are in the process of being secured. Polling locations will be secured by Maricopa County Elections Department for the City of Chandler. All polling location sites have been previously used by Maricopa County and have been precleared for county election sites. Changes in polling places are made by administrative decision of the City Clerk. A listing of polling places is attached.

Two charter amendments were approved by the voters of Chandler, Arizona in our Special Election of May 20, 1997. One amendment changes the length of term for the office of Mayor. The length of term a Mayor may serve has changed from two, two year terms to four, two year terms. The second amendment was to allow incumbent councilmembers/mayor to be eligible to serve such additional terms. These changes will be in effect for this upcoming election.

There is no anticipated affect on members of racial or language minority groups.

There is no past or pending litigation concerning related voting practices.

8  
DEC 15 1997

ORDINANCE NO. 2776

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CHANDLER, ARIZONA, EXTENDING AND INCREASING THE CORPORATE LIMITS OF THE CITY OF CHANDLER, MARICOPA COUNTY, STATE OF ARIZONA, (SOUTHEAST CORNER OF ALMA SCHOOL ROAD AND CHANDLER HEIGHTS ROAD ANNEXATION) PURSUANT TO THE PROVISIONS OF TITLE 9, CHAPTER 4, ARTICLE 7, ARIZONA REVISED STATUTES THERETO, BY ANNEXING THERETO CERTAIN TERRITORY CONTIGUOUS TO THE EXISTING CITY LIMITS OF THE CITY OF CHANDLER.

WHEREAS, a petition has been presented in writing to the City Council of the City of Chandler, Arizona, signed by the property owners of at least one-half of the value of the real and personal property as would be subject to taxation by the City of Chandler in the event of annexation and by more than one-half of the property owners within the territory and land hereinafter described as shown by the last assessment of said property, said territory being contiguous to the City of Chandler and not now embraced within its limits, asking that the property more particularly hereinafter described be annexed to the City of Chandler so as to embrace the same; and

WHEREAS, a blank petition was filed on September 25, 1997, with the County Recorder, that a public hearing was held on October 23, 1997, after proper notice was given, that the thirty day waiting period expired on October 25, 1997, and that the petition was circulated thereafter and signed by November 15, 1997; and

WHEREAS, the City Council of the City of Chandler, Arizona, is desirous of complying with said petition and extending and increasing the corporate limits of the City of Chandler to include said territory; and,

WHEREAS, the said petition sets forth a true and correct description of all the exterior boundaries of the entire area proposed to be annexed by the City of Chandler and had attached thereto at all times an accurate map of the territory desired to be annexed; and,

WHEREAS, no additions or alterations increasing the territory sought to be annexed have been made after the said petition had been signed by any owner of real and/or personal property in such territory; and,

WHEREAS, no alterations decreasing the territory sought to be annexed have been made and therefore the territory to be annexed is the territory hereinafter described; and

WHEREAS, proper and sufficient certification and proof and the foregoing facts are now on file in the Office of the City Clerk of the City of Chandler, Arizona, together with the original petition referred to herein;

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Chandler, Arizona, as follows:

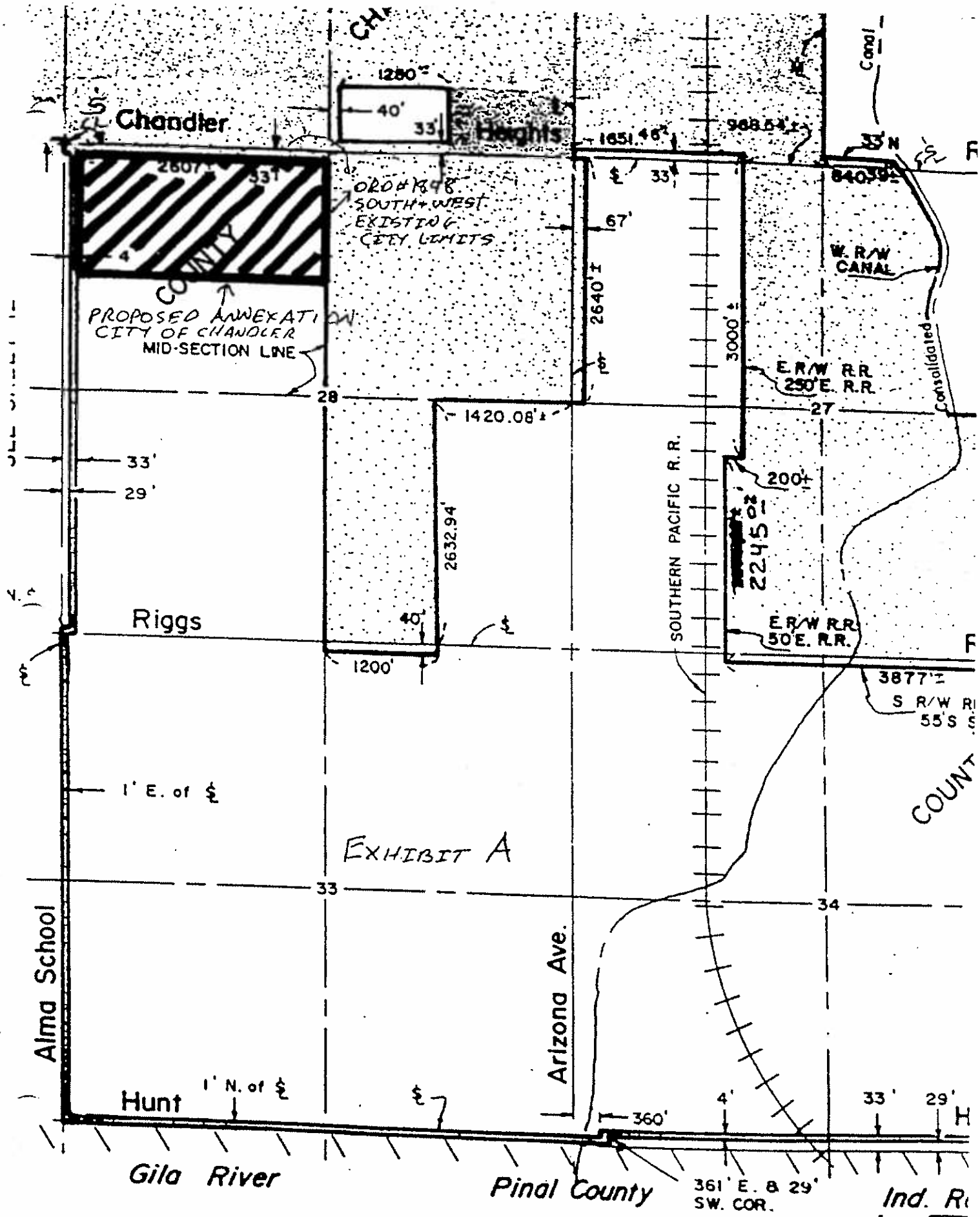
SECTION 1. That the following described territory be and the same hereby is annexed to the City of Chandler and that the present corporate limits be and the same hereby are extended and increased to include the following described territory contiguous to the present City limits:

Beginning at the Northwest Corner of Section 28, Township 2 South, Range 5 East, Gila and Salt River Base and Meridian, records of Maricopa County, Arizona; thence North 88 degrees 57 minutes 33 seconds East, along the North line of said Section, 2643.42 feet; to the North Quarter corner of Section 28, Township 2 South, Range 5 East; thence South 00 degrees 15 minutes 08 seconds West 1322.81 feet; along the existing city limits of the City of Chandler; thence South 88 degrees 57 minutes 53 seconds West 2627.42 feet; thence North 00 degrees 26 minutes 28 seconds West 1322.28 feet to the point of beginning. Except that portion previously annexed into the City of Chandler.

SECTION 2. The Clerk of this City is hereby instructed to file and record a copy of this Ordinance, together with an accurate map of said annexed territory, certified by the Mayor of said City, in the Office of the County Recorder of Maricopa County, Arizona.







city limit sheet is to be used as a guide only. SEE SHEET A

Ind. R.R. OR NR

7

DEC 15 1997

ORDINANCE NO. 2770

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CHANDLER, ARIZONA, EXTENDING AND INCREASING THE CORPORATE LIMITS OF THE CITY OF CHANDLER, MARICOPA COUNTY, STATE OF ARIZONA, (NORTHEAST CORNER OF COOPER ROAD AND WILLIS ROAD ANNEXATION) PURSUANT TO THE PROVISIONS OF TITLE 9, CHAPTER 4, ARTICLE 7, ARIZONA REVISED STATUTES THERETO, BY ANNEXING THERETO CERTAIN TERRITORY CONTIGUOUS TO THE EXISTING CITY LIMITS OF THE CITY OF CHANDLER.

WHEREAS, a petition has been presented in writing to the City Council of the City of Chandler, Arizona, signed by the property owners of at least one-half of the value of the real and personal property as would be subject to taxation by the City of Chandler in the event of annexation and by more than one-half of the property owners within the territory and land hereinafter described as shown by the last assessment of said property, said territory being contiguous to the City of Chandler and not now embraced within its limits, asking that the property more particularly hereinafter described be annexed to the City of Chandler so as to embrace the same; and

WHEREAS, a blank petition was filed on August 27, 1997, with the County Recorder, that a public hearing was held on September 25, 1997, after proper notice was given, that the thirty day waiting period expired on September 26, 1997, and that the petition was circulated thereafter and signed by October 28, 1997; and

WHEREAS, the City Council of the City of Chandler, Arizona, is desirous of complying with said petition and extending and increasing the corporate limits of the City of Chandler to include said territory; and,

WHEREAS, the said petition sets forth a true and correct description of all the exterior boundaries of the entire area proposed to be annexed by the City of Chandler and had attached thereto at all times an accurate map of the territory desired to be annexed; and,

WHEREAS, no additions or alterations increasing the territory sought to be annexed have been made after the said petition had been signed by any owner of real and/or personal property in such territory; and,

WHEREAS, no alterations decreasing the territory sought to be annexed have been made and therefore the territory to be annexed is the territory hereinafter described; and

WHEREAS, proper and sufficient certification and proof and the foregoing facts are now on file in the Office of the City Clerk of the City of Chandler, Arizona, together with the original petition referred to herein;

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Chandler, Arizona, as follows:

SECTION 1. That the following described territory be and the same hereby is annexed to the City of Chandler and that the present corporate limits be and the same hereby are extended and increased to include the following described territory contiguous to the present City limits:

The Southwest Quarter of the Northwest Quarter of Section 1, Township 2 South, Range 5 East, Gila and Salt River Base and Meridian, records of Maricopa County, Arizona except the North 208.71 feet of the East 208.71 feet of the West 241.71 feet.

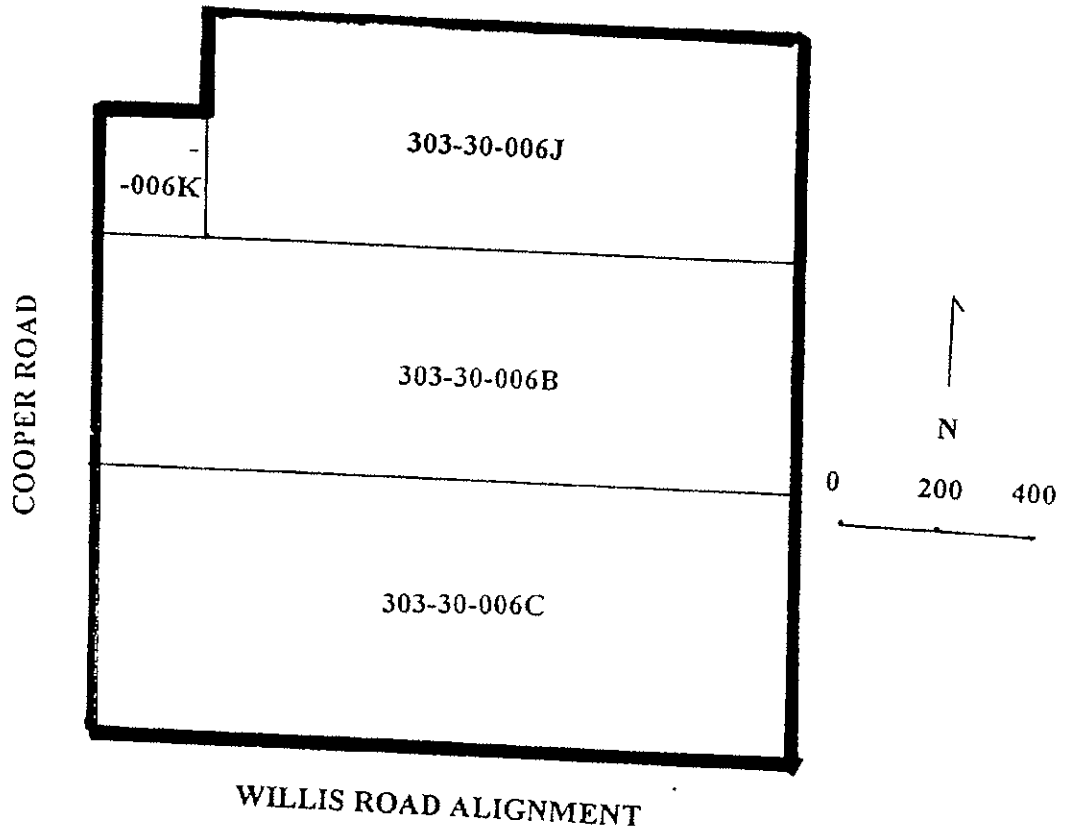
SECTION 2. The Clerk of this City is hereby instructed to file and record a copy of this Ordinance, together with an accurate map of said annexed territory, certified by the Mayor of said City, in the Office of the County Recorder of Maricopa County, Arizona.

SECTION 3. The Development and Community Services Department of the City of Chandler is hereby directed to enter such changes and amendments as may be necessary upon the Zoning Map of said Zoning Code in compliance with this ordinance.



ANNEXATION  
NORTHEAST CORNER COOPER ROAD AND WILLIS ROAD

EXHIBIT A



5  
DEC 15 1997

ORDINANCE NO. 2769

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CHANDLER, ARIZONA, EXTENDING AND INCREASING THE CORPORATE LIMITS OF THE CITY OF CHANDLER, MARICOPA COUNTY, STATE OF ARIZONA, (SOUTHWEST CORNER OF 56TH STREET AND FRYE ROAD ANNEXATION) PURSUANT TO THE PROVISIONS OF TITLE 9, CHAPTER 4, ARTICLE 7, ARIZONA REVISED STATUTES THERETO, BY ANNEXING THERETO CERTAIN TERRITORY CONTIGUOUS TO THE EXISTING CITY LIMITS OF THE CITY OF CHANDLER.

WHEREAS, a petition has been presented in writing to the City Council of the City of Chandler, Arizona, signed by the property owners of at least one-half of the value of the real and personal property as would be subject to taxation by the City of Chandler in the event of annexation and by more than one-half of the property owners within the territory and land hereinafter described as shown by the last assessment of said property, said territory being contiguous to the City of Chandler and not now embraced within its limits, asking that the property more particularly hereinafter described be annexed to the City of Chandler so as to embrace the same; and

WHEREAS, a blank petition was filed on September 25, 1997, with the County Recorder, that a public hearing was held on October 23, 1997, after proper notice was given, that the thirty day waiting period expired on October 25, 1997, and that the petition was circulated thereafter and signed on October 29, 1997; and

WHEREAS, the City Council of the City of Chandler, Arizona, is desirous of complying with said petition and extending and increasing the corporate limits of the City of Chandler to include said territory; and,

WHEREAS, the said petition sets forth a true and correct description of all the exterior boundaries of the entire area proposed to be annexed by the City of Chandler and had attached thereto at all times an accurate map of the territory desired to be annexed; and,

WHEREAS, no additions or alterations increasing the territory sought to be annexed have been made after the said petition had been signed by any owner of real and/or personal property in such territory; and,

WHEREAS, no alterations decreasing the territory sought to be annexed have been made and therefore the territory to be annexed is the territory hereinafter described; and

WHEREAS, proper and sufficient certification and proof and the foregoing facts are now on file in the Office of the City Clerk of the City of Chandler, Arizona, together with the original petition referred to herein;

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Chandler, Arizona, as follows:

SECTION 1.

That the following described territory be and the same hereby is annexed to the City of Chandler and that the present corporate limits be and the same hereby are extended and increased to include the following described territory contiguous to the present City limits:

Beginning at the East quarter corner of Section 32, Township 1 South, Range 4 East of the Gila and Salt River Base and Meridian, records of Maricopa County, Arizona; thence South 00 Degrees 03 Minutes, 00 Seconds East, along the East line of said Section 32, a distance of 663.79 feet along the City Limit line as established by Ordinance number 1793; thence South 89 Degrees 50 Minutes 14 Seconds West a distance of 585.00 feet along the City Limit line as established by Ordinance Number 989; thence North 00 Degrees 03 Minutes 00 Seconds West a distance of 663.47 feet to the East - West mid - section line of said Section 32; thence North 89 degrees 48 Minutes 20 Seconds East along said East West mid section line, a distance of 475.00 feet; thence North 00 Degrees 03 Minutes 00 Seconds West along a line 55 feet west of and parallel to Said Section line a distance of 40.00 feet; thence North 89 Degrees 40 Minutes 20 Seconds East a distance of 110.00 feet along the City Limit line as established by Ordinance Number 810; Thence South 00 Degrees 03 Minutes 00 Seconds East a distance of 40 feet



CERTIFICATION

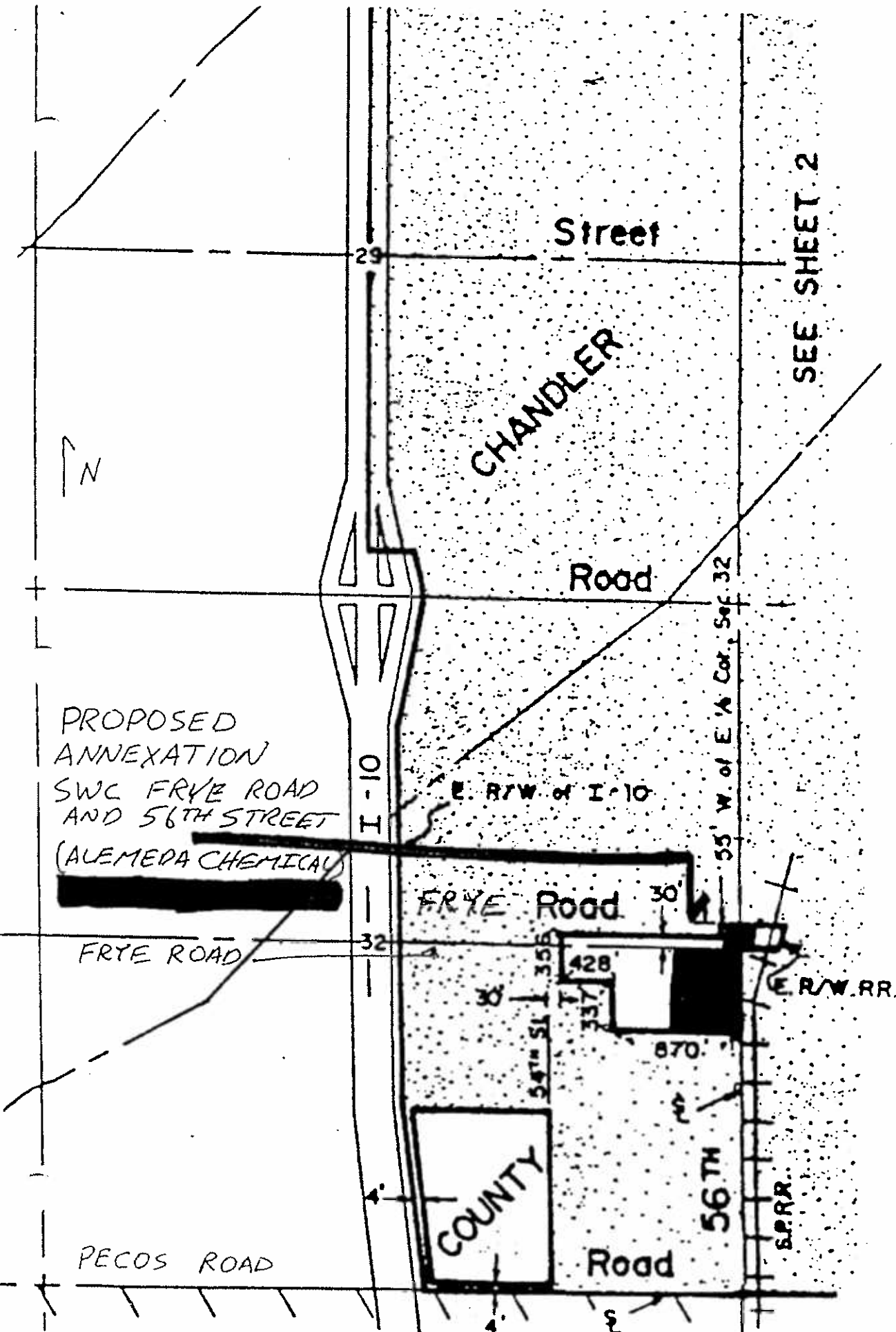
I HEREBY CERTIFY that the above and foregoing Ordinance No. 2769 was duly passed and adopted by the City Council of the City of Chandler, Arizona, at a regular meeting held on the \_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, and that a quorum was present thereat.

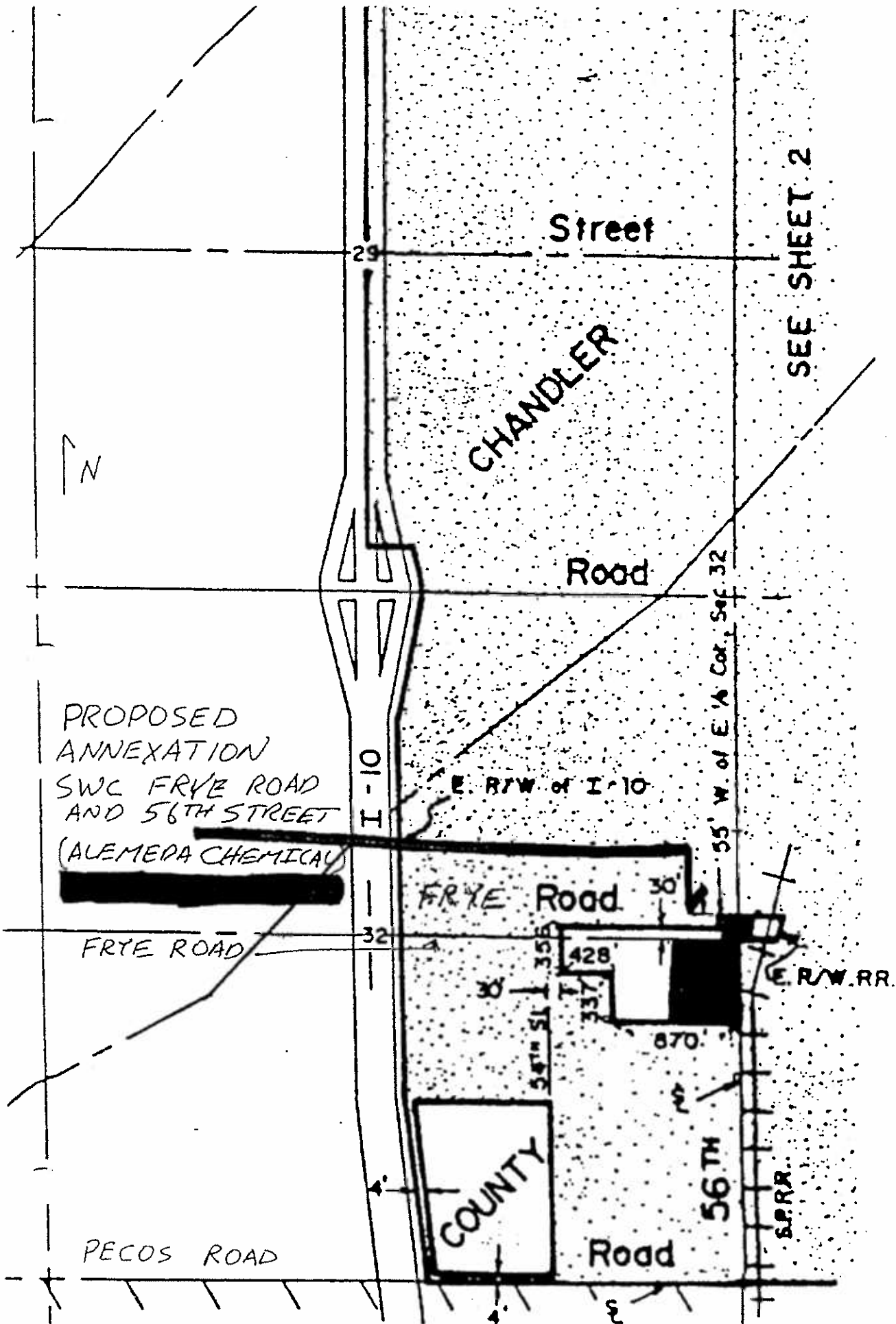
APPROVED AS TO FORM:

J. O.  
CITY ATTORNEY

\_\_\_\_\_  
CITY CLERK

PUBLISHED:





PROPOSED  
ANNEXATION  
SWC FRYE ROAD  
AND 56TH STREET  
(ALEMEDA CHEMICAL)

CHANDLER  
Road

Street

SEE SHEET 2

E.R.W. of I-10

FRYE Road 30'

FRYE ROAD

E.R.W. RR.

COUNTY

Road

56TH

S.P.R.R.

PECOS ROAD

N

29

I-10

32

30'

355'

428'

337'

870'

55' W. of E.W. Cor., Sec. 32

Version # 3 Dated 12/8/97 Initials ASW

**POLLING PLACES  
CITY OF CHANDLER  
MARCH 10, 1998 ELECTION**

	<u>POLLING PLACE</u>	<u>PRECINCTS</u>
✕ 1)	Jordan Elem. School 3320 N. Carriage Lane	0109 Chandler 1; 0112 Chandler 4
2)	Koinonia Mennonite Church 2505 N. Dobson Rd.	0110 Chandler 2; 0113 Chandler 5; 0114 Chandler 6; 0115 Chandler 7
3)	John M. Andersen Elem School 1350 N. Pennington	0117 Chandler 9; 0118 Chandler 10; 0119 Chandler 11; <b>0167 Comanche</b>
4)	Kon Tiki Mobile Home Village 555 W. Warner Rd.	0120 Chandler 12; 0121 Chandler 13
➤ 5)	Club Oasis Apartments 102 W. Palomino Dr.	0111 Chandler 3; 0116 Chandler 8 0292 Gilbert 1; 0302 Gilbert 11; <b>0042 Bayshore;</b>
6)	Corona Baptist Church 4450 W. Ray Rd.	0124 Chandler 16; 0125 Chandler 17; 0140 Chandler 32; <b>0026 Aprende;</b> <b>0283 Galveston</b>
7)	Erie School 1150 W. Erie St.	0126 Chandler 18; 0127 Chandler 19 <b>0816 Springs</b>
➤ 8)	Sunbird Golf Resort 6250 S. Sunbird Blvd.	0833 Sun Lakes 1, 0487 McQueen
9)	Knights of Columbus Hall 644 E. Chandler Blvd.	0130 Chandler 22; 0141 Chandler 33
✕ 10)	Shumway Elem School 1325 N. Shumway Ave.	0122 Chandler 14; 0131 Chandler 23 <b>0170 Concord</b>
11)	Kyrene Del Pueblo Middle Sch 360 S. Twelve Oaks Blvd.	0132 Chandler 24; 0133 Chandler 25; 0134 Chandler 26; <b>0413 Jupiter</b>

- 12) Chandler United Methodist Church 0135 Chandler 27; 0139 Chandler 31  
251 W. Chandler Blvd. **0290 Geronimo; 0455 Longhorn**
- 13) Chandler Community Center 0136 Chandler 28; 0137 Chandler 29;  
125 E. Commonwealth Ave. 0138 Chandler 30; 0143 Chandler 35
- 14) Anna Marie Jacobson School 0169 Compadre; 0646 Nightingale  
1515 NW Jacaranda Pkwy
- 15) ***St. Matthews Episcopal Church*** 0128 Chandler 20; 0129 Chandler 21  
901 W. Erie St.
- 16) ***Kyrene de la Mirada School*** 0123 Chandler 15; **0009 Alexander;**  
5500 W. Galveston St. **0142 Chandler 34; 0088 Campbell Park**



Chandler, Arizona  
The Water and Power Authority

CITY OF CHANDLER  
Office of the City Clerk  
Mail Stop 606  
PO Box 4008  
Chandler, Arizona 85244-4008

TO:

CHIEF VOTING SECTION  
CIVIL RIGHTS DIVISION  
DEPARTMENT OF JUSTICE  
P O BOX 66128  
WASHINGTON DC 20035-6128

**FIRST CLASS**

SUBMISSION UNDER SECTION 5  
VOTING RIGHTS ACT





U.S. Department of Justice

Civil Rights Division

IKP:DHH:TGL:tlb  
DJ 166-012-3  
97-2906

Voting Section  
P.O. Box 66128  
Washington, D.C. 20035-6128

November 5, 1997

The Honorable Antonio O. Garza, Jr.  
Secretary of State  
Elections Division  
P.O. Box 12060  
Austin, Texas 78711-2060

Dear Mr. Secretary:

This refers to Chapter 1146 (1997), which increases the terms of office, provides implementation procedures for the longer terms, provides for vacancy procedures, changes the election date, and removes a term limitation for the Clear Creek Drainage District in Galveston County, Texas, submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act, 42 U.S.C. 1973c. We received your submission on September 9, 1997.

The Attorney General does not interpose any objection to the specified changes. However, we note that Section 5 expressly provides that the failure of the Attorney General to object does not bar subsequent litigation to enjoin the enforcement of the changes. See the Procedures for the Administration of Section 5 (28 C.F.R. 51.41).

Sincerely,

Isabelle Katz Pinzler  
Acting Assistant Attorney General  
Civil Rights Division

By:

for Elizabeth Johnson  
Chief, Voting Section

Elections Division  
P.O. Box 12060  
Austin, Texas 78711-2060



Section 5 Submission  
No. 47-2906

**Antonio O. Garza, Jr.**

Secretary of State

## Office of the Secretary of State

September 2, 1997

Ms. Elizabeth Johnson  
Chief, Voting Section  
U.S. Department of Justice  
Civil Rights Division  
P.O. Box 66128  
Washington, D.C. 20035-6128

RE: Submission under Section 5, Voting Rights Act, of  
House Bill 3586, Chapter 1146, 75th Legislature, 1997.

Dear Ms. Johnson:

The Legislature of the State of Texas has enacted House Bill 3586, Chapter 1146, 75th Legislature, 1997 (the "Act"), which concerns the election of the Board of Supervisors ("Board") of the Clear Creek Drainage District of Galveston County ("District").

Pursuant to the requirements of 28 C.F.R. § 51.27, the following information is submitted with respect to the Act:

- (a) & (b) A certified copy of the Act is enclosed herewith.
- (c) Section 1 of the Act amends section 3 of Senate Bill 502, Chapter 243, Acts of the 58th Legislature, 1963, by adding new subsections (a), (b), and (c). Section 3(a) extends the term of office for members of the District's Board from two to four years, and provides that an election shall be held on the first Saturday in May of even-numbered years. Section 3(b) provides that if a vacancy occurs on the Board, the remaining members shall make an appointment to fill the unexpired term. Section 3(c) provides that, if a vacancy occurs on or before the 65th day before the general election for Board members held in the penultimate even-numbered year of a term of office, the appointee serves only until the Board's next general election and the remainder of the unexpired term shall be filled at the next general election. Chapter 243 was not subject to preclearance.

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(512) 463-5650

1-800-252-VOTE(8683)

FAX (512) 475-2811

TDD 1-800-735-2989

The Office of the Secretary of State does not discriminate on the basis of race, color, national origin, sex, religion, age or disability in employment or the provision of services.

97 SEP 9 - 9 PM 11:16  
OFFICE OF THE SECRETARY OF STATE

Section 2 of the Act provides that Board members serving on the Act's effective date serve terms as follows: (1) a Board member elected in 1995, or appointed to fill a vacancy that occurred in a seat up for that election, shall serve until Board members elected in the May 1998 general election take office, and (2) a Board member elected in 1996, or appointed to fill a vacancy that occurred in a seat up for that election, shall serve until Board members elected in the May 2000 general election take office.

Demographic data for the District is not available. However, the following data from the 1990 census and from current voter registration rolls relate to the county in which the District is located. According to the 1990 census, Galveston County's total population is 217,399 (17.6% African-American and 14.2% Hispanic). The census data indicate that the voting age population of Galveston County is 157,498 (16.2% African-American and 12.8% Hispanic). Our voter registration figures as of May 16, 1997 indicate that 9.77% of the registered voters of Galveston County possess Spanish surnames. This figure is derived by running a Spanish surname computer tape against our statewide voter registration master file. We do not collect information regarding race in voter registration; therefore, we are unable to provide information regarding the number of African-Americans who are registered voters in Galveston County.

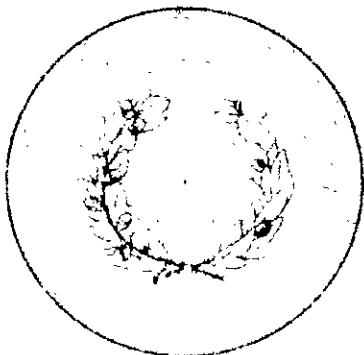
- (d) The submitting authority is the Honorable Antonio O. Garza, Jr., Secretary of State of Texas, in his capacity as chief elections officer of Texas. The Secretary of State's office may be reached at P.O. Box 12060, Austin, Texas 78711-2060, (512) 463-5650.
- (e) Not applicable.
- (f) Not applicable.
- (g) The authority responsible for passage of the Act was the Texas Legislature.
- (h) The Act was adopted pursuant to the provisions of Tex. Const. art. III, § 30.
- (i) The Act was passed unanimously by the Texas House on May 10, 1997 and passed unanimously by the Texas Senate on May 26, 1997. The Act was signed by Governor George W. Bush on June 19, 1997.
- (j) The Act took effect on June 19, 1997.
- (k) The provisions of the Act have not been implemented.




**The State of Texas**  
**Secretary of State**

I, ANTONIO O. GARZA, JR., Secretary of State of the State of Texas, DO  
HEREBY CERTIFY that the attached is a TRUE AND CORRECT COPY of House Bill  
3586, passed by the 75th Legislature, Regular Session, 1997, as signed by the Governor on  
June 19, 1997, and as filed in this office on June 20, 1997.

**Date Issued: July 17, 1997**



  
Antonio O. Garza, Jr., Secretary of State

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AN ACT

relating to the election of the board of supervisors of the Clear Creek Drainage District of Galveston County.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 3, Chapter 243, Acts of the 58th Legislature, Regular Session, 1963 (Article 8280-285, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 3. (a) The management and control of the District is hereby vested in a Board of five (5) Supervisors which shall have all of the powers and authority and duties conferred and imposed upon Boards of Supervisors of fresh water supply districts organized under Chapter 53, Water Code, together with all amendments thereof and additions thereto. Members of the Board of Supervisors shall be elected and shall hold office for staggered terms of four [~~two-(2)~~] years. Position numbers shall be assigned to each Supervisor's office, and each Supervisor shall be elected by position. [~~The terms of the Supervisors elected to positions -- 1 and -- 2 -- shall -- expire -- in -- even -- numbered -- years -- and -- the -- terms -- of -- the -- Supervisors -- elected -- to -- positions -- 3, 4, -- and -- 5 -- shall -- expire -- in -- odd -- numbered -- years.~~] An election shall be held on the first Saturday in May [~~April~~] in each even-numbered year to elect the appropriate number of Supervisors, and the person running for each position that receives the most votes for that position is elected Supervisor. Supervisors shall take office at the first regular

1 meeting of the Board of Supervisors in May [~~April~~] after the  
2 election.

3 (b) Except as provided by Subsection (c) of this section, if  
4 a vacancy occurs on the Board of Supervisors, the remaining  
5 Supervisors shall make an appointment to fill the unexpired term.

6 (c) If a vacancy occurs on or before the 65th day before the  
7 general election for Supervisors held in the next-to-last  
8 even-numbered year of a term of office:

9 (1) a person appointed under Subsection (b) serves  
10 only until the next general election for Supervisors; and

11 (2) the remainder of the unexpired term shall be  
12 filled at an election held at the next general election for  
13 Supervisors. [~~At the election held on April 7, 1979, a Supervisor~~  
14 ~~shall be elected from each of the five (5) positions, and the~~  
15 ~~persons elected to positions 1 and 2 shall serve until the first~~  
16 ~~regular meeting of the Board of Supervisors in 1987, and the~~  
17 ~~persons elected to positions 3, 4, and 5 shall serve until the~~  
18 ~~first regular meeting of the Board of Supervisors in 1981. No~~  
19 ~~person may be elected to serve more than two consecutive two-year~~  
20 ~~terms as a member of the Board of Supervisors.]~~


21 SECTION 2. Notwithstanding Section 50(b), Chapter 715, Acts  
22 of the 74th Legislature, Regular Session, 1995, supervisors serving  
23 on the board of the Clear Creek Drainage District of Galveston  
24 County on the effective date of this Act serve terms as follows:


25 (1) a supervisor elected in 1995, or appointed to fill  
26 an unexpired term for which the election was conducted in 1995,  
27 serves until the supervisors elected on the first Saturday of May,

1 1998, take office; and

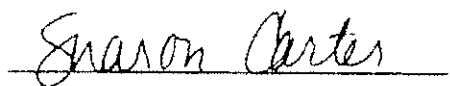
2 (2) a supervisor elected in 1996, or appointed to fill  
3 an unexpired term for which the election was conducted in 1996,  
4 serves until the supervisors elected on the first Saturday of May,  
5 2000, take office.

6 SECTION 3. The importance of this legislation and the  
7 crowded condition of the calendars in both houses create an  
8 emergency and an imperative public necessity that the  
9 constitutional rule requiring bills to be read on three several  
10 days in each house be suspended, and this rule is hereby suspended,  
11 and that this Act take effect and be in force from and after its  
12 passage, and it is so enacted.


  
\_\_\_\_\_  
President of the Senate

H.B. No. 3586  
  
\_\_\_\_\_  
Speaker of the House

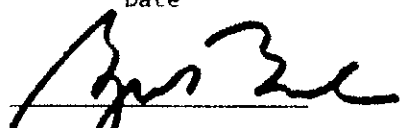
I certify that H.B. No. 3586 was passed by the House on May 10, 1997, by the following vote: Yeas 140, Nays 0, 2 present, not voting.

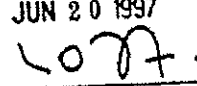
  
\_\_\_\_\_  
Chief Clerk of the House

I certify that H.B. No. 3586 was passed by the Senate on May 26, 1997, by the following vote: Yeas 31, Nays 0.

  
\_\_\_\_\_  
Secretary of the Senate

APPROVED: 6.19.97  
Date

  
\_\_\_\_\_  
Governor

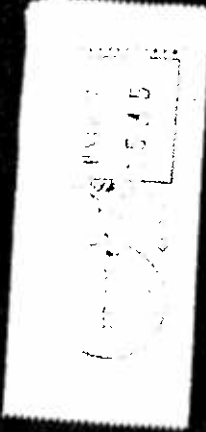
FILED IN THE OFFICE OF THE  
SECRETARY OF STATE  
9:55am O'CLOCK  
JUN 20 1997  
  
\_\_\_\_\_  
Secretary of State

Fold at line over top of envelope to the right of the return address.

**CERTIFIED**

P 795 944 766

**MAIL**



Secretary of State  
Elections Division  
P.O. Box 12060  
Austin, TX, 78711-2060

ELIZABETH JOHNSON  
CHIEF, VOTING SECTION  
U.S. DEPARTMENT OF JUSTICE  
CIVIL RIGHTS DIVISION  
P.O. BOX 66128  
WASHINGTON, D.C. 20035-6128

EJ:GS:CEI:lrj  
DJ 166-012-3  
99-1200

June 28, 1999

Ms. Katy Suiter  
City Clerk  
334 Front Street  
Ketchikan, Alaska 99901

Dear Ms. Suiter:

This refers to the procedures for conducting the October 5, 1999, special charter amendment election and, if approved by the voters, the elimination of consecutive term limits for mayor and council members for the City of Ketchikan in the Ketchikan Gateway Borough, Alaska, submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act, 42 U.S.C. 1973c. We received your submission on April 28, 1999; supplemental information was received on June 23, 1999.

The Attorney General does not interpose any objection to the specified changes. However, we note that Section 5 expressly provides that the failure of the Attorney General to object does not bar subsequent litigation to enjoin the enforcement of the changes. See the Procedures for the Administration of Section 5 (28 C.F.R. 51.41).

Sincerely,

Elizabeth Johnson  
Chief, Voting Section

cc: Public File

SECTION 5 SUBMISSION



334 Front Street  
 Ketchikan, Alaska 99901  
 Telephone: (907) 225-3111  
 FAX : (907) 225-5075

NO. 99-1200

FACSIMILE TRANSMITTAL	
TO	Dept. of Justice
ATTENTION	Corliss Ibbot
FROM	Katy Suiter, City Clerk
DATE & TIME	6/23/99
FAX NUMBER	202-307-2569
NO. OF PAGES	10

Notes: The following is attached

- ① Charter Section dealing with elections
- ② Resolution 99-1934 passed by Council
- ③ Portion of minutes of meeting where Res. 99-1934 was passed

Hard copy will follow: Yes \_\_\_\_\_ No X

The council may provide for the suspension or revocation of a permit or license issued by the city when the permittee or licensee is convicted of violating any provision of law or ordinance relating to the privilege, action, business, profession, trade, other vocation or anything for which the permit or license was issued. (Amended by Resolution 93-1736 §2, approved by voters October 5, 1993)

### Pardons, Paroles and Commutations

Section 9-3. The mayor shall have power to pardon or to parole any person convicted of a violation of this charter or of any ordinance, and to commute sentences therefor. The council shall have power to regulate and to limit the power granted by this section.

## ARTICLE X. ELECTIONS

### Annual Elections -- Time

Section 10-1. There shall be no primary election, but only a general election, herein also called regular election, for the election of the mayor and councilmen. Such election shall be held on the first Tuesday in October every year.

### Three-Year Terms -- Election at Large -- Nonpartisan Elections

Section 10-2. At the regular election in 1960, two councilmen shall be elected; and at the regular election in 1963, and each three years thereafter, three councilmen shall be elected. At the regular election in 1961, and each three years thereafter, a mayor and two councilmen shall be elected. At the regular election in 1962, and each three years thereafter, two councilmen shall be elected.

The mayor and councilmen shall be elected for terms of three years, and shall serve thereafter until their respective successors are elected and qualify; provided that, if fewer councilmen are elected and qualify in any year than provided for in this section (because of failure of other candidates to file or for other cause), then lots shall be cast in a meeting of the council and under its direction to determine which of the councilmen whose terms are about to expire shall continue to serve.

The terms of office of the mayor and councilmen shall begin on the first Monday after their election. If the mayor-elect or a councilman-elect fails to qualify within one month after the beginning of his term, his election shall be void.

The mayor and councilmen shall be elected at large, by the qualified voters of the entire city, by secret ballot. The election shall be nonpartisan, and no party designation or emblem shall be placed on the ballot.

### Filing

Section 10-3. Any qualified person may have his or her name placed on the ballot for the election as a candidate for mayor or councilperson by filing a petition with the city clerk, signed by at least 10 qualified voters of the city and a sworn statement of

his or her candidacy, nor more than eight weeks and at least four weeks prior to the election. The petition may have been circulated and filed by the candidate or by one or more qualified voters other than the candidate. Notwithstanding any other provision in this charter, no person shall be eligible to serve more than two (2) terms consecutively as a councilmember or more than two (2) terms consecutively as mayor. Election to serve the unexpired portion of a term shall be considered a full term for purposes of such limitations, however, the period served after appointment to a vacancy prior to an election to fill such vacancy shall not be considered a term for purposes of the limitations provided in this section. (Amended Res. 1631 and Res. 1633, approved by voters Oct. 2, 1990; Ord. 783, 1973).

#### Voting -- Who Elected

Section 10-4. Every qualified voter of the city shall be entitled to vote for one candidate for each office to be filled at an election. On the ballots between the title of the office and the names of the candidates, shall be placed the instruction "Vote for...(one, two, three)", as the case may be. A voter may also write in the name of, and vote for, a person whose name does not appear on the ballot. The candidate for mayor receiving the greatest number of votes shall be elected. The two or three candidates for councilman, depending on the number to be elected, receiving the greatest number of votes shall be elected. In case of a tie, the election shall be determined fairly by lot from among the candidates tying, in a meeting of the council and under its direction.

#### Filling Vacancies at Elections

Section 10-5. When a mayor and/or councilman or councilmen are being elected to fill a vacancy or vacancies for the unexpired term or terms, the provisions of this charter shall apply as in the election of a mayor and councilmen for regular terms, insofar as applicable. The phrase "for one-year term", "for two-year term", and/or "for regular three-year term", as the case may be, shall be placed after the titles of the offices on the ballots as necessary to identify the places on the council being filled at such election.

#### Council to Be Judge of Election and Qualifications of Its Members

Section 10-6. The council shall be the judge of the election and qualifications of its own members and the mayor, subject to judicial review as may be provided by law.

#### Qualified Voter Defined

Section 10-7. Every qualified voter as defined in Article V of the Alaska Constitution, who resides within this city, shall be entitled to vote in any election and on any city question thereat; provided that such qualified voter must also possess any other qualifications prescribed by or in accordance with law or ordinance for voting on bond issues before he shall be entitled to vote on bond issues.

### Political Activity of Officers and Employees

Section 10-8. No officer or employee of the city except the mayor and councilman may work for or against, or attempt to influence, the election or defeat of any candidate for mayor or councilman, or the recall of the mayor or any councilman; provided that this shall not prohibit the ordinary exercise of one's right to express his opinions and to vote. Any person who violates this section, shall be punished, upon conviction thereof, by a fine not exceeding fifty dollars and costs. Such violation shall constitute cause for removal from office or employment; and if the regular removal authority has not already removed a person who violates this section, he shall be automatically removed by the said conviction of violating this section.

### Calling Special Elections -- Questions Submitted at Elections -- Notice

Section 10-9. The council, by resolution or ordinance, may call, or may authorize the mayor by proclamation to call, special elections and submit questions thereat. In the same manner, other questions may be submitted to the voters at a special election or at a regular election. Questions may also be submitted at elections as provided in other sections of this charter. The city clerk shall publish in full every charter amendment and every ordinance and every other question which is to be submitted to the voters at an election for approval or enactment, except a referred ordinance which was published in full after passage, not more than six weeks and at least three weeks before the election at which it is to be submitted.

### Canvassing Returns -- Certificates of Election

Section 10-10. The council shall canvass the returns of all city elections, regular and special, and shall ascertain and declare the results thereof; provided that the council may delegate this function to a board created by ordinance. The city clerk shall promptly prepare, sign and issue certificates of election, sealed with the seal of the city, to all persons elected to office.

### Laws to Govern Elections When

Section 10-11. The provisions of law applicable to city elections, shall govern elections of this city insofar as they are applicable, and are not superseded by this charter or by ordinance.

## ARTICLE XI. INITIATIVE, REFERENDUM AND RECALL

### Initiative and Referendum: Authorized -- Exceptions

Section 11-1. The qualified voters of the city, by the initiative, may propose and enact any ordinance which the council has power to enact under this charter except as otherwise provided in this section. The qualified voters of the city, by the referendum, may approve or reject any ordinance passed by the council except as otherwise provided in this section.

Ordinances dedicating revenues, ordinances making, repealing, transferring, or otherwise changing appropriations, ordinances creating courts, defining the jurisdiction of courts or prescribing their rules, and special ordinances, shall not be subject to either the initiative or the referendum. Ordinances granting, extending or renewing franchises for public utilities shall not be subject to the initiative. Ordinances necessary for the immediate preservation of the public peace, health or safety (herein called emergency ordinances), shall not be subject to the referendum.

### Petitions

Section 11-2. An initiative petition or a referendum petition shall contain a copy or summary of the ordinance initiated or sought to be referred; provided that, if a summary only is included in an initiative petition, at least three copies of the proposed ordinance shall be filed in the city clerk's office and shall be open to public inspection. A copy of the petition shall be filed with the city clerk before copies are circulated for signatures. The petition shall then be signed by a number of qualified voters of the city equal at least to twenty-five percent of the total votes cast at the immediately preceding regular city election. An initiative petition with sufficient signatures must be filed within one month after the copy was originally filed as hereinabove provided. A referendum petition with sufficient signatures must be filed within one month after passage and publication of the ordinance sought to be referred. When a referendum petition with signatures is thus filed, the ordinance sought to be referred shall not go into effect until the petition is finally found to be illegal and/or insufficient, or, in case the petition is found to be legal and sufficient, until the voters approve the ordinance as provided below in this article. Each copy of an initiative or a referendum petition filed must bear an affidavit signed by the qualified voter who circulated the copy stating that each of the signers who signed the copy signed it in his presence, that he believes that each has stated his name and address correctly, and that he believes each signer is a qualified voter of the city. Within one month after the petition is filed, the city clerk, with such assistance from the city attorney as he deems necessary, shall ascertain whether the petition is legal and has sufficient signatures, and shall certify his finding. His finding shall be subject to judicial review.

### Ballot Title and Proposition -- Submission

Section 11-3. If an initiative or a referendum petition is found to be legal and to have sufficient signatures, the city clerk, with such assistance from the city attorney as he deems necessary, shall prepare the ballot title and proposition for the ordinance. The city clerk shall place the question on the ballot for the next regular or special city election held not less than two months after final determination of the legality and sufficiency of the petition. The council by resolution or ordinance may call, or authorize the mayor by proclamation to call, a special election for the purpose. If, in the case of an initiative petition, the council, at least one month before the election, enacts an ordinance substantially the same as the one in the petition, the petition shall be void.

**Vote Required -- Effect**

**Section 11-4.** If a majority of the votes cast on the proposition favor the enactment of an initiated ordinance, it shall be enacted; provided that, if the proposition is submitted at a special election, the number of votes cast at the election must be at least 50% of the number of the votes cast at the last regular municipal election. If at least as many votes are cast for the approval of a referred ordinance as are cast against it, it shall be approved and go into effect; otherwise it shall be rejected. The council may not, within two years after the election, repeal an initiated ordinance which has been enacted, but may at any time pass a non-emergency ordinance amending it by the same vote required for the passage of an emergency ordinance. If two or more initiated or referred ordinances which have conflicting provisions are enacted or approved at the same election, the one receiving the largest affirmative vote shall prevail.

**Charter Provisions Self-Executing -- Further Regulation by Ordinance**

**Section 11-5.** The provisions of this charter relating to the initiative and referendum shall be self-executing, but the council by ordinance may further regulate the procedures for the initiative and referendum.

**Recall**

**Section 11-6.** All incumbents of elective offices of the city, including persons chosen to fill vacancies in such offices, shall be subject to recall from office by the qualified voters of the city. Procedures and grounds for recall shall be such as may be prescribed by law. The council by ordinance may further regulate the recall insofar as such regulation is not in conflict with the state constitution or law.

**ARTICLE XII. INTERGOVERNMENTAL RELATIONS****Cooperation with Other Units of Government -- Transfer of Powers and Functions**

**Section 12-1.** Agreements, including those for cooperative or joint administration of any function or power, may be made by the council with any other local government, with the state, or with the United States, unless otherwise provided by law or by this charter. The council may transfer to the borough in which this city is located any of the city's powers and functions unless prohibited by law or this charter, and may in a like manner revoke the transfer. Such agreement for cooperative or joint administration of any function or power, or such transfer of any power or function to the borough, or the revocation of any such transfer, shall be made only by a non-emergency ordinance or by authority of such ordinance. The ordinance shall be published in full within ten days after its passage, and shall be subject to referendum procedures as provided in this charter if a legal and sufficient referendum petition is properly filed. Procedures for making

2

## THE CITY OF KETCHIKAN, ALASKA

## RESOLUTION NO. 99-1934

A RESOLUTION OF THE COUNCIL OF THE CITY OF KETCHIKAN, ALASKA; PROPOSING THAT TERM LIMITATIONS FOR THE OFFICES OF COUNCILMEMBER AND MAYOR BE REPEALED EFFECTIVE JANUARY 1, 2000; PROPOSING THAT SECTION 10-3 OF THE CITY CHARTER BE AMENDED TO REPEAL THOSE TERM LIMITATIONS; PROVIDING THAT SUCH AMENDMENT BE SUBMITTED TO THE VOTERS FOR APPROVAL OR REJECTION AT THE REGULAR ELECTION TO BE HELD ON OCTOBER 5, 1999; DIRECTING THE CITY CLERK TO TAKE SUCH ACTION AS IS NECESSARY TO PLACE THE AMENDMENT BEFORE THE QUALIFIED VOTERS OF THE CITY OF KETCHIKAN ON OCTOBER 5, 1999; AND ESTABLISHING AN EFFECTIVE DATE.

BE IT RESOLVED by the Council of the City of Ketchikan, Alaska, as follows:

Section 1. Charter Amendment. Pursuant to Section 10-9 and Section 13-1 of the Charter of the City of Ketchikan, Alaska, the City Council proposes that the Charter of the City of Ketchikan be amended as provided in the ballot proposition set forth in Section 2 below, and that such proposed Charter Amendment be submitted to the qualified voters of the City for approval or rejection at the regular election to be held on October 5, 1999. The City Clerk is directed to publish the proposed Charter Amendment as required by Section 10-9 of the Charter and Section 1.08.080 of the Ketchikan Municipal Code and to do all other things necessary to hold the election and place the question of this Charter Amendment before the qualified voters of the City.

Section 2. Proposition to be submitted to voters. The proposed Charter Amendment to be submitted to the voters for approval or rejection is set forth in the following proposition. Provisions to be added are underlined and provisions to be deleted are shown in brackets [ ] with full capitalization.

Proposition No. 1

Shall Section 10-3 of Article X of the City Charter be amended to read as follows:

(Note: Provisions to be added are underlined and provisions to be deleted are shown in brackets [ ] with full capitalization.)

Filing.

Section 10-3. Any qualified person may have his or her name placed on the ballot for the election as a candidate for mayor or councilperson by filing a petition with the city clerk, signed by at least 10 qualified voters of the city and a sworn statement of his or her candidacy, no more than eight weeks and at least four weeks prior to the election. The petition may have been circulated and filed by the candidate or by one or more qualified voters other than the candidate. [NOT WITHSTANDING ANY OTHER PROVISION IN THIS CHARTER, NO PERSON SHALL BE ELIGIBLE TO SERVE MORE THAN TWO (2) TERMS CONSECUTIVELY AS A COUNCILMEMBER OR MORE THAN TWO (2) TERMS CONSECUTIVELY AS MAYOR. ELECTION TO SERVE THE UNEXPIRED PORTION OF A TERM SHALL BE CONSIDERED A FULL TERM FOR PURPOSES OF SUCH LIMITATIONS, HOWEVER, THE PERIOD SERVED AFTER APPOINTMENT TO A VACANCY PRIOR TO AN ELECTION TO FILL SUCH VACANCY SHALL NOT BE CONSIDERED A TERM FOR PURPOSES OF THE LIMITATIONS PROVIDED IN THIS SECTION.] Section 13-1 of this Charter notwithstanding, this Section 10-3 shall become first effective on January 1, 2000, and shall thereafter apply to all persons including the councilmembers and mayor holding office on January 1, 2000.

YES  
 NO

Section 3: Voting Rights Act clearance. The City Clerk is directed to prepare and submit to the U.S. Department of Justice such documents and other materials as are required under the Voting Rights Act of 1965, as amended, to obtain the required Department of Justice clearance of the amendment proposed in this resolution.

Section 4: Effective Date of Charter Amendment. The proposed Charter Amendment referred to in this resolution shall become effective on January 1, 2000, provided that it is approved by a majority of the qualified voters residing within the City at the election held and conducted as provided in Section 1 above, with the results of that election certified by the City Council.

Section 5: Effective Date of Resolution. This resolution shall be effective immediately upon passage.

PASSED AND APPROVED this 15<sup>th</sup> day of April, 1999.

Bob Weinstein  
Bob Weinstein, Mayor

ATTEST:

Katherine M. Sulter  
Katherine M. Sulter  
City Clerk

Date: 6/23/99

Analyst: C. Ibbott

Other Party: Katy Suiter

Title: City Clerk

Tel. No.: 907-225-3111

Jurisdiction: Ketchikan, Alaska

I called Ms. Suiter and asked her if she would like for us to review the elimination of term limits along with the procedures for conducting the special election.

Ms. Suiter said "yes", she would like for us to consider both changes.

Date: 6/23/99

Analyst: C. Ibbott

Other Party: Katy Suiter

Title: City Clerk

Tel No.: 907-225-3111

Jurisdiction: Ketchikan, Alaska

The City of Ketchikan is governed by a mayor and seven council members elected at large by plurality vote to serve three-year staggered terms (3, M-2, 2). In the October 1999 election three council members will be elected. Alaskan Native have previously served on the council, however, there are none currently serving.

Ketchikan has a small Alaskan Native population, but English is the spoken language.

Along with the October regular election, a referendum will be held on an amendment to Section 10-3 of the Charter. The referendum will be for the elimination of term limits. Currently the mayor and council serve two-three year terms. The council now want to do away with term limits.

There are no changes in election procedures for this election.

JDR:GLH:DCM:par  
DJ 166-012-3  
2000-0854

April 28, 2000

John Dewey, Esq.  
City Attorney  
25 Oak Drive  
Lake Jackson, Texas 77566-5289

Dear Mr. Dewey:

This refers to the procedures for conducting the May 6, 2000, special charter amendment election, including the consolidation of voting precincts and polling places, and, if approved by the voters, the elimination of term limits for the mayor and councilmembers elected after April 30, 2000, the elimination of property ownership as a candidate qualification, the change in the runoff election schedule, and the adoption of a nepotism rule for the City of Lake Jackson in Brazoria County, Texas, submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act, 42 U.S.C. 1973c. We received your submission on February 28, 2000.

The Attorney General does not interpose any objection to the specified changes. However, we note that Section 5 expressly provides that the failure of the Attorney General to object does not bar subsequent litigation to enjoin the enforcement of the changes. See the Procedures for the Administration of Section 5 (28 C.F.R. 51.41).

Sincerely,

Joseph D. Rich  
Acting Chief  
Voting Section



SECTION 5 SUBMISSION

NO. 2000-0854

## CITY OF LAKE JACKSON

25 OAK DRIVE • LAKE JACKSON, TEXAS 77566-5289 • 409-297-2481 • FAX 409-297-9804

February 16, 2000

Chief, Voting Rights Section  
U. S. Department of Justice  
Civil Rights Division  
Washington, D. C. 20530

CIVIL RIGHTS DIVISION  
VOTING SECTION  
00 FEB 28 PM 3:36

Submission under Section 5,  
Voting Rights Act

Dear Gentlemen:

Under the Voting Rights Act, we understand that as a home rule city in the State of Texas, we must submit for preclearance, copies of all ordinance or propositions that are to appear on the ballot of the regular city election scheduled for May 6, 2000. There are four propositions that are to appear on our May 6 ballot:

- (1) City charter amendment with regard to term limits for council members and mayor
- (2) City charter amendment for compliance with State law that would not require a councilmember/mayor to be a property owner.
- (3) City charter amendment to allow a runoff election to be held on the first Saturday in June when the last Saturday in May falls on a holiday weekend.
- (4) City Charter amendment by making it clear that those who are related to City officials are not meant to serve in paid positions of the City unless on City payroll for at least six months prior to said official being elected or appointed.

We have enclosed copies of the ordinance that placed these items on the ballot and hope that they meet with your procedural and substantive approval.

Also for your consideration is the combining of our voting precincts 30 & 31 with the polling location to be in precinct 30. The City of Lake Jackson's voting precincts are the same precincts that Brazoria County has set. We received notice that effective January 1, 2000 Brazoria County would be dividing Precinct 30 into precincts 30 & 31. In reviewing the new precinct 31 we have found that there is only one resident living in precinct 31. This resident voted in precinct 30 in the previous elections.

CITY OF LAKE JACKSON

25 Oak Drive

Lake Jackson, Texas 77566-5289

TO

Chief, Voting Rights Section  
U. S. Department of Justice  
Civil Rights Division  
Washington, D.C. 20530

JUSTICE

10322194

**ELECTION PRECINCT SIXTY-SIX - LAKE JACKSON**

**BEGINNING** at the intersection of the centerline of County Road 288 with the centerline of the Missouri Pacific Railroad;

**THENCE:** Southerly, along the centerline of the Missouri Pacific Railroad to its intersection with a Westward extension of County Road 210A;

**THENCE:** Westerly, along said extension to the centerline of County Road 288;

**THENCE:** Northerly, along the centerline of County Road 288 to the Place of Beginning.

12/8/95

Revised from #31 to #66 4/23/98

(Prct. 66)

PRECINCT THIRTY-ONE CONTINUED.....

THENCE: Northerly, along the centerline of Mill Road to the centerline of Flintlock Court;

THENCE: Westerly, along the centerline of Flintlock Court, to the centerline of Pony Trail;

THENCE: North, along the centerline of Pony Trail, to the centerline of Quarter Horse Trail;

THENCE: East, along the centerline of Quarter Horse Trail, to the centerline of the West Branch of Mill Bayou;

THENCE: Northerly, along the centerline of the West Branch of Mill Bayou, to the centerline of State Highway 35;

THENCE: West, along the centerline of State Highway 35, to the centerline of County Road 705;

THENCE: Westerly, along the centerline of County Road 705, and a Northwesterly extension of same to its intersection with centerline of the Brazos River and the Place of Beginning;

4/23/98 Revised  
(Prct. 31/new)

PRECINCT THIRTY-ONE CONTINUED.....

- THENCE: North, along the centerline of Walker Street, to the centerline of State Highway 35;
- THENCE: West, along the centerline of Highway 35, to its intersection with the centerline of the easternmost end of Western Avenue;
- THENCE: Westerly, along the centerline of Western Avenue, with its various turns to its intersection with the centerline of State Highway 35;
- THENCE: West, along the centerline of State Highway 35, to the centerline of F.M. Highway 521;
- THENCE: Southwest, along the centerline of F.M. Highway 521, to the centerline of Longhorn Trail;
- THENCE: Northwest, along the centerline of Longhorn Trail to the centerline of Brahman Trail;
- THENCE; Southwest, along the centerline of Brahman Trail, to the Centerline of Chuckwagon Trail;
- THENCE: West, along the centerline of Chuckwagon Trail, to the centerline of Chuckwagon Court;
- THENCE; Northwest, along the centerline of Chuckwagon Court, to the centerline of Mill Bayou;
- THENCE: In a Northerly direction along the centerline of Mill Bayou, to the centerline of Mohawk Lane;
- THENCE: Northwesterly, along the centerline of Mohawk Lane, to the centerline of Frontier Trail;
- THENCE: Northerly, along the centerline of Frontier Trail to the centerline of Mill Road;

PRECINCT THIRTY-ONE CONTINUED.....

THENCE; East, along the South line of the Galloway Estate 214.63 acre tract, to the centerline of Bastrop Bayou;

THENCE; Downstream, following the centerline of Bastrop Bayou, to the centerline of County Road 288;

THENCE: Northerly, along the centerline of County Road 288, to the centerline of the North Spur of the Missouri-Pacific Railroad;

THENCE; Northerly, along the centerline of the North Spur of the Missouri Pacific Railroad to the centerline of the Wayne Street Crossover (City of Angleton);

THENCE; East, along the centerline of Wayne Street crossover to the centerline of Front Street;

THENCE; North, along the centerline of Front Street, to the centerline of Ward Drive;

THENCE; Southwesterly, along the centerline of Ward Drive, to its intersection with the centerline of Angleton Drainage District Ditch 7;

THENCE; Northerly, along the centerline of said Ditch 7, to its intersection with the centerline of the main line of the Missouri-Pacific Railroad;

THENCE: Southwest, along the centerline of the main line of the Missouri-Pacific Railroad, to the West line of the H.H. Cornwall Survey, Abstract 180;

THENCE: North, along the West line of the Cornwall Survey, to the centerline of County Road 290;

THENCE: Northeast, along the centerline of County Road 290, to its intersection with the centerline of Walker Street (City of Angleton);

ELECTION PRECINCT THIRTY ONE- LAKE JACKSON

BEGINNING at the intersection of the centerline of the Brazos River with a Northwesterly extension of the centerline of County Road 705;

THENCE; Southeasterly, along the centerline of the Brazos River, to its intersection with the South line of John P. Coles Survey, Abstract 55;

THENCE; Due East, along the South line of the John P. Coles Survey, Abstract 55, passing the Southeast corner of the John P. Coles Survey, Abstract 55, and continue due East to a point in the center of the bed of Buffalo Camp Bayou;

THENCE; Down the center of the bed of Buffalo Camp Bayou, to the centerline of the levee of Brazoria Reservoir;

THENCE; Northerly, along the centerline of said levee, for 200 feet;

THENCE; Due East to a point in the West line of Retrieve State Prison Farm and the East line of the Dow Chemical Company 3586.32 acre tract;

THENCE; North, with the common line between said Retrieve Prison Farm and the Dow 3586.32 acre tract, to the Northeast corner of the Dow Chemical Company 3586.32 acre tract, which is also an ell corner of said Retrieve Prison Farm;

THENCE; In a Southeasterly direction, in a straight line, to a point where the common line between the S.F. Austin 5 League Grant, Abstract 19, and the J.E. Groce Survey, Abstract 66, crosses the centerline of Oyster Creek for the fourth time;

THENCE; In a Southeasterly direction, to a point marking the Northwest corner of the W.T. Galloway Estate 214.63 acre tract;

THENCE; South, along the West line of the W.T. Galloway Estate 214.63 acre tract, to the Southwest corner of the Galloway Estate 214.63 acre tract;

PRECINCT THIRTY CONTINUED.....

Dow 3586.32 acre tract, to a point which is due East of a point which is 200 feet North of the intersection of the center of the bed of Buffalo Camp Bayou with the center line of the levee of Brazoria Reservoir;

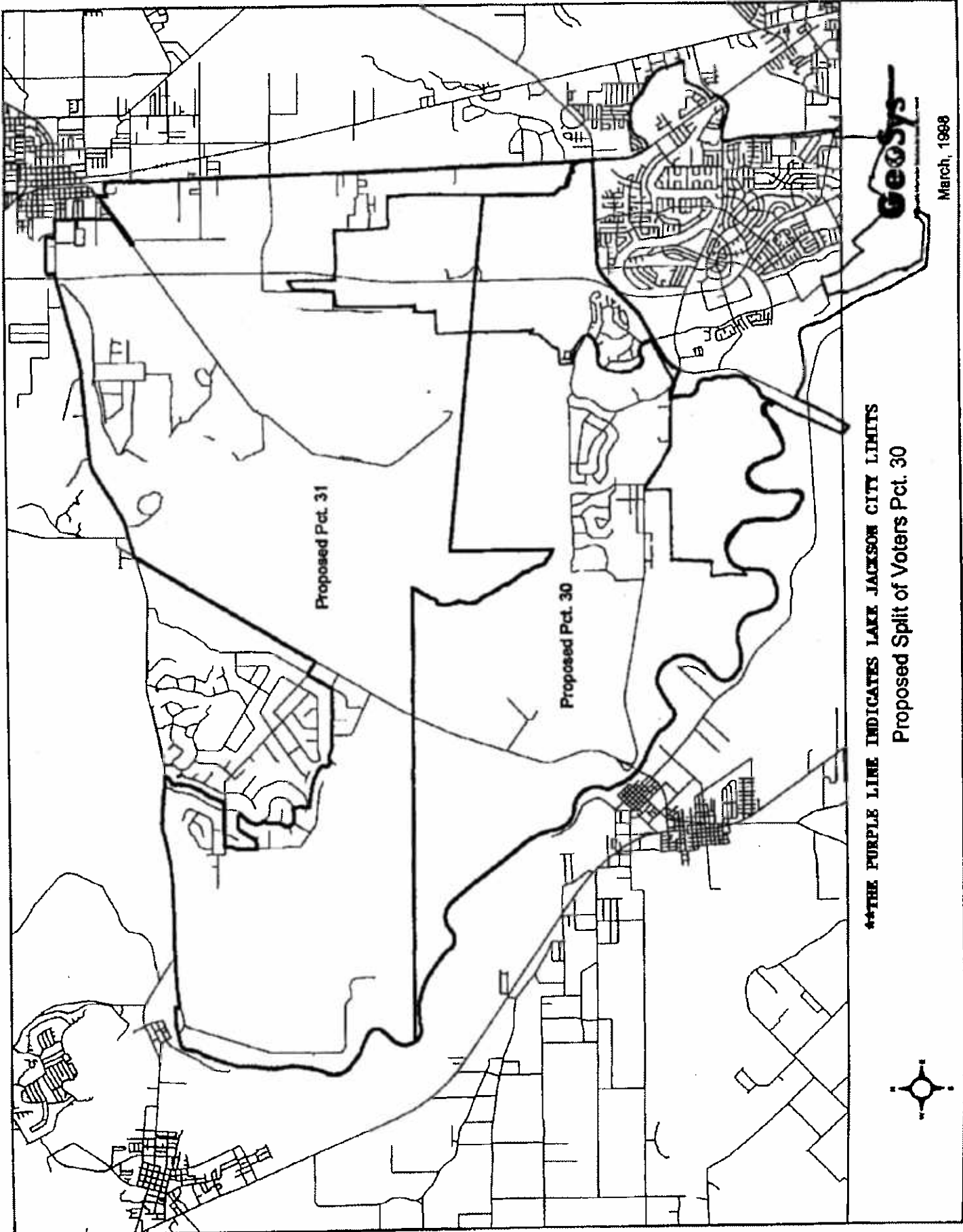
THENCE; Due West to a point, in the centerline of the levee of Brazoria Reservoir, which is 200 feet North of the intersection of said levee with the centerline of the bed of Buffalo Camp Bayou;

THENCE; South, along the centerline of said levee, to the intersection of the centerline of said levee with centerline of Buffalo Camp Bayou;

THENCE; Up the center of the bed of Buffalo Camp Bayou, to its intersection with an eastward extension of the South line of the John P. Coles Survey, Abstract 55;

THENCE; Due West, passing the Southeast corner of the John P. Coles Survey, Abstract 55, and continue along the South line of said Coles Survey, to the place of beginning.

4/23/98 Revision #2  
9/23/93 Revised  
(Prct. 30/r)



Proposed Pct. 31

Proposed Pct. 30

♦♦THE PURPLE LINE INDICATES LAKE JACKSON CITY LIMITS  
Proposed Split of Voters Pct. 30



March, 1998

ELECTION PRECINCT THIRTY - LAKE JACKSON

BEGINNING at the intersection of the centerline of the Brazos River with the South line of the John P. Coles Survey, Abstract Number 55;

THENCE; Southeasterly, along the centerline of the Brazos River, to the centerline of Buffalo Camp Bayou;

THENCE: Northerly, along the centerline of Buffalo Camp Bayou, to the Southwest right-of-way line of State Highway 332;

THENCE: Easterly, along the Southwest right-of-way line of State Highway 332 to the Westerly right-of-way line of F.M. Highway 2004;

THENCE: Easterly, along the Westerly and Northerly right-of-way line of F.M. Highway 2004, to the centerline of County Road 288;

THENCE: Northerly, along the centerline of County Road 288 to the centerline of Bastrop Bayou;

THENCE; Upstream, along the centerline of Bastrop Bayou, to the South line of the W.T. Galloway 214.63 acre tract;

THENCE; West, along the South line of the Galloway Estate 214.63 acre tract, to the Southwest corner of the Galloway Estate 214.63 acre tract;

THENCE; North, along the West line of the Galloway Estate 214.63 acre tract, to the Northwest corner of the Galloway Estate 214.63 acre tract;

THENCE; In a Northwesterly direction, to a point where the common line of the S.F. Austin 5 League Grant, Abstract 19 and the J.E. Groce Survey, Abstract 66, crosses the centerline of Oyster Creek for the fourth time;

THENCE; In a Northwesterly direction, to a point at the Northeast corner of the Dow Chemical Company 3586.32 acre tract, also being an ell corner of Retrieve State Prison Farm;

THENCE; South, with the common line between Prison Farm and the

ORDINANCE NO. 00- 1624

**AN ORDINANCE PROVIDING FOR THE SUBMISSION OF PROPOSED AMENDMENTS TO THE HOME RULE CHARTER OF THE CITY OF LAKE JACKSON, TEXAS, TO THE QUALIFIED VOTERS OF SAID CITY AT THE NEXT REGULAR CITY ELECTION, MAY 6, 2000, AND DIRECTING THAT NOTICE THEREOF BE GIVEN.**

**WHEREAS**, at a regular meeting of the Council of the City of Lake Jackson, held on January 18, 2000, the Council upon motion duly made and seconded, expressed its intention to submit proposed amendments to the Home Rule Charter of the City of Lake Jackson, to the qualified voters of the City at the next regular city election, to be held on Saturday, May 6, 2000, and to pass an ordinance for that purpose; and

**WHEREAS**, the Council of the City of Lake Jackson deems it proper and in the best interest of the citizens of Lake Jackson to submit the proposed amendments to the present City Charter to the qualified voters of the City, therefore

**BE IT ORDAINED BY THE COUNCIL OF THE CITY OF LAKE JACKSON, TEXAS:**

**SECTION 1:** The following proposed amendments to the Home Rule Charter of the City of Lake Jackson shall be submitted to the qualified voters of the City for adoption or rejection, at a regular city election to be held on Saturday, May 6, 2000:

**Proposition No. 1**

Shall Section 3.01 of Article 3 of the Home Rule Charter of the City of Lake Jackson be amended to read as follows:

**Section 3.01 *Number, Selection and Term***

The legislative and governing body of the City shall consist of a mayor and five councilmen and shall be known as the "*Council of the City of Lake Jackson.*"

- (a) The mayor shall be elected to office from the city at large.
- (b) The other members of the city council shall be elected to office by position from the city at large. There shall be five council positions, which shall be designated Position One, Position Two, Position Three, Position Four and Position Five. Each council position shall constitute a separate office. A candidate for the office of councilman shall be elected only to the council position for which he has filed an application as a candidate in the manner provided in Article 5 of this Charter. Every qualified voter in the city shall be entitled to vote on a candidate for each council position.
- (c) In each even-numbered calendar year a mayor and councilmen for Position Two and Position Four shall be elected, and in each odd-numbered year councilmen for Position One, Position Three and Position Five shall be elected.
- (d) As soon as practicable after the adoption of this section, the persons then filling the office of councilman shall draw lots to determine the council position each will occupy until the expiration of his current term of office and until his successor is elected and qualified. Councilmen whose current terms of office expire in even-numbered years shall draw for Position Two and Position Four. Councilmen whose current terms of office expire in odd-numbered years shall draw for Position One, Position Three and Position Five.
- (e) The mayor and each councilman shall hold office for a period of two years and until his successor is elected and qualified. All elections shall be held in the manner provided in Article 5 of this Charter.

Applications for ballots by mail must be received no later than the close of business on April 28, 2000.

**Section 4:** That any person having the qualifications set out in Section 3.02 of the Charter of the City of Lake Jackson for the Office of Mayor or Council position may file an application to have his or her name placed on the official ballot as candidate. Said application shall be accompanied by a loyalty affidavit of the candidate as prescribed by Section 141.031 of the Election Code of the State of Texas and said application shall be filed with the Mayor as prescribed by Section 143.006 of the Election Code not later than Wednesday, March 22, 2000, which date is forty-five (45) days prior to the date of said election. The filing period is thirty (30) days, from February 22 through March 22 at 5 p.m.

**Section 5:** That said election shall be held in accordance with the Constitution and the laws of the State of Texas and the Charter of the City of Lake Jackson, and all duly qualified resident electors of the City of Lake Jackson, Texas, shall be qualified to vote. The City Manager of the City of Lake Jackson is hereby authorized to appoint election judges for each precinct, along with clerks, as necessary.

**Section 6:** If any part or portion of this ordinance shall be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect or impair any remaining portions or provisions of this ordinance.

**PASSED AND APPROVED** on first reading this 18<sup>th</sup> day of January, 2000.

**PASSED AND ADOPTED** on second and final reading this 7<sup>th</sup> day of February, 2000.

  
\_\_\_\_\_  
**MAYOR, CITY OF LAKE JACKSON**

**ATTEST:**

  
\_\_\_\_\_  
**CITY SECRETARY**

- (f) The mayor shall be the presiding officer of the city council and shall be recognized as the head of the city government for all ceremonial purposes and by the governor for the purposes of military law, but shall have no regular administrative duties. The mayor shall be entitled to vote on all matters under consideration of the city council.
- (g) There shall be no limit on the number of terms that can be served by a council member or by a mayor, except that those council members and mayor holding office on April 30, 2000 shall continue to be subject to the language of Section 3.01(g) adopted by the voters on May 2, 1992.
- (h) Repealed.

**Proposition No. 2**

Shall Section 3.02 of Article 3 of the Home Rule Charter of the City of Lake Jackson be amended to read as follows:

**Section 3.02 *Qualifications***

Each member of the city council shall be a resident citizen of the City of Lake Jackson, shall be a qualified voter of the State of Texas, shall be at least twenty-one (21) years of age, shall have been such resident citizen of the City of Lake Jackson for a period of not less than twelve (12) months preceding his election, and shall not be indebted to the City of Lake Jackson; provided, however, that any person with all of the above qualifications, except as to residence, who shall have been a resident for a period of not less than twelve (12) months immediately preceding his election of any of the territory not formerly within the corporate limits of said city but which is annexed under the provisions of Section 1.03 of this Charter, shall be eligible for said office. If the mayor or any councilman fails to maintain the foregoing qualifications or shall be absent from three (3) consecutive regularly scheduled meetings without valid excuse, the city council must at its next regular meeting declare a vacancy to exist and shall fill said vacancy as set forth in Section 3.06 of this Charter.

**Proposition No. 3**

Shall Section 5.05 of Article 5 of the Home Rule Charter of the City of Lake Jackson be amended to read as follows:

**Section 5.05 *Election by Majority***

At any regular or special municipal election, where no candidate receives a majority of the votes cast for that particular office, a runoff election shall be required. In the event no candidate receives a majority of the votes cast for that particular office or in the event a tie vote makes it impossible to determine the winning candidate, the Council shall cause to be held a runoff election between the two (2) tied candidates. The runoff election shall not be held earlier than the twentieth (20th) day or later than the thirtieth (30th) day after the date the final canvass of the main election is completed.

However, a runoff election required to be held as a result of an election held on the first Saturday in May shall be held on the next to the last or last Saturday in May or first Saturday in June, when the last Saturday falls on a holiday weekend.

**Proposition No. 4**

Shall Section 11.04 of Article 11 of the Home Rule Charter of the City of Lake Jackson be amended to read as follows:

**Section 11.04 *Relatives of officers shall not be appointed or employed***

No person related within the second degree by affinity or within the third degree by consanguinity to any elected officer of the city, or the city manager, shall be appointed to any office, position, clerkship, or other service of the city, whenever such appointed

person shall receive payment for his services. This prohibition shall not apply, however, to any person who shall be employed by the city for at least six months immediately prior to the election of the elected officer or appointment of the city manager so related to him or to the reimbursement for out-of-pocket expenses actually incurred by any person so related who may be serving in such office, position, clerkship or other service without pay.

**SECTION 2:** The polling places, presiding officers and judges at said election shall be designated by Ordinance No. 00- , dated February 7, 2000, passed by the Council of the City of Lake Jackson, calling a city officer election for May 2, 2000.

**SECTION 3:** This election shall be held under the provisions of the Home Rule Amendment to the Constitution of the State of Texas and the provisions of Chapter 13, Title 28, Revised Civil Statutes of Texas, 1925 and any and all amendments thereto, and all persons in the City of Lake Jackson qualified to vote under the laws of this State regulating such elections shall be allowed to vote.

**SECTION 4:** The form of ballot to be used at said election shall be substantially as follows:

**Proposition No. 1**

Do you vote to amend the Home Rule Charter of the City of Lake Jackson by amending Section 3.01 of Article 3 to repeal Sections 3.01(g) and (h) (that mandated term limits) and by enacting a new Section 3.01(g) that would continue to apply term limits to those council members and mayor who are in office as of April 30, 2000?

**Vote:**                      *Yes*                      *No*

**Proposition No. 2**

In order to assure that Section 3.02 of the Charter complies with the federal law, federal court decisions and the Texas Election Code, do you vote to amend the Home Rule Charter of the City of Lake Jackson, Section 3.02, by permitting a Council member to be a non-property owner?

**Vote:**                      *Yes*                      *No*

**Proposition No. 3**

Do you vote to amend the Home Rule Charter of the City of Lake Jackson by amending Section 5.05 of Article 5 by allowing a runoff election to be held on the first Saturday in June when the last Saturday in May falls on a holiday weekend?

**Vote:**                      *Yes*                      *No*

**Proposition No. 4**

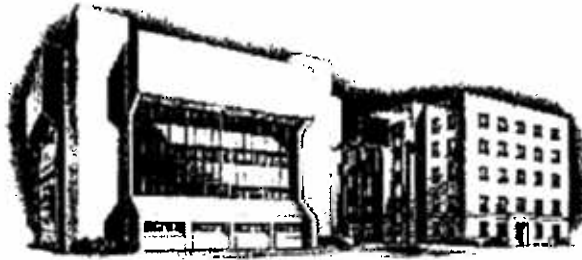
Do you vote to amend the Home Rule Charter of the City of Lake Jackson by amending Section 11.04 of Article 11 by making it clear that those who are related to City officials are not meant to serve in paid positions of the City unless on City payroll for at least six months immediately prior to said official being elected or appointed?

**Vote:**                      *Yes*                      *No*

**SECTION 5:** All voters desiring to vote for the adoption of the proposed amendments shall mark the word *Yes* on their ballot, and those voters desiring to vote against the adoption of the proposed amendments shall mark the word *No* on their ballots.

**SECTION 6:** Notice of the election shall be given by publishing this ordinance in The Brazosport Facts, a newspaper of general circulation on the same day in each of two consecutive weeks, the

JOYCE HUDMAN  
COUNTY CLERK  
111 E. Locust, Suite 200  
Angleton, Texas 77515



DEBORAH PAYNE  
Chief Deputy

**BRAZORIA COUNTY**  
ANGLETON, TEXAS 77515

## NOTICE

### TO WHOM IT MAY CONCERN:

Effective January 1, 2000, Brazoria County will increase their number of election precincts from 65 to 67 election precincts.

Precinct 30 will be divided into two precincts namely 30 and 31.  
The previous precinct 31 will be renumbered 66.

Precinct 58 will be divided into two precincts namely 58 and 62.  
The previous precinct 62 will be renumbered 67.

date of the first publication to be not later than the 21st day of April, 2000, which date is not less than 14th days prior to the date set for election.

**SECTION 7:** If for any reason any section, paragraph, subdivision, clause, phrase, word, or provision of this ordinance shall be invalid or unconstitutional by final judgment or a court of competent jurisdiction it shall not affect any other section, paragraph, subdivision, clause, phrase, word or provision of this ordinance, for it is the definite intent of this City Council that every section, paragraph, subdivision, clause, phrase, word or provision hereof be given full force and effect for its purpose.

**PASSED AND APPROVED** on the first reading the 18<sup>th</sup> day of January, 2000.

**PASSED AND ADOPTED** on this second and final reading the 7<sup>th</sup> day of February, 2000.

  
\_\_\_\_\_  
**MAYOR, CITY OF LAKE JACKSON**

ATTEST:

  
\_\_\_\_\_  
**CITY SECRETARY**

ORDINANCE NO. 00-1623

**AN ORDINANCE ORDERING AN ELECTION TO BE HELD IN THE CITY OF LAKE JACKSON, ON SATURDAY, MAY 6, 2000; FOR THE PURPOSE OF ELECTING CERTAIN OFFICERS FOR THE CITY OF LAKE JACKSON, DESIGNATING THE POLLING PLACES, APPOINTING OFFICIALS THEREFOR, PROVIDING THAT ALL PERSONS DESIRING TO HAVE THEIR NAMES PLACED ON THE OFFICIAL BALLOT AS A CANDIDATE FILE AN APPLICATION NOT LATER THAN MARCH 22, 2000, AND PROVIDING THAT ALL DULY QUALIFIED RESIDENT ELECTORS SHALL BE QUALIFIED TO VOTE; PROVIDING FOR SEVERABILITY AND DECLARING THAT THIS ORDINANCE SHALL BE IN FULL FORCE AND EFFECT UPON AND AFTER ITS SECOND AND FINAL READING.**

**BE IT ORDAINED BY THE COUNCIL OF THE CITY OF LAKE JACKSON, TEXAS:**

**SECTION 1:** That an election is hereby ordered and shall be held in and throughout the City of Lake Jackson, Texas, on the sixth (6<sup>th</sup>) day of May, 2000, being the first Saturday of May, and in accordance with Section 41.001 of the Texas Election Code, the office titles for the offices to be filled will be listed on the ballot in the relative positions in which the offices are listed in this ordinance calling for an election. The election is ordered for the purpose of electing the following officers for the City of Lake Jackson:

One Mayor and two (2) Councilmembers for two-year terms, being the position of Mayor of the City of Lake Jackson and Council positions Two and Four.

**SECTION 2:** That the said election shall be conducted between the hours of 7 a.m. and 7 p.m. on the designated date, and held in each of the seven (7) election precincts within the City, and the election shall be held at the respective polling places in said election precincts hereinafter specified by the following locations and named persons, respectively, who are hereby appointed officers to conduct said elections, to-wit:

Precinct	Polling Place	Presiding Officers
No. 22	Lake Jackson Intermediate School	T. J. Harvell, Presiding Judge Jorene Aycock, Alternate Judge
No. 23	Elisabet Ney Elementary School	George Stewart, Presiding Judge Diana Stewart, Alternate Judge
No. 27	A. P. Beutel Elementary School	Roger Elam, Presiding Judge Betty Haya, Alternate Judge
No. 30	Mental Health and Retardation Center	Ruth Poulsen, Presiding Judge Doris Williams, Alternate Judge
No. 31		
No. 43	Oran Roberts Elementary School	David Dempsey, Presiding Judge Ralph Vinas, Alternate Judge
No. 45	Bess Brannen Elementary School	Tom Underwood, Presiding Judge June Underwood, Alternate Judge


**Section 3:** Early voting by personal appearance will be conducted each weekday at City Hall Conference Room, 25 Oak Drive, Lake Jackson, Texas, between the hours of 8 a.m. and 5 p.m., beginning on April 19, 2000, and ending on May 2, , 2000. Application for ballot by mail should be mailed to : Alice Rodgers - City Secretary, 25 Oak Drive, Lake Jackson, TX 77566.

The City Secretary has notified this resident of the location of his polling place. A list of all polling places for all precincts is also published in the local daily newspaper before any election and posted on the bulletin board used by the City Secretary and in several other public locations.

Information from Brazoria County along with a map indicating Lake Jackson's city limits within precinct 31 as well as the location of the resident is enclosed. We hope this information meets with your procedural and substantive approval.

Should you need additional information, or if you have any questions concerning the matters discussed in this letter, please call me at (409) 297-1076.

Sincerely,

  
John Dewey  
City Attorney

JD/aar

Enclosures



U.S. Department of Justice

Civil Rights Division

JDR:GS:ALP:KIF:jdh  
DJ 166-012-3  
2000-2847  
2000-2848

*Voting Section*  
*P. O. Box 66128*  
*Washington, DC 20035-6128*

September 11, 2000

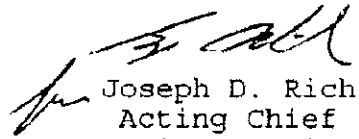
Barbara Twine Thomas, Esq.  
Senior Assistant County Attorney  
P.O. Box 1110  
Tampa, Florida 33610

Dear Ms. Thomas:

This refers to the creation of the East Lake Park Special Dependent District, governed by seven trustees elected at large by plurality vote for four-year, staggered terms in nonpartisan elections conducted by the county, the candidate qualifications and qualifying procedures, the procedures for filling vacancies, and the implementation schedule for the district; and the change in the procedures for filling vacancies, the elimination of term limits, and the increase in the term of office to four years for the Northdale Special Dependent Tax District in Hillsborough County, Florida, submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act, 42 U.S.C. 1973c. We received your submissions on July 13, 2000.

The Attorney General does not interpose any objection to the specified changes. However, we note that Section 5 expressly provides that the failure of the Attorney General to object does not bar subsequent litigation to enjoin the enforcement of the changes. See the Procedures for the Administration of Section 5 (28 C.F.R. 51.41).

Sincerely,

  
Joseph D. Rich  
Acting Chief  
Voting Section

BOARD OF COUNTY COMMISSIONERS

SECTION 5 SUBMISSION

NO. 2000-2847

Office of the County Attorney

Emeline C. Acton, County Attorney  
Christine M. Beck, Chief Assistant  
Donald R. Odom, Chief Assistant  
Janice J. Porter, Chief Assistant  
Jennie Granahan Tarr, Chief Assistant  
Frances (Beth) Novak, Administrator



Hillsborough County  
Florida

County Center  
601 E. Kennedy Blvd. - 27th Floor

Mailing Address  
P.O. Box 1110  
Tampa, Florida 33601  
(813) 272-5670  
Fax (813) 272-5231

July 7, 2000

Chief Voting Section  
Civil Rights Division  
U.S. Department of Justice  
P.O. Box 66128  
Washington, D.C. 20035-6128

00 JUL 13 PM 3:55  
OFFICE OF THE COUNTY ATTORNEY

Re: Submission under Section 5 of the Voting Rights Act, Special Districts;  
HCAO File Nos. 97-972-01

Dear Sir or Madame:

Enclosed please find a submission under Section Five of the Voting Rights Act concerning an ordinance pertaining to special dependent districts located within Hillsborough County. The Northdale Ordinance was amended on November 12, 1998 to provide for uniform term limits for the Board of Trustees.

I have enclosed a pre-clearance request for the district, providing the required information. The district was first created in 1992. Please let me know if there is anything further that you require. If you have any questions or comments, please do not hesitate to contact me.

Sincerely,

Barbara Twine Thomas  
Sr. Assistant County Attorney

G:\MEMPHIS\ACTIVE\THOMASB\1997\972-01\CV1117BT.LTR

**SUBMISSION UNDER SECTION 5 OF THE VOTING RIGHTS ACT  
HILLSBOROUGH COUNTY, FLORIDA**

SUBJECT: NORTHDALÉ SPECIAL DISTRICT

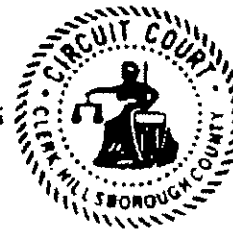
DATE: July 7, 2000

CONTENTS:

- a. A copy of Ordinance 98-52, is attached.
- b. 92-36
- c. There are 38 special dependent districts in Hillsborough County, created by ordinance. In May 28, 1998, the Hillsborough County Board of County Commissioners amended all ordinances to provide uniform election procedures for all districts. A portion of the changes made in May 1998 were inadvertently omitted for Northdale and were included in the attached ordinance. The attached provision sets forth how unexpired terms are filled.
- d. Barbara Twine Thomas  
Assistant County Attorney  
601 East Kennedy Boulevard  
27th Floor  
Tampa, Florida 33602  
(813) 272-5670
- e. Supervisor of Elections  
Hillsborough County, Florida
- f. n/a
- g. The changes were made by the Hillsborough Board of County Commissioners on November 12, 1998.

- h. The Hillsborough County Board of County Commissioners have the authority pursuant to Section 125.01 to enact ordinances. At a publically noticed meeting, the Board of County Commissioners instructed the County Attorney's Office to draft amendments to and publish notice of the public hearing at which the Board would consider amendments to the ordinances to make the election procedures uniform. The date, place, time and a description of the proposed changes were advertised 10 days before the public hearing at which the changes were considered for approval.
- i. The amendments were enacted on November 12, 1998.
- j. Effective date of change: November 20, 1998
- k. The change does not effect voting and has not been enforced.
- l. The change will effect the Special District, which is a defined geographical area (a subdivision).
- m. Reason for change: To provide uniform and consistent procedures for all trustees of special dependent districts in Hillsborough County.
- n. Anticipated effect on minority groups:  
  
None
- o. There is no past or present litigation concerning Northdale Special District.
- p. The procedure under which the Board of County Commissioners adopts and amends ordinances is not subject to pre-clearance.
- q. n/a

ard Ake  
Clerk of the Circuit Court  
Hillsborough County, Florida



Clerk to Board of  
County Commissioners  
County Center, 12th Floor  
601 E. Kennedy Blvd.  
P.O. Box 1110  
Tampa, Florida 33601  
Telephone 278-8100, ext. 6730

December 9, 1998

Norma J. Wise, Director  
Hillsborough County Law Library  
725 E. Kennedy Boulevard 1st Floor  
Tampa, Florida 33602-5027

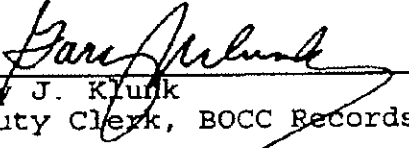
Re: Ordinance #98-52  
Amending Ordinance 92-36, Relating to Northdale Special  
Dependent District

Dear Ms. Wise:

Attached please find a copy of Hillsborough County Ordinance #98-52 which was adopted by the Board of County Commissioners on November 12, 1998. We are also forwarding acknowledgment received from the Secretary of State. This ordinance has an effective date of November 20, 1998.

If I can provide additional information or be of further assistance, please do not hesitate to contact me.

Sincerely,

  
Gary J. Klunk  
Deputy Clerk, BOCC Records

GJK:SAB  
Attachments

cc: Evelyn Jefferson, Municipal Code Corporation  
Fred Carrington, Legal Advisor, Sheriff's Office  
Bobbie Chaffee, State Attorney's Office  
Tim Bridge, Manager, Supervisor of Elections  
Barbara Hutcheson, County Attorney's Office  
Helene Marks, Legal Counsel, Clerk of Circuit Court  
Barbara Twine Thomas, Assistant County Attorney  
Northdale SDD, via County Attorney's Office  
Mary Mahoney, Assessments Coordinator, Management & Budget  
Ajay Gajjar, Manager, County Finance

FINAL  
Adopted:  
November 12, 1998

**ORDINANCE NO. 98-52**

**AN ORDINANCE RELATING TO THE NORTHDALE  
SPECIAL DEPENDENT TAX DISTRICT, AMENDING  
HILLSBOROUGH COUNTY ORDINANCE 92-36;  
PROVIDING FOR THE LENGTH OF THE TERMS OF  
OFFICE OF THE TRUSTEES AND PROCEDURES FOR  
FILLING VACANCIES; PROVIDING AN EFFECTIVE DATE.**

WHEREAS, the Board of County Commissioners of Hillsborough County, Florida created the Northdale Special Dependent District and established by Ordinance the boundaries of the District; and

WHEREAS, the Board of County Commissioners desires to amend provisions relating to election procedures for the Board of Trustees and the length of the terms of office.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF HILLSBOROUGH COUNTY, FLORIDA, IN REGULAR MEETING THIS 12TH DAY OF NOVEMBER, 1998 AS FOLLOWS:

**Section 1:** Section 6 of Hillsborough County Ordinance 92-36 is amended to read as follows:

Trustees shall hold office for a term of 4 years and may succeed themselves. All vacancies occurring in the board of trustees from any cause shall be filled for the unexpired term from among the qualified electors of the District by vote of the remaining trustees, unless a quorum can not be obtained. In that case the vacancy shall be filled for the unexpired term by appointment of the Board of County Commissioners of Hillsborough County. Any trustee failing to discharge the duties of

his position may be removed for cause by the board of trustees, after due notice and an opportunity to be heard, upon charges of malfeasance or misfeasance. Any trustee missing three consecutive meetings may be considered for removal by the board.

**Section 2: Effective Date**

The provisions of this Ordinance shall become effective upon filing with the office of the Secretary of State.

STATE OF FLORIDA )

COUNTY OF HILLSBOROUGH )

I, RICHARD AKE, Clerk of the Circuit Court and Ex Officio Clerk of the Board of County Commissioners of Hillsborough County, Florida, do hereby certify that the above and foregoing is a true and correct copy of the Ordinance adopted by the Board at its regular meeting of November 12, 1998, as the same appears of record in Minute Book 270 of the Public Records of Hillsborough County, Florida.

WITNESS my hand and official seal this 19th day of November, 1998.

RICHARD AKE, CLERK  
  
 BY: Gary J. Klusak  
 Deputy Clerk / Gary J. Klusak

APPROVED BY COUNTY ATTORNEY  
 BY: [Signature]  
 Approved as to form and  
 Legal Sufficiency

FLORIDA DEPARTMENT OF STATE  
Office of the Secretary  
Division of Administrative Services  
Division of Corporations  
Division of Cultural Affairs  
Division of Elections  
Division of Historical Resources  
Division of Library and Information Services  
Division of Licensing  
MEMBER OF THE FLORIDA CABINET



HISTORIC PRESERVATION BOARDS  
Historic Florida Keys Preservation Board  
Historic Palm Beach County Preservation Board  
Historic Pensacola Preservation Board  
Historic St. Augustine Preservation Board  
Historic Tallahassee Preservation Board  
Historic Tampa/Hillsborough County  
Preservation Board  
RINGLING MUSEUM OF ART

FLORIDA DEPARTMENT OF STATE  
**Sandra B. Mortham**  
Secretary of State  
DIVISION OF ELECTIONS

November 24, 1998

Honorable Richard Ake  
Clerk to Board of County Commissioners  
Hillsborough County  
Post Office Box 1110  
Tampa, Florida 33601

Dear Mr. Ake:

Pursuant to the provisions of Section 125.66, Florida Statutes, this will acknowledge your two letters dated November 19, 1998 and certified copy each of Hillsborough County Ordinance Nos. 98-52 and 98-53, which were filed in this office on November 20, 1998.

Sincerely,

A handwritten signature in cursive script that reads "Liz Cloud".

Liz Cloud, Chief  
Bureau of Administrative Code

LC/mw

ORDINANCE # 92-36

AN ORDINANCE RELATING TO HILLSBOROUGH COUNTY; CREATING A SUCCESSOR SPECIAL DISTRICT FOR THE PURPOSE OF IMPROVEMENT, ADMINISTRATION, AND MAINTENANCE OF PROPERTIES FOR THE UNINCORPORATED AREA KNOWN AS NORTHDALÉ, AS SET FORTH ACCORDING TO CHAPTER 84-449, LAWS OF FLORIDA, AS AMENDED; PROVIDING FOR THE ADMINISTRATION OF THE AFFAIRS OF THE DISTRICT BY A BOARD OF TRUSTEES; DEFINING THE POWERS AND DUTIES OF THE BOARD OF TRUSTEES AND THE DISTRICT; PROVIDING FOR THE MANNER OF ELECTION AND APPOINTMENT OF THE TRUSTEES; PROVIDING FOR THE ASSESSMENT AND COLLECTION OF A SPECIAL ASSESSMENT ON ALL PROPERTIES WITHIN THE DISTRICT; PROVIDING FOR THE DEPOSIT AND DISBURSEMENT OF FUNDS; PROVIDING A FISCAL YEAR; PROVIDING FINANCIAL REPORTING AND BUDGETARY REQUIREMENTS; DEFINING TERMS; PROVIDING FOR THE PROCEDURES FOR ABOLITION OF THE DISTRICT; RELIEVING INDIVIDUAL TRUSTEES FROM LIABILITY TO THE EXTENT ALLOWED BY LAW; PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE DATE.

WHEREAS, Chapter 92-339, Laws of Florida, repeals Chapter 84-449 creating the Northdale Special District (hereinafter "District") when the Hillsborough County Board of County Commissioners adopts an ordinance creating a succeeding District; and

WHEREAS, the Board of County Commissioners of Hillsborough County desires to adopt an ordinance continuing the District for the purpose of improvement, administration, and maintenance of properties; and

WHEREAS, the Board of County Commissioners of Hillsborough County has the power, pursuant to Chapter 189, Florida Statutes, Chapter 125, Florida Statutes, and the Hillsborough County Charter, to create a Special District by ordinance; and

WHEREAS, the Board of County Commissioners of Hillsborough County, finds that the continuation of the District promotes the public health, safety, and welfare.

NOW THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF HILLSBOROUGH COUNTY, FLORIDA, THIS 10TH DAY OF NOVEMBER, 1992, AS FOLLOWS:

SECTION 1. Pursuant to Chapter 92-339, Laws of Florida, Hillsborough County hereby continues the Northdale Special District consisting of all property located within the lands described in Chapter 84-449, Laws of Florida, as amended, and all rights, assets, obligations, and liabilities of the Northdale Special District created by Chapter 84-449, Laws of Florida, as amended, are transferred to the Northdale Special District created by this Ordinance as a successor District, hereinafter referred to as the "District."

SECTION 2. The District shall be dependent on the County for purposes of establishing its budget, but is otherwise amenable to separate special District government.

SECTION 3. The business and affairs of the District shall be conducted and administered by a board of nine trustees, hereinafter referred to as the "trustees," who shall be elected for 2-year terms of office. The Hillsborough County Board of County Commissioners shall appoint as interim trustees those individuals now serving as trustees on the Northdale Special District. These trustees shall serve for the remainder of their current terms and until the taking of office of their successors. Their successors shall be chosen through the election process pursuant to this Ordinance. After each annual election of trustees, the trustees shall organize by electing from their members a president, a vice-president, a secretary, and a treasurer. At the same time they shall establish and publish in a newspaper of general circulation, a regular monthly meeting date, time, and place. A quorum of the board of trustees for conducting the board's business shall require the presence of at least six (6) trustees, and an affirmative vote of at least six (6) of the trustees present shall be required for the passage of any resolution coming under consideration by the board. The trustees shall not be entitled to compensation for their services, but shall be entitled to be reimbursed from funds of the District for any authorized disbursements they may properly incur on behalf of the District. The president, the vice president, and the treasurer shall be the only trustees authorized to execute checks and documents on behalf of the District. Such trustees authorized to sign checks of the District or otherwise designated to handle its funds shall, before they enter upon such duties, execute to the Board of County Commissioners of Hillsborough County for the benefit of the District, a good and sufficient bond approved by Board of County Commissioners of Hillsborough County in the sum of \$25,000 with a qualified corporate surety conditioned to faithfully perform the duties of such trustees and to account for all funds which may come into their hands as such trustees. All premiums for such surety on all bonds shall be paid from funds of the District.

SECTION 4. Elections shall be held annually at a designated polling place for the District. The election in even-numbered years will be held in conjunction with the first primary election as designated in Section 100.061, Florida Statutes. The election in odd-numbered years will be held on the first Tuesday after the sixth day of September, or at the discretion of the board, may be

held in conjunction with any other election held that month. At each election, either four or five trustees, as the case may be, shall be elected for a term of 2 years. The candidates receiving the highest number of votes cast shall be declared elected to fill the number of vacancies to be filled on the board and shall receive a certificate of election from the Supervisor of Elections. Each trustee shall serve until the earlier of their resignation, removal from office or their successor is duly elected and qualified. Elections shall be held between the hours of 7 a.m. and 7 p.m. and shall be conducted and supervised by the Supervisor of Elections of Hillsborough County. All matters relating to the calling, conduct, and regulation of elections not provided for in this ordinance shall be governed by the state election code. Elected trustees shall take office on October 1 following election. All qualified electors residing within the District shall be eligible to vote prior to the closing of the registration books for such election. All election ballots shall be prepared by the Supervisor of Elections. The returns of the election shall be canvassed and the results shall be announced upon the completion of the count. If two persons receive an equal and highest number of votes for the last position to be filled, such persons shall draw lots to determine who shall be elected to the office. The necessary and proper costs of holding, conducting, and regulating such elections and referendums, including compensation for inspections, clerks, and other employees required therefor shall be fixed by the Supervisor of Elections with the approval of the board of trustees and shall be paid by the District.

SECTION 5. Persons desiring to have their names placed on the ballot for election as trustees of the District shall be qualified electors residing within the District who shall present a written petition to the Supervisor of Elections in even-numbered years during the time period specified by Section 99.061(2), Florida Statutes, and in odd-numbered years at any time after noon of the 50th day prior to the election, but not later than noon of the 46th day prior to the election. Such petition shall be signed by not less than 15 qualified electors within the District. Candidates who collect or expend campaign contributions shall conduct their campaigns in accordance with the provisions of Chapter 106, Florida Statutes. At the time of qualifying, candidates who submit a written statement to the Supervisor of Elections stating that they do not anticipate collecting or expending campaign contributions other than expenditures for verification of signatures on petitions are exempt from the provisions of Chapter 106, Florida Statutes, requiring establishment of a bank account, appointment of a campaign treasurer, and the filing of period reports as required by Florida Statutes. Notice of the election setting forth the names of the candidates for trustees shall be given by the District one time at least 10 days prior to such election in a newspaper of general circulation published in the county. The ballot shall be substantially in the following form:

Board of Trustees of Northdale Special District  
(stating their names and residence addresses).

SECTION 6. Trustees shall hold office for a term of 2 years and may succeed themselves. However, no trustee may hold office more than four (4) consecutive years. All vacancies occurring in the board of trustees from any cause shall be filled for the unexpired term from among the qualified electors of the District by vote of the remaining trustees. Vacancies may not be filled by any person who has served as a trustee during any one of the previous twelve (12) months. Vacancies which occur due to lack of candidates qualifying for election shall be filled by appointment of the Board of County Commissioners. Any trustee failing to discharge the duties of his position may be removed for cause by the board of trustees, after due notice and an opportunity to be heard, upon charges of malfeasance or misfeasance. Any trustee missing three consecutive meetings may be considered for removal by the board of trustees.

SECTION 7. The board of trustees shall have the authority to levy an assessment against all parcels of property situated within the District for the purpose of providing funds for the operation of the District. The board of trustees shall, annually, by resolution, fix the amount of the assessment for the next ensuing year and shall follow the applicable procedures established in Chapter 197, Florida Statutes. The board of trustees shall direct the Tax Collector of Hillsborough County to collect such assessment as is assessed upon each parcel of property within the District. The assessment on single family residential property shall not exceed \$100 per year. This amount shall be the basis in determining the assessment amount on all other parcels of property. For general purposes of this Ordinance, each single family residential parcel in the District is hereby declared to be uniformly and generally benefited by the provisions hereof. Any increase in the maximum annual assessment for single family residential parcels shall be approved by referendum of qualified voters of the District. The Tax Collector and the Property Appraiser shall receive commissions as provided by general law for performing duties required of that office by this ordinance. The Tax Collector shall deposit the funds into a depository designated by the board of trustees in accordance with Section 10 of this ordinance for the account of the District.

The special assessment shall not be an ad valorem tax, but rather shall be a special assessment assessed against all parcels of property.

SECTION 8. The District may own and hold property, sue and be sued, enter into contracts, and perform other functions necessary or desirable to the carrying out of the provisions and intent of this ordinance. No debt shall be created without the approval of the board of trustees. The trustees shall have no authority to borrow against future assessments or to create obligations exceeding the funds currently on hand.

SECTION 9. The District assessment shall be a lien upon each parcel of property so assessed until paid, and shall be considered a part of the Hillsborough County tax, subject to the same

penalties, charges, fees, and remedies for enforcement and collection as provided by the laws of the State of Florida for the collection of such taxes.

SECTION 10. The proceeds of the assessment and the funds of the District shall be deposited in the name of the District in a bank or savings and loan association or building and loan association authorized to receive deposits of county funds, which depository shall be designated by resolution of the board of trustees. The depository shall treat the funds in accordance with the legal requirements imposed upon such depositories with respect to public funds. No funds of the District shall be disbursed except by check or draft signed by two of the three authorized trustees.

SECTION 11. (1) The fiscal year of the District shall commence October 1. The trustees shall, on or before November 15 of each year, prepare an annual financial statement of revenue and expenditures during the prior fiscal year. Such financial statement shall be audited and shall be prepared in accordance with Section 11.45, Florida Statutes. On or before July 1 of each year, the trustees shall prepare and adopt an itemized budget showing the amount of money necessary for the operation of the District for the next fiscal year, and the assessments for the next ensuing year. Prior to the adoption of the budget the trustees shall hold a public hearing at which time property owners within the District may appear and be heard. Notice of the time and place of the public hearing shall be published once in a newspaper of general circulation within Hillsborough County at least 21 days prior to the public hearing.

(2) The trustees of the District shall submit its proposed budget each year to the Board of County Commissioners of Hillsborough County for approval. The Board of County Commissioners of Hillsborough County may increase or decrease the budget on a line by line basis or in total.

SECTION 12. The District shall maintain the common areas of the District, County rights-of-way, and street side of walls. Further, the District may (1) landscape and irrigate common areas; (2) review previously installed landscaping/irrigation systems within the common areas of the District and maintain, remove or correct as deemed appropriate; (3) review proposed landscaping by developers and commercial properties in order to achieve a unified effect; and (4) paint, clean and maintain the walls along the street side of the County rights-of-way.

SECTION 13. The trustees may enforce deed restrictions whenever the District has the legal standing to so do. The board may adopt rules and regulations, not inconsistent with any portion of this ordinance, as it may deem necessary or convenient in the transaction of its business and in carrying out the provisions of this Ordinance.

SECTION 14. The trustees shall supervise all real and personal property owned by the District, and shall have the following powers

in addition to those already herein enumerated:

(1) To determine and fix the special assessment to be assessed within the District.

(2) To enter into contracts on behalf of the District;

(3) To promulgate reasonable rules and regulations governing the use of the facilities and properties of the District;

(4) To expend funds to maintain property not owned by the District; and

(5) To employ and pay necessary costs associated with security officers.

SECTION 15. The construction, acquisition, or improvement of property of the District is authorized under this ordinance.

SECTION 16. A record shall be kept of all meetings of the board of trustees. The board may adopt such rules and regulations, not inconsistent with this ordinance, as it may deem necessary or convenient in and about the transaction of its business and in carrying out the provisions of this ordinance.

SECTION 17. The District hereby created may be abolished by a resolution adopted by the board of trustees, a copy of which shall be filed within thirty (30) days after the effective date of the dissolution with the Special District Information Program and the County. The District shall not be abolished while it has outstanding indebtedness without first providing that such abolishment will not impair the obligation of the District to the holders of such outstanding indebtedness.

SECTION 18. Any trustee who, as a trustee, is made a party to any action, suit, or proceeding shall be indemnified by the District to the extent allowed by law.

SECTION 19. When used in this ordinance, and unless otherwise specified, the word "District" shall mean the Special District hereby organized; the words "board," "trustees," and "board of trustees," shall mean the board of trustees of and for the Special District.

SECTION 20. If any section, subsection, sentence, clause, provision, or part of this Ordinance shall be held invalid for any reason, the remainder of this Ordinance shall not be affected thereby, but shall remain in full force and effect.

SECTION 21. The provisions of this ordinance shall be liberally construed in order to effectively carry out the purpose of this ordinance in the interest of the Northdale property owners.

SECTION 22. This Ordinance shall become effective upon receipt of official acknowledgment of filing with the Secretary of State.

STATE OF FLORIDA )

COUNTY OF HILLSBOROUGH )

I, RICHARD AKE, Clerk of the Circuit Court and Ex Officio Clerk of the Board of County Commissioners of Hillsborough County, Florida, do hereby certify that the above and foregoing is a true and correct copy of an Ordinance adopted by the Board at its meeting of November 10, 1992, as the same appears of record in Minute Book 198, of the Public Records of Hillsborough County, Florida.

WITNESS my hand and official seal this 17th day of November, 1992.

RICHARD AKE, CLERK

BY: Linda Lyman  
Deputy Clerk

APPROVED BY COUNTY ATTORNEY

By: ~~\_\_\_\_\_~~

~~Approved as to form and  
legal sufficiency~~



CLERK OF THE BOARD  
BOCC RECORDS  
NOV 24 1992  
RECEIVED

FLORIDA DEPARTMENT OF STATE

Jim Smith  
Secretary of State

DIVISION OF ELECTIONS

Room 2002, The Capitol, Tallahassee, Florida 32399-0250  
(904) 488-8427

November 20, 1992

Honorable Richard Ake  
Clerk of the Circuit Court  
Hillsborough County Courthouse  
Room #214-F  
Post Office Box 1110  
Tampa, Florida 33601

Attention: Linda Fryman, Manager, BOCC Records

Dear Mr. Ake:

Pursuant to the provisions of Section 125.66, Florida Statutes, this will acknowledge your letters of November 17, 1992 and certified copies of Hillsborough County Ordinance Numbers 92-35, 92-36, 92-37 and 92-38, which were received and filed in this office on November 20, 1992.

Sincerely,

A handwritten signature in cursive script that reads "Liz Cloud".

Liz Cloud, Chief  
Bureau of Administrative Code

LC/mb

Richard Ake  
Clerk of the Circuit Court  
Hillsborough County, Florida



Clerk to Board of  
County Commissioners  
Room # 214-F  
P.O. Box 1110  
Tampa, Florida 33601  
Telephone 272-5845

November 30, 1992

RECEIVED BY

DEC 2 1992

COUNTY ATTORNEY'S OFFICE

Mr. William Bailey, Law Librarian  
Hillsborough County Law Library  
725 East Kennedy Boulevard  
Tampa, Florida 33602

Re: Ordinance #92-36  
Continuing the Northdale Special District

Dear Mr. Bailey:

Attached please find a copy of Hillsborough County Ordinance #92-36 which was adopted by the Board of County Commissioners on November 10, 1992. We are also forwarding acknowledgment received from the Secretary of State. This ordinance has an effective date of November 24, 1992.

If I can provide additional information or be of further assistance, please do not hesitate to contact me.

Sincerely,

RICHARD AKE  
CLERK OF CIRCUIT COURT

By: Linda Fryman  
Linda Fryman  
Manager, BOCC Records

LF:ADF  
Attachments

cc: Robert L. Laslie, Municipal Code Corporation  
Paul Marino, Legal Advisor, Sheriff's Office  
Bobbie Chaffee, State Attorney's Office  
Barbara Hutcheson, County Attorney's Office  
Karen Minton, Legal Adviser to the Clerk  
Hank Ennis, Assistant County Attorney  
Mary Mahoney, Fees Coordinator, Budget Department  
Sue Parrish, Chief Deputy Clerk



U.S. Department of Justice

Civil Rights Division

JDR:JR:ANS:maf  
DJ 166-012-3  
2004-3087

Voting Section - NWB.  
950 Pennsylvania Avenue, N.W.  
Washington, DC 20530

September 3, 2004

Cory O. Kirby, Esq.  
Harben & Hartley  
340 Jesse Jewell Parkway, Suite 750  
Gainesville, Georgia 30501

Dear Mr. Kirby:

This refers to Act No. 631 (H.B. 1817) (2004), which schedules the November 2, 2004, special constitutional amendment election, prescribes the ballot format and, if approved by the voters, eliminates term limits for school board members; and the procedures for conducting the September 21, 2004, special bond election for the Jackson County School District in Jackson County, Georgia, submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act, 42 U.S.C. 1973c. We received your submission on July 16, 2004; supplemental information was received through August 24, 2004.

The Attorney General does not interpose any objection to the specified changes. However, we note that Section 5 expressly provides that the failure of the Attorney General to object does not bar subsequent litigation to enjoin the enforcement of the changes. See Procedures for the Administration of Section 5 of the Voting Rights Act (28 C.F.R. 51.41).

Sincerely,

Joseph D. Rich  
Chief, Voting Section

LAW OFFICES  
**HARBEN & HARTLEY, LLP**  
WACHOVIA CENTER, SUITE 750  
340 JESSE JEWELL PARKWAY  
GAINESVILLE, GEORGIA 30501

SECTION 5 SUBMISSION

NO. 2004-3087

SAM S. HARBEN, JR.  
PHILLIP L. HARTLEY  
MARTHA M. PEARSON  
CORY O. KIRBY

TELEPHONE: (770) 534-7341  
FACSIMILE: (770) 532-0399

July 15, 2004

2004 JUL 16 AM 11:32

**VIA FEDERAL EXPRESS**

Chief, Voting Section  
Civil Rights Division  
Department of Justice  
1800 G Street, NW  
Room 7254  
Washington, D.C. 20006

Re: **Expedited Submission Under Section 5 of the  
Voting Rights Act**  
Jackson County Board of Education  
Jackson County, Georgia

Greetings:

The undersigned represents the Jackson County Board of Education in connection with the calling of a referendum seeking to amend the Georgia Constitution regarding term limits for members of the Jackson County Board of Education. We hereby submit to you the following information for preclearance under Section 5 of the Voting Rights Act of 1965:

On April 1, 2004, the General Assembly passed Act No. 631 calling for a referendum to be held in Jackson County to amend the constitutional amendment regulating the Jackson County Board of Education. A copy of the current constitutional amendment, Act No. 247, and the proposed amendment, Act No. 631 are enclosed.

The change of term limits is the only change being made in the election process and all other issues relating to the election of board of education members remains the same. The change has not been enforced or administered. There has not been nor is there any pending litigation concerning the board of education's change or related voting practices. The change does not affect the voting impact of blacks in Jackson County.

We submit the following information for your review in connection with this preclearance request:

1. The referendum will be held on November 2, 2004, pursuant to Official Code of Georgia Annotated § 21-2-540, a copy of which we enclose.

## AN ACT

To reconstitute the law governing the Jackson County School System; to provide for the repeal of the amendment to the Constitution providing for matters regarding the selection and service of members of the board of education of Jackson County and the school superintendent, which amendment was proposed by 1980 House Resolution No. 730-1753; Resolution Act No. 247 (Ga. L. 1980, p. 2276) and was continued in force and effect by an Act approved March 28, 1986 (Ga. L. 1986, p. 5061); to provide for matters regarding the future selection and service of members of the board of education of Jackson County and the school superintendent; to provide for education districts for the election of members, terms of office, vacancies, and other related matters; to provide for a referendum with respect to the effectiveness of the foregoing; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

## SECTION 1.

The amendment to the Constitution providing for matters regarding the selection and service of members of the board of education of Jackson County and the school superintendent, which amendment was proposed by 1980 House Resolution No. 730-1753; Resolution Act No. 247 (Ga. L. 1980, p. 2276) and was continued in force and effect by an Act approved March 28, 1986 (Ga. L. 1986, p. 5061) is hereby repealed.

## SECTION 2.

(a) The board of education of Jackson County shall be composed of five members to be elected as provided in this Act. The term of each board member shall be four years. For the purpose of electing such members, Jackson County is hereby divided into those education districts as presently constituted on the effective date of this Act, excluding any area of Jackson County presently within the territorial boundaries of any independent school system in existence on the effective date of this Act.

(b) There shall be one member of the board elected from each of the five education districts described above. Each such member shall be elected by a majority of the voters voting within the boundaries of each respective education district, provided that only the voters residing outside boundaries of any independent school system in existence at the time such election is to be held shall be eligible to vote for any member of the board. Any person offering as a candidate to represent an education district on the board must reside in the district from

H. B. 1817

- 1 -

which he or she offers and cannot reside within the territorial limits of any independent school system which is in existence on the date such election is to be held. No person shall be eligible for membership on the board unless he or she has resided in the education district from which he or she offers as a candidate for at least one year immediately preceding the date of the election. If any member of the board shall change his or her residence from the education district that he or she represents, he or she shall no longer represent that district and a successor shall be elected as provided herein.

**SECTION 3.**

In case of a vacancy on the board for any cause other than expiration of a term of office, the board shall be authorized to appoint a successor to fill such vacancy until the next general election and, at the time of such general election, the person elected to fill such vacancy shall serve the remainder of the unexpired term. If, however, less than 60 days remain until the next general election from the time such vacancy is created, then the board in its discretion may elect to allow said vacancy to exist until the general election.

**SECTION 4.**

The members of the board of education of Jackson County in office on the date that this Act is approved by the qualified voters of Jackson County shall continue to serve the remainder of their terms. Any person who qualifies for and is elected in the same election in which this law is approved by the qualified voters of Jackson County shall be allowed to serve the entire term for which that person was elected.

**SECTION 5.**

All elections for future board members shall be held at the general election at which other county officers are elected in the year during which such member's term is to expire, and the person receiving the majority of the votes cast at said election shall take office on the first day of January immediately following their election.

**SECTION 6.**

Any change in the education districts for election of members of the board as they presently exist shall be made by Act of the General Assembly.

**SECTION 7.**

The board of education of Jackson County created herein shall have territorial jurisdiction over all of the area lying within the boundaries of Jackson County and outside of the

boundaries of any independent school system in existence on the date this law is approved by a majority of the eligible voters in Jackson County.

#### SECTION 8.

The superintendent of the Jackson County School System shall be appointed by a majority vote of the board of education of Jackson County, as created in this law, and shall serve at the pleasure of said board of education. Any person, to be eligible to serve as superintendent, shall meet all requirements of law and of the State Board of Education for the State of Georgia for such office.

#### SECTION 9.

Unless prohibited by the federal Voting Rights Act of 1965, as amended, the election superintendent of Jackson County shall call and conduct an election as provided in this section for the purpose of submitting this Act to the electors of the Jackson County School District for approval or rejection. The election superintendent shall conduct that election on the date of the November, 2004, general election and shall issue the call and conduct that election as provided by general law. The superintendent shall cause the date and purpose of the election to be published once a week for two weeks immediately preceding the date thereof in the official organ of Jackson County. The ballot shall have written or printed thereon the words:

- " ( ) YES Shall the Act be approved which reconstitutes the law governing the Jackson County School System and repeals the amendment to the
- ( ) NO Constitution providing for matters regarding the selection and service of members of the board of education of Jackson County and the school superintendent, which amendment was proposed by 1980 House Resolution No. 730-1753; Resolution Act No. 247 (Ga. L. 1980, p. 2276) and was continued in force and effect by an Act approved March 28, 1986 (Ga. L. 1986, p. 5061)?"

All persons desiring to vote for approval of the Act shall vote "Yes," and those persons desiring to vote for rejection of the Act shall vote "No." If more than one-half of the votes cast on such question are for approval of the Act, Sections 1 through 8 of this Act shall become of full force and effect January 1, 2005. If the Act is not so approved or if the election is not conducted as provided in this section, Sections 1 through 8 of this Act shall not become effective and this Act shall be automatically repealed on the first day of January immediately following that election date. The expense of such election shall be borne by

H. B. 1817

Jackson County. It shall be the election superintendent's duty to certify the result thereof to the Secretary of State.

**SECTION 10.**

The board of education of Jackson County shall through its legal counsel cause this Act to be submitted for preclearance under the federal Voting Rights Act of 1965, as amended; and such submission shall be made to the United States Department of Justice or filed with the appropriate court no later than 60 days after the date on which this Act is approved by the Governor or otherwise becomes law without such approval.

**SECTION 11.**

This Act shall become effective upon its approval by the Governor, except that Sections 1 through 8 of this Act shall become effective January 1, 2005, only if approved at the election provided for in Section 9 of this Act.

**SECTION 12.**

All laws and parts of laws in conflict with this Act are repealed.

Notice is given that there will be introduced at the regular 2004 session of the General Assembly of Georgia a bill to reconstitute the law governing the Jackson County school system; to provide for the repeal of the amendment to the constitution providing for matters regarding the selection and service of members of the board of education of Jackson County and the school superintendent, which amendment was proposed by 1980 House Resolution No. 730-1753; Resolution Act No. 247 (Ga. L. 1980, p. 2276) and was

continued in force and effect by an Act approved March 28, 1986 (Ga. L. 1986, p. 5061); to provide for matters regarding the future selection and service of members of the board of education of Jackson County and the school superintendent; to provide for education districts for the election of members, terms of office, vacancies, and other related matters; to provide for a referendum with respect to the effectiveness of the foregoing; and for other purposes.

GEORGIA, FULTON COUNTY

Personally appeared before me, the undersigned authority, duly authorized to administer oaths, Chris Elrod, who on oath deposes and says that he is the Representative from District 25 and further deposes and says that the attached Notice of Intention to Introduce Local Legislation was published in the Jackson Herald which is the official organ of Jackson County on March 10, 2004, and that the notice requirements of Code Section 28-1-14 have been met.

*[Signature]*  
 Chris Elrod  
 Representative, District 25

Sworn to and subscribed before me,  
 this 17th day of March, 2004.

*[Signature]*  
 Deana Coker  
 Notary Public, Henry County, Georgia  
 My Commission Expires Aug. 25, 2007  
 (SEAL)



APPROVED  
 MAY 17 2004  
 BY GOVERNOR

A RESOLUTION TO REGULATE AND PROVIDE FOR THE CALLING OF AN ELECTION TO DETERMINE THE ISSUANCE OR NONISSUANCE OF JACKSON COUNTY SCHOOL DISTRICT GENERAL OBLIGATION BONDS IN THE AGGREGATE PRINCIPAL AMOUNT OF \$70,000,000 FOR THE PURPOSE OF PROVIDING FUNDS TO PAY OR TO BE APPLIED TOWARD THE COST OF ACQUIRING, CONSTRUCTING AND EQUIPPING NEW SCHOOL BUILDINGS AND OTHER BUILDINGS AND FACILITIES USEFUL OR DESIRABLE IN CONNECTION THEREWITH, INCLUDING, BUT NOT LIMITED TO, A NEW HIGH SCHOOL, A NEW MIDDLE SCHOOL AND A NEW ELEMENTARY SCHOOL; ADDING TO, RENOVATING, REPAIRING, IMPROVING, AND EQUIPPING EXISTING SCHOOL BUILDINGS AND OTHER BUILDINGS AND FACILITIES USEFUL OR DESIRABLE THEREWITH; ACQUIRING ANY PROPERTY USEFUL OR DESIRABLE THEREFOR, BOTH REAL AND PERSONAL; TECHNOLOGY AND SAFETY IMPROVEMENTS; PURCHASING LAND TO BE USED AS SITES FOR FUTURE EDUCATIONAL FACILITIES; CAPITALIZING INTEREST ON THE BONDS ISSUED TO FUND SUCH PROJECTS FOR A PERIOD OF UP TO ONE YEAR FROM THE DATE OF DELIVERY OF ANY SERIES OF THE BONDS; AND PAYING ALL EXPENSES INCIDENT TO ACCOMPLISHING THE FOREGOING; TO PROVIDE FOR THE DATE AND THE MAXIMUM INTEREST RATE OR RATES OF INTEREST WHICH SUCH BONDS SHALL BEAR AND THE SCHEDULE OF MATURITIES OF SAID BOND ISSUE; TO PROVIDE FOR THE LEVY AND COLLECTION OF TAXES TO SERVICE SAID BOND ISSUE, IF SO AUTHORIZED; AND FOR OTHER RELATED PURPOSES:

WHEREAS, the Board of Education of Jackson County (the "Board"), charged with the duties of contracting debts and managing the affairs of the Jackson County School District, has caused to be made a thorough canvass and study of the school buildings, equipment and facilities of the Jackson County School District, and such investigation discloses the need for acquiring, constructing and equipping new school buildings and other buildings and facilities useful or desirable in connection therewith, including, but not limited to, a new high school, a new middle school and a new elementary school; adding to, renovating, repairing, improving, and equipping existing school buildings and other buildings and facilities useful or desirable therewith; acquiring any property useful or desirable therefor, both real and personal; technology and safety improvements; purchasing land to be used as sites for future educational facilities; capitalizing interest on the bonds (hereinafter described) issued to fund such projects for a period of up to one year from the date of delivery of any series of the bonds; and paying all expenses incident to accomplishing the foregoing; and

WHEREAS, it appears that \$70,000,000 will be required to accomplish said purpose; and

WHEREAS, it appears to the Board that the most feasible method of obtaining such funds is through the issuance and sale of Jackson County School District General Obligation Bonds pursuant to the Constitution and laws of the State of Georgia; and

WHEREAS, it is the judgment of the Board that school bonds should be issued for the above-stated purpose in the aggregate principal amount of \$70,000,000, said bonds to be dated the first day of the month of their delivery or such date as designated by the Board, to be issued in one or more series, to be in the denomination of \$5,000 each or any integral multiple thereof, to be subject to optional redemption by the Board prior to maturity, to bear interest from such date, payable semiannually on the first days of March and September in each year, commencing March 1, 2005 or the next March 1 or September 1 following their date of issuance, at an interest rate or rates not to exceed 7.0% per annum, until paid, and maturing (serially or, at the option of the Board, by mandatory sinking fund redemption) on the first day of March in the years and amounts, as follows:

<u>Year</u>	<u>Amount</u>	<u>Year</u>	<u>Amount</u>
2011	\$20,000	2019	\$5,365,000
2012	395,000	2020	5,930,000
2013	805,000	2021	6,530,000
2014	1,265,000	2022	7,175,000
2015	3,525,000	2023	7,870,000
2016	3,925,000	2024	8,605,000
2017	4,360,000	2025	9,395,000
2018	4,835,000		

WHEREAS, it is necessary to submit to the qualified voters of Jackson County the question of whether or not said school bonds shall be issued;

NOW, THEREFORE, BE IT RESOLVED by the Board of Education of Jackson County, and IT IS HEREBY RESOLVED by authority of the same as follows:

1. There is hereby called to be held in the voting precincts in said County on the 21st day of September, 2004, an election for the purpose of submitting to the qualified voters of said County the question of issuing Jackson County School District General Obligation Bonds in the aggregate principal amount of \$70,000,000 to be incurred for the purpose of acquiring, constructing and equipping new school buildings and other buildings and facilities useful or desirable in connection therewith, including, but not limited to, a new high school, a new middle school and a new elementary school; adding to, renovating, repairing, improving, and equipping existing school buildings and other buildings and facilities useful or desirable therewith; acquiring any property useful or desirable therefor, both real and personal; technology and safety improvements; purchasing land to be used as sites for future educational facilities; capitalizing interest on the bonds issued to fund such projects for a period of up to one year from the date of

delivery of any series of the bonds; and paying all expenses incident to accomplishing the foregoing.

2. The ballots to be used in said election shall have written or printed thereon substantially the following:

( ) YES

( ) NO

“Shall the Jackson County School District issue general obligation school bonds in the amount of \$70,000,000 for the purposes of providing funds to be applied to the funding of: (i) the acquisition, construction and equipping of new school buildings and other buildings and facilities useful or desirable in connection therewith, including, but not limited to, a new high school, a new middle school and a new elementary school; (ii) the addition to, renovation, repairing, improving, and equipping of existing school buildings and other buildings and facilities useful or desirable therewith; (iii) the acquisition of any property useful or desirable therefor, both real and personal; (iv) technology and safety improvements; (v) the purchasing of land to be used as sites for future educational facilities; (vi) the cost of capitalizing interest on the bonds issued to fund such projects for a period of up to one year from the date of delivery of any series of the bonds; and (vii) the paying of all expenses incident to accomplishing the foregoing?”

3. The date of such election shall be and is hereby set for September 21, 2004, and the polls of the voting precinct of Jackson County shall open at 7:00 a.m., and close at 7:00 p.m., and the election shall be held by the same persons and under and in accordance with the election laws of the State of Georgia, and the returns of said election shall be made to the Board and to the Probate Judge of Jackson County as Superintendent of Elections (the “Probate Judge”), who shall, in the presence of and together with the several managers of the polls who shall bring up the returns, consolidate said returns and then declare the result of said election in the manner required by law.

4. The Probate Judge is hereby authorized and requested to publish the notice of said election as required by law in the newspaper in which Sheriff’s advertisements for Jackson County are published once a week for five weeks immediately preceding the date of the election in substantially the form attached hereto as Exhibit “A.”

5. Prior to the date of the election authorized herein, there shall be appointed proper Election Managers and Clerks to supervise and hold said election and to make returns of said election to the Board and to the Probate Judge, who shall, in the presence of and together with the several Managers of the polls who shall bring up the returns, consolidate said returns and declare the result of said election in the manner required by law.

6. Should said bonds be authorized by the requisite number of qualified voters, the Board shall recommend the levy of, and the Board of Commissioners of Jackson

County shall levy, a tax upon all property subject to taxation for school bond purposes within the territory constituting said school district in sufficient amount to pay the principal of and interest on said bonds at their respective maturities.

7. The Secretary of the Board is hereby authorized and directed to deliver a copy of this resolution to the Probate Judge with a request that the Probate Judge join in this call for an election.

8. In accordance with the provisions of Code Section 36-82-4.1 of the Official Code of Georgia Annotated, as amended, any brochures, listings or other advertisements approved by the Board pursuant to a resolution duly adopted by said Board shall be deemed to be a statement of intention concerning the use of the bond funds in accordance, or substantially in accordance, with the aforesaid purpose, and reference to same shall be contained in the legal advertisement of the bond election.

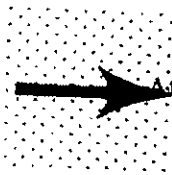
9. This Resolution shall take effect immediately upon its adoption.

This 8th day of July, 2004.

BOARD OF EDUCATION OF JACKSON COUNTY

By: *Fred B. Webb*  
Chairman

(SEAL)



Attest: *Ann S. Sykes*  
Secretary, Board of Education  
of Jackson County

*Joe M. Elliott*  
Member

*[Signature]*  
Member

\_\_\_\_\_  
Member

\_\_\_\_\_  
Member



LAW OFFICES  
**HARBEN & HARTLEY, LLP**

WACHOVIA CENTER, SUITE 750  
340 JESSE JEWELL PARKWAY  
GAINESVILLE, GEORGIA 30501

TELEPHONE: (770) 534-7341  
FACSIMILE: (770) 532-0399

SAM S. HARBEN, JR.  
PHILLIP L. HARTLEY  
MARTHA M. PEARSON  
CORY O. KIRBY

July 15, 2004

**VIA FEDERAL EXPRESS**

Chief, Voting Section  
Civil Rights Division  
Department of Justice  
1800 G Street, NW  
Room 7254  
Washington, D.C. 20006

2004 JUL 16 AM 11:31

Re: **Expedited Submission Under Section 5 of the  
Voting Rights Act**  
Jackson County Board of Education  
Jackson County, Georgia

Greetings:

The undersigned represents the Jackson County Board of Education in connection with the calling of a referendum seeking to seeking to issue general obligation debt. We hereby submit to you the following information for preclearance under Section 5 of the Voting Rights Act of 1965:

On July 8, 2004, the Jackson County Board of Education adopted a resolution for the issuance of general obligation debt for educational purposes, subject to the approval by a majority of the qualified voters residing within the limits of such county voting in the referendum.

We submit the following information for your review in connection with this preclearance request:

1. The referendum will be held on September 21, 2004, pursuant to Official Code of Georgia Annotated § 21-2-540, a copy of which we enclose.

2. The notice of the referendum will be published in the Jackson Herald, the legal organ of Jackson County, Georgia, as required by law.

3. Margaret Deadwyler, Election Superintendent for Jackson County, Georgia, has informed me that there will be no changes in the voting precincts for the referendum from that used for state and county elections.

4. The votes in the referendum will be recorded by Diebold electronic voting machines or,

NOTICE OF BOND ELECTION

TO THE QUALIFIED VOTERS OF JACKSON COUNTY, GEORGIA:

NOTICE IS HEREBY GIVEN that on the 21st day of September, 2004, an election will be held at the regular polling place in the election districts of Jackson County, Georgia, at which time there will be submitted to the qualified voters of Jackson County for their determination the question of whether or not general obligation bonds in the aggregate principal amount of \$70,000,000 shall be issued by the Jackson County School District for the purpose of providing funds for acquiring, constructing and equipping new school buildings and other buildings and facilities useful or desirable in connection therewith, including, but not limited to, a new high school, a new middle school and a new elementary school; adding to, renovating, repairing, improving, and equipping existing school buildings and other buildings and facilities useful or desirable therewith; acquiring any property useful or desirable therefor, both real and personal; technology and safety improvements; purchasing land to be used as sites for future educational facilities; capitalizing interest on the bonds issued to fund such projects for a period of up to one year from the date of delivery of any series of the bonds; and paying all expenses incident to accomplishing the foregoing. Said bonds, if so authorized, shall be dated the first day of the month of their delivery or such date as designated by the Board, shall be issued in one or more series, shall be in the denomination of \$5,000 each or integral multiples thereof, shall be numbered from R-1 upwards in accordance with their issuance as shown by the registration books kept with respect to such bonds, shall be subject to optional redemption by the Board prior to maturity, shall bear interest payable semiannually on the first days of March and September in each year, commencing March 1, 2005 or the next March 1 or September 1 following their date of issuance, at a rate or rates not to exceed 7.0% per annum, until paid, and shall mature (serially or, at the option of the Board, by mandatory sinking fund redemption) on the first day of March, in the years and principal amounts, as follows:

<u>Year</u>	<u>Amount</u>	<u>Year</u>	<u>Amount</u>
2011	\$20,000	2019	\$5,365,000
2012	395,000	2020	5,930,000
2013	805,000	2021	6,530,000
2014	1,265,000	2022	7,175,000
2015	3,525,000	2023	7,870,000
2016	3,925,000	2024	8,605,000
2017	4,360,000	2025	9,395,000
2018	4,835,000		

The principal and interest on said bonds shall be payable in lawful money of the United States of America at a paying agent bank which will be designated prior to the issuance of said bonds. The bonds shall be subject to prepayment and redemption as determined by the Board.

The ballots to be used at said election shall have written or printed thereon substantially the following:

- ( ) YES
- ( ) NO
- Shall the Jackson County School District issue general obligation school bonds in the amount of \$70,000,000 for the purposes of providing funds to be applied to the funding of: (i) the acquisition, construction and equipping of new school buildings and other buildings and facilities useful or desirable in connection therewith, including, but not limited to, a new high school, a new middle school and a new elementary school; (ii) the addition to, renovation, repairing, improving, and equipping of existing school buildings and other buildings and facilities useful or desirable therewith; (iii) the acquisition of any property useful or desirable therefor, both real and personal; (iv) technology and safety improvements; (v) the purchasing of land to be used as sites for future educational facilities; (vi) the cost of capitalizing interest on the bonds issued to fund such projects for a period of up to one year from the date of delivery of any series of the bonds; and (vii) the paying of all expenses incident to accomplishing the foregoing?

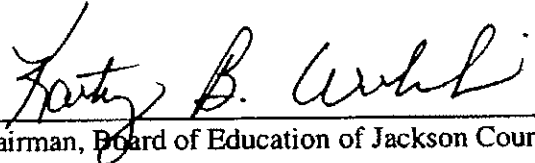
The several places for holding said election shall be at the regular and established voting precinct of the election districts of Jackson County, Georgia, and the polls will be open from 7:00 a.m. to 7:00 p.m. on the date fixed for the election.

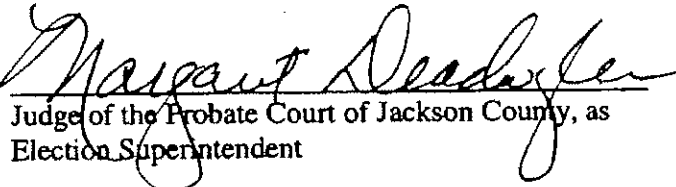
The last day to register to vote in this election shall be August 23, 2004, through 5:00 p.m.

Any brochures, listings, or other advertisements issued by the Board or by any other person, firm, corporation, or association with the knowledge and consent of the Board shall be deemed to be a statement of intention of the Board concerning the use of the bond funds, any such statement of intention shall be binding on the Board in the expenditure of any such bond funds or interest earned thereon, unless the Board uses such bond proceeds for the retirement of bonded indebtedness.

Those residents of Jackson County qualified to vote at said election shall be determined in all respects in accordance with the election laws of the State of Georgia.

This notice is given pursuant to a resolution of the Board of Education of Jackson County, adopted July 8, 2004, and an Order of the Judge of the Probate Court of Jackson County, as Election Superintendent.

  
Chairman, Board of Education of Jackson County

  
Judge of the Probate Court of Jackson County, as  
Election Superintendent

100 Expedited Submission  
**FedEx** US Airbill Express

8463 5286 0820

1 From the information provided for recipient's records.

Date 11/17/94 FedEx Tracking Number 846352860820

Sender's Name City Kings Phone 703 534 0000

Company HARBEN & ASSOC. ATTORNEYS AT LAW

Address 340 JESSIE W. BERRY BLVD

City GAINESVILLE State FL ZIP 32601-7700

RECIPIENT: PEEL HERE

NO POUCH NEEDED. See back for peel and stick application instructions.

2 Your Internal Billing Reference

JACKSON BONDS

3 To Recipient's Address

Recipient's Name Chief, Jackson

Company CIVIL RIGHTS DIVISION

Address 1800 G Street NW

City WASHINGTON State DC ZIP 20006



8463 5286 0820

Recipient's Copy

**4a Express Package Service**

Package up to 100 lbs.  FedEx Standard Overnight  FedEx First Overnight

Package over 100 lbs.  FedEx 2Day  FedEx Express Saver  FedEx 2Day Freight  FedEx 3Day Freight

**4b Express Freight Service**

Package up to 100 lbs.  FedEx 2Day  FedEx 3Day

Package over 100 lbs.  FedEx 2Day Freight  FedEx 3Day Freight

**5 Packaging**

FedEx Envelope  FedEx Pak  FedEx Box  Other

**6 Special Handling**

HAZARDOUS (Check appropriate boxes)

HOLD (Check appropriate boxes)

Fragile (Check appropriate boxes)

**7 Payment**

Recipient  Third Party  Credit Card  Cash/Check

Other (Specify)

**8 Sign to Authorize Delivery Without a Signature**

I authorize the carrier to deliver this package without a signature.

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

466

By paying for this service, you authorize the carrier to deliver this package without a signature. This service is not available for international shipments. See the back of this form for more information.

Confidential

  X   Not Confidential

**Memorandum of Telephonic Communication**

**Date:** August 19, 2004   **Attorney/Analyst:** Aaron N Silverman   **File No.:** 2004-3087

**Other Party:** Cory O. Kirby   **Race:**   **Tel. No.:** 770 534 7341

**Title/Organization:** Harben & Hartley

**Jurisdiction:** Jackson County School District, Jackson County, Georgia

**Subject:** Special elections (referendum & bond), *Act No. 631*

**August 19, 2004:** Mr. Kirby said he would try to get a hold of the cover letter with the governor's seal that typically accompanies state acts and fax that document to this office. Mr. Kirby explained that the term limits are being changed from a limit of 2 consecutive terms to unlimited consecutive terms.

**August 23, 2004:** Mr. Kirby said he would fax the Section a copy of the previous Act No. 247 that Act No. 631 is replacing.

**August 25, 2004:** I left a message for Mr. Kirby. Mr. Kirby returned my call and confirmed that the terms of the members of the Jackson County Board of Education are remaining staggered. He said that the two Acts look somewhat different for stylistic purposes, but that the only substantive change made in the new Act No. 631 is the removal of the previous term limit of 2 consecutive terms.

---

LAW OFFICES  
**HARBEN & HARTLEY, LLP**

SUTTE 750, WACHOVIA CENTER  
340 JESSE JEWELL PARKWAY  
GAINESVILLE, GEORGIA 30501

SECTION 5 SUBMISSION

NO. 2004-3087

TELEPHONE: (770) 534-7341  
FACSIMILE: (770) 532-0399

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(If you do not receive all of the pages, please call back as soon as possible).

DATE: August 19, 2004  
TO: Ms. Countee  
Department of Justice  
Aaron Silverman

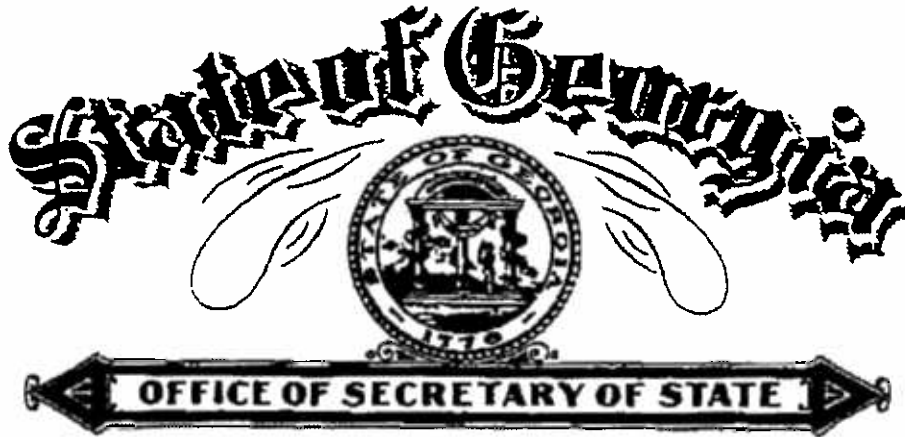
FAX NO.: (202) 616-9514

FROM: Cory Kirby

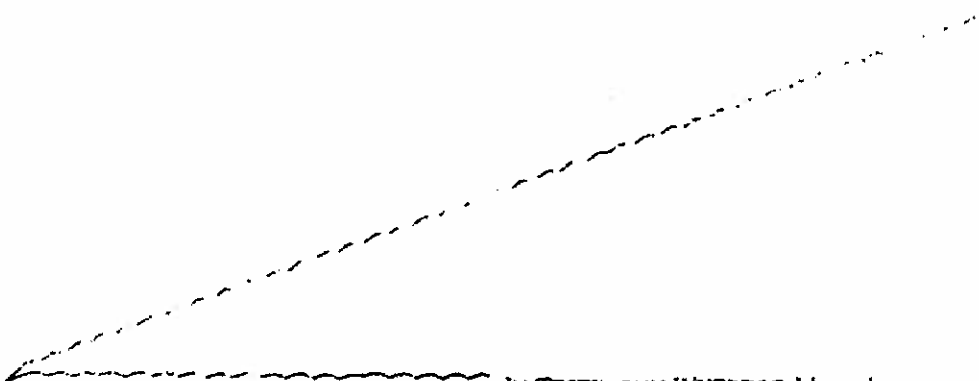
TOTAL NUMBER OF PAGES TO BE TRANSMITTED, INCLUDING COVER PAGE: 3

MESSAGE:

Pursuant to your request, enclosed is the cover sheet for Act No. 631, Jackson County.  
I enjoyed meeting you, Aaron and it was good to hear from Ms. Countee.



*I, Cathy Cox, Secretary of State of the State of Georgia, do hereby certify that* the *six* pages of photocopied matter hereto attached, Act No. 631 (H.B. 1817) approved by the Governor on *May 17, 2004* contain a true and correct copy of an Enrolled Act affecting your county; all as the same appear of file and record in this office.



IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the seal of my office, at the Capitol, in the City of Atlanta, this *1st* day of *June* in the year of our Lord *Two Thousand and Four* and of the Independence of the United States of America the *Two Hundred and Twenty-eighth*.



*Cathy Cox*  
 \_\_\_\_\_  
 SECRETARY OF STATE

**ENROLLMENT**

April 12 2004

The Committee of the House on Journals has examined the within and finds the same properly enrolled.

Douglas Teper  
Chairman

Will Bolina  
Speaker of the House

Robert R. Rivers  
Clerk of the House

Frank Eldridge  
President of the Senate

Frank Eldridge  
Secretary of the Senate

Received A. K. White  
Secretary, Executive Department

This 12 day of April 2004

Approved  
Sonny Perdue  
Governor

This 17 day of May 2004

H.B. No. 1817 Act No. 631  
General Assembly



**AN ACT**

To reconstitute the law governing the Jackson County School System; to provide for the repeal of the amendment to the Constitution providing for matters regarding the selection and service of members of the board of education of Jackson County and the school superintendent; to provide for matters regarding the future selection and service of members of the board of education of Jackson County and the school superintendent; to provide for a referendum; and for other purposes.

**IN HOUSE**

Read 1<sup>st</sup> time 3-22-04  
Read 2<sup>nd</sup> time 3-24-04  
Read 3<sup>rd</sup> time 3-25-04  
And Passed

Yeas 153 Nays 0

Robert R. Rivers  
Clerk of the House

**IN SENATE**

Read 1<sup>st</sup> time 3-25-04  
Read 2<sup>nd</sup> time  
Read 3<sup>rd</sup> time  
And Passed 4-1-04

Yeas 44 Nays 0

Passed Both Houses

Frank Eldridge  
Secretary of the Senate

By: Reprs. Elrod of the 25<sup>th</sup> and Massey of the 24<sup>th</sup>

LAW OFFICES  
**HARBEN & HARTLEY, LLP**  
SUITE 750, WACHOVIA CENTER  
340 JESSE JEWELL PARKWAY  
GAINESVILLE, GEORGIA 30501

SECTION 5 SUBMISSION

NO. 2004-3087

TELEPHONE: (770) 534-7341  
FACSIMILE: (770) 532-0399

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(If you do not receive all of the pages, please call back as soon as possible).

DATE: August 24, 2004

TO: Ms. Countee  
Department of Justice

Aaron Silverman

FAX NO.: (202) 616-9514

FROM: Cory Kirby

TOTAL NUMBER OF PAGES TO BE TRANSMITTED, INCLUDING COVER PAGE: 4

MESSAGE:

All persons desiring to vote in favor of ratifying the proposed amendment shall vote "Yes". All persons desiring to vote against ratifying the proposed amendment shall vote "No".

If such amendment shall be ratified as provided in said Paragraph of the Constitution, it shall become a part of the Constitution of this State.

### JACKSON COUNTY BOARD OF EDUCATION.

Proposed Amendment to the Constitution.

No. 247 (House Resolution No. 730-1753).

#### A RESOLUTION

Proposing an amendment to the Constitution so as to provide for the election of members of the Board of Education of Jackson County; to provide for the appointment of the School Superintendent of the Jackson County School System; to prescribe the procedure connected therewith; to provide for the establishment of educational districts; to provide for the terms of office of the members of the Board of Education of Jackson County and the Superintendent of the Jackson County School System and their qualifications; to prescribe the procedure whereby vacancies on the Board of Education are to be filled; to provide for submission of this amendment for ratification or rejection; and for other purposes.

BE IT RESOLVED BY THE GENERAL ASSEMBLY OF  
GEORGIA:

Section 1. Article VIII, Section V, Paragraph II of the Constitution is hereby amended by adding at the end thereof new paragraphs to read as follows:

"The Board of Education of Jackson County shall be composed of five members to be elected as hereinafter provided. For the pur-

pose of electing such members, Jackson County is hereby divided into the following education districts, excluding any area of Jackson County presently within the territorial boundaries of any independent school system in existence on the date this amendment is ratified: Education District No. 1 shall be composed of Militia District Nos. 428, 1765, 1407, and 248; Education District No. 2 shall be composed of Militia District Nos. 242 and 245; Education District No. 3 shall be composed of Militia District Nos. 253, 1704, and 1747; Education District No. 4 shall be composed of Militia District Nos. 255 and 465; and Education District No. 5 shall be composed of Militia District Nos. 257, 455, and 1691.

There shall be one member of the Board elected from each of the five education districts described above. Each such member shall be elected by a majority of the voters voting within the boundaries of each respective education district, provided that only the voters residing outside boundaries of any independent school system in existence at the time such election is to be held shall be eligible to vote for any member of the Board. Any person offering as a candidate to represent an education district on the Board must reside in the district from which he offers and cannot reside within the territorial limits of any independent school system which is in existence on the date such election is to be held. No person shall be eligible for membership on the Board unless he has resided in the education district from which he offers as a candidate for at least one year immediately preceding the date of the election. If any member of the Board shall change his residence from the education district that he represents, he shall no longer represent that district and a successor shall be elected as provided herein. In case of a vacancy on the Board for any cause other than expiration of a term of office, the Board shall be authorized to appoint a successor to fill such vacancy until the next general election and, at the time of such general election, the person elected to fill such vacancy shall serve the remainder of the unexpired term. If, however, less than 60 days remain until the next general election from the time such vacancy is created, then the Board in its discretion may elect to allow said vacancy to exist until the general election. Notwithstanding anything herein contained to the contrary, in the event that any change is made by the Jackson County Board of Education in the education districts described herein, such change shall not preclude a person who is serving as a member of the Board of Education at the time such change is made from completing his term as a result of the residency requirement contained in this paragraph.

The members of the Board of Education in office on the date of the ratification of this amendment, or their appointive successors, shall continue to serve as follows: Said member whose term, except for this amendment, would be due to expire on March 31, 1985, shall continue to serve until December 31, 1982; said members whose terms would be due to expire on March 31, 1981, and March 31, 1982, shall continue to serve until December 31, 1984; said members whose terms would be due to expire on March 31, 1983, and March 31, 1984, shall continue to serve until December 31, 1986. After the ratification of this amendment, the grand jury shall appoint no members of the Jackson County Board of Education, and the method provided for herein for the filling of vacancies on said Board shall be the method used to fill any vacancies created on said Board after the ratification of this amendment. It is the purpose of this paragraph to retain the appointive members of the Jackson County Board of Education, or their successors in office, until the elections provided for herein are held and the elective members from the education districts created herein are elected and qualified.

Elections to fill the vacancies created by the procedure described in the preceding paragraph shall be held in the following order as each such vacancy occurs: An election shall be held in the November, 1982, general election to fill the vacancy created by the procedure described in the preceding paragraph in what is described herein as Education District No. 5; an election shall be held in the November, 1984, general election to fill the second and third vacancies created by the procedure described in the preceding paragraph in what is described herein as Education District Nos. 1 and 3; an election shall be held in the November, 1986, general election to fill the fourth and fifth vacancies created by the procedure described in the preceding paragraph in Education District Nos. 2 and 4. Each member so elected shall serve for a term of four years and may only serve two consecutive terms. All elections for future Board members shall be held at the general election at which other county officers are elected in the year during which such member's term is to expire, and the person receiving a majority of the votes cast at said election shall take office on the first day of January immediately following their election.

The Board of Education as provided for herein shall be subject to all constitutional provisions and all statutory provisions relative to county boards of education unless such provisions are in conflict with the provisions of this amendment.

The Board of Education created herein shall have the authority to change the number of education districts created herein, as well as the boundaries of such education districts, in order to satisfy the requirements of any State of Georgia or federal statutory or constitutional provision or whenever in their discretion it is in the best interest of the Jackson County School System to do so. Incidental to this power, the Board of Education shall have the power to determine the effective date of such changes as well as the date on which elections for the representatives of such newly created districts shall be held. Said Board shall also have the authority to increase the number of members of the Board of Education to no more than seven members when, in the discretion of said Board, it is in the best interest of the Jackson County School System to do so.

The Board of Education created herein shall have territorial jurisdiction over all of the area lying within the boundaries of Jackson County and outside of the boundaries of any independent school system in existence on the date this amendment is ratified, together with any additional area within Jackson County which becomes the responsibility of the Board of Education created herein in the future as a result of any statutory or constitutional provision of the State of Georgia."

Section 2. Article VIII, Section V, Paragraph V of the Constitution of the State of Georgia, relating to county school superintendents, is hereby amended by adding at the end thereof the following:

"The Superintendent of the Jackson County School System shall be appointed by a majority vote of the Jackson County Board of Education, as created in this amendment, and shall serve at the pleasure of said Board of Education. Any person, to be eligible to serve as Superintendent, shall meet all requirements of law and of the State Board of Education for the State of Georgia for such office. The position of Superintendent of the Jackson County School System as such position existed prior to the ratification of this amendment is hereby abolished, and the effective date of the provisions of this paragraph shall be January 1, 1981."

Section 3. The above proposed amendment to the Constitution shall be published and submitted as provided in Article XII, Section 1, Paragraph 1 of the Constitution.

The ballot submitting the above proposed amendment shall have written or printed thereon the following:

"[ ] YES Shall the Constitution be amended so as to provide for the division of the Jackson County School District into education districts in order to provide for the election of the members of the Board of Education of Jackson County and to provide for the appointment of the Superintendent of the Jackson County School System by said Board of Education?"

All persons desiring to vote in favor of ratifying the proposed amendment shall vote "Yes". All persons desiring to vote against ratifying the proposed amendment shall vote "No".

If such amendment shall be ratified as provided in said Paragraph of the Constitution, it shall become a part of the Constitution of this State.

#### HABERSHAM COUNTY — TAXES FOR EDUCATIONAL PURPOSES.

Proposed Amendment to the Constitution.

No. 248 (House Resolution No. 754-1776).

##### A RESOLUTION

Proposing an amendment to the Constitution so as to authorize the Board of Education of Habersham County to direct the governing authority of Habersham County to impose throughout the entire county certain excise taxes on alcoholic beverages sold within Habersham County and to authorize said Board to receive funds derived from such taxes and expend same for educational purposes within the Habersham County school district; to provide for the submission of this amendment for ratification or rejection; and for other purposes.

#### BE IT RESOLVED BY THE GENERAL ASSEMBLY OF GEORGIA:

Section 1. Article IX, Section V, Paragraph II of the Constitution is hereby amended by adding at the end thereof the following:

"The Board of Education of Habersham County, upon the adoption of a resolution by said Board for such purpose, is hereby authorized to direct the governing authority of Habersham County to impose, on behalf of said Board of Education, any one or more of the following taxes:

- (1) An excise tax not exceeding five cents per 12 ounces, or a proportionate tax at like rate on bottles, cans, and containers of various sizes, on the sale of malt beverages within Habersham County. Such tax may also be imposed on tap or draft beer sold within Habersham County at a rate not exceeding \$6.00 for each barrel or bulk container containing 15 1/2 gallons, or a proportionate tax at like rate for containers of various sizes.
- (2) An excise tax not exceeding 25 cents per gallon, or a proportionate tax at like rate on fractional parts of a gallon, on the sale within Habersham County of wines, whether produced from fruits or berries grown within or without the state, having an alcoholic content of 14 percent or more by volume.
- (3) An excise tax not exceeding 80 cents per gallon, or a proportionate tax at like rate on fractional parts of a gallon, on the sale within Habersham County of distilled spirits or spirituous liquors if the sale of such distilled spirits or spirituous liquors within Habersham County hereafter becomes legal in the manner provided by law.

If the Board of Education of Habersham County adopts a resolution directing that one or more of the taxes authorized above be imposed, it shall be the duty of the governing authority of Habersham County to impose and collect such tax beginning on the date specified in the resolution adopted by said Board of Education. Said resolution shall specify the rate, within the foregoing limitations, of any such tax. Said tax shall be imposed on behalf of the Board of Education, and the proceeds therefrom shall be paid to the Board of Education, in a manner and at such times as shall be



U.S. Department of Justice  
Civil Rights Division

JKT:RPL:TAL:jdb  
DJ 166-012-3  
2007-3238

*Voting Section - NWB  
950 Pennsylvania Avenue, NW  
Washington, DC 20530*

August 14, 2007

Ms. Kathy Davidson  
City Secretary  
P.O. Box 760  
Gilmer, Texas 75644

Dear Ms. Davidson:

This refers to the charter amendments approved by the voters at the May 12, 2007, special election, relating to term limits for the mayor and councilmembers, the procedures for filling vacancies, the administration of elections, and the powers and duties of the city council, for the City of Gilmer in Upshur County, Texas, submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act, 42 U.S.C. 1973c. We received your submission on June 19, 2007.

The Attorney General does not interpose any objection to the specified changes. However, we note that Section 5 expressly provides that the failure of the Attorney General to object does not bar subsequent litigation to enjoin the enforcement of the changes. Procedures for the Administration of Section 5 of the Voting Rights Act (28 C.F.R. 51.41).

Sincerely,

John Tanner  
Chief, Voting Section



SECTION 5 SUBMISSION

NO. 2007-3238

June 14, 2007

CERTIFIED MAIL #70062760000421385276  
RETURN RECEIPT REQUESTED

Chief, Voting Section  
Civil Rights Division  
Room 7254-NWB  
Department of Justice  
950 Pennsylvania Avenue, NW  
Washington, D.C. 20530

2007 JUN 15 11 51 02  
CIVIL RIGHTS DIVISION

Re: SUBMISSION UNDER SECTION 5, VOTING RIGHTS ACT

To Whom It May Concern:

On behalf of the City Council of the City of Gilmer, Upshur County, Texas, I hereby submit for your approval Home Rule Charter Budget Amendments which City of Gilmer voters approved at a special election held May 12, 2007.

Enclosed as Exhibit A is a copy of the original text in the charter and the proposed change for each article/section on the ballot.

Enclosed as Exhibit B is a sample copy of the official ballot used during the May 12, 2007 special election.

Enclosed as Exhibit C is an official precinct report of the results of the May 12, 2007 special election.

Enclosed as Exhibit D is a signed copy of the minutes of the May 22, 2007 City Council meeting at which the official canvass was held and approved by City Council.

This submission is being made by Kathy Davidson, City Secretary of the City of Gilmer, Texas on behalf of the City Council of the City of Gilmer, Upshur County, Texas.

Should you have any questions or need further information regarding this submission, please feel free to contact me at 903-843-2552 or [kathyd@etex.net](mailto:kathyd@etex.net).

Sincerely,

A handwritten signature in black ink that reads "Kathy Davidson". The signature is written in a cursive style with a large, prominent "K" and "D".

Kathy Davidson  
City Secretary

Enclosures

# EXhibit A

***Note:***

***All changes will be noted in***

***Bold, Italics, and Underlined.***

## Article 3

### Section 3.01 Number, Selection and Term of Office.

#### Original Text in Charter (Paragraph Two):

No elective officer may serve more than three (3) consecutive terms as either a Councilmember and/or Mayor. Persons serving three (3) consecutive terms as a Councilmember and/or Mayor must remain out of office one (1) term before being eligible to serve as a Councilmember and/or Mayor. Serving one-half or more of any portion of a term shall be counted in determining the number of terms served. Provisions contained in the paragraph relating to term limits shall not take effect until the first municipal election in May after the adoption of this charter, or at the same time the Charter is adopted, provided such Charter is adopted at a municipal election in May.

#### Proposed change:

*Delete entire paragraph two.*

## Article 3

### Section 3.05 Vacancies.

#### Original Text in Charter (Paragraph Two):

When more than one vacancy shall develop at any one time, a special election shall be called by the Council 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 such vacancies occur within ninety (90) days of a regular election, then no special election shall be called and remaining Councilmembers shall appoint qualified persons to fill the vacancies until the regular election.

#### Proposed change:

When more than one vacancy shall develop at any one time, a special election shall be called by the Council 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 such vacancies occur *within* ninety (90) days *prior to* a regular election, then no special election shall be called and remaining Councilmembers shall appoint qualified persons to fill the vacancies until the regular election.

### Article 3

#### Section 3.09 (a) Powers of the Council.

##### Original Text in Amendments:

Appoint and remove the City Manager as herein after provided. A formal evaluation of the City Manager will be performed at the first regular City Council meeting in January of each year. Furthermore, the City Manager's evaluation will be a required agenda item for the first meeting in January. The Council shall formally evaluate the performance of the City Manager and suggest items for improvement and priorities for the coming year. In addition, the Council may conduct as many evaluations as they deem necessary during the year. This shall be handled in executive session as a personnel matter.

##### Proposed change:

Appoint and remove the City Manager as herein after provided. An evaluation of the City Manager will be performed at a regular City Council meeting in January of each year. Furthermore, the City Manager's evaluation will be a required agenda item for a meeting in January. The Council shall evaluate the performance of the City Manager and suggest items for improvement and priorities for the coming year. In addition, the Council may conduct as many evaluations as they deem necessary during the year. This shall be handled in executive session as a personnel matter.

## Article 4

### Section 4.03.1 Director of Finance-Appointment and Qualifications.

#### Original Text in Amendments:

There shall be a Director of Finance appointed by the City Manager for an indefinite term. The Director of Finance shall serve in no other position within the City Government, except when so designated by the City Council. The City Manager shall have the authority to remove the Director of Finance without the prior approval of three fifths (3/5) vote of the entire Council, if following a detailed internal or external investigation identifying that the Director of Finance has committed a criminal act or acts against the City of Gilmer in the performance of their duties and/or responsibilities. With the departure of the Director of Finance, whether voluntary or involuntary, the City Manager at the direction of the City Council shall cause an independent audit to be undertaken of the City's financial books and accounts. The Director of Finance shall have knowledge of municipal accounting and taxation and have had experience in budgeting and financial control. The Director shall be fully responsible to the City Manager for the administration of their department, and for the carrying out and enforcement of the financial resolutions and ordinances of the City Council. The Director shall, with the approval of the City Manager, appoint and remove the employees of said department and shall perform such duties as identified within this charter or as may be developed by the City Manager not in conflict with City Council or required by the City Council.

#### Proposed change:

There *may* be a Director of Finance appointed by the City Manager for an indefinite term. The Director of Finance shall serve in no other position within the City Government, except when so designated by the City Council. The City Manager shall have the authority to remove the Director of Finance without the prior approval of three fifths (3/5) vote of the entire Council. If following a detailed internal or external investigation identifying that the Director of Finance has committed a criminal act or acts against the City of Gilmer in the performance of their duties and/or responsibilities. With the departure of the Director of Finance, whether voluntary or involuntary, the City Manager at the direction of the City Council shall cause an independent audit to be undertaken of the City's financial books and accounts. The Director of Finance shall have knowledge of municipal accounting and taxation and have had experience in budgeting and financial control. The Director shall be fully responsible to the City Manager for the administration of their department, and for the carrying out and enforcement of the financial resolutions and ordinances of the City Council. The Director shall, with the approval of the City Manager, appoint and remove the employees of said department and shall perform such duties as identified within this charter or as may be developed by the City Manager not in conflict with City Council or required by the City Council.

## Article 5

### Section 5.02.1 Judge of the Municipal Court.

#### Original Text in Charter:

The Municipal Court shall be presided over by a Magistrate who shall be known as the City Judge. The Judge shall be appointed by the Mayor with the concurrence of the Council, and shall serve at the discretion of the City Council. The Judge shall receive such compensation as may be set by the Council. In the event the City Judge is unable to act for any reason or in the event of a vacancy, the Mayor shall act in the place of the City Judge until such vacancy shall be filled, provided, however, the Mayor may not fill the City Judge's vacancy for more than forty-five (45) days from the date of the original vacancy. During the time the Mayor is serving as City Judge, he shall recommend a replacement to fill the vacancy. If within the first thirty (30) days of the time period required to fill the City Judge's vacancy, such action is not initiated by the Mayor, the City Council at a regular or special meeting may with a three-fifths (3/5) vote appoint and fill the City Judge's vacancy.

#### Proposed Change:

The Municipal Court shall be presided over by a Magistrate who shall be known as the City Judge. The Judge shall be appointed by the Mayor with the concurrence of the Council, and shall serve at the discretion of the City Council. The Judge shall receive such compensation as may be set by the Council. *The City Council, at its discretion, may appoint one or more Associate Judges.*

Article 6

Municipal Finance

**Original Text in Charter/Amendments:**

Director of Finance

**Proposed Change:**

*City Manager*

*Note: The Commission proposed deleting the position of Director of Finance and replacing it with City Manager throughout Article 6.*

## Article 6

### Section 6.01 Fiscal Year.

#### Original Text in Charter:

The fiscal year of the City of Gilmer shall begin on October 1<sup>st</sup> of each calendar year and will end on September 30<sup>th</sup> of the following calendar year. Such fiscal year shall also constitute the budget and accounting year.

#### Proposed change:

The fiscal year of the City of Gilmer shall begin on October 1<sup>st</sup> of each calendar year and will end at midnight on September 30<sup>th</sup> of the following calendar year. Such fiscal year shall also constitute the budget and accounting year.

## Article 6

### Section 6.13 (d) Amendments after Adoption of Budget/Transfer of Appropriations.

#### Original Text in Amendments:

At any time during the fiscal year, the Director of Finance with the approval of the City Manager may transfer part or all of any unencumbered appropriation balance among programs within a department, office, or agency. Upon written request by the City Manager, or Director of Finance the Council may, by resolution, transfer part or all of any unencumbered appropriation balance from one department, office, or agency to another.

#### Proposed changes:

At any time during the fiscal year, the City Manager may transfer part or all of any unencumbered appropriation balance among programs within a department, office, or agency. Upon written request by the City Manager, the Council may, by budget amendment, transfer part or all of any unencumbered appropriation balance from one department, office, or agency to another.

## Article 7

### Section 7.01 General Elections.

#### Original Text in Charter:

The regular City Election shall be held annually on the first Saturday in May, at which time officers will be elected to fill those offices that become vacant that year. The City Council shall fix the hours and place for holding such elections. Notice of the election shall be published in the official newspaper of the City of Gilmer, such publication to be not less than forty-five (45) days before the election. The Mayor and at-large Councilperson shall be elected by obtaining a majority of the votes cast. Candidates for single member districts shall file for one district and shall be elected by a majority of votes cast within that district. During the odd numbered years, the Mayor will be elected at-large along with Districts 2 and 3. During the even numbered years, one candidate will be elected at-large along with Districts 1 and 4.

#### Proposed Change:

The regular City Election shall be held annually on the *date in May, set by the State of Texas*, at which time officers will be elected to fill those offices that become vacant that year. The City Council shall fix the hours and place for holding such elections. Notice of the election shall be published in the official newspaper of the City of Gilmer, such publication to be not less than forty-five (45) days before the election. The Mayor and at-large Councilperson shall be elected by obtaining a majority of the votes cast. Candidates for single member districts shall file for one district and shall be elected by a majority of votes cast within that district. During the odd numbered years, the Mayor will be elected at-large along with Districts 2 and 3. During the even numbered years, one candidate will be elected at large along with Districts 1 and 4.

## Article 7

### Section 7.02 Regulation of Elections.

#### Original Text in Charter:

All general and special elections shall be held in accordance with the laws of the State of Texas regulating the holding of municipal elections and in accordance with this Charter and ordinances or resolutions adopted by the Council for the conduct of elections. The Council shall appoint the election judges and other election officials in the City elections and for all other expenses in holding said elections. Voting boxes shall be established on basis of one (1) voting box for each three thousand (3,000) qualified voters or fraction thereof. The Council shall designate said voting according to population concentrations.

#### Proposed change:

All general and special elections shall be held in accordance with the laws of the State of Texas regulating the holding of municipal elections and in accordance with this Charter and ordinances or resolutions adopted by the Council for the conduct of elections. The Council shall appoint the election judges and other election officials in the City elections and for all other expenses in holding said elections. *(Delete the following sentence: Voting boxes shall be established on basis of one (1) voting box for each three thousand (3,000) qualified voters or fraction thereof. The Council shall designate said voting according to population concentrations.)*

## Article 14

### Section 14.01 Establishing Ethics Commission.

#### Original Text in Charter:

The City Council shall appoint an Ethics Commission of five (5) people to develop a list of Ethics for the Council. This would then go before the Council for three-fifths (3/5) vote of the entire council to be approved within six (6) months from the date of the election to approve the Charter Revisions. In addition, the City Manager and the City Attorney shall sit on the Ethics Board as ex-officio members with no voting rights. The Ethics List shall be reviewed every five (5) years when the Home Rule charter is reviewed.

#### Proposed change:

*The Home Rule Charter Commission voted to delete this entire Article and let the State of Texas Ethics Rules serve as the city's guide.*

OFFICIAL BALLOT  
UPSHUR COUNTY, TEXAS  
May 12, 2007

Precinct *GILMER CITY-111*

12000240100009

Sample Ballot

000000001102

**Ballot Instructions:**  
Please use a black or blue pen to mark your ballot. To vote for your choice in each contest, completely fill in the box provided to the left of your choice.

**Mayor, At-Large**  
Vote for one(1):  
 R. D. Cross

**Note:** All changes will be noted in CAPITAL letters.

**Article 3-Section 3.01 Number, Selection and Term of Office**  
Original Text in Charter:  
No elective officer may serve more than three (3) consecutive terms as either a Councilmember and/or Mayor. Persons serving three (3) consecutive terms as a Councilmember and/or Mayor must remain out of office one (1) term before being eligible to serve as a Councilmember and/or Mayor. Serving one-half or more of any portion of a term shall be counted in determining the number of terms served. Provisions contained in the paragraph relating to term limits shall not take effect until the first municipal election in May after the adoption of this charter, or at the same time the Charter is adopted, provided such Charter is adopted at a municipal election in May.

Proposed change:  
DELETE ENTIRE PARAGRAPH.  
 For  
 Against

**Article 3-Section 3.05 Vacancies.**  
Proposed change:  
When more than one vacancy shall develop at any one time, a special election shall be called by the Council 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 such vacancies occur WITHIN ninety (90) days PRIOR TO a regular election, then no special election shall be called and remaining Councilmembers shall appoint qualified persons to fill the vacancies until the regular election.

For  
 Against

**Article 3-Section 3.09 (a) Powers of the Council.**  
Proposed change:  
Appoint and remove the City Manager as herein after provided. AN EVALUATION of the City Manager will be performed at A regular City Council meeting in January of each year. Furthermore, the City Manager's evaluation will be a required agenda item for A meeting in January. The Council SHALL EVALUATE the performance of the City Manager and suggest items for improvement and penalties for the coming year. In addition, the Council may conduct as many evaluations as they deem necessary during the year. This shall be handled in executive session as a personnel matter.

For  
 Against

**Article 4-Section 4.02.1 Director of Finance-Appointment and Qualifications.**  
Proposed change:  
There MAY be a Director of Finance appointed by the City Manager for an indefinite term. The Director of Finance shall serve in no other position within the City Government, except when so designated by the City Council.

For  
 Against

**Article 5-Section 5.02.1 Judge of the Municipal Court.**  
Proposed change:  
The Municipal Court shall be presided over by a Magistrate who shall be known as the City Judge. The Judge shall be appointed by the Mayor with the concurrence of the Council, and shall serve at the discretion of the City Council. The Judge shall receive such compensation as may be set by the Council. THE CITY COUNCIL, AT ITS DISCRETION, MAY APPOINT ONE OR MORE ASSOCIATE JUDGES.

For  
 Against

**Article 6-Municipal Finance.**  
Proposed change:  
THE HOME RULE CHARTER COMMISSION PROPOSED DELETING THE POSITION OF DIRECTOR OF FINANCE AND REPLACING IT WITH CITY MANAGER THROUGHOUT ARTICLE 6.

For  
 Against

**Article 6-Section 6.01 Fiscal Year.**  
Proposed change:  
The fiscal year of the City of Gilmer shall begin on October 1st of each calendar year and will end AT MIDNIGHT on September 30th of the following calendar year. Such fiscal year shall also constitute the budget and accounting year.

For  
 Against

**Article 6-Section 6.13 (d) Amendments after Adoption of Budget/Transfer of Appropriations.**  
Proposed change:  
At any time during the fiscal year, the CITY MANAGER may transfer part or all of any unencumbered appropriation balance among programs within a department, office, or agency. Upon written request by the City Manager, the Council may, by BUDGET AMENDMENT, transfer part or all of any unencumbered appropriation balance from one department, office, or agency to another.

For  
 Against

**Article 7- Section 7.01 General Elections.**  
Proposed change:  
The regular City Election shall be held annually on the DATE IN MAY, SET BY THE STATE OF TEXAS, at which time officers will be elected to fill those offices that become vacant that year. The City Council shall fix the hours and place for holding such elections. Notice of the election shall be published in the official newspaper of the City of Gilmer, such publication to be not less than forty-five (45) days before the election. The Mayor and at-large Councilperson shall be elected by obtaining a majority of the votes cast. Candidates for single member districts shall file for one district and shall be elected by a majority of votes cast within that district. During the odd numbered years, the Mayor will be elected at-large along with Districts 2 and 3. During the even numbered years, one candidate will be elected at-large along with Districts 1 and 4.

For  
 Against

Sample Ballot

0833020481

Vote Both Sides

OFFICIAL BALLOT  
UPSHUR COUNTY, TEXAS  
May 12, 2007

Precinct *GILMER CITY-111*

Article 7-Section 7.02 Regulation of Elections.

Proposed change:  
All general and special elections shall be held in accordance with the laws of the State of Texas regulating the holding of municipal elections and in accordance with this Charter and ordinances or resolutions adopted by the Council for the conduct of elections. The Council shall appoint the election judges and other election officials in the City elections and for all other expenses in holding said elections. (DELETE THE FOLLOWING SENTENCE: VOTING BOXES SHALL BE ESTABLISHED ON THE BASIS OF ONE (1) VOTING BOX FOR EACH THREE THOUSAND (3,000) QUALIFIED VOTERS OR FRACTION THEREOF. THE COUNCIL SHALL DESIGNATE SAID VOTING ACCORDING TO POPULATION CONCENTRATIONS.)

- For
- Against

Article 14-Section 14.01 Establishing Ethics Commission.

Original Text in Charter:  
The City Council shall appoint an Ethics Commission of five (5) people to develop a list of Ethics for the Council. This would then go before the Council for three-fifths (3/5) vote of the entire council to be approved within six (6) months from the date of the election to approve the Charter Revisions. In addition, the City Manager and the City Attorney shall sit on the Ethics Board as ex-officio members with no voting rights. The Ethics List shall be reviewed every five (5) years when the Home Rule charter is reviewed.

Proposed change:  
THE HOME RULE CHARTER COMMISSION VOTED TO DELETE THIS ENTIRE ARTICLE AND LET THE STATE OF TEXAS ETHICS RULES SERVE AS THE CITY'S GUIDE.

- For
- Against

12000240200016

Sample Ballot

000000001205

Sample Ballot

0833020481

Vote Both Sides

OFFICIAL BALLOT  
UPSHUR COUNTY, TEXAS  
May 12, 2007

Precinct GILMER CITY-211

12000250100030

Sample Ballot

40000005122

**Ballot Instructions:**  
Please use a black or blue pen to mark your ballot. To vote for your choice in each contest, completely fill in the box provided to the left of your choice.

**Mayor, At-Large**  
Vote for one(1):  
 R. D. Cross

**Councilmember, District Two**  
Vote for one(1):  
 David Sowell

Note: All changes will be noted in CAPITAL letters.

**Article 3-Section 3.01 Number, Selection and Term of Office**  
Original Text in Charter:  
No elective officer may serve more than three (3) consecutive terms as either a Councilmember and/or Mayor. Persons serving three (3) consecutive terms as a Councilmember and/or Mayor must remain out of office one (1) term before being eligible to serve as a Councilmember and/or Mayor. Serving one-half or more of any portion of term shall be counted in determining the number of terms served. Provisions contained in the paragraph relating to term limits shall not take effect until the first municipal election in May after the adoption of this charter, or at the same time the Charter is adopted, provided such Charter is adopted at a municipal election in May.

Proposed change:  
DELETE ENTIRE PARAGRAPH.

For  
 Against

**Article 3-Section 3.05 Vacancies.**  
Proposed change:  
When more than one vacancy shall develop at any one time, a special election shall be called by the Council 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 such vacancies occur WITHIN ninety (90) days PRIOR TO a regular election, then no special election shall be called and remaining Councilmembers shall appoint qualified persons to fill the vacancies until the regular election.

For  
 Against

**Article 3-Section 3.09 (a) Powers of the Council.**  
Proposed change:  
Appoint and remove the City Manager as herein after provided. AN EVALUATION of the City Manager will be performed at A regular City Council meeting in January of each year. Furthermore, the City Manager's evaluation will be a required agenda item for A meeting in January. The Council SHALL EVALUATE the performance of the City Manager and suggest items for improvement and priorities for the coming year. In addition, the Council may conduct as many evaluations as they deem necessary during the year. This shall be handled in executive session as a personnel matter.

For  
 Against

**Article 4-Section 4.03.1 Director of Finance-Appointment and Qualifications.**  
Proposed change:  
There MAY be a Director of Finance appointed by the City Manager for an indefinite term. The Director of Finance shall serve in no other position within the City Government, except where designated by the City Council.

For  
 Against

**Article 5-Section 5.02.1 Judge of the Municipal Court**  
Proposed change:  
The Municipal Court shall be presided over by a Magistrate who shall be known as the City Judge. The Judge shall be appointed by the Mayor with the concurrence of the Council, and shall serve at the discretion of the City Council. The Judge shall receive such compensation as may be determined by the Council. THE CITY COUNCIL AT ITS DISCRETION, MAY APPOINT ONE OR MORE ASSOCIATE JUDGES.

For  
 Against

**Article 6-Municipal Finance.**  
Proposed change:  
THE HOME RULE CHARTER COMMISSION PROPOSED DELETING THE POSITION OF DIRECTOR OF FINANCE AND REPLACING IT WITH CITY MANAGER THROUGHOUT ARTICLE 6.

For  
 Against

**Article 6-Section 6.01 Fiscal Year.**  
Proposed change:  
The fiscal year of the City of Gilmer shall begin on October 1st of each calendar year and will end AT MIDNIGHT on September 30th of the following calendar year. Such fiscal year shall also constitute the budget and accounting year.

For  
 Against

**Article 6-Section 6.13 (d) Amendments after Adoption of Budget/Transfer of Appropriations.**  
Proposed change:  
At any time during the fiscal year, the CITY MANAGER may transfer part or all of any unencumbered appropriation balance among programs within a department, office, or agency. Upon written request by the City Manager, the Council may, by BUDGET AMENDMENT, transfer part or all of any unencumbered appropriation balance from one department, office, or agency to another.

For  
 Against

**Article 7- Section 7.01 General Elections.**  
Proposed change:  
The regular City Election shall be held annually on the DATE IN MAY, SET BY THE STATE OF TEXAS, at which time officers will be elected to fill those offices that become vacant that year. The City Council shall fix the hours and place for holding such elections. Notice of the election shall be published in the official newspaper of the City of Gilmer, such publication to be not less than forty-five (45) days before the election. The Mayor and at-large Councilperson shall be elected by obtaining a majority of the votes cast. Candidates for single member districts shall file for one district and shall be elected by a majority of votes cast within that district. During the odd numbered years, the Mayor will be elected at-large along with Districts 2 and 3. During the even numbered years, one candidate will be elected at-large along with Districts 1 and 4.

For  
 Against

Sample Ballot

0833020481

Vote Both Sides

OFFICIAL BALLOT  
UPSHUR COUNTY, TEXAS  
May 12, 2007

Precinct *GILMER CITY-211*

12000250200037

Sample Ballot

400000005219

Article 7-Section 7.02 Regulation of Elections.

Proposed change:  
All general and special elections shall be held in accordance with the laws of the State of Texas regulating the holding of municipal elections and in accordance with this Charter and ordinances or resolutions adopted by the Council for the conduct of elections. The Council shall appoint the election judges and other election officials in the City elections and for all other expenses in holding said elections. (DELETE THE FOLLOWING SENTENCE: VOTING BOXES SHALL BE ESTABLISHED ON THE BASIS OF ONE (1) VOTING BOX FOR EACH THREE THOUSAND (3,000) QUALIFIED VOTERS OR FRACTION THEREOF. THE COUNCIL SHALL DESIGNATE SAID VOTING ACCORDING TO POPULATION CONCENTRATIONS.)

- For
- Against

Article 14-Section 14.01 Establishing Ethics Commission.

Original Text in Charter:  
The City Council shall appoint an Ethics Commission of five (5) people to develop a list of Ethics for the Council. This would then go before the Council for three-fifths (3/5) vote of the entire council to be approved within six (6) months from the date of the election to approve the Charter Revisions. In addition, the City Manager and the City Attorney shall sit on the Ethics Board as ex-officio members with no voting rights. The Ethics List shall be reviewed every five (5) years when the Home Rule charter is reviewed.

Proposed change:  
THE HOME RULE CHARTER COMMISSION VOTED TO DELETE THIS ENTIRE ARTICLE AND LET THE STATE OF TEXAS ETHICS RULES SERVE AS THE CITY'S GUIDE.

- For
- Against

Handwritten marks and scribbles in the voting area.

Sample Ballot

0833020481

Vote Both Sides

OFFICIAL BALLOT  
UPSHUR COUNTY, TEXAS  
May 12, 2007

Precinct GILMER CITY-311

12000260100051

Sample Ballot

80000009176

**Ballot Instructions:**  
Please use a black or blue pen to mark your ballot. To vote for your choice in each contest, completely fill in the box provided to the left of your choice.

**Mayor, At-Large**  
Vote for one(1):  
 R. D. Cross

**Councilmember, District Three**  
Vote for one(1):  
 Randy McDaniel

Note: All changes will be noted in CAPITAL letters.

**Article 3-Section 3.01 Number, Selection and Term of Office**  
Original Text in Charter:  
No elective officer may serve more than three (3) consecutive terms as either a Councilmember and/or Mayor. Persons serving three (3) consecutive terms as a Councilmember and/or Mayor must remain out of office one (1) term before being eligible to serve as a Councilmember and/or Mayor. Serving one-half or more of any portion of a term shall be counted in determining the number of terms served. Provisions contained in the paragraph relating to term limits shall not take effect until the first municipal election in May after the adoption of this charter, or at the same time the Charter is adopted, provided such Charter is adopted at a municipal election in May.

Proposed change:  
DELETE ENTIRE PARAGRAPH.

For  
 Against

**Article 3-Section 3.05 Vacancies.**  
Proposed change:  
When more than one vacancy shall develop at any one time, a special election shall be called by the Council 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 such vacancies occur WITHIN ninety (90) days PRIOR TO a regular election, then no special election shall be called and remaining Councilmembers shall appoint qualified persons to fill the vacancies until the regular election.

For  
 Against

**Article 3-Section 3.09 (a) Powers of the Council.**

Proposed change:  
Appoint and remove the City Manager as herein after provided. AN EVALUATION of the City Manager will be performed at A regular City Council meeting in January of each year. Furthermore, the City Manager's evaluation will be a required agenda item for A meeting in January. The Council SHALL EVALUATE the performance of the City Manager and suggest items for improvement and priorities for the coming year. In addition, the Council may conduct as many evaluations as they deem necessary during the year. This shall be handled in executive session as a personnel matter.

For  
 Against

**Article 4-Section 4.03.1 Director of Finance-Appointment and Qualifications.**

Proposed change:  
There MAY be a Director of Finance appointed by the City Manager for an indefinite term. The Director of Finance shall serve in no other position within the City Government, except when so designated by the City Council.

For  
 Against

**Article 5-Section 5.02.1 Judge of the Municipal Court.**

Proposed change:  
The Municipal Court shall be presided over by a Magistrate who shall be known as the City Judge. The Judge shall be appointed by the Mayor with the concurrence of the Council, and shall serve at the discretion of the City Council. The Judge shall receive such compensation as may be set by the Council. THE CITY COUNCIL, AT ITS DISCRETION, MAY APPOINT ONE OR MORE ASSOCIATE JUDGES.

For  
 Against

**Article 6-Municipal Finance.**

Proposed change:  
THE HOME RULE CHARTER COMMISSION PROPOSED DELETING THE POSITION OF DIRECTOR OF FINANCE AND REPLACING IT WITH CITY MANAGER THROUGHOUT ARTICLE 6.

For  
 Against

**Article 6-Section 6.01 Fiscal Year.**

Proposed change:  
The fiscal year of the City of Gilmer shall begin on October 1st of each calendar year and will end AT MIDNIGHT on September 30th of the following calendar year. Such fiscal year shall also constitute the budget and accounting year.

For  
 Against

**Article 6-Section 6.13 (d) Amendments after Adoption of Budget Transfer of Appropriations.**

Proposed change:  
At any time during the fiscal year, the CITY MANAGER may transfer part or all of any unencumbered appropriation balance among programs within a department, office, or agency. Upon written request by the City Manager, the Council may, by BUDGET AMENDMENT, transfer part or all of any unencumbered appropriation balance from one department, office, or agency to another.

For  
 Against

**Article 7- Section 7.01 General Elections.**

Proposed change:  
The regular City Election shall be held annually on the DATE IN MAY, SET BY THE STATE OF TEXAS, at which time officers will be elected to fill those offices that become vacant that year. The City Council shall fix the hours and place for holding such elections. Notice of the election shall be published in the official newspaper of the City of Gilmer, such publication to be not less than forty-five (45) days before the election. The Mayor and at-large Councilperson shall be elected by obtaining a majority of the votes cast. Candidates for single member districts shall file for one district and shall be elected by a majority of votes cast within that district. During the odd numbered years, the Mayor will be elected at-large along with Districts 2 and 3. During the even numbered years, one candidate will be elected at-large along with Districts 1 and 4.

For  
 Against

Sample Ballot

0833020481

Vote Both Sides

OFFICIAL BALLOT  
UPSHUR COUNTY, TEXAS  
May 12, 2007

Precinct *GILMER CITY-311*

12000260200058

Sample Ballot

800000009273

Article 7-Section 7.02 Regulation of Elections.

Proposed change:  
All general and special elections shall be held in accordance with the laws of the State of Texas regulating the holding of municipal elections and in accordance with this Charter and ordinances or resolutions adopted by the Council for the conduct of elections. The Council shall appoint the election judges and other election officials in the City elections and for all other expenses in holding said elections. (DELETE THE FOLLOWING SENTENCE: VOTING BOXES SHALL BE ESTABLISHED ON THE BASIS OF ONE (1) VOTING BOX FOR EACH THREE THOUSAND (3,000) QUALIFIED VOTERS OR FRACTION THEREOF. THE COUNCIL SHALL DESIGNATE SAID VOTING ACCORDING TO POPULATION CONCENTRATIONS.)

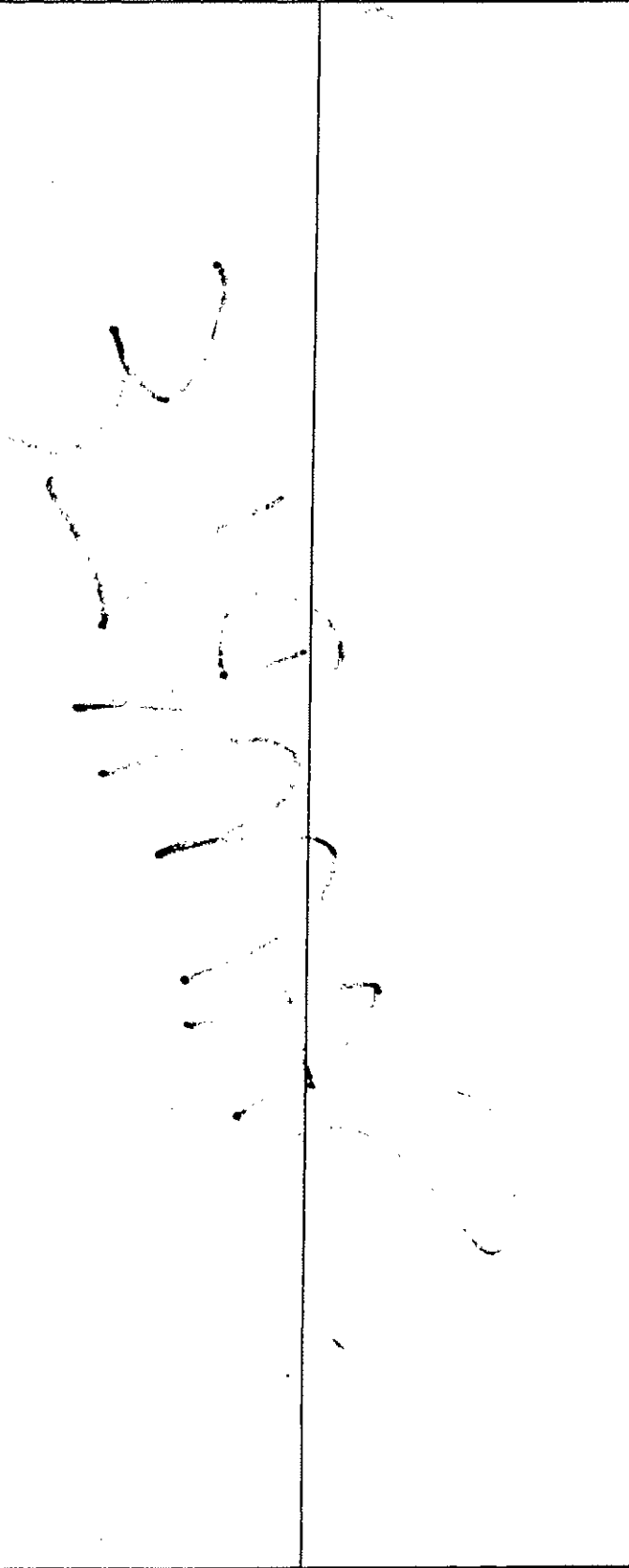
- For
- Against

Article 14-Section 14.01 Establishing Ethics Commission.

Original Text in Charter:  
The City Council shall appoint an Ethics Commission of five (5) people to develop a list of Ethics for the Council. This would then go before the Council for three-fifths (3/5) vote of the entire council to be approved within six (6) months from the date of the election to approve the Charter Revisions. In addition, the City Manager and the City Attorney shall sit on the Ethics Board as ex-officio members with no voting rights. The Ethics List shall be reviewed every five (5) years when the Home Rule charter is reviewed.

Proposed change:  
THE HOME RULE CHARTER COMMISSION VOTED TO DELETE THIS ENTIRE ARTICLE AND LET THE STATE OF TEXAS ETHICS RULES SERVE AS THE CITY'S GUIDE.

- For
- Against



Sample Ballot

0833020481

Vote Both Sides

OFFICIAL BALLOT  
UPSHUR COUNTY, TEXAS  
May 12, 2007

Precinct GILMER CITY-411

12000270100072

Sample Ballot

200000013183

**Ballot Instructions:**  
Please use a black or blue pen to mark your ballot. To vote for your choice in each contest, completely fill in the box provided to the left of your choice.

**Mayor, At-Large**  
Vote for one(1):  
 R. D. Cross

Note: All changes will be noted in CAPITAL letters.

**Article 3-Section 3.01 Number, Selection and Term of Office**  
Original Text in Charter:  
No elective officer may serve more than three (3) consecutive terms as either a Councilmember and/or Mayor. Persons serving three (3) consecutive terms as a Councilmember and/or Mayor must remain out of office one (1) term before being eligible to serve as a Councilmember and/or Mayor. Serving one-half or more of any portion of a term shall be counted in determining the number of terms served. Provisions contained in the paragraph relating to term limits shall not take effect until the first municipal election in May after the adoption of this charter, or at the same time the Charter is adopted, provided such Charter is adopted at a municipal election in May.

Proposed change:  
DELETE ENTIRE PARAGRAPH.

For  
 Against

**Article 3-Section 3.05 Vacancies.**  
Proposed change:  
When more than one vacancy shall develop at any one time, a special election shall be called by the Council 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 such vacancies occur WITHIN ninety (90) days PRIOR TO a regular election, then the special election shall be called and remaining Councilmembers shall appoint qualified persons to fill the vacancies until the regular election.

For  
 Against

**Article 3-Section 3.09 (a) Powers of the Council.**

Proposed change:  
Appoint and remove the City Manager as herein after provided. AN EVALUATION of the City Manager will be performed at A regular City Council meeting in January of each year. Furthermore, the City Manager's evaluation will be a required agenda item for A meeting in January. The Council SHALL EVALUATE the performance of the City Manager and suggest items for improvement and priorities for the coming year. In addition, the Council may conduct as many evaluations as they deem necessary during the year. This shall be handled in executive session as a personnel matter.

For  
 Against

**Article 4-Section 4.03.1 Director of Finance-Appointment and Qualifications.**

Proposed change:  
There MAY be a Director of Finance appointed by the City Manager for an indefinite term. The Director of Finance shall serve in no other position within the City Government, except when so designated by the City Council.

For  
 Against

**Article 5-Section 5.02.1 Setting of the Municipal Court.**

Proposed change:  
The Municipal Court shall be presided over by a Magistrate who shall be chosen as the City Judge. The Judge shall be appointed by the Mayor with the concurrence of the Council, and shall serve at the discretion of the City Council. The Judge shall receive such compensation as may be set by the Council. THE CITY COUNCIL, AT ITS DISCRETION, MAY APPOINT ONE OR MORE ASSOCIATE JUDGES.

For  
 Against

**Article 6 Municipal Finance.**

Proposed change:  
THE HOME RULE CHARTER COMMISSION PROPOSED DELETING THE POSITION OF DIRECTOR OF FINANCE AND REPLACING IT WITH CITY MANAGER THROUGHOUT ARTICLE 6.

For  
 Against

**Article 6-Section 6.01 Fiscal Year.**

Proposed change:  
The fiscal year of the City of Gilmer shall begin on October 1st of each calendar year and will end AT MIDNIGHT on September 30th of the following calendar year. Such fiscal year shall also constitute the budget and accounting year.

For  
 Against

**Article 6-Section 6.13 (d) Amendments after Adoption of Budget/Transfer of Appropriations.**

Proposed change:  
At any time during the fiscal year, the CITY MANAGER may transfer part or all of any unencumbered appropriation balance among programs within a department, office, or agency. Upon written request by the City Manager, the Council may, by BUDGET AMENDMENT, transfer part or all of any unencumbered appropriation balance from one department, office, or agency to another.

For  
 Against

**Article 7- Section 7.01 General Elections.**

Proposed change:  
The regular City Election shall be held annually on the DATE IN MAY, SET BY THE STATE OF TEXAS, at which time officers will be elected to fill those offices that become vacant that year. The City Council shall fix the hours and place for holding such elections. Notice of the election shall be published in the official newspaper of the City of Gilmer, such publication to be not less than forty-five (45) days before the election. The Mayor and at-large Councilperson shall be elected by obtaining a majority of the votes cast. Candidates for single member districts shall file for one district and shall be elected by a majority of votes cast within that district. During the odd numbered years, the Mayor will be elected at-large along with Districts 2 and 3. During the even numbered years, one candidate will be elected at-large along with Districts 1 and 4.

For  
 Against

Sample Ballot

0833020481

OFFICIAL BALLOT  
UPSHUR COUNTY, TEXAS  
May 12, 2007

Precinct GILMER CITY-411

12000270200079

Sample Ballot

200000013280

Article 7-Section 7.02 Regulation of Elections.

Proposed change:  
All general and special elections shall be held in accordance with the laws of the State of Texas regulating the holding of municipal elections and in accordance with this Charter and ordinances or resolutions adopted by the Council for the conduct of elections. The Council shall appoint the election judges and other election officials in the City elections and for all other expenses in holding said elections. (DELETE THE FOLLOWING SENTENCE: VOTING BOXES SHALL BE ESTABLISHED ON THE BASIS OF ONE (1) VOTING BOX FOR EACH THREE THOUSAND (3,000) QUALIFIED VOTERS OR FRACTION THEREOF. THE COUNCIL SHALL DESIGNATE SAID VOTING ACCORDING TO POPULATION CONCENTRATIONS.)

- For
- Against

Article 14-Section 14.01 Establishing Ethics Commission.

Original Text in Charter:  
The City Council shall appoint an Ethics Commission of five (5) people to develop a list of Ethics for the Council. This would then go before the Council for three-fifths (3/5) vote of the entire council to be approved within six (6) months from the date of the election to approve the Charter Revisions. In addition, the City Manager and the City Attorney shall sit on the Ethics Board as ex-officio members with no voting rights. The Ethics List shall be reviewed every five (5) years when the Home Rule charter is reviewed.

Proposed change:  
THE HOME RULE CHARTER COMMISSION VOTED TO DELETE THIS ENTIRE ARTICLE AND LET THE STATE OF TEXAS ETHICS RULES SERVE AS THE CITY'S GUIDE.

- For
- Against

Handwritten marks and scribbles covering the central area of the ballot, including a large 'X' and various lines and dots.

Sample Ballot

0833020481



12000240120088

Sample Ballot

200000003192



<p><b>Boleta Oficial</b></p> <p>Condado de Upshur, Texas 12 de Mayo de 2007</p> <p style="text-align: right;">Precincto <b>GILMER CITY-111</b></p>		
<p><b>Boleta de Instrucción:</b> Favor de usar una pluma de tinta negra o azul para marcar su boleta. Para votar por su selección en cada carrera, llene completamente el espacio cuadrado a la izquierda de su selección.</p>	<p><b>Artículo 3- Sección 3.09 (a) Poderes del Consejo.</b> Cambio propuesto: Nombrar y eliminar al Administrador de la Ciudad según lo provisto aquí. Se hará UNA EVALUACIÓN al Administrador de la Ciudad durante UNA reunión del Consejo de la Ciudad en enero de cada año. Además, la evaluación del Administrador de la Ciudad será un asunto que requiera sea puesto en la agenda para UNA reunión en enero. El Consejo EVALUARÁ el desempeño del Administrador de la Ciudad y dará sugerencias de asuntos para mejorar y las prioridades para el próximo año. Además, el Consejo podrá conducir tantas evaluaciones como ellos crean necesarias durante el año. Esto será tratado en sesión ejecutiva como un asunto de personal.</p> <p><input type="checkbox"/> A Favor <input type="checkbox"/> En Contra</p>	<p><b>Artículo 6- Sección 6.01 Año Fiscal.</b> Cambio propuesto: El año fiscal de la Ciudad de Gilmer comenzará el 1 de octubre de cada año civil y terminará A LA MEDIANOCHE el 30 de septiembre del próximo año civil. Tal año fiscal también constituirá el año del presupuesto y contabilidad.</p> <p><input type="checkbox"/> A Favor <input type="checkbox"/> En Contra</p>
<p><b>Alcalde</b> Votar por uno(1): <input type="checkbox"/> R. D. Cross</p>	<p><b>Artículo 3- Sección 3.01 Número , Selección y Término de Puesto.</b> Texto Original en la Carta Constitucional: Ningún oficial electo podrá servir más de tres (3) términos consecutivos como Concejal y/o Alcalde. Las personas que sirvan tres (3) términos consecutivos como Concejal y/o Alcalde deberán permanecer fuera del puesto por un (1) término antes de ser elegibles para servir como Concejal y/o Alcalde. El servir una mitad o más de cualquier porción de un término se contará para determinar el número de términos servidos. Las disposiciones contenidas en el párrafo referente a límites de término no tomarán efecto hasta la primera elección municipal en mayo después de la adopción de esta carta constitucional, o al mismo tiempo que la Carta Constitucional se adopte, proveyendo que tal Carta Constitucional sea adoptada en una elección municipal en mayo.</p> <p>Cambio propuesto: ELIMINAR TODO EL PÁRRAFO.</p> <p><input type="checkbox"/> A Favor <input type="checkbox"/> En Contra</p>	<p><b>Artículo 6- Sección 6.13 (d) Enmiendas después de la Adopción del Presupuesto/Transferencia de Apropiaciones.</b> Cambios propuestos: En cualquier momento durante el año fiscal, el ADMINISTRADOR DE LA CIUDAD podrá transferir parte o todo el balance de apropiación libre de gravamen entre programas dentro de un departamento, oficina, o agencia. Por petición escrita por el Administrador de la Ciudad, el Consejo podrá, POR ENMIENDA AL PRESUPUESTO, transferir parte o todo el balance de apropiación libre de gravamen de un departamento, oficina, o agencia a otro.</p> <p><input type="checkbox"/> A Favor <input type="checkbox"/> En Contra</p>
<p><b>Artículo 3- Sección 3.05 Vacantes.</b> Cambio propuesto: En cualquier momento en que ocurra más de una vacante, el Consejo deberá ordenar una elección especial a efectuarse en la primera fecha disponible según el Código Electoral de Texas para llenar las vacantes de manera semejante según lo descrito aquí para las elecciones regulares. Sin embargo, si tales vacantes ocurren DENTRO DE noventa (90) días ANTES DE una elección regular, entonces no se ordenará ninguna elección especial y los Concejales restantes designarán personas calificadas para llenar las vacantes hasta la elección regular.</p> <p><input type="checkbox"/> A Favor <input type="checkbox"/> En Contra</p>	<p><b>Artículo 4- Sección 4.03.1 Director de Finanzas - Nombramiento y Calificaciones.</b> Cambio propuesto: PODRÁ HABER un Director de Finanzas nombrado por el Administrador de la Ciudad por un término indefinido. El Director de Finanzas ejercerá en ningún momento otra posición dentro del Gobierno de la Ciudad, excepto cuando así lo disponga el Consejo de la Ciudad.</p> <p><input type="checkbox"/> A Favor <input type="checkbox"/> En Contra</p>	<p><b>Artículo 7- Sección 7.01 Elecciones Generales.</b> Cambio propuesto: La elección regular de la Ciudad se conducirá anualmente en la FECHA EN MAYO, FIJADA POR EL ESTADO DE TEXAS, en cuya ocasión se elegirán oficiales para llenar esos puestos que estarán vacantes ese año. El Consejo de la Ciudad fijará las horas y el lugar para celebrar dichas elecciones. El aviso de la elección será publicado en el periódico oficial de la Ciudad de Gilmer, tal publicación a ser no menos de cuarenta y cinco (45) días antes de la elección. El Alcalde y el Concejal de distrito general se elegirán obteniendo una mayoría de los votos contados. Los candidatos para distritos particulares se postularán para un distrito y serán electos por una mayoría de los votos contados dentro de ese distrito. Durante los años numerados impares, el Alcalde será electo por distrito general junto con los Distritos 2 y 3. Durante los años numerados pares, un candidato se elegirá por distrito general junto con los Distritos 1 y 4.</p> <p><input type="checkbox"/> A Favor <input type="checkbox"/> En Contra</p>
<p><b>Artículo 5- Sección 5.02.1 Juez de la Corte Municipal.</b> Cambio propuesto: La Corte Municipal será presidida por un Registrado que será conocido como el Juez de la Ciudad. El Juez será nombrado por el Alcalde con la concurrencia del Consejo, y servirá a la discreción del Consejo de la Ciudad. El Juez recibirá tal remuneración según como sea fijada por el Consejo. EL CONSEJO DE LA CIUDAD, A SU DISCRECIÓN, PODRÁ NOMBRAR UNO O MÁS JUECES ASOCIADOS.</p> <p><input type="checkbox"/> A Favor <input type="checkbox"/> En Contra</p>	<p><b>Artículo 6- Finanzas Municipal.</b> Cambio propuesto: LA COMISIÓN DE LA CARTA CONSTITUCIONAL PROPUSO ELIMINAR LA POSICIÓN DE DIRECTOR DE FINANZA Y REEMPLAZARLA CON ADMINISTRADOR DE LA CIUDAD A TRAVÉS DEL ARTÍCULO 6.</p> <p><input type="checkbox"/> A Favor <input type="checkbox"/> En Contra</p>	<p><b>Artículo 6- Sección 6.13 (d) Enmiendas después de la Adopción del Presupuesto/Transferencia de Apropiaciones.</b> Cambios propuestos: En cualquier momento durante el año fiscal, el ADMINISTRADOR DE LA CIUDAD podrá transferir parte o todo el balance de apropiación libre de gravamen entre programas dentro de un departamento, oficina, o agencia. Por petición escrita por el Administrador de la Ciudad, el Consejo podrá, POR ENMIENDA AL PRESUPUESTO, transferir parte o todo el balance de apropiación libre de gravamen de un departamento, oficina, o agencia a otro.</p> <p><input type="checkbox"/> A Favor <input type="checkbox"/> En Contra</p>

Sample Ballot

0833020481





12000240220095

Sample Ballot

200000003289



Boleta Oficial

Condado de Upshur, Texas  
12 de Mayo de 2007

Precincto *GILMER CITY-111*

Artículo 7-Sección 7.02 Reglamento de Elecciones.

Cambio propuesto:  
Todas las elecciones generales y especiales serán celebradas de acuerdo con las leyes del Estado de Texas que regulan la conducción de elecciones municipales y de acuerdo con esta Carta Constitucional y ordenanzas o resoluciones adoptadas por el Consejo para conducir elecciones. El Consejo nombrará los jueces electorales y otros oficiales electorales para elecciones de la Ciudad y para todos otros gastos para celebrar dichas elecciones. (ELIMINAR LA SIGUIENTE ORACIÓN: LAS CAJAS DE VOTACIÓN SERÁN ESTABLECIDAS A BASE DE UNA (1) CAJA DE VOTACIÓN PARA CADA TRES MIL (3,000) O FRACCIÓN DE VOTANTES CALIFICADOS. EL CONSEJO DETERMINARÁ DICHA VOTACIÓN SEGÚN LAS CONCENTRACIONES DE POBLACIÓN.)

- A Favor
- En Contra

Artículo 14-Sección 14.01 Establecimiento de Comisión de Ética.

Texto Original en la Carta Constitucional:  
El Consejo de la Ciudad nombrará una Comisión de Ética de cinco (5) personas para desarrollar una lista de Éticas para el Consejo. Esto entonces iría frente al Consejo para obtener tres quintos (3/5) votos de todo el Consejo para ser aprobada dentro de seis (6) meses a partir de la fecha de la elección para aprobar las revisiones de la Carta Constitucional. Además, el Administrador de la Ciudad y el Alcalde de la Ciudad se sentarán en la Junta de Ética como miembros ex-officio sin ningún derecho para votar. La Lista de Ética será repasada cada cinco (5) años cuando la Carta Constitucional sea repasada.

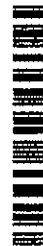
Cambio propuesto:  
LA COMISIÓN DE LA CARTA CONSTITUCIONAL VOTÓ PARA ELIMINAR ESTE ARTÍCULO EN SU TOTALIDAD Y DEJAR QUE LAS REGLAS DE ETICA DEL ESTADO DE TEXAS SIRVAN COMO LAS GUIAS DE LA CIUDAD.

- A Favor
- En Contra

*Handwritten signature: Gilmer City*

Sample Ballot

0833020481



Boleta Oficial

EMIR

Condado de Upshur, Texas  
12 de Mayo de 2007

Precincto **GILMER CITY-211**

12000250120012

Sample Ballot

600000007149

**Boleta de Instrucción:**  
Favor de usar una pluma de tinta negra o azul para marcar su boleta. Para votar por su selección en cada carrera, llene completamente el espacio cuadrado a la izquierda de su selección.

**Alcalde**

Votar por uno(1):

R. D. Cross

**Consejo**

Votar por uno(1):

David Sowell

**Nota:** Todos los cambios serán observados con mayúsculas.

**Artículo 3- Sección 3.01 Número , Selección y Término de Puesto.**

Texto Original en la Carta Constitucional:  
Ningún oficial electo podrá servir más de tres (3) términos consecutivos como Concejal y/o Alcalde. Las personas que sirvan tres (3) términos consecutivos como Concejal y/o Alcalde deberán permanecer fuera del puesto por un (1) término antes de ser elegibles para servir como Concejal y/o Alcalde. El servir una mitad o más de cualquier porción de un término se contará para determinar el número de términos servidos. Las disposiciones contenidas en el párrafo referente a límites de término no tomarán efecto hasta la primera elección municipal en mayo después de la adopción de esta carta constitucional, o al mismo tiempo que la Carta Constitucional se adopte, provyendo que tal Carta Constitucional sea adoptada en una elección municipal en mayo.

Cambio propuesto:

ELIMINAR TODO EL PÁRRAFO

A Favor

En Contra

**Artículo 3- Sección 3.05 Vacantes.**

Cambio propuesto:  
En cualquier momento en que ocurra más de una vacante, el Consejo deberá ordenar una elección especial a efectuarse en la próxima fecha disponible según el Código Electoral de Texas para llenar las vacantes de manera semejante según lo describe aquí para las elecciones regulares. Sin embargo, si tales vacantes ocurren DENTRO DE noventa (90) días ANTES DE una elección regular, entonces no se ordenará ninguna elección especial y los Concejales restantes designarán personas calificadas para llenar las vacantes hasta la elección regular.

A Favor

En Contra

**Artículo 3- Sección 3.09 (a) Poderes del Consejo.**

Cambio propuesto:  
Nombrar y eliminar al Administrador de la Ciudad según lo provisto aquí. Se hará UNA EVALUACIÓN al Administrador de la Ciudad durante UNA reunión del Consejo de la Ciudad en enero de cada año. Además, la evaluación al Administrador de la Ciudad será un asunto que requiera ses puesto en la agenda para UNA reunión en enero. El Consejo EVALUARÁ el desempeño del Administrador de la Ciudad y dará sugerencias de asuntos para mejorar y las prioridades para el próximo año. Además, el Consejo podrá conducir tantas evaluaciones como ellos crean necesarias durante el año. Esto será tratado en sesión ejecutiva como un asunto de personal.

A Favor

En Contra

**Artículo 4- Sección 4.03.1 Director de Finanzas - Nombramiento y Calificaciones.**

Cambio propuesto:  
PODRÁ HABER un Director de Finanzas nombrado por el Administrador de la Ciudad por un término indefinido. El Director de Finanzas no ejercerá en ninguna otra posición dentro del Gobierno de la Ciudad, excepto cuando así lo disponga el Consejo de la Ciudad.

A Favor

En Contra

**Artículo 5- Sección 5.02.1 Juez de la Corte Municipal.**

Cambio propuesto:  
La Corte Municipal será presidida por un Magistrado que será conocido como el Juez de la Ciudad. El Juez será nombrado por el Alcalde con la concurrencia del Consejo, y servirá a la discreción del Consejo de la Ciudad. El Juez recibirá tal remuneración según como sea fijada por el Consejo. EL CONSEJO DE LA CIUDAD, A SU DISCRECIÓN, PODRÁ NOMBRAR UNO O MÁS JUECES ASOCIADOS.

A Favor

En Contra

**Artículo 6- Finanzas Municipal.**

Cambio propuesto:  
LA COMISIÓN DE LA CARTA CONSTITUCIONAL PROPUSO ELIMINAR LA POSICIÓN DE DIRECTOR DE FINANZA Y REEMPLAZARLA CON ADMINISTRADOR DE LA CIUDAD A TRAVÉS DEL ARTÍCULO 6.

A Favor

En Contra

**Artículo 6- Sección 6.01 Año Fiscal.**

Cambio propuesto:  
El año fiscal de la Ciudad de Gilmer comenzará el 1 de octubre de cada año civil y terminará A LA MEDIANOCHE el 30 de septiembre del próximo año civil. Tal año fiscal también constituirá el año del presupuesto y contabilidad.

A Favor

En Contra

**Artículo 6- Sección 6.13 (d) Enmiendas después de la Adopción del Presupuesto/Transferencia de Apropiaciones.**

Cambios propuestos:  
En cualquier momento durante el año fiscal, el ADMINISTRADOR DE LA CIUDAD podrá transferir parte o todo el balance de apropiación libre de gravamen entre programas dentro de un departamento, oficina, o agencia. Por petición escrita por el Administrador de la Ciudad, el Consejo podrá, POR ENMIENDA AL PRESUPUESTO, transferir parte o todo el balance de apropiación libre de gravamen de un departamento, oficina, o agencia a otro.

A Favor

En Contra

**Artículo 7- Sección 7.01 Elecciones Generales.**

Cambio propuesto:  
La elección regular de la Ciudad se conducirá anualmente en la FECHA EN MAYO, FIJADA POR EL ESTADO DE TEXAS, en cuya ocasión se elegirán oficiales para llenar esos puestos que estarán vacantes ese año. El Consejo de la Ciudad fijará las horas y el lugar para celebrar dichas elecciones. El aviso de la elección será publicado en el periódico oficial de la Ciudad de Gilmer, tal publicación a ser no menos de cuarenta y cinco (45) días antes de la elección. El Alcalde y el Concejal de distrito general se elegirán obteniendo una mayoría de los votos contados. Los candidatos para distritos particulares se postularán para un distrito y serán electos por una mayoría de los votos contados dentro de ese distrito. Durante los años numerados impares, el Alcalde será electo por distrito general junto con los Distritos 2 y 3. Durante los años numerados pares, un candidato se elegirá por distrito general junto con los Distritos 1 y 4.

A Favor

En Contra

Sample Ballot

0833020481



12000250220019

Sample Ballot

600000007246



Boleta Oficial

Condado de Upshur, Texas

12 de Mayo de 2007

Precincto GILMER CITY-211

Artículo 7-Sección 7.02 Reglamento de Elecciones.

Cambio propuesto: Todas las elecciones generales y especiales serán celebradas de acuerdo con las leyes del Estado de Texas que regulan la conducción de elecciones municipales y de acuerdo con esta Carta Constitucional y ordenanzas o resoluciones adoptadas por el Consejo para conducir elecciones. El Consejo nombrará los jueces electorales y otros oficiales electorales para elecciones de la Ciudad y para todos otros gastos para celebrar dichas elecciones. (ELIMINAR LA SIGUIENTE ORACIÓN: LAS CAJAS DE VOTACIÓN SERÁN ESTABLECIDAS A BASE DE UNA (1) CAJA DE VOTACIÓN PARA CADA TRES MIL (3,000) O FRACCIÓN DE VOTANTES CALIFICADOS. EL CONSEJO DETERMINARÁ DICHA VOTACIÓN SEGÚN LAS CONCENTRACIONES DE POBLACIÓN.)

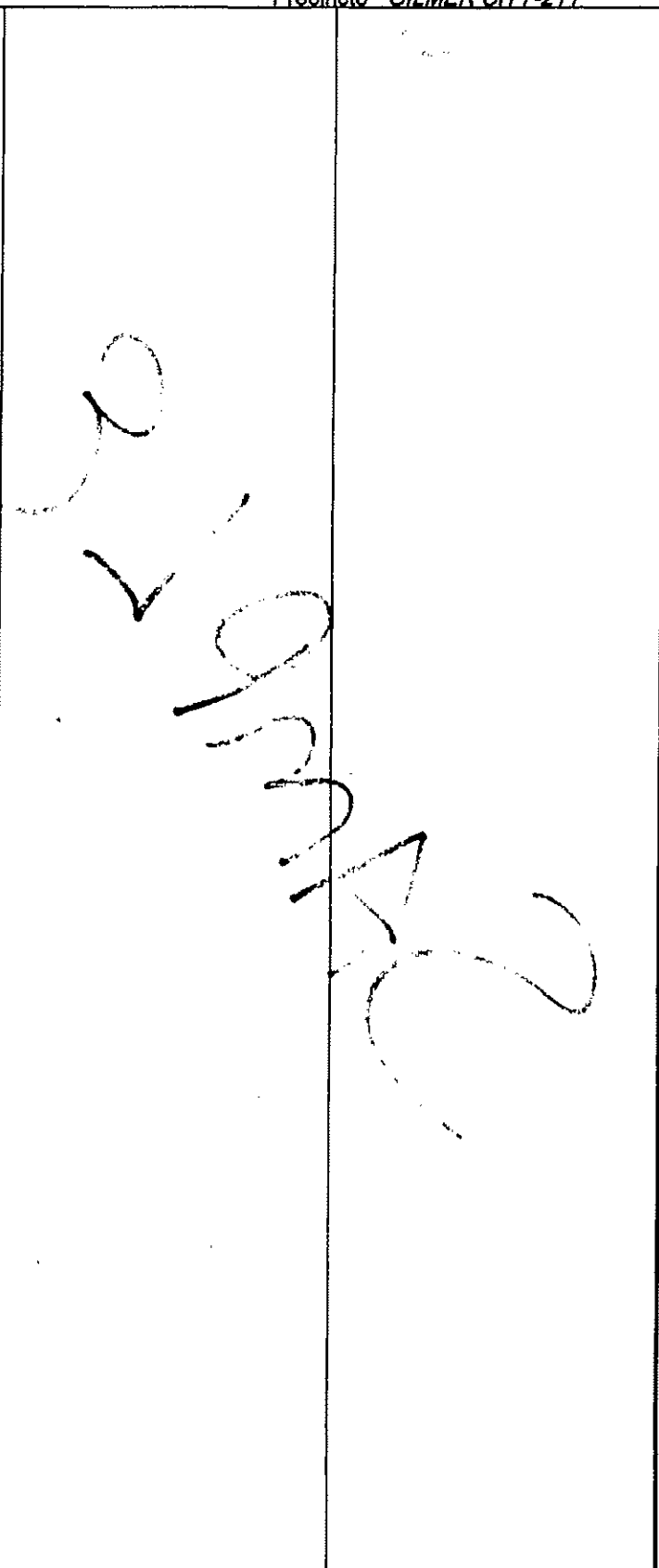
- A Favor
 En Contra

Artículo 14-Sección 14.01 Establecimiento de Comisión de Ética.

Texto Original en la Carta Constitucional: El Consejo de la Ciudad nombrará una Comisión de Ética de cinco (5) personas para desarrollar una lista de Éticas para el Consejo. Esto entonces iría frente al Consejo para obtener tres quintos (3/5) votos de todo el Consejo para ser aprobada dentro de seis (6) meses a partir de la fecha de la elección para aprobar las revisiones de la Carta Constitucional. Además, el Administrador de la Ciudad y el Alcalde de la Ciudad se sentarán en la Junta de Ética como miembros ex-officio sin ningún derecho para votar. La Lista de Éticas será repasada cada cinco (5) años cuando la Carta Constitucional sea repasada.

Cambio propuesto: LA COMISIÓN DE LA CARTA CONSTITUCIONAL VOTÓ PARA ELIMINAR ESTE ARTÍCULO EN SU TOTALIDAD Y DEJAR QUE LAS REGLAS DE ETICA DEL ESTADO DE TEXAS SIRVAN COMO LAS GUÍAS DE LA CIUDAD.

- A Favor
 En Contra



Sample Ballot

0833020481



Boleta Oficial

Condado de Upshur, Texas  
12 de Mayo de 2007

Precincto **GILMER CITY-311**

**Boleta de Instrucción:**  
Favor de usar una pluma de tinta negra o azul para marcar su boleta. Para votar por su selección en cada carrera, llene completamente el espacio cuadrado a la izquierda de su selección.

**Artículo 3-Sección 3.09 (a) Poderes del Consejo.**

**Cambio propuesto:**  
Nombrar y eliminar al Administrador de la Ciudad según lo provisto aquí. Se hará UNA EVALUACIÓN al Administrador de la Ciudad durante UNA reunión del Consejo de la Ciudad en enero de cada año. Además, la evaluación al Administrador de la Ciudad será un asunto que requiera sea puesto en la agenda para UNA reunión en enero. El Consejo EVALUARÁ el desempeño del Administrador de la Ciudad y dará sugerencias de asuntos para mejorar y las prioridades para el próximo año. Además, el Consejo podrá conducir tantas evaluaciones como ellos crean necesarias durante el año. Esto será tratado en sesión ejecutiva como un asunto de personal.

**Artículo 6-Sección 6.01 Año Fiscal.**

**Cambio propuesto:**  
El año fiscal de la Ciudad de Gilmer comenzará el 1 de octubre de cada año civil y terminará A LA MEDIANOCHE el 30 de septiembre del próximo año civil. Tal año fiscal también constituirá el año del presupuesto y contabilidad.

**Alcalde**

Votar por uno(1):

R. D. Cross

A Favor

En Contra

**Consejo**

Votar por uno(1):

Randy McDaniel

**Artículo 6-Sección 6.13 (d) Enmiendas después de la Adopción del Presupuesto/Transferencia de Apropiaciones.**

**Cambios propuestos:**  
En cualquier momento durante el año fiscal, el ADMINISTRADOR DE LA CIUDAD podrá transferir parte o todo el balance de apropiación libre de gravamen entre programas dentro de un departamento, oficina, o agencia. Por petición escrita por el Administrador de la Ciudad, el Consejo podrá, POR ENMIENDA AL PRESUPUESTO, transferir parte o todo el balance de apropiación libre de gravamen de un departamento, oficina, o agencia a otro.

**Nota: Todos los cambios serán observados con mayúsculas.**

**Artículo 3-Sección 3.01 Número, Selección y Término de Puesto.**

**Texto Original en la Carta Constitucional:**  
Ningún oficial electo podrá servir más de tres (3) términos consecutivos como Concejal y/o Alcalde. Las personas que sirvan tres (3) términos consecutivos como Concejal y/o Alcalde deberán permanecer fuera del puesto por un (1) término antes de ser elegibles para servir como Concejal y/o Alcalde. El servir una mitad o más de cualquier porción de un término se contará para determinar el número de términos servidos. Las disposiciones contenidas en el párrafo referentes a límites de término no tomarán efecto hasta la primera elección municipal en mayo después de la adopción de esta carta constitucional, o al mismo tiempo que la Carta Constitucional se adopte, proveyendo que tal Carta Constitucional sea adoptada en una elección municipal en mayo.

A Favor

En Contra

A Favor

En Contra

**Cambio propuesto:**

ELIMINAR TODO EL PÁRRAFO.

A Favor

En Contra

**Artículo 4-Sección 4.09.1 Director de Finanza - Nombramiento y Calificaciones.**

**Cambio propuesto:**  
PODRÁ HABER un Director de Finanza nombrado por el Administrador de la Ciudad por un término indefinido. El Director de Finanza no ejercerá ninguna otra posición dentro del Gobierno de la Ciudad, excepto cuando así lo disponga el Consejo de la Ciudad.

A Favor

En Contra

**Artículo 7-Sección 7.01 Elecciones Generales.**

**Cambio propuesto:**  
La elección regular de la Ciudad se conducirá anualmente en la FECHA EN MAYO, FIJADA POR EL ESTADO DE TEXAS, en cuya ocasión se elegirán oficiales para llenar esos puestos que estarán vacantes ese año. El Consejo de la Ciudad fijará las horas y el lugar para celebrar dichas elecciones. El aviso de la elección será publicado en el periódico oficial de la Ciudad de Gilmer, tal publicación a ser no menos de cuarenta y cinco (45) días antes de la elección. El Alcalde y el Concejal de distrito general se elegirán obteniendo una mayoría de los votos contados. Los candidatos para distritos particulares se postularán para un distrito y serán electos por una mayoría de los votos contados dentro de ese distrito. Durante los años numerados impares, el Alcalde será electo por distrito general junto con los Distritos 2 y 3. Durante los años numerados pares, un candidato se elegirá por distrito general junto con los Distritos 1 y 4.

A Favor

En Contra

**Artículo 3-Sección 3.05 Vacantes.**

**Cambio propuesto:**  
En cualquier momento en que ocurra más de una vacante, el Consejo deberá ordenar una elección especial a efectuarse en la próxima fecha disponible según el Código Electoral de Texas para llenar las vacantes de manera semejante según lo descrito aquí para las elecciones regulares. Sin embargo, si tales vacantes ocurren DENTRO DE noventa (90) días ANTES DE una elección regular, entonces no se ordenará ninguna elección especial y los Concejales restantes designarán personas calificadas para llenar las vacantes hasta la elección regular.

**Artículo 5-Sección 5.02.1 Juez de la Corte Municipal.**

**Cambio propuesto:**  
La Corte Municipal será presidida por un Magistrado que será conocido como el Juez de la Ciudad. El Juez será nombrado por el Alcalde con la concurrencia del Consejo, y servirá a la discreción del Consejo de la Ciudad. El Juez recibirá tal remuneración según como sea fijada por el Consejo. EL CONSEJO DE LA CIUDAD, A SU DISCRECIÓN, PODRÁ NOMBRAR UNO O MÁS JUECES ASOCIADOS.

A Favor

En Contra

**Artículo 6-Finanza Municipal.**

**Cambio propuesto:**  
LA COMISIÓN DE LA CARTA CONSTITUCIONAL PROPUSO ELIMINAR LA POSICIÓN DE DIRECTOR DE FINANZA Y REEMPLAZARLA CON ADMINISTRADOR DE LA CIUDAD A TRAVÉS DEL ARTÍCULO 6.

A Favor

En Contra

A Favor

En Contra

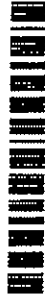
1200260120033

Sample Ballot

000000011111

Sample Ballot

0833020481



12000260220040

Sample Ballot

000000011214



Boleta Oficial

Condado de Upshur, Texas  
12 de Mayo de 2007

Precincto GILMER CITY-311

Artículo 7- Sección 7.02 Reglamento de Elecciones.

Cambio propuesto:

Todas las elecciones generales y especiales serán celebradas de acuerdo con las leyes del Estado de Texas que regulan la conducción de elecciones municipales y de acuerdo con esta Carta Constitucional y ordenanzas o resoluciones adoptadas por el Consejo para conducir elecciones. El Consejo nombrará los jueces electorales y otros oficiales electorales para elecciones de la Ciudad y para todos otros gastos para celebrar dichas elecciones. (ELIMINAR LA SIGUIENTE ORACIÓN: LAS CAJAS DE VOTACIÓN SERÁN ESTABLECIDAS A BASE DE UNA (1) CAJA DE VOTACIÓN PARA CADA TRES MIL (3,000) O FRACCIÓN DE VOTANTES CALIFICADOS. EL CONSEJO DETERMINARÁ DICHA VOTACIÓN SEGÚN LAS CONCENTRACIONES DE POBLACIÓN.)

A Favor

En Contra

Artículo 14- Sección 14.01

Establecimiento de Comisión de Ética.

Texto Original en la Carta Constitucional: El Consejo de la Ciudad nombrará una Comisión de Ética de cinco (5) personas para desarrollar una lista de Ética para el Consejo. Esto entonces iría frente al Consejo para obtener tres quintos (3/5) votos de todo el Consejo para ser aprobada dentro de seis (6) meses a partir de la fecha de la elección para aprobar las revisiones de la Carta Constitucional. Además, el Administrador de la Ciudad y el Alcalde de la Ciudad se sentarán en la Junta de Ética como miembros ex-officio sin ningún derecho para votar. La Lista de Ética será repasada cada cinco (5) años cuando la Carta Constitucional sea repasada.

Cambio propuesto:

LA COMISIÓN DE LA CARTA CONSTITUCIONAL VOTÓ PARA ELIMINAR ESTE ARTÍCULO EN SU TOTALIDAD Y DEJAR QUE LAS REGLAS DE ETICA DEL ESTADO DE TEXAS SIRVAN COMO LAS GUÍAS DE LA CIUDAD.

A Favor

En Contra

Handwritten markings in the center of the ballot, including a large '30' and a signature.

Sample Ballot

0833020481



Boleta Oficial

Condado de Upshur, Texas  
12 de Mayo de 2007

Precincto **GILMER CITY-411**

12000270120054  
Sample Ballot  
400000015113

**Boleta de Instrucción:**  
Favor de usar una pluma de tinta negra o azul para marcar su boleta. Para votar por su selección en cada carrera, llene completamente el espacio cuadrado a la izquierda de su selección.

**Alcalde**  
Votar por uno(1):  
 R. D. Cross

**Nota:** Todos los cambios serán observados con mayúsculas.

**Artículo 3-Sección 3.01 Número, Selección y Término de Puesto.**  
Texto Original en la Carta Constitucional:  
Ningún oficial electo podrá servir más de tres (3) términos consecutivos como Concejal y/o Alcalde. Las personas que sirvan tres (3) términos consecutivos como Concejal y/o Alcalde deberán permanecer fuera del puesto por un (1) término antes de ser elegibles para servir como Concejal y/o Alcalde. El servir una mitad o más de cualquier porción de un término se contará para determinar el número de términos servidos. Las disposiciones contenidas en el párrafo referentes a límites de término no tomarán efecto hasta la primera elección municipal en mayo después de la adopción de esta carta constitucional, o al mismo tiempo que la Carta Constitucional se adopta, proveyendo que tal Carta Constitucional sea adoptada en una elección municipal en mayo.

Cambio propuesto:  
ELIMINAR TODO EL PÁRRAFO.

A Favor  
 En Contra

**Artículo 3-Sección 3.05 Vacantes.**  
Cambio propuesto:  
En cualquier momento en que ocurra más de una vacante, el Consejo deberá ordenar una elección especial a efectuarse en la próxima fecha disponible según el Código Electoral de Texas para llenar las vacantes de manera semejante según lo descrito aquí para las elecciones regulares. Sin embargo, si tales vacantes ocurren DENTRO DE noventa (90) días ANTES DE una elección regular, entonces no se ordenará ninguna elección especial y los Concejales restantes designarán personas calificadas para llenar las vacantes hasta la elección regular.

A Favor  
 En Contra

**Artículo 3-Sección 3.09 (a) Poderes del Consejo.**

Cambio propuesto:  
Nombrar y eliminar al Administrador de la Ciudad según lo provisto aquí. Se hará UNA EVALUACIÓN al Administrador de la Ciudad durante UNA reunión del Consejo de la Ciudad en enero de cada año. Además, la evaluación al Administrador de la Ciudad será un asunto que requiera ese puesto en la agenda para UNA reunión en enero. El Consejo EVALUARÁ el desempeño del Administrador de la Ciudad y dará sugerencias de asuntos para mejorar y las prioridades para el próximo año. Además, el Consejo podrá conducir tantas evaluaciones como años sean necesarias durante el año. Esto será tratado en sesión ejecutiva como un asunto de personal.

A Favor  
 En Contra

**Artículo 4-Sección 4.03.1 Director de Finanza - Nombramiento y Calificaciones.**

Cambio propuesto:  
PODRÁ HABER un Director de Finanza nombrado por el Administrador de la Ciudad por un término indefinido. El Director de Finanza no ejercerá en ninguna otra posición dentro del Gobierno de la Ciudad, excepto cuando así lo disponga el Consejo de la Ciudad.

A Favor  
 En Contra

**Artículo 5-Sección 5.02.1 Juez de la Corte Municipal.**

Cambio propuesto:  
La Corte Municipal será presidida por un Magistrado que será conocido como el Juez de la Ciudad. El Juez será nombrado por el Alcalde con la concurrencia del Consejo, y servirá a la discreción del Consejo de la Ciudad. El Juez recibirá tal remuneración según como sea fijada por el Consejo. EL CONSEJO DE LA CIUDAD, A SU DISCRECIÓN, PODRÁ NOMBRAR UNO O MÁS JUECES ASOCIADOS.

A Favor  
 En Contra

**Artículo 6-Finanza Municipal.**

Cambio propuesto:  
LA COMISIÓN DE LA CARTA CONSTITUCIONAL PROPUSO ELIMINAR LA POSICIÓN DE DIRECTOR DE FINANZA Y REEMPLAZARLA CON ADMINISTRADOR DE LA CIUDAD A TRAVÉS DEL ARTÍCULO 6.

A Favor  
 En Contra

**Artículo 6-Sección 6.01 Año Fiscal.**

Cambio propuesto:  
El año fiscal de la Ciudad de Gilmer comenzará el 1 de octubre de cada año civil y terminará A LA MEDIANOCHE el 30 de septiembre del próximo año civil. Tal año fiscal también constituirá el año del presupuesto y contabilidad.

A Favor  
 En Contra

**Artículo 6-Sección 6.13 (d) Enmiendas después de la Adopción del Presupuesto/Transferencia de Apropiaciones.**

Cambios propuestos:  
En cualquier momento durante el año fiscal, el ADMINISTRADOR DE LA CIUDAD podrá transferir parte o todo el balance de apropiación libre de gravamen entre programas dentro de un departamento, oficina, o agencia. Por petición escrita por el Administrador de la Ciudad, el Consejo podrá, POR ENMIENDA AL PRESUPUESTO, transferir parte o todo el balance de apropiación libre de gravamen de un departamento, oficina, o agencia a otro.

A Favor  
 En Contra

**Artículo 7-Sección 7.01 Elecciones Generales.**

Cambio propuesto:  
La elección regular de la Ciudad se conducirá anualmente en la FECHA EN MAYO, FIJADA POR EL ESTADO DE TEXAS, en cuya ocasión se elegirán oficiales para llenar esos puestos que estarán vacantes ese año. El Consejo de la Ciudad fijará las horas y el lugar para celebrar dichas elecciones. El aviso de la elección será publicado en el periódico oficial de la Ciudad de Gilmer, tal publicación a ser no menos de cuarenta y cinco (45) días antes de la elección. El Alcalde y el Concejal de distrito general se elegirán obteniendo una mayoría de los votos contados. Los candidatos para distritos particulares se postularán para un distrito y serán electos por una mayoría de los votos contados dentro de ese distrito. Durante los años numerados impares, el Alcalde será electo por distrito general junto con los Distritos 2 y 3. Durante los años numerados pares, un candidato se elegirá por distrito general junto con los Distritos 1 y 4.

A Favor  
 En Contra

Sample Ballot  
0833020481

Boleta Oficial

Condado de Upshur, Texas

12 de Mayo de 2007

Precincto GILMER CITY-411

Artículo 7- Sección 7.02 Reglamento de Elecciones.

Cambio propuesto: Todas las elecciones generales y especiales serán celebradas de acuerdo con las leyes del Estado de Texas que regulan la conducción de elecciones municipales y de acuerdo con esta Carta Constitucional y ordenanzas o resoluciones adoptadas por el Consejo para conducir elecciones. El Consejo nombrará los jueces electorales y otros oficiales electorales para elecciones de la Ciudad y para todos otros gastos para celebrar dichas elecciones. (ELIMINAR LA SIGUIENTE ORACIÓN: LAS CAJAS DE VOTACIÓN SERÁN ESTABLECIDAS A BASE DE UNA (1) CAJA DE VOTACIÓN PARA CADA TRES MIL (3,000) O FRACCIÓN DE VOTANTES CALIFICADOS. EL CONSEJO DETERMINARÁ DICHA VOTACIÓN SEGÚN LAS CONCENTRACIONES DE POBLACIÓN.)

- A Favor
 En Contra

Artículo 14- Sección 14.01 Establecimiento de Comisión de Ética.

Texto Original en la Carta Constitucional: El Consejo de la Ciudad nombrará una Comisión de Ética de cinco (5) personas para desarrollar una lista de Éticas para el Consejo. Esto entonces iría frente al Consejo para obtener tres quintos (3/5) votos de todo el Consejo para ser aprobada dentro de seis (6) meses a partir de la fecha de la elección para aprobar las revisiones de la Carta Constitucional. Además, el Administrador de la Ciudad y el Alcalde de la Ciudad se sentarán en la Junta de Ética como miembros ex-officio sin ningún derecho para votar. La Lista de Ética será repasada cada cinco (5) años cuando la Carta Constitucional sea repasada.

Cambio propuesto: LA COMISION DE LA CARTA CONSTITUCIONAL VOTÓ PARA ELIMINAR ESTE ARTICULO EN SU TOTALIDAD Y DEJAR QUE LAS REGLAS DE ETICA DEL ESTADO DE TEXAS SIRVAN COMO LAS GUIAS DE LA CIUDAD.

- A Favor
 En Contra

Handwritten signature: J. W. ...

12000270220061

Sample Ballot

400000015210

Sample Ballot

0833020481

**Precinct Report — OFFICIAL**  
**UPSHUR COUNTY, TEXAS — | — May 12, 2007**

Page 24 of 50

*Exhibit C*

Total Number of Voters : 2,296 of 53,922 = 4.26%

05/14/2007 06:46 PM  
 Precincts Reporting 44 of 44 = 100.00%

Party	Candidate	Early	Election	Total
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**Precinct GILMER CITY - 111 (Ballots Cast: 19)**

Mayor, At-Large, Vote For 1  
 R. D. Cross

Cast Votes:	5	100.00%	12	100.00%	17	100.00%
Over Votes:	0	0.00%	0	0.00%	0	0.00%
Under Votes:	1	16.67%	1	7.69%	2	10.53%

**Article 3-Section 3.01 Number, Selection and Term of Office, Vote For 1**

For	3	50.00%	6	46.15%	9	47.37%
Against	3	50.00%	7	53.85%	10	52.63%
Cast Votes:	6	100.00%	13	100.00%	19	100.00%
Over Votes:	0	0.00%	0	0.00%	0	0.00%
Under Votes:	0	0.00%	0	0.00%	0	0.00%

**Article 3-Section 3.05 Vacancies, Vote For 1**

For	6	100.00%	8	61.54%	14	73.68%
Against	0	0.00%	5	38.46%	5	26.32%
Cast Votes:	6	100.00%	13	100.00%	19	100.00%
Over Votes:	0	0.00%	0	0.00%	0	0.00%
Under Votes:	0	0.00%	0	0.00%	0	0.00%

**Article 3-Section 3.08 (a) Powers of the Council, Vote For 1**

For	6	100.00%	8	61.54%	14	73.68%
Against	0	0.00%	5	38.46%	5	26.32%
Cast Votes:	6	100.00%	13	100.00%	19	100.00%
Over Votes:	0	0.00%	0	0.00%	0	0.00%
Under Votes:	0	0.00%	0	0.00%	0	0.00%

**Article 4-Section 4.03.1 Director of Finance-Appointment and Qualifications, Vote For 1**

For	4	66.67%	7	58.33%	11	61.11%
Against	2	33.33%	5	41.67%	7	38.89%
Cast Votes:	6	100.00%	12	92.31%	18	94.74%
Over Votes:	0	0.00%	0	0.00%	0	0.00%
Under Votes:	0	0.00%	1	7.69%	1	5.26%

**Article 5-Section 5.02.1 Judge of the Municipal Court, Vote For 1**

For	4	66.67%	7	53.85%	11	57.89%
Against	2	33.33%	6	46.15%	8	42.11%
Cast Votes:	6	100.00%	13	100.00%	19	100.00%
Over Votes:	0	0.00%	0	0.00%	0	0.00%
Under Votes:	0	0.00%	0	0.00%	0	0.00%

**Precinct Report — OFFICIAL**  
**UPSHUR COUNTY, TEXAS — | — May 12, 2007**

Total Number of Voters : 2,296 of 53,922 = 4.26%

Party	Candidate	Early	Election	Total
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**Precinct GILMER CITY - 111 (Ballots Cast: 19)**

**Article 6-Municipal Finance., Vote For 1**

For	Against	Cast Votes:	Over Votes:	Under Votes:	For	Against	Cast Votes:	Over Votes:	Under Votes:
4	2	66.67%	33.33%	0	8	4	66.67%	33.33%	0
6	0	100.00%	0.00%	0	12	0	92.31%	0.00%	0
0	0	0.00%	0.00%	0	1	7.69%	0.00%	0.00%	0
0	0	0.00%	0.00%	0	1	7.69%	0.00%	0.00%	0

**Article 6-Section 6.01 Fiscal Year., Vote For 1**

For	Against	Cast Votes:	Over Votes:	Under Votes:	For	Against	Cast Votes:	Over Votes:	Under Votes:
6	0	100.00%	0.00%	0	9	4	69.23%	30.77%	0
6	0	100.00%	0.00%	0	13	0	100.00%	0.00%	0
0	0	0.00%	0.00%	0	0	0.00%	0.00%	0.00%	0
0	0	0.00%	0.00%	0	0	0.00%	0.00%	0.00%	0

**Article 6-Section 6.13 (d) Amendments after Adoption of Budget/Transfer of Appropriations., Vote For 1**

For	Against	Cast Votes:	Over Votes:	Under Votes:	For	Against	Cast Votes:	Over Votes:	Under Votes:
4	2	66.67%	33.33%	0	8	5	61.54%	38.46%	0
6	0	100.00%	0.00%	0	13	0	100.00%	0.00%	0
0	0	0.00%	0.00%	0	0	0.00%	0.00%	0.00%	0
0	0	0.00%	0.00%	0	0	0.00%	0.00%	0.00%	0

**Article 7- Section 7.01 General Elections., Vote For 1**

For	Against	Cast Votes:	Over Votes:	Under Votes:	For	Against	Cast Votes:	Over Votes:	Under Votes:
5	1	83.33%	16.67%	0	10	3	76.92%	23.08%	0
6	0	100.00%	0.00%	0	13	0	100.00%	0.00%	0
0	0	0.00%	0.00%	0	0	0.00%	0.00%	0.00%	0
0	0	0.00%	0.00%	0	0	0.00%	0.00%	0.00%	0

**Article 7-Section 7.02 Regulation of Elections., Vote For 1**

For	Against	Cast Votes:	Over Votes:	Under Votes:	For	Against	Cast Votes:	Over Votes:	Under Votes:
6	0	100.00%	0.00%	0	9	4	69.23%	30.77%	0
6	0	100.00%	0.00%	0	13	0	100.00%	0.00%	0
0	0	0.00%	0.00%	0	0	0.00%	0.00%	0.00%	0
0	0	0.00%	0.00%	0	0	0.00%	0.00%	0.00%	0

**Article 14-Section 14.01 Establishing Ethics Commission., Vote For 1**

For	Against	Cast Votes:	Over Votes:	Under Votes:	For	Against	Cast Votes:	Over Votes:	Under Votes:
5	1	83.33%	16.67%	0	9	3	75.00%	25.00%	0
6	0	100.00%	0.00%	0	12	0	92.31%	0.00%	0
0	0	0.00%	0.00%	0	0	0.00%	0.00%	0.00%	0
0	0	0.00%	0.00%	0	1	7.69%	0.00%	0.00%	0

**Precinct Report — OFFICIAL**  
**UPSHUR COUNTY, TEXAS — | — May 12, 2007**

Total Number of Voters : 2,296 of 53,922 = 4.26%

Party	Candidate	Early	Election	Total
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**Precinct GILMER CITY - 211 (Ballots Cast: 32)**

**Mayor, At-Large, Vote For 1**  
 R. D. Cross

Cast Votes:	6	100.00%	22	100.00%	28	100.00%
Over Votes:	0	0.00%	0	0.00%	0	0.00%
Under Votes:	0	0.00%	4	15.38%	4	12.50%

**Councilmember, District Two, Vote For 1**  
 David Sowell

Cast Votes:	6	100.00%	23	100.00%	29	100.00%
Over Votes:	0	0.00%	0	0.00%	0	0.00%
Under Votes:	0	0.00%	3	11.54%	3	9.38%

**Article 3-Section 3.01 Number, Selection and Term of Office, Vote For 1**

For	4	66.67%	17	77.27%	21	75.00%
Against	2	33.33%	5	22.73%	7	25.00%
Cast Votes:	6	100.00%	22	84.62%	28	87.50%
Over Votes:	0	0.00%	0	0.00%	0	0.00%
Under Votes:	0	0.00%	4	15.38%	4	12.50%

**Article 3-Section 3.05 Vacancies, Vote For 1**

For	6	100.00%	19	86.36%	25	89.29%
Against	0	0.00%	3	13.64%	3	10.71%
Cast Votes:	6	100.00%	22	84.62%	28	87.50%
Over Votes:	0	0.00%	0	0.00%	0	0.00%
Under Votes:	0	0.00%	4	15.38%	4	12.50%

**Article 3-Section 3.09 (a) Powers of the Council, Vote For 1**

For	6	100.00%	19	90.48%	25	92.59%
Against	0	0.00%	2	9.52%	2	7.41%
Cast Votes:	6	100.00%	21	80.77%	27	84.38%
Over Votes:	0	0.00%	0	0.00%	0	0.00%
Under Votes:	0	0.00%	5	19.23%	5	15.63%

**Article 4-Section 4.03.1 Director of Finance-Appointment and Qualifications, Vote For 1**

For	5	83.33%	12	57.14%	17	62.96%
Against	1	16.67%	9	42.86%	10	37.04%
Cast Votes:	6	100.00%	21	80.77%	27	84.38%
Over Votes:	0	0.00%	0	0.00%	0	0.00%
Under Votes:	0	0.00%	5	19.23%	5	15.63%

**Precinct Report — OFFICIAL**  
**UPSHUR COUNTY, TEXAS — | — May 12, 2007**

Total Number of Voters : 2,296 of 53,922 = 4.26%

Party	Candidate	Early	Election	Total
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**Precinct GILMER CITY - 211 (Ballots Cast: 32)**

**Article 5-Section 5.02.1 Judge of the Municipal Court, Vote For 1**

For	Against	Cast Votes:	Over Votes:	Under Votes:
6	0	100.00%	0.00%	0
15	6	71.43%	28.57%	21
6	0	100.00%	0.00%	0
21	0	80.77%	0.00%	27
0	0	0.00%	0.00%	0
5	0	19.23%	0.00%	5

**Article 6-Municipal Finance, Vote For 1**

For	Against	Cast Votes:	Over Votes:	Under Votes:
5	1	83.33%	16.67%	6
10	10	50.00%	50.00%	20
6	0	100.00%	0.00%	0
20	0	76.92%	0.00%	26
0	0	0.00%	0.00%	0
6	0	23.08%	0.00%	6

**Article 6-Section 6.01 Fiscal Year, Vote For 1**

For	Against	Cast Votes:	Over Votes:	Under Votes:
6	0	100.00%	0.00%	0
16	4	80.00%	20.00%	22
6	0	100.00%	0.00%	0
20	0	76.92%	0.00%	26
0	0	0.00%	0.00%	0
6	0	23.08%	0.00%	6

**Article 6-Section 6.13 (d) Amendments after Adoption of Budget/Transfer of Appropriations, Vote For 1**

For	Against	Cast Votes:	Over Votes:	Under Votes:
5	1	83.33%	16.67%	6
11	9	55.00%	45.00%	20
6	0	100.00%	0.00%	0
20	0	76.92%	0.00%	26
0	0	0.00%	0.00%	0
6	0	23.08%	0.00%	6

**Article 7-Section 7.01 General Elections, Vote For 1**

For	Against	Cast Votes:	Over Votes:	Under Votes:
6	0	100.00%	0.00%	0
17	4	80.95%	19.05%	23
6	0	100.00%	0.00%	0
21	0	80.77%	0.00%	27
0	0	0.00%	0.00%	0
5	0	19.23%	0.00%	5

**Article 7-Section 7.02 Regulation of Elections, Vote For 1**

For	Against	Cast Votes:	Over Votes:	Under Votes:
6	0	100.00%	0.00%	0
16	5	76.19%	23.81%	22
6	0	100.00%	0.00%	0
21	0	80.77%	0.00%	27
0	0	0.00%	0.00%	0
5	0	19.23%	0.00%	5

**Precinct Report — OFFICIAL**  
**UPSHUR COUNTY, TEXAS — | — May 12, 2007**

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 Precincts Reporting 44 of 44 = 100.00%

Total Number of Voters : 2,296 of 53,922 = 4.26%

Party	Candidate	Early	Election	Total
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**Precinct GILMER CITY - 211 (Ballots Cast: 32)**

**Article 14-Section 14.01 Establishing Ethics Commission., Vote For 1**

	For	Against	Cast Votes:	Over Votes:	Under Votes:
	4	2	6	0	0
	66.67%	33.33%	100.00%	0.00%	0.00%
	14	7	21	0	5
	66.67%	33.33%	80.77%	0.00%	19.23%
	18	9	27	0	5
	66.67%	33.33%	84.38%	0.00%	15.63%

**Precinct Report — OFFICIAL**  
**UPSHUR COUNTY, TEXAS — | — May 12, 2007**

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 Precincts Reporting 44 of 44 = 100.00%

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Total Number of Voters : 2,296 of 53,922 = 4.26%

Party	Candidate	Early	Election	Total
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**Precinct GILMER CITY - 311 (Ballots Cast: 60)**

**Mayor, At-Large, Vote For 1**  
 R. D. Cross

11	100.00%	41	100.00%	52	100.00%
11	100.00%	41	83.67%	52	86.67%
0	0.00%	0	0.00%	0	0.00%
0	0.00%	8	16.33%	8	13.33%

Cast Votes:  
 Over Votes:  
 Under Votes:

**Councilmember, District Three, Vote For 1**  
 Randy McDaniel

11	100.00%	41	100.00%	52	100.00%
11	100.00%	41	83.67%	52	86.67%
0	0.00%	0	0.00%	0	0.00%
0	0.00%	8	16.33%	8	13.33%

Cast Votes:  
 Over Votes:  
 Under Votes:

**Article 3-Section 3.01 Number, Selection and Term of Office, Vote For 1**

For  
 Against

10	90.91%	33	71.74%	43	75.44%
1	9.09%	13	28.26%	14	24.56%
11	100.00%	46	93.88%	57	95.00%
0	0.00%	0	0.00%	0	0.00%
0	0.00%	3	6.12%	3	5.00%

Cast Votes:  
 Over Votes:  
 Under Votes:

**Article 3-Section 3.05 Vacancies., Vote For 1**

For  
 Against

11	100.00%	41	83.67%	52	86.67%
11	100.00%	36	87.80%	47	90.38%
0	0.00%	5	12.20%	5	9.62%
0	0.00%	0	0.00%	0	0.00%
0	0.00%	8	16.33%	8	13.33%

Cast Votes:  
 Over Votes:  
 Under Votes:

**Article 3-Section 3.08 (a) Powers of the Council., Vote For 1**

For  
 Against

10	90.91%	37	88.10%	47	88.68%
1	9.09%	5	11.90%	6	11.32%
11	100.00%	42	85.71%	53	88.33%
0	0.00%	0	0.00%	0	0.00%
0	0.00%	7	14.29%	7	11.67%

Cast Votes:  
 Over Votes:  
 Under Votes:

**Article 4-Section 4.03.1 Director of Finance-Appointment and Qualifications., Vote For 1**

For  
 Against

11	100.00%	42	85.71%	53	88.33%
11	100.00%	30	71.43%	41	77.36%
0	0.00%	12	28.57%	12	22.64%
0	0.00%	0	0.00%	0	0.00%
0	0.00%	7	14.29%	7	11.67%

Cast Votes:  
 Over Votes:  
 Under Votes:

**Precinct Report — OFFICIAL**  
**UPSHUR COUNTY, TEXAS — | — May 12, 2007**

Total Number of Voters : 2,296 of 53,922 = 4.26%

Party	Candidate	Early	Election	Total
<b>Precinct GILMER CITY - 311 (Ballots Cast: 60)</b>				
<b>Article 5-Section 5.02.1 Judge of the Municipal Court., Vote For 1</b>				
For		10	30	40
Against		1	13	14
		90.91%	69.77%	74.07%
		9.09%	30.23%	25.93%
	Cast Votes:	11	43	54
	Over Votes:	0	0	0
	Under Votes:	0	6	6
		100.00%	87.76%	90.00%
		0.00%	0.00%	0.00%
		0.00%	12.24%	10.00%
<b>Article 6-Municipal Finance., Vote For 1</b>				
For		10	24	34
Against		1	17	18
		90.91%	58.54%	65.38%
		9.09%	41.46%	34.62%
	Cast Votes:	11	41	52
	Over Votes:	0	0	0
	Under Votes:	0	8	8
		100.00%	83.67%	86.67%
		0.00%	0.00%	0.00%
		0.00%	16.33%	13.33%
<b>Article 6-Section 6.01 Fiscal Year., Vote For 1</b>				
For		11	36	47
Against		0	7	7
		100.00%	83.72%	87.04%
		0.00%	16.28%	12.96%
	Cast Votes:	11	43	54
	Over Votes:	0	0	0
	Under Votes:	0	6	6
		100.00%	87.76%	90.00%
		0.00%	0.00%	0.00%
		0.00%	12.24%	10.00%
<b>Article 6-Section 6.13 (d) Amendments after Adoption of Budget/Transfer of Appropriations., Vote For 1</b>				
For		10	28	38
Against		1	15	16
		90.91%	65.12%	70.37%
		9.09%	34.88%	29.63%
	Cast Votes:	11	43	54
	Over Votes:	0	0	0
	Under Votes:	0	6	6
		100.00%	87.76%	90.00%
		0.00%	0.00%	0.00%
		0.00%	12.24%	10.00%
<b>Article 7-Section 7.01 General Elections., Vote For 1</b>				
For		11	35	46
Against		0	7	7
		100.00%	83.33%	86.79%
		0.00%	18.67%	13.21%
	Cast Votes:	11	42	53
	Over Votes:	0	0	0
	Under Votes:	0	7	7
		100.00%	85.71%	88.33%
		0.00%	0.00%	0.00%
		0.00%	14.29%	11.67%
<b>Article 7-Section 7.02 Regulation of Elections., Vote For 1</b>				
For		9	32	41
Against		0	9	9
		100.00%	78.05%	82.00%
		0.00%	21.95%	18.00%
	Cast Votes:	9	41	50
	Over Votes:	0	0	0
	Under Votes:	2	8	10
		81.82%	83.67%	83.33%
		0.00%	0.00%	0.00%
		18.18%	16.33%	16.67%

**Precinct Report — OFFICIAL**  
**UPSHUR COUNTY, TEXAS — | — May 12, 2007**

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 Precincts Reporting 44 of 44 = 100.00%

Total Number of Voters : 2,296 of 53,922 = 4.26%

Party	Candidate	Early	Election	Total
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**Precinct GILMER CITY - 311 (Ballots Cast: 60)**

Article 14-Section 14.01 Establishing Ethics Commission., Vote For 1

For	9	100.00%	31	79.49%	40	83.33%
Against	0	0.00%	8	20.51%	8	16.67%
<b>Cast Votes:</b>	9	81.82%	39	79.59%	48	80.00%
<b>Over Votes:</b>	0	0.00%	0	0.00%	0	0.00%
<b>Under Votes:</b>	2	18.18%	10	20.41%	12	20.00%

**Precinct Report — OFFICIAL**  
**UPSHUR COUNTY, TEXAS — | — May 12, 2007**

05/14/2007 06:46 PM  
 Precincts Reporting 44 of 44 = 100.00%

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Total Number of Voters : 2,296 of 53,922 = 4.26%

Party	Candidate	Early	Election	Total
<b>Precinct GILMER CITY - 411 (Ballots Cast: 25)</b>				
Mayor, At-Large, Vote For 1				
	R. D. Cross	9 100.00%	11 100.00%	20 100.00%
	Cast Votes:	9 75.00%	11 84.62%	20 80.00%
	Over Votes:	0 0.00%	0 0.00%	0 0.00%
	Under Votes:	3 25.00%	2 15.38%	5 20.00%
<b>Article 3-Section 3.01 Number, Selection and Term of Office, Vote For 1</b>				
	For	11 91.67%	11 91.67%	22 91.67%
	Against	1 8.33%	1 8.33%	2 8.33%
	Cast Votes:	12 100.00%	12 92.31%	24 96.00%
	Over Votes:	0 0.00%	0 0.00%	0 0.00%
	Under Votes:	0 0.00%	1 7.69%	1 4.00%
<b>Article 3-Section 3.05 Vacancies., Vote For 1</b>				
	For	11 91.67%	10 90.91%	21 91.30%
	Against	1 8.33%	1 9.09%	2 8.70%
	Cast Votes:	12 100.00%	11 84.62%	23 92.00%
	Over Votes:	0 0.00%	0 0.00%	0 0.00%
	Under Votes:	0 0.00%	2 15.38%	2 8.00%
<b>Article 3-Section 3.09 (a) Powers of the Council., Vote For 1</b>				
	For	11 91.67%	11 91.67%	22 91.67%
	Against	1 8.33%	1 8.33%	2 8.33%
	Cast Votes:	12 100.00%	12 92.31%	24 96.00%
	Over Votes:	0 0.00%	0 0.00%	0 0.00%
	Under Votes:	0 0.00%	1 7.69%	1 4.00%
<b>Article 4-Section 4.03.1 Director of Finance-Appointment and Qualifications., Vote For 1</b>				
	For	8 66.67%	10 90.91%	18 78.26%
	Against	4 33.33%	1 9.09%	5 21.74%
	Cast Votes:	12 100.00%	11 84.62%	23 92.00%
	Over Votes:	0 0.00%	0 0.00%	0 0.00%
	Under Votes:	0 0.00%	2 15.38%	2 8.00%
<b>Article 5-Section 5.02.1 Judge of the Municipal Court., Vote For 1</b>				
	For	10 90.91%	8 72.73%	18 81.82%
	Against	1 9.09%	3 27.27%	4 18.18%
	Cast Votes:	11 91.67%	11 84.62%	22 88.00%
	Over Votes:	0 0.00%	0 0.00%	0 0.00%
	Under Votes:	1 8.33%	2 15.38%	3 12.00%

**Precinct Report — OFFICIAL**  
**UPSHUR COUNTY, TEXAS — | — May 12, 2007**

Total Number of Voters : 2,296 of 53,922 = 4.26%

Party	Candidate	Early	Election	Total
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**Precinct GILMER CITY - 411 (Ballots Cast: 25)**

Article 6-Municipal Finance., Vote For 1				
For	Against			
8	3	72.73%	10	100.00%
		27.27%	0	0.00%
Cast Votes:		11	10	76.92%
Over Votes:		0	0	0.00%
Under Votes:		1	3	23.08%

Article 6-Section 6.01 Fiscal Year., Vote For 1				
For	Against			
11	0	100.00%	11	100.00%
		0.00%	0	0.00%
Cast Votes:		11	11	84.62%
Over Votes:		0	0	0.00%
Under Votes:		1	2	15.38%

Article 6-Section 6.13 (d) Amendments after Adoption of Budget/Transfer of Appropriations., Vote For 1				
For	Against			
9	3	75.00%	9	81.82%
		25.00%	2	18.18%
Cast Votes:		12	11	84.62%
Over Votes:		0	0	0.00%
Under Votes:		0	2	15.38%

Article 7-Section 7.01 General Elections., Vote For 1				
For	Against			
11	1	91.67%	12	100.00%
		8.33%	0	0.00%
Cast Votes:		12	12	92.31%
Over Votes:		0	0	0.00%
Under Votes:		0	1	7.69%

Article 7-Section 7.02 Regulation of Elections., Vote For 1				
For	Against			
7	1	87.50%	11	100.00%
		12.50%	0	0.00%
Cast Votes:		8	11	84.62%
Over Votes:		0	0	0.00%
Under Votes:		4	2	15.38%

Article 14-Section 14.01 Establishing Ethics Commission., Vote For 1				
For	Against			
7	1	87.50%	11	91.67%
		12.50%	1	8.33%
Cast Votes:		8	12	92.31%
Over Votes:		0	0	0.00%
Under Votes:		4	1	7.69%

Article 14-Section 14.01 Establishing Ethics Commission., Vote For 1				
For	Against			
18	3	85.71%	18	90.00%
		14.29%	2	10.00%
Cast Votes:		21	20	80.00%
Over Votes:		0	0	0.00%
Under Votes:		4	5	20.00%

# Exhibit D

**GILMER CITY COUNCIL REGULAR SESSION  
TUESDAY, MAY 22nd, 5:15 P.M.  
COUNCIL CHAMBERS, CITY HALL  
110 BUFFALO  
GILMER, TEXAS**

**COUNCIL PRESENT:** MAYOR R.D. CROSS  
COUNCILMEMBER SARA DUMAS, AT-LARGE  
COUNCILMAN ERIC KING, DISTRICT 1  
COUNCILMAN DAVID SOWELL, DISTRICT 2  
COUNCILMAN RANDY MCDANIEL, DISTRICT 3  
COUNCILMEMBER TEATHEL HOLLIS, DISTRICT 4

**COUNCIL ABSENT:** NONE

**STAFF PRESENT** JEFF ELLINGTON, CITY MANAGER  
KATHY DAVIDSON, CITY SECRETARY  
MIKE MARTIN, CITY ATTORNEY  
TRACY OLLER, BUSINESS MANAGER  
BARBARA TAYLOR, ASSOC. MUNICIPAL COURT JUDGE

**CITIZENS PRESENT:** WAYNE BARTON- SQUYRES, JOHNSON, SQUYRES & CO.  
TREY CASPER- SQUYRES, JOHNSON, SQUYRES & CO.

1. **CALL TO ORDER**  
INVOCATION  
PLEDGE OF ALLEGIANCE  
Mayor Cross called the meeting to order at 5:15 p.m. Following a moment of silence, City Attorney Mike Martin led the Pledge of Allegiance.
2. **CITIZEN COMMENTS / STAFF REPORTS / MAYOR-COUNCIL COMMENTS**  
Mayor Cross praised Steve and Linda Kay Dean for the great job they did organizing the Armed Forces Day Celebration held Saturday, May 19<sup>th</sup> at Fox Stephens Field.
3. **CONSIDER THE FOLLOWING WITH REGARD TO THE REGULAR CITY ELECTION HELD MAY 12, 2007:**
  - A. **CANVASS THE REGULAR ELECTION RETURNS AND DECLARE THE RESULTS OFFICIAL**  
Motion to accept the election returns was made by Randy McDaniel with a second by Councilmember Teathel Hollis and a vote of 4/0 for approval. Note: Councilmember David Sowell was not yet sworn in.

R.D. Cross	Mayor At-Large	117
David Sowell	Councilmember District Two	29
Randy McDaniel	Councilmember District Three	52

**B. CITY SECRETARY WILL MAKE PRESENTATION OF THE CERTIFICATION OF ELECTION**

City Secretary Kathy Davidson presented Certificates of Election to Mayor R.D. Cross and Councilmembers David Sowell and Randy McDaniel.

**C. ADMINISTER OATH OF OFFICE FOR THOSE DULY ELECTED OR APPOINTED**

City Secretary Kathy Davidson administered the Oath of Office to Mayor R.D. Cross and Councilmembers David Sowell and Randy McDaniel.

**4. CONSIDER DISCUSSION AND ELECT MAYOR PRO-TEM AS REQUIRED BY CHARTER**

Councilmember Sara Dumas made a motion to appoint Randy McDaniel as Mayor Pro-Tem with a second by Councilmember Teathel Hollis and a vote of 5/0 for approval.

**5. CANVASS MAY 12, 2007 CITY OF GILMER SPECIAL ELECTION RETURNS AND DECLARE RESULTS OF THE CITY SPECIAL ELECTION OFFICIAL**

Motion was made by Councilman Randy McDaniel to accept the election returns as presented with a second by Councilmember Teathel Hollis and a vote of 5/0 for approval.

**RETURNS ARE AS FOLLOW:**

A.

**Article 3**

**Section 3.01 Number, Selection and Term of Office.**

**Original Text in Charter:**

No elective officer may serve more than three (3) consecutive terms as either a Councilmember and/or Mayor. Persons serving three (3) consecutive terms as a Councilmember and/or Mayor must remain out of office one (1) term before being eligible to serve as a Councilmember and/or Mayor. Serving one-half or more of any portion of a term shall be counted in determining the number of terms served. Provisions contained in the paragraph relating to term limits shall not take effect until the first municipal election in May after the adoption of this charter, or at the same time the Charter is adopted, provided such Charter is adopted at a municipal election in May.

**Proposed change: Delete entire paragraph.**

***\* PASSED WITH A VOTE OF 95 FOR AND 33 AGAINST***

B.

**Article 3**

**Section 3.05 Vacancies.**

**Proposed change:**

When more than one vacancy shall develop at any one time, a special election shall be called by the Council 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 such vacancies occur *within* ninety (90) days *prior to* a regular election, then no special election shall be called and remaining Councilmembers shall appoint qualified persons to fill the vacancies until the regular election.

**\* PASSED WITH A VOTE OF 107 FOR AND 15 AGAINST**

**D. Section 3.09 (a) Powers of the Council.**

**Proposed change:**

Appoint and remove the City Manager as herein after provided. An evaluation of the City Manager will be performed at a regular City Council meeting in January of each year. Furthermore, the City Manager's evaluation will be a required agenda item for a meeting in January. The Council shall evaluate the performance of the City Manager and suggest items for improvement and priorities for the coming year. In addition, the Council may conduct as many evaluations as they deem necessary during the year. This shall be handled in executive session as a personnel matter.

**\* PASSED WITH A VOTE OF 108 FOR AND 15 AGAINST**

**D. Article 4**

**Proposed change:**

There may be a Director of Finance appointed by the City Manager for an indefinite term. The Director of Finance shall serve in no other position within the City Government, except when so designated by the City Council.

**Section 4.03.1 Director of Finance-Appointment and Qualifications.**

**\* PASSED WITH A VOTE OF 87 FOR AND 34 AGAINST**

**E. Article 5**

**Section 5.02.1 Judge of the Municipal Court.**

**Proposed Change:**

The Municipal Court shall be presided over by a Magistrate who shall be known as the City Judge. The Judge shall be appointed by the Mayor with the concurrence of the Council, and shall serve at the discretion of the City Council. The Judge shall receive such compensation as may be set by the Council. *The City Council, at its discretion, may appoint one or more Associate Judges.*

**\* PASSED WITH A VOTE OF 90 FOR AND 32 AGAINST**

**F.**

**Article 6**

**Municipal Finance**

**Proposed Change:**

*The Home Rule Charter Commission proposed deleting the position of Director of Finance and replacing it with City Manager throughout Article 6.*

**\* PASSED WITH A VOTE OF 79 FOR AND 38 AGAINST**

**G.**

**Article 6**

**Section 6.01 Fiscal Year.**

**Proposed change:**

The fiscal year of the City of Gilmer shall begin on October 1<sup>st</sup> of each calendar year and will end at midnight on September 30<sup>th</sup> of the following calendar year. Such fiscal year shall also constitute the budget and accounting year.

**\* PASSED WITH A VOTE OF 106 FOR AND 15 AGAINST**

**H.**

**Article 6**

**Section 6.13 (d) Amendments after Adoption  
of Budget/Transfer of Appropriations**

Proposed changes:

Proposed changes:

At any time during the fiscal year, the City Manager may transfer part or all of any unencumbered appropriation balance among programs within a department, office, or agency. Upon written request by the City Manager, the Council may, by budget amendment, transfer part or all of any unencumbered appropriation balance from one department, office, or agency to another.

**\* PASSED WITH A VOTE OF 84 FOR AND 38 AGAINST**

**I. Article 7**

**Section 7.01 General Elections.**

**\* PASSED WITH A VOTE OF 107 FOR AND 16 AGAINST**

**J. Article 7**

**Section 7.02 Regulation of Elections.**

**Proposed Change:**

The regular City Election shall be held annually on the date in May, set by the State of Texas, at which time officers will be elected to fill those offices that become vacant that year. The City Council shall fix the hours and place for holding such elections. Notice of the election shall be published in the official newspaper of the City of Gilmer, such publication to be not less than forty-five (45) days before the election. The Mayor and at-large Councilperson shall be elected by obtaining a majority of the votes cast. Candidates for single member districts shall file for one district and shall be elected by a majority of votes cast within that district. During the odd numbered years, the Mayor will be elected at-large along with Districts 2 and 3. During the even numbered years, one candidate will be elected at-large along with Districts 1 and 4.

**\* PASSED WITH A VOTE OF 96 FOR AND 19 AGAINST**

**K. Article 14**

## Section 14.01 Establishing Ethics Commission.

### Original Text in Charter:

The City Council shall appoint an Ethics Commission of five (5) people to develop a list of Ethics for the Council. This would then go before the Council for three-fifths (3/5) vote of the entire council to be approved within six (6) months from the date of the election to approve the Charter Revisions. In addition, the City Manager and the City Attorney shall sit on the Ethics Board as ex-officio members with no voting rights. The Ethics List shall be reviewed every five (5) years when the Home Rule charter is reviewed.

### Proposed change:

*The Home Rule Charter Commission voted to delete this entire Article and let the State of Texas Ethics Rules serve as the city's guide.*

**\* PASSED WITH A VOTE OF 90 FOR AND 23 AGAINST**

6. **CONSIDER AND ACT UPON APPROVING MINUTES FROM THE FOLLOWING MEETING:**
  - a. **Regular meeting-May 8th, 2007**  
Councilman Randy McDaniel made a motion to approve the minutes with a second by Councilman Eric King and a vote of 5/0 for approval.
7. **CONSIDER APPROVAL AND ACCEPTANCE OF AUDIT REPORT FOR FISCAL YEAR ENDED 9-30-06**  
Wayne Barton, representing Squyres, Johnson & Squyres & Co. presented the fiscal year 2005-2006 audit to Council. Councilman Eric King made a motion to approve and accept the audit report with a second by Councilman Randy McDaniel and a vote of 5/0 for approval.
8. **CONSIDER APPOINTMENT OF A CIVIC CENTER ADVISORY BOARD**  
The following individuals were recommended to serve on the board: Jim Eitel, Civic Improvement Foundation; Randy McDaniel, Gilmer City Council; Larry Morse, private interest; Rick Albritton, Gilmer Independent School District; Richard Stolle, private interest. Councilmember Teathel Hollis made a motion to approve the recommendations with a second by Councilman Eric King and a vote of 5/0 for approval.
9. **CONSIDER APPROVAL OF AN AGREEMENT WITH THE YAMBOREE ASSOCIATION FOR USE OF THE CIVIC CENTER**  
No action taken.
10. **CONSIDER APPROVAL OF AN AGREEMENT WITH THE GILMER ROTARY CLUB FOR FLAGS DISPLAYED AT CITY FACILITIES ON VARIOUS HOLIDAYS**  
Councilmember Teathel Hollis made a motion to authorize City Attorney Mike Martin to draw up a formal agreement between the City of Gilmer and the Rotary Club to exchange placement of the flags

in lieu of rental for the use of the Civic Center for the spelling bee each year with a second by Councilman Eric King and a vote of 4/1 for approval.

**11. CONSIDER DISCUSSION AND POSSIBLE ACTION CONCERNING VEHICLE / EQUIPMENT FOR GILMER FIRE DEPARTMENT:**

Following a presentation by Fire Chief Mike Melton, Councilmember Teathel Hollis made a motion to approve all action (A,B,C &D) concerning the vehicle/equipment with a second by Councilman Eric King and a vote of 5/0 for approval.

- A. Accept grant to purchase a new slide-in pump unit
- B. Authorize accepting bids for the purchase of a new Ford 1-1/2 ton truck
- C. Authorize the sale of a 1981 Chevrolet 1-ton mini pumper truck/equipment
- D. Approve budget amendment for acceptance and expenditure of funds for truck and equipment

\* Councilmember Teathel Hollis left the meeting.

**12. CONSIDER ACTION CONCERNING UNITED STATES DEPARTMENT OF AGRICULTURE (USDA) FUNDING**

The USDA has requested a letter declining the funding for the water plant so they can declassify the available money. Councilmember Sara Dumas made a motion authorizing City Manager Jeff Ellington to send the requested letter with a second by Councilman Randy McDaniel and a vote of 4/0 for approval.

**13. CONSIDER PROPOSALS RECEIVED AND AUTHORIZE LETTER OF ENGAGEMENT FOR FUTURE CITY AUDIT(S)**

City Manager Jeff Ellington recommended that the City Council accept the proposal from Karen A. Jacks & Associates, P.C. Councilman Randy McDaniel made a motion to accept Mr. Ellington's recommendation with a second by Councilmember Sara Dumas and a vote of 4/0 for approval.

**14. CONSIDER AND ACT UPON APPROVING THE BILL LIST**

Councilmember Sara Dumas made a motion to approve the bill list with a second by Councilman Eric King and a vote of 4/0 for approval.

**15. ADJOURN**

Councilmember Sara Dumas made a motion to adjourn with a second by Councilman Randy McDaniel and a vote of 4/0 for approval.

Meeting adjourned at 6:00 p.m.

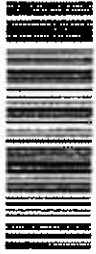


R.D. Cross, Mayor

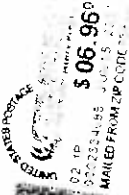


ATTEST: Kathy Davidson, City Secretary

CERTIFIED MAIL



7006 2760 0004 2338 527



City of Gilmer  
P.O. Box 760  
Gilmer, Texas 75644

Chief, Voting Section  
Civil Rights Division  
Room 7254-NWB  
Department of Justice  
950 Pennsylvania Avenue, NW  
Washington, D.C. 20530

RTE:  
MSD:  
CRT/VOTING PO 66128



FROM:  
CRRC  
USPS  
706527500042195276  
PCID: 6/19/2007  
TO: CRT/VOTING PO 66128  
PH:  
906 1800 G S FLR  
RM: 7254  
PCS: 1



U.S. Department of Justice

Civil Rights Division

JDR:MJP:RJD:maf  
DJ 166-012-3  
2004-1237

Voting Section - NWB  
950 Pennsylvania Avenue, N.W.  
Washington, DC 20530

May 11, 2004

Elizabeth Elam, Esq.  
Taylor Olson Adkins Sralla Elam  
6000 Western Place, Suite 200  
Fort Worth, Texas 76107-4654

Dear Ms. Elam:

This refers to the changes in candidate qualifications, term limits, vacancy procedures, and general election date for the City of Everman in Tarrant County, Texas, submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act, 42 U.S.C. 1973c. We received your submission on March 15, 2004.

The Attorney General does not interpose any objection to the specified changes. However, we note that Section 5 expressly provides that the failure of the Attorney General to object does not bar subsequent litigation to enjoin the enforcement of the changes. See Procedures for the Administration of Section 5 of the Voting Rights Act (28 C.F.R. 51.41).

Sincerely,

A handwritten signature in cursive script, appearing to read "Joseph D. Rich".

for Joseph D. Rich  
Chief, Voting Section

6000 WESTERN PLACE, SUITE 200  
I-30 AT BRYANT-IRVIN ROAD  
FORT WORTH, TEXAS 76107-4654  
EMAIL: TOASE@TOASE.COM  
WEBSITE: WWW.TOASE.COM



TELEPHONE: (817) 332-2580  
TOLL FREE: (800) 318-3400  
FACSIMILE: (817) 332-4740  
DENTON: (940) 383-2674  
DENTON METRO: (972) 434-3834

ELIZABETH ELAM  
EXT. 211  
[betsevelam@toase.com](mailto:betsevelam@toase.com)

March 10, 2004

Chief Voting Section  
Civil Rights Division  
Room 7254 - NWB  
Department of Justice  
950 Pennsylvania Ave., N.W.  
Washington, DC 20530

04 MAR 15 AM 10:42  
CIVIL RIGHTS DIVISION  
VOTING SECTION

RE: Submission Under Section 5 of the Voting Rights Act  
Preclearance of Amendment of Home Rule Charter  
City of Everman, Tarrant County, Texas

Dear Madam or Sir:

The City of Everman ("City"), located in Tarrant County, Texas, submits an amended Home Rule Charter for consideration pursuant to Title 42, Section 1973(c) of the United States Code. The Charter was approved by the qualified voters of the City at a duly called special Charter election conducted on September 13, 2003. All eight (8) ballot propositions to amend the Charter were approved. The amendments include some substantive changes, conforming the entirety of the Charter to state law, and simplifying and clarifying some of the language in the Charter. All sections of the Charter that affect or impact voting practices or procedures or that may be a change as defined by the Voting Rights Act are specifically addressed below. A complete copy of the amended Charter is attached with the changes in voting practices highlighted.

In compliance with Title 28, Part 51 of the Code of Federal Regulations (1981), the City supplies the following information:

**28 C.F.R. § 51.27. REQUIRED CONTENTS:**

(a) A copy of any ordinance, enactment, order, or regulation embodying a change affecting voting.

1. Exhibit "A": Ordinance 535 calling a special election on the proposed Charter amendments on September 13, 2003, as prescribed by the Texas Election Code and Section 9.004(b) of the Texas Local Government Code.

2. Exhibit "B": The special election held on September 13, 2003, was precleared by your office by a letter dated August 14, 2003 (your file #DJ 2003-2432).

3. Exhibit "C": Publisher's Affidavit and Notice of Special Election showing notice of the election published in compliance with Section 9.004(c) of the Texas Local Government Code.

4. Exhibit "D": The ballot propositions containing the proposed Charter amendments, as prescribed by Section 9.004(e) of the Texas Local Government Code. The actual ballot was printed in both English and Spanish.

5. Exhibit "E": Resolution 2003-09-01 declaring the results of the September 13, 2003 Charter amendment election and declaring the adoption of the Charter amendments. Section 9.005(b) of the Texas Local Government Code requires this order before the Charter amendments may take effect.

6. Exhibit "F": A redlined copy of Eveman's Charter, with deletions marked through and additions highlighted showing the affected sections of the Everman Charter as amended by the voters of the City on September 13, 2003. The sections of the Charter that represent a change from previous voting practices under the prior version of the Charter are discussed in detail in Section (c), below.

**(b) A copy of any ordinance, enactment, order, or regulation embodying the voting practice that is proposed to be repealed, amended, or otherwise changed.**

1. Exhibit "F": A redlined copy of the Everman Charter showing the text before the amendments and the text after the amendments is attached. The sections of the Charter that represent a change from previous voting practices are discussed in detail in Section (c), below.

**(c) If the change affecting voting either is not readily apparent on the face of the documents provided under paragraphs (a) and (b) of this section or is not embodied in a document, a clear statement of the change explaining the difference between the submitted change and the prior law or practice, or explanatory materials adequate to disclose to the Attorney General the difference between the prior and proposed situation with respect to voting.**

The following references are to the amended sections of the Charter. While the voters did approve other amendments to the Charter, as shown in Exhibits "E" and "F", the following amendments are the only changes that affect voting:

1. **Section 4.01 City Council Places and Terms.** Subsection 4.01(B) has been amended to eliminate term limits. Previously this section limited terms to four consecutive two year terms or eight years, whichever is less. This has led to confusion when members were appointed to fill unexpired terms, and then required to resign mid-term after eight years. The voters determined that they are the best judge to decide when a council member has served too long.

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2. **Section 4.02 Annual Elections.** This section previously required that all general elections be held on the first Saturday in May and was amended to provide "or as otherwise required by state law." State law preempts municipal charters in establishing uniform election dates.

3. **Section 4.05 Qualification of Candidacy.** The Charter amendments increase the age of a candidate to 21 years of age as a qualification for office. This is a change from Section 141.001(a)(2) of the Texas Election Code which requires all candidates to be at least 18 years of age. Section 141.003 of the Texas Election Code permits a home rule city to establish a minimum age of not more than 21 years. The voters of the City of Everman determined that a person of 21 years of age has more maturity than an 18 year old, and would be better capable to carry out the duties of office. This change does not affect any current Council members.

4. **Section 4.07 Vacancies.** This section previously had confusing rules for filling vacancies by appointment and special election. The amendment simplifies the process, and gives the council the choice whether to appoint or call a special election if there is a vacancy with less than a year in the unexpired term. If the unexpired term has more than one year, or in the event of more than one vacancy, the council is required to call a special election. The new procedures mimic state law requirements for general law cities.

**(d) The name, title, address, and telephone number of the person making the submission.**

Elizabeth Elam, City Attorney for the City of Everman, 6000 Western Place, Suite 200, Fort Worth, Texas 76107, 817-332-2580 is making this submission.

**(e) The name of the submitting authority and the name of the jurisdiction responsible for the change, if different.**

The City Attorney is making this submission on behalf of the City Council of the City of Everman, Tarrant County, Texas.

**(f) If the submission is not from a State or county, the name of the county and State in which the submitting authority is located.**

City of Everman, Tarrant County, Texas.

**(g) Identification of the person or body responsible for making the change and the mode of decision (e.g., act of State legislature, ordinance of City Council, administrative decision by registrar).**

The qualified voters of the City of Everman approved the adoption of the amended Charter at a duly called Charter amendment election held on September 13, 2003. The

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election results are attached as Exhibit "E". The Everman City Council adopted the ordinances and resolutions calling the election to amend the Charter and canvassing the election at duly called City Council meetings in full compliance with the Texas Open Meetings Act.

**(h) A statement identifying the statutory or other authority under which the jurisdiction undertakes the change and a description of the procedures the jurisdiction was required to follow in deciding to undertake the change.**

The City held the September 13, 2003 Charter amendment election in full compliance with appropriate provisions of the Texas Election Code; Chapter 9 of the Texas Local Government Code, which governs the amendment of a home-rule city's charter (Exhibit "G"); and Article XI, Section 5 of the Texas Constitution (Exhibit "H").

Section 9.004 of the Texas Local Government Code provides that the City Council may submit proposed Charter amendments to the City's qualified voters for their approval at an election. The City Council, in conjunction with the City staff and City Attorney, reviewed the City Charter for possible amendment. The City Council approved the proposed amendments by an ordinance, which also called an election for presentation of propositions to the citizens for voting on the amendments. A special election was called to be held on September 13, 2003 on the proposed charter amendments. The election was called by the City Council at a meeting which was open to the public in accordance with the Texas Open Meetings Act. The election was called, advertised, and held in accordance with the requirements of State law, and the voters approved all eight propositions.

Subsequent to the election, the City Council canvassed the results of the election on September 13, 2003, and adopted Resolution 2003-09-01 (Exhibit "E") canvassing and declaring the results of the election.

**(i) The date of adoption of the change affecting voting.**

The City held the Charter amendment election on September 13, 2003. The City Council canvassed the returns and declared the results of the Charter amendment election on September 16, 2003 (Exhibit "E").

**(j) The date on which the change is to take effect.**

In accordance with Section 9.005, Texas Local Government Code, the amended Charter takes effect upon the declaration of the election results by the City Council. This occurred on September 16, 2003 when the City Council adopted Resolution 2003-09-01 canvassing the election results and declaring the Charter amendments adopted.

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**(k) A statement that the change has not yet been enforced or administered, or an explanation of why such a statement cannot be made.**

The changes affecting voting practices and procedures have not yet been enforced or administered.

**(l) Where the change will affect less than the entire jurisdiction, an explanation of the scope of the change.**

The Charter amendments affect the entire City of Everman; therefore this requirement is not applicable to this submission.

**(m) A statement of the reasons for the change.**

Everman adopted its original Charter by an election held in April of 1986. The Charter was previously amended once at an election held in 1988. The City had not updated the Charter since 1988, and the City Council desired to amend the Charter to clarify certain provisions, to conform the entire Charter to state law, to simplify the language of the Charter, and to eliminate internal inconsistencies. The amendments also make some substantive changes, more specifically discussed in Section (c), above.

**(n) A statement of the anticipated effect of the change on members of racial or language minority groups.**

The City does not anticipate any effect on members of racial or language minority groups. The proposed changes are not made with the intent to discriminate and will not have the effect of discriminating against members of racial or language minority groups in any manner. A copy of the census is attached as Exhibit "I".

**(o) A statement identifying any past or pending litigation concerning the change or related voting practices.**

The City has not had any litigation relative to any changes or related voting practices.

**(p) A statement that the prior practice has been precleared (with the date) or is not subject to the preclearance requirement and a statement that the procedure for the adoption of the change has been precleared (with the date) or is not subject to the preclearance requirement, or an explanation of why such statements cannot be made.**

The City has submitted all prior changes requiring preclearance to your office, and your office has not interposed objections to those changes. The last preclearance the City of Everman received was for the date of the special election regarding the amendment of the Charter. This preclearance was dated August 14, 2003. (Exhibit "B").

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**(q) For redistricting and annexations: the items listed under § 51.28 (a)(1) and (b)(1); for annexations only: the items listed under § 51.28 (c)(3).**

This requirement is not applicable to this submission.

**(r) Other information that the Attorney General determines is required for an evaluation of the purpose or effect of the change. Such information may include items listed in § 51.28 and is most likely to be needed with respect to redistrictings, annexations, and other complex changes. In the interest of time such information should be furnished with the initial submission relating to voting changes of this type. When such information is required, but not provided, the Attorney General shall notify the submitting authority in the manner provided in § 51.37.**

Please refer to § 51.28(a) and (b), below, for applicable responses to this inquiry.

**28 C.F.R. § 51.28. SUPPLEMENTAL CONTENTS**

**(a) Demographic information:**

**(1) Total and voting age population of the affected area before and after the change, by race and language group.**

The affected area is the entire City of Everman. The total and voting age population of the City did not change from before the amendment of the Charter. Before and after the change, the total population of Everman approximates 5847. The total voting age population is 4041. The breakdown of population by race was last computed in the 2000 census, attached as Exhibit "I."

**(2) The number of registered voters for the affected area by voting precinct before and after the change, by race and language group.**

The total number of registered voters in the City of Everman is 3097. The number of registered voters was not affected by the adoption of these Charter amendments.

**(3) Any estimates of population, by race and language group, made in connection with the adoption of the change.**

Before and after the change, the total population of Everman approximates 5847. The 2000 census as a guide (Exhibit "I"), sets forth the estimates of the racial make up of the City. No changes were made as a result of the change in voting practices.

**(4) Demographic data provided on magnetic media shall be based upon the Bureau of Census Public Law 94-171 file unique block identity code of state, county, tract, and block.**

This requirement is not applicable to this submission.

**(5) Demographic data on magnetic media that are provided in conjunction with a redistricting shall be contained in a table of equivalencies giving the census block to district assignments in said format.**

This requirement is not applicable to this submission.

**(b) Maps. Where any change is made that revised the constituency that elects any office or affects the boundaries of any geographic unit or units defined or employed for voting purposes (e.g., redistricting, annexation, changes from district to at-large elections) or that changes voting precinct boundaries, polling place locations, or voter registration sites, maps in duplicate of the area to be affected, containing the following information:**

- (1) The prior and new boundaries of the voting unit or units.**
- (2) The prior and new boundaries of voting precincts.**
- (3) The location of racial and language minority groups.**
- (4) Any natural boundaries or geographical features that influenced the selection of boundaries of the prior or new units.**
- (5) The location of prior and new polling places.**
- (6) The location of prior and new voter registration sites.**

This requirement is not applicable to this submission.

**(c) Annexations.**

This requirement is not applicable to this submission.

**(d) Election Returns. Where a change may affect the electoral influence of a racial or language minority group, returns of primary and general elections conducted by or in the jurisdiction, containing the following information:**

- (1) The name of each candidate.**
- (2) The race or language group of each candidate, if known.**
- (3) The position sought by each candidate.**
- (4) The number of votes received by each candidate, by voting precinct.**
- (5) The outcome of each contest.**

- 
- (6) **The number of registered voters, by race and language group, for each voting precinct for which election returns are furnished.**
  - (7) **Election related data on magnetic media.**

The proposed changes will not affect the electoral influence of any racial or language minority group. The proposed changes are not made with the intent to discriminate and will not have the effect of discriminating against members of racial or language minority groups in any manner.

**(e) Language Usage.**

The Charter amendments do not affect the electoral influence of a racial or language minority group. The City has and will continue to print all election materials in Spanish and English.

**(f) Publicity and participation. For submissions involving controversial or potentially controversial changes, evidence of public notice, of the opportunity for the public to be heard, and of the opportunity for interested parties to participate in the decision to adopt the proposed change and an account of the extent to which such participation, especially by minority group members, in fact took place.**

The amendments as proposed and adopted involved little, if any, controversy. The City Council, in conjunction with the City Attorney's office, developed the proposed amendments over a period of several months. Several meetings and a public hearing were held regarding the proposed amendments. For notices of the meetings, refer to Exhibit "J."

**(g) Examples of materials demonstrating public notice or participation include:**

- (1) Copies of newspaper articles discussing the proposed change.**

The City is not aware of any newspaper articles about the charter amendments.

- (2) Copies of public notices that describe the proposed change and invite public comment or participation in hearings and statements, regarding where such public notices appeared; (e.g., newspaper, radio, or television, posted in public buildings, sent to identified individuals or groups).**

The City Council approved the Charter amendments by an ordinance which also called an election for presentation of propositions to the citizens for voting on the amendments. The City Council passed the ordinance at a duly held and properly posted public meeting, in accordance with the Texas Open Meeting Act. The public had an opportunity to present viewpoints at all City Council meetings where the proposed Charter amendments were discussed.

**(3) Accounts of public hearings concerning the proposed change.**

Exhibit "J" contains copies of agendas and posting notices of the City Council meetings at which the proposed Charter amendments were discussed. All such meetings were posted in accordance with State law, and were open to the public in accordance with the Texas Open Meetings Act.

**(4) Copies of comments from the general public.**

The Charter amendments were well publicized, but did not involve controversy. No copies of public comments exist.

**(h) Availability of the submission.**

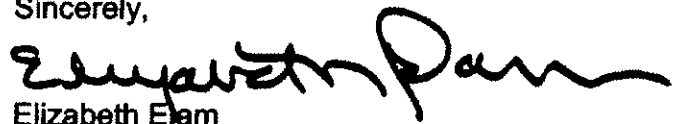
Notice of the submission will be posted at City Hall in the City of Everman, 212 North Race Street, Everman, Texas 76140, throughout the duration of the review by the U.S. Department of Justice. A complete duplicate copy of the submission and all exhibits will be available for public inspection.

**(i) Minority group contacts. For submissions from jurisdictions having a significant minority population, the names, addresses, telephone numbers, and organizational affiliations (if any) of racial or language minority group members residing in the jurisdiction who can be expected to be familiar with the proposed change or who have been active in the political process.**

To the City's knowledge, no minority group members were active in the political process regarding the Charter amendments. Upon request, the City Administrator can provide names of minority group contacts in the City.

Should you have questions or need further information regarding this submission, please feel free to contact me at (817) 332-2580, or the City Manager for the City of Everman, Donna Anderson, at (817) 293-0525. Please notify the City through my office of the person or persons responsible for the review of this submission and please send to me copies of any correspondence, briefs, or other material submitted by anyone regarding these proposed changes. Thank you for your assistance.

Sincerely,

  
Elizabeth Elam

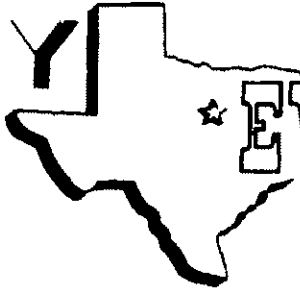
EAE/ke

cc: Donna Anderson  
City of Everman  
212 North Race Street  
Everman, Texas 76140

THE

CITY

OF



EVERMAN

TEXAS

817/293-0525 • 212 N. Race St. • Everman, Texas 76140

OFFICE OF  
CITY SECRETARY

STATE OF TEXAS {}  
COUNTY OF TARRANT {}  
CITY OF EVERMAN {}

I, Judy Thompson, being the current City Secretary of the City of Everman do hereby certify that the attached ordinance or resolution of the City Council of the City of Everman is a true and correct copy of such: and such was adopted at Council Meeting open to the public; and notice of said meeting, giving the date, place and subject thereof was posted as prescribed by Article 6252-17, Section 3A, V.A.T.C.S.

DATED: *September 15, 2003*

[City Seal]

*Judy Thompson*  
\_\_\_\_\_  
Judy Thompson  
City Secretary

**ORDINANCE NO. 535**

**AN ORDINANCE OF THE CITY OF EVERMAN, TEXAS, CALLING A SPECIAL ELECTION FOR SEPTEMBER 13, 2003, FOR THE PURPOSE OF AMENDING THE CITY CHARTER; MAKING PROVISIONS FOR THE CONDUCT OF THE ELECTION; PROVIDING THAT THIS ORDINANCE SHALL BE CUMULATIVE OF ALL ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE**

**WHEREAS**, the City of Everman, Texas, is a home rule city acting under its charter adopted by the electorate pursuant to Article XI, Section 5 of the Texas Constitution and Chapter 9 of the Local Government Code; and

**WHEREAS**, it is the intention of the City Council to call a special election to submit proposed amendments to the City Charter to the voters in accordance with Section 9.004 of the Texas Local Government Code; and

**WHEREAS**, an election to submit to the voters proposed amendments to the city charter is required by law to be held on the uniform election date that occurs 30 days after the election if ordered; and

**WHEREAS**, Section 41.001 of the Texas Election Code specifies that the September 13, 2003 is a uniform election date.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF EVERMAN, TEXAS, THAT:**

**SECTION 1.  
CHARTER AMENDMENT ELECTION CALLED**

The City Council does hereby, on its own motion, order a special election to submit to the voters of the City of Everman proposed amendments to the City Charter. The proposed amendments to the City Charter are set forth in Exhibit "A," attached to this ordinance and incorporated herein for all purposes and are hereby approved by the City Council for submission to the voters. The election shall be conducted according to the laws of the State of Texas, and shall be held on Saturday, September 13, 2003, from 7:00 a.m. to 7:00 p.m.

**SECTION 2.  
BALLOTS**

The official ballots for said election shall be prepared in accordance with the Texas Election Code so as to permit the electors to vote "YES" or "NO" on each proposition, with the ballots to contain such provisions, markings and language as required by law, and with

the propositions to be expressed substantially as set forth in Exhibit "B", attached to this ordinance and incorporated herein for all purposes.

**SECTION 3.  
POLLING PLACE**

The polling place for the special election shall be at the Everman Community Center, 213 North Race Street, Everman, Texas 76140 between the hours of 7:00 a.m. and 7:00 p.m. on election day.

**SECTION 4.  
APPOINTMENT OF ELECTION JUDGE AND ALTERNATE ELECTION JUDGE**

Patti LeJeune is hereby appointed to serve as presiding election judge of the special election and Christine Holt is appointed alternate election judge. The election judge and alternate election judge shall be qualified voters of the city. The City Secretary shall, in accordance with Section 32.009 of the Code, deliver to the presiding judge and the alternate judge notice of their appointments not later than twenty (20) days from the effective date of this ordinance.

**SECTION 5.  
METHOD OF VOTING**

The City Secretary is hereby authorized and instructed to provide and furnish all necessary supplies to conduct the special election, in accordance with this ordinance and the Election Code. Voting at the election shall be by Optical Scan.

**SECTION 6.  
EARLY VOTING**

**(a) Early Voting by Personal Appearance.** Early voting by personal appearance will be conducted each weekday at Everman City Hall, 212 North Race Street, Everman, Texas 76140 between the hours of 8:00 a.m. and 5:00 p.m., beginning on the 28<sup>th</sup> day of August, 2003 and ending on the 9<sup>th</sup> day of September, 2003. The City Secretary shall serve as the early voting clerk.

**(b) Early Voting by Mail.** The first day to apply for early voting mail ballots is the 15<sup>th</sup> day of July, 2003. Mailed applications must be received in the City Secretary's office no later than 5:00 p.m. on the 5<sup>th</sup> day of September, 2003. Applications for ballots by mail shall be mailed or delivered to the City Secretary, 212 North Race Street, Everman, Texas 761040. Applications for early voting by mail are available at the City Secretary's office.

**(c) Early Voting Ballot Board.** Early voting shall be canvassed by the early voting ballot board which is hereby created. The presiding election judge and the alternate

election judge shall serve as the presiding officer and the alternate presiding officer, respectively, of the early voting ballot board. The other election officers serving at the election shall serve as the other members of the early voting ballot board for the election.

#### **SECTION 7. NOTICE**

(a) A substantial copy of this ordinance shall serve as proper notice of the special election. Said notice, including a Spanish translation thereof, shall be posted not later than the twenty-first (21st) day before the election on the bulletin board used for posting notices of meetings of the city council and shall be published at least once, not early than the thirtieth (30th) day nor later than the tenth (10th) day before the election in a newspaper published and of general circulation in the City of Everman.

(b) Additionally, in accordance with Section 9.004(c) of the Local Government Code, notice shall be published in a newspaper of general circulation in Everman on the same day, in each of two consecutive weeks, with the first publication occurring on the 14<sup>th</sup> day before election day. The notice shall contain a substantial copy of the proposed amendments.

#### **SECTION 8. AMENDMENTS**

Matters contained in this ordinance relating to discretionary procedural matters may be amended by resolution of the City Council.

#### **SECTION 9. OTHER ACTION**

The Mayor and City Secretary of the City, in consultation with the City Attorney, are hereby authorized and directed to take any and all action necessary to comply with provisions of the Texas Election Code or other state and federal statutes and constitutions in carrying out the conduct of the election, whether or not expressly authorized herein.

#### **SECTION 10. CUMULATIVE CLAUSE**

This ordinance shall be cumulative of all provisions of ordinances and resolutions of the City of Everman, Texas, except where the provisions of this ordinance are in direct conflict with the provisions of such ordinances, in which event the conflicting provisions of such ordinances and resolutions are hereby repealed.

#### **SECTION 11. SEVERABILITY CLAUSE**

It is hereby declared to be the intention of the City Council that the phrases, clauses,


sentences, paragraphs and sections of this ordinance are severable, and if any phrase, clause, sentence, paragraph or section of this ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this ordinance, since the same would have been enacted by the City Council without the incorporation in this ordinance of any such unconstitutional phrase, clause, sentence, paragraph or section.

**SECTION 12.  
EFFECTIVE DATE**


This ordinance shall be in full force and effect from and after its passage, and it is so ordained.

**PASSED AND APPROVED ON FIRST READING THIS 9th DAY OF  
July, 2003.**

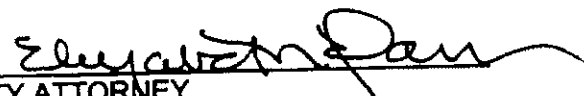
**PASSED AND APPROVED ON SECOND READING THIS 15th DAY OF  
July, 2003.**

  
MAYOR

ATTEST:

  
CITY SECRETARY

APPROVED AS TO FORM AND LEGALITY:

  
CITY ATTORNEY



U.S. Department of Justice

Civil Rights Division

JDR:JBG:SMC:nj  
DJ 166-012-3  
2000-1231  
2000-2062  
2003-2423

Voting Section - NND.  
250 Pennsylvania Avenue, N.W.  
Washington, DC 20530

August 14, 2003

Elizabeth Elam, Esq.  
Taylor, Olson, Adkins, Bralla & Elam  
6000 Western Place, Suite 200  
Fort Worth, Texas 76107-4654

Ms. Judy Thompson  
City Secretary  
212 North Race Street  
Everman, Texas 76140

Dear Ms. Elam and Ms. Thompson:

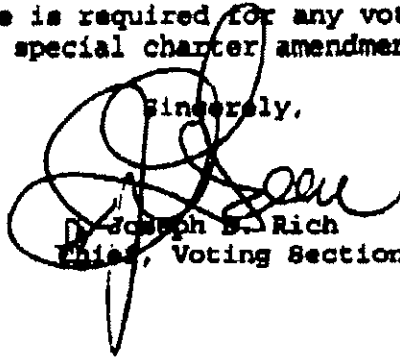
This refers to two annexations (Ordinance Nos. 374 (1986) and 490 (1999)), the deannexation (Ordinance No. 504 (2000)), and the procedures for the September 13, 2003, special charter amendment election for the City of Everman in Tarrant County, Texas, submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act, 42 U.S.C. 1973c. We received your submissions on July 17 and 29, 2003.

The Attorney General does not interpose any objection to the specified changes. However, we note that Section 5 expressly provides that the failure of the Attorney General to object does not bar subsequent litigation to enjoin the enforcement of the changes. In addition, as authorized by Section 5, we reserve the right to reexamine these submissions if additional information that would otherwise require an objection comes to our attention during the remainder of the sixty-day review period. See the Procedures for the Administration of Section 5 (28 C.F.R. 51.41 and 51.43).

- 2 -

Section 5 preclearance is required for any voting changes adopted as a result of the special charter amendment election.

Sincerely,



Joseph B. Rich  
Chief, Voting Section

6800 WESTERN PLAZA  
SUITE 200  
1-30 AT BRYANT-OVER ROAD  
ROCK WORTH, TEXAS 76187-4654  
EMAIL: TOASE@TOASE.COM  
WEBSITE: WWW.TOASE.COM



TELEPHONE: (817) 332-3500  
TOLL FREE: (800) 318-3400  
FACSIMILE: (817) 332-4740  
DEVELOP: (817) 332-4674  
COURTESY METRO: (972) 434-3834

**SECTION 5 SUBMISSION**

**NO. 2003-2423**

ELIZABETH BLAN  
BOX 211  
BIRMINGHAM, ALABAMA

July 10, 2003

Chief, Voting Section  
Civil Rights Division  
Room 7254-NWB  
Department of Justice  
950 Pennsylvania Ave., NW  
Washington, DC 20530

03 JUL 17 PM 12:38  
VOTING SECTION

**Re: Submission under Section 5 of the Voting Rights Act for pre-clearance of matters relating to voting practices within the City of Everman, Tarrant County, Texas**

Dear Sir or Madam:

The City of Everman ("City") located in Tarrant County, Texas, submits the following changes in voting practices or procedures for your review in accordance with Section 5 of the Voting Rights Act (the "Act") and 28 C.F.R. Section 512.

The City has called a special election to be held on September 13, 2003, for the purpose of submitting to the voters amendments to the Everman Home Rule Charter. The City Council called this election by adopting Ordinance No. 535 on first reading, on July 8, 2003, a copy of which is enclosed herein.

Chapter 9 of the Texas Local Government Code permits a city council to submit proposed charter amendments to the city's qualified voters. The date of the special election is submitted for your approval.

Section 9.003(b) of the Texas Local Government Code provides that the election must be held on the first uniform election date that allows sufficient time to comply with the requirements of law. Section 41.001(a) of the Election Code establishes the second Saturday in September as a uniform election date, and the Council determined that Saturday, September 13, 2003 allows sufficient time to comply with the requirements of law.

After the election, the City will submit any charter provisions approved by the voters that relate to voting practices to your office for preclearance prior to implementation of the changes.

Other than the changes noted herein, the City has made no changes affecting voting since the prior submission to which your office did not interpose an objection.

July 10, 2003

Page 2

The City is not involved in any litigation concerning the right to vote, or a practice relating the voting process.

The changes in voting procedure as herein presented, do not have the purpose, and will not have the effect, of denying or abridging the right to vote on account of race or ethnic origin.

The City requests expedited consideration of this submission because the election required detailed analysis of the charter provisions and the proposed charter were not finalized until mid November. The fact that early voting commences on January 15, 2003, and the first day to apply for early voting is December 3, 2002, necessitates this request.

The purpose of this letter is to merely pre-clear the date of the special election; if the charter is approved by the voters, we will submit relevant portions of the text of the charter for pre-clearance.

Should you need any additional information, the addresses and telephone numbers of appropriate persons to contact are:

Judy Thompson  
City Secretary  
City of Everman  
212 North Race Street  
Everman, Texas 76140  
(817) 298-0525

Elizabeth Elam  
Attorney  
Taylor, Olson, Adkins,  
Srafs & Elam, L.L.P.  
6000 Western Place, Suite 200  
Fort Worth, Texas 76107-4854  
(817) 332-2560

Sincerely,

  
Elizabeth Elam

EAE/ke

cc: Judy Thompson  
City of Everman  
212 North Race Street  
Everman, Texas 76140

NOTICE OF ELECTION  
TO AMEND THE  
EVERMAN CITY CHARTER

The City of Everman will conduct an election on September 13, 2003 between the hours of 7:00 a.m. and 7:00 p.m. at Everman Community Center, 213 North Race Street, Everman, Texas 76140 to determine whether to amend the City of Everman Home Rule Charter. Early voting shall be conducted at Everman City Hall 212 North Race Street, Everman, Texas 76140 each weekday between the hours of 8:00 a.m. and 5:00 p.m. beginning the 28th day of August and ending the 9th day of September, 2003.

Following are the proposed amendments to the Everman Home Rule Charter which will:

—Add a new Section 2.05 to read as follows:

Section 2.05 Exclusive Domain of Public Ways

The City shall have exclusive domain, control and jurisdiction in, upon, over and under all alleys, streets, highways, gutters and sidewalks, and all public lands and rights-of-way (collectively for the purpose of this section referred to as "Public Ways") situated in the City, and regulate the use thereof, and require the removal from all Public Ways and other public property or pieces of all obstructions, telegraph, telephone or other poles, carrying electric wires or signs, encroachments of every nature for character. Such exclusive dominion, control and jurisdiction in, upon, over or under the Public Ways of the City shall also include, but not be limited to, the right to regulate, locate, relocate, remove, or prohibit the location of all utility pipes, lines, wires or other property of any sort. Any letting of a specific authority shall not limit or exclude any other power the City has over Public Ways. The right of control and use of the Public Ways is hereby declared to be inalienable to the City, except by ordinances not in conflict with this Charter.

—Add a new Subsection 3.09 to Section 3.04 to read as follows:

G. To create, abolish and establish the duties of any board or commission to assist in the business or interest of the City.

—Amend and renumber Sections 3.09, 3.10 and 3.11 to read as follows:

Section 3.09 Form of Ordinances

Every proposed ordinance shall be introduced in writing and in substantially the form required for final adoption. The subject of the ordinance shall be clearly expressed in its title except ordinances or resolutions making appropriations or authorizing the contracting of indebtedness or issuance of bonds or other evidence of indebtedness. The enacting clause of every

*English*

# Publisher's Affidavit

STATE OF TEXAS  
COUNTY OF TARRANT

I, GENEVIEVE RATCLIFF, PUBLISHER of the **COMMERCIAL RECORDER** of Fort Worth, Texas, a newspaper of general circulation which has been published in Tarrant County regularly and continuously for a period of one year prior to the first day of publication of this notice, as required by the Texas Probate Code, solemnly swear that the notice hereto attached was published in the **Commercial Recorder**, on the following dates, to-wit:

August 27,

September 3, 2003

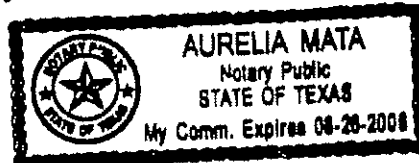
Genevieve Ratcliff

Sworn to and subscribed before me this 3rd day of

September, A.D. 2003.

Aurelia Mata

Notary Public, Tarrant County, Texas



LA NOTA DE LA ELECCION PARA ENMIENDAR EL FLETAMIENTO DE LA CIUDAD DE EVERMAN

La Ciudad de Everman conducirá una elección en el 13 de septiembre de 2003 entre las horas de 7:00 de la mañana y 7:00 de la tarde en el Centro de la Comunidad de Everman, 213 Calle de la Carrera del Norte, Everman, Tejas 78140 en determinar si enmienda la Ciudad de Everman el Fletamiento Buscador de la Regla. Votar temprano se conducirá en municipalidad de Everman 212 Calle de la Carrera del Norte, Everman, Tejas 78140 cada día laborable entre las horas de 8:00 de la mañana y 5:00 el principio de la tarde el día vigésimo octavo de agosto y finalizar el día noveno de septiembre, 2003.

2) Sigüente son las enmiendas propuestas al Fletamiento de la Regla del Hogar de Everman que hace: —Agrega una Sección nueva 2.05 en leer como seguir:

La sección 2.05 Dominio Exclusivo de Maneras Públicas

La Ciudad tendrá el dominio exclusivo, el control y la jurisdicción en, sobre, y bajo todos callejones, las calles, las carreteras, los canales y las aceras, y todo público aterrizan y los derechos de la manera (colectivamente para el propósito de esta sección se refirió a como "las Maneras Públicas") situadas en la Ciudad, y regula el uso del mismo, y requiere la eliminación de todas Maneras Públicas y otra propiedad o de los lugares públicos de todas obstrucciones, el telégrafo, el teléfono u otro. Los alambres o los signos eléctricos, las violaciones de cada naturaleza o el carácter. Tal dominio exclusivo, el control y la jurisdicción en, sobre, o sobre o bajo las Maneras Públicas de la Ciudad incluirá también, pero no es limitado a, el derecho de regular, localizar, trasladar, quitar, o para prohibir la ubicación de toda utilidad conduce por tuberías, las líneas, los alambres u otra propiedad de ningún tipo. Cualquier lista de una autoridad específica no limitará ni excluirá cualquier otro poder que la Ciudad tiene sobre Maneras Públicas. El derecho del control y el uso de las Maneras Públicas por la presente se declara para ser inalienable a la Ciudad, menos por ordenanzas no en choca con este Fletamiento.

—Agrega una Subdivisión 3G nueva a la Sección 3.04, en leer como seguir:

Una copia completa de las enmiendas propuestas del Fletamiento está disponible en municipalidad de Everman en el inglés y el español sobre el pedido. Débelo de sea una copia de estas enmiendas propuestas en el español, por favor municipalidad de contacto en (817) 293-0525.

*Spencer*

# Publisher's Affidavit

STATE OF TEXAS  
COUNTY OF TARRANT

I, GENEVIEVE RATCLIFF, PUBLISHER of the **COMMERCIAL RECORDER** of Fort Worth, Texas, a newspaper of general circulation which has been published in Tarrant County regularly and continuously for a period of one year prior to the first day of publication of this notice, as required by the Texas Probate Code, solemnly swear that the notice hereto attached was published in the **Commercial Recorder**, on the following dates, to-wit:

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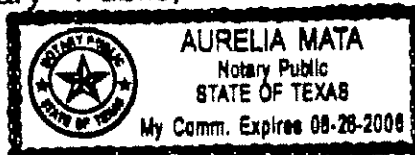
*Genevieve Ratcliff*

Sworn to and subscribed before me this 3rd day of

September, A.D. 2003.

*Aurelia Mata*

Notary Public, Tarrant County, Texas



PUBLIC NOTICE

PUBLIC NOTICE

PUBLIC NOTICE

PUBLIC NOTICE

PUBLIC NOTICE

PUBLIC NOTICE

PUBLIC NOTICE

PUBLIC NOTICE

CONTINUED FROM PAGE 8

Liquor Permits

APPLICATION has been made for a wine only package store permit for Best Texas Convenience Store Corporation doing business as Jonathan's Stop & Save, 1310 Sycamore School Road, Suite 100, Fort Worth, Tarrant County, Texas.

APPLICATION has been made for a mixed beverage permit for Sergio Witman Torres doing business as Panda Buffet located at 7940 NE Loop 820, Suite 110, North Richland Hills, Tarrant County, Texas.

DERSON County Clerk Tarrant County, Texas By Jai Joyce Williams Deputy 9-3-4

CLIFFORD CARDELL FIELDS Said application has been made to the Texas Alcoholic Beverage Commission in accordance with the provisions of the Texas Alcoholic Beverage Code.

APPLICATION has been made for a wine only package store permit for Vu Minh Bui doing business as Lake-way Food Store, 5925 Wilberger St, Fort Worth, Tarrant County, Texas.

DERSON County Clerk Tarrant County, Texas By Jai Joyce Williams Deputy 9-3-4

City of Fort Worth

REGISTRATION NOTICE... 9-3-4

City of Fort Worth

NOTICE OF PUBLIC HEARING... 2003-02; Applicant, Leonel

not limit or exclude any other in Chapter 8 of this Charter power the City has over Public... hereby declared to be inalienable to the City, except by ordinance not in conflict with this Charter.

A complete copy of the proposed Charter amendments is available at Everman City Hall in English and Spanish upon request. Should you desire a copy of these proposed amendments in Spanish, please contact City Hall at (817) 293-0525.

8-27/9-3

LA NOTA DE LA ELECCION PARA ENMIENDAR EL PLANTEAMIENTO DE LA CIUDAD DE EVERMAN

La Ciudad de Everman conducirá una elección en el 13 de septiembre de 2003 entre las horas de 7:00 de la mañana y 7:00 de la tarde en el Centro de la Comunidad de Everman, 213 Calle de la Carrera del Norte, Everman, Texas 76140 en determinar si enmienda la Ciudad de Everman el Planamiento Buscador de la Regla. Votar temprano se conducirá en municipalidad de Everman 212 Calle de la Carrera del Norte, Everman, Texas 76140 cada día laborable entre las horas de 8:00 de la mañana y 5:00 el principio de la tarde el día vigésimo octavo de agosto y finalizar el día noveno de septiembre, 2003.

A. Las ordenanzas y las resoluciones se pueden pasar o llamando una elección especial. Si dos o más elecciones simultáneas ocurren, o si el término no caducado es más que un año, entonces los miembros restantes del Consejo permanecerán una elección especial a llenar los vacíos para los términos no caducados.

Enmienda la Sección 5.02 en leer como seguir: La sección 5.02 Incompetencia o la Terminación del Director de la Ciudad. A. El Director de la Ciudad, los miembros presentes a dentro de treinta (30) días después que tomar la oficina, designar por carta encubierta con el Secretario de la Ciudad, un oficial administrativo calificado de la Ciudad en leer como seguir: La Sección 5.02 Incompetencia o la Terminación del Director de la Ciudad en su ausencia o incapacidad. Tal designación será susceptible a la aprobación del Consejo. Ningún miembro del Ayuntamiento servirá como Director como Interino de la Ciudad. Sobre la renuncia o la terminación del Director de la Ciudad, el Director Interino de la Ciudad realizará el deberes del Director de la Ciudad hasta que un Director nuevo de la Ciudad o Director Interino de la Ciudad serán designados por el Consejo.

**BALLOT CODE 518**  
**CITY OF EVERMAN SPECIAL CHARTER AMENDMENT ELECTION**  
**(CIUDAD DE EVERMAN ELECCION ESPECIAL DE ENMIENDAS)**  
**CITY OF EVERMAN, TEXAS (CIUDAD DE EVERMAN, TEXAS)**  
**SEPTEMBER 12, 2000 (12 DE SEPTIEMBRE DE 2000)**

**OFFICIAL BALLOT (BOLETA OFICIAL)**

**INSTRUCTIONS TO VOTER: To Vote, complete the arrow to the right of your choice using a #2 pencil or marker provided, like this:**  
**(INSTRUCCIONES PARA EL VOTANTE: Para votar, complete la flecha a la derecha de su preferencia, usando un lápiz #2 o marcador provisto, así):**

**Proposition No. 1**  
*(Proposition Num. 1)*

**STREETS AND RIGHTS-OF-WAY**  
 Shall the Home Rule Charter of the City of Everman be amended to clarify that the City has exclusive control over streets and rights-of-way situated in the City, by adding Section 2.667?  
**CALLES Y DERECHO DE PASO**  
 ¿Debe ser enmendada la Carta Autónoma de Gobierno de la Ciudad de Everman para aclarar que la ciudad tiene control exclusivo sobre las calles y los derechos de paso situados en la Ciudad, agregando la Sección 2.57?

**FOR (A FAVOR)** ←  
**AGAINST (EN CONTRA)** ←

**Proposition No. 2**  
*(Proposition Num. 2)*

**DUTIES OF CITY COUNCIL**  
 Shall the Home Rule Charter of the City of Everman be amended to provide that the City Council shall have the power to appoint, suspend and remove commissioners and to create, abolish and establish the duties of all boards and commissions of the City; and clarifying that Planning and Zoning Commission and the Board of Adjustment shall be governed by state law, by adding Section 3.04 G and amending Sections 8.01, 8.02, 8.03 and repealing Sections 8.04 and 8.05?

**OBLIGACIONES DEL CONCEJO DE LA CIUDAD**  
 ¿Debe ser enmendada la Carta Autónoma de Gobierno de la Ciudad de Everman para estipular que el Concejo de la Ciudad pueda tener el poder para nombrar a los miembros de la junta y a los comisionados y crear, eliminar y establecer las obligaciones de todos los juntas y comisionados de la Ciudad; y aclarar que las Comisiones de Planeación y Zona y la Junta de Ajuste serán gobernadas por la Ley Estatal, agregando la Sección 3.04 G y enmendando las Secciones 8.01, 8.02, 8.03 y retirando las Secciones 8.04 y 8.05?

**FOR (A FAVOR)** ←  
**AGAINST (EN CONTRA)** ←

**Proposition No. 3**  
*(Proposition Num. 3)*

**ORDINANCES**  
 Shall the Home Rule Charter of the City of Everman be amended to provide for the form and procedure for creating ordinances, and designating actions requiring an ordinance, by amending Sections 3.08, 3.10, adding a new Section 3.11, and redesignating the current Section 3.10 as Section 3.12?  
**ORDENANZAS**  
 ¿Debe ser enmendada la Carta Autónoma de Gobierno de la Ciudad de Everman para estipular la forma y procedimientos para efectuar ordenanzas y designar acciones que requieran una ordenanza, enmendando las Secciones 3.08, 3.10, agregando una nueva Sección 3.11, y redesignando la actual Sección 3.10 como Sección 3.12?

**FOR (A FAVOR)** ←  
**AGAINST (EN CONTRA)** ←

**Proposition No. 4**  
*(Proposition Num. 4)*

**ELECTED OFFICIALS**  
 Shall the Home Rule Charter of the City of Everman be amended to provide for the qualifications of candidates, eliminate term limits and provide for the procedure for filling vacancies on the City Council, by amending Sections 4.01, 4.05 and 4.07?  
**OFICIALES ELECTOS**  
 ¿Debe ser enmendada Carta Autónoma de Gobierno de la Ciudad de Everman para estipular los requisitos de los candidatos, eliminar los límites de los términos y estipular los procedimientos para llenar vacantes en el Concejo de la Ciudad, enmendando las Secciones 4.01, 4.05 y 4.07?

**FOR (A FAVOR)** ←  
**AGAINST (EN CONTRA)** ←

**Proposition No. 5**  
*(Proposition Num. 5)*

**CITY MANAGER**  
 Shall the Home Rule Charter of the City of Everman be amended to provide for procedures in the event of disability of the City Manager by amending Section 5.02?  
**ALCALDE DE LA CIUDAD**  
 ¿Debe ser enmendada la Carta Autónoma de Gobierno de la Ciudad de Everman para estipular los procedimientos en el evento de discapacidad del Alcalde de la Ciudad enmendando la Sección 5.02?

**FOR (A FAVOR)** ←  
**AGAINST (EN CONTRA)** ←

**Proposition No. 6**  
*(Proposition Num. 6)*

**NEPOTISM**  
 Shall the Home Rule Charter of the City of Everman be amended to limit the prohibition of the appointment of a relative of City Council members, the City Manager or department heads to compensated positions in the City by amending Section 12.07?  
**NEPOTISMO**  
 ¿Debe ser enmendada la Carta Autónoma de Gobierno de la Ciudad de Everman para limitar la prohibición de nombrar a un familiar de los miembros del Concejo de la Ciudad, del Gerente de la Ciudad o cabezas de departamento a una posición compensada en la Ciudad enmendando la Sección 12.07?

**FOR (A FAVOR)** ←  
**AGAINST (EN CONTRA)** ←

**VOTE BOTH SIDES**  
**(VOTE EN LOS DOS LADOS)**

Proposition No. 7  
(Proposition Num. 7)

**STATE LAW REQUIREMENTS**  
Shall the Home Rule Charter of the City of Everman be amended to conform to state law requirements and eliminate redundancies by amending Sections 3.06, 4.02, 4.06, 6.03, 7.04, 7.07, 12.01, and 12.02, and repealing Sections 7.06, 12.06 and 12.177

**REQUISITOS DE LA LEY ESTATAL**  
(Debe ser enmendada la Carta Autonoma de Gobierno de la Ciudad de Everman para conformarse a los requisitos de la Ley Estatal y eliminar redundancias enmendando las Secciones 3.06, 4.02, 4.06, 6.03, 7.04, 7.07, 12.01, y 12.02, y revocando las Secciones 7.06, 12.06 y 12.177)

FOR (A FAVOR) ←

AGAINST (EN CONTRA) ←

Proposition No. 8  
(Proposition Num. 8)

**TECHNICAL AND CLARIFYING CORRECTIONS**  
Shall the Home Rule Charter of the City of Everman be amended to make nonsubstantive grammatical and contextual corrections by amending Sections 1.02, 1.04, 2.01, 4.01, 5.04, 6.03, 6.06, 7.03, 7.06, 10.06, 10.08, 11.02, 11.04, 11.06, 11.08, 11.12, and 12.187

**CORRECCIONES TECNICAS Y PARA ACLARACIONES**  
(Debe ser enmendada la Carta Autonoma de Gobierno de la Ciudad de Everman para hacer correcciones no substanciales de gramatica y contextuales enmendando las Secciones 1.02, 1.04, 2.01, 4.01, 5.04, 6.03, 6.06, 7.03, 7.06, 10.06, 10.08, 11.02, 11.04, 11.06, 11.08, 11.12 y 12.187)

FOR (A FAVOR) ←

AGAINST (EN CONTRA) ←

**VOTE BOTH SIDES**  
**(VOTE EN LOS DOS LADOS)**

JUDGE'S  
SIGNATURE \_\_\_\_\_

(USE ONLY RED INK)

**BALLOT PROPOSITIONS  
Special Election  
September 13, 2003**

**CHARTER AMENDMENT PROPOSITIONS**

**PROPOSITION NO. 1 - STREETS AND RIGHTS-OF-WAY**

Shall the Home Rule Charter of the City of Everman be amended to clarify that the City has exclusive control over streets and rights-of-way situated in the City, by adding Section 2.05?

**PROPOSITION NO. 2 - DUTIES OF CITY COUNCIL**

Shall the Home Rule Charter of the City of Everman be amended to provide that the City Council shall have the power to appoint board and commissioner members and to create, abolish and establish the duties of all boards and commissioners of the City; and clarifying that Planning and Zoning Commission and the Board of Adjustment shall be governed by state law, by adding Section 3.04 G and amending Sections 8.01, 8.02, 8.03 and repealing Sections 8.04 and 8.05?

**PROPOSITION NO. 3 - ORDINANCES**

Shall the Home Rule Charter of the City of Everman be amended to provide for the form and procedures for enacting ordinances, and designating actions requiring an ordinance, by amending Sections 3.09, 3.10, adding a new Section 3.11, and redesignating the current Section 3.11 as Section 3.12?

**PROPOSITION NO. 4 - ELECTED OFFICIALS**

Shall the Home Rule Charter of the City of Everman be amended to provide for the qualifications of candidates, eliminate term limits and provide for the procedure for filling vacancies on the City Council, by amending Sections 4.01, 4.05 and 4.07?

**PROPOSITION NO. 5 - CITY MANAGER**

Shall the Home Rule Charter of the City of Everman be amended to provide for procedures in the event of disability of the City Manager by amending Section 5.02?

**EXHIBIT "B"**

**PROPOSITION NO. 6 - NEPOTISM**

Shall the Home Rule Charter of the City of Everman be amended to limit the prohibition of the appointment of a relative of City Council members, the City Manager or department heads to compensated positions in the City by amending Section 12.07?

**PROPOSITION NO. 7 - STATE LAW REQUIREMENTS**

Shall the Home Rule Charter of the City of Everman be amended to conform to state law requirements and eliminate redundancies by amending Sections 3.08, 4.02, 4.06, 6.03, 7.04, 7.07, 12.01, 12.02, and 12.17, and repealing Section 7.05?

**PROPOSITION NO. 8 - TECHNICAL AND CLARIFYING CORRECTIONS**

Shall the Home Rule Charter of the City of Everman be amended to make nonsubstantive grammatical and contextual corrections by amending Sections \_\_\_\_\_ (list all sections with changes)?

**EXHIBIT "B"**

THE  
CITY  
OF



817/293-0525 • 212 N. Race St. • Everman, Texas 76140

**OFFICE OF  
CITY SECRETARY**

STATE OF TEXAS {}  
COUNTY OF TARRANT {}  
CITY OF EVERMAN {}

I, Judy Thompson, being the current City Secretary of the City of Everman do hereby certify that the attached ordinance or resolution of the City Council of the City of Everman is a true and correct copy of such: and such was adopted at Council Meeting open to the public; and notice of said meeting, giving the date, place and subject thereof was posted as prescribed by Article 6252-17, Section 3A, V.A.T.C.S.

DATED: September 16, 2003

[City Seal]

Judy Thompson  
Judy Thompson  
City Secretary

**RESOLUTION NO. 2003-09-01**

**A RESOLUTION AND ORDER CANVASSING THE RETURNS AND DECLARING THE RESULTS OF A SPECIAL ELECTION.**

\* \* \* \* \*

There came on to be considered the returns of an election held on the 13<sup>th</sup> day of September, 2003, for the purpose of amending the City Charter, and it appearing from said returns, duly and legally made, that there were cast at said election valid and legal votes; that each of the propositions in said election received the following votes:

**SPECIAL ELECTION RESULTS:**

**PROPOSITION NO. 1-STREETS AND RIGHTS-OF-WAY**

200 FOR 51 AGAINST

**PROPOSITION NO. 2-DUTIES OF CITY COUNCIL**

173 FOR 95 AGAINST

**PROPOSITION NO. 3-ORDINANCES**

164 FOR 98 AGAINST

**PROPOSITION NO. 4-ELECTED OFFICIALS**

155 FOR 110 AGAINST

**PROPOSITION NO. 5-TERM LIMITS**

200 FOR 67 AGAINST

**PROPOSITION NO. 6-NEPOTISM**

146 FOR 124 AGAINST

**PROPOSITION NO. 7-STATE LAW REQUIREMENTS**

190 FOR 56 AGAINST

**PROPOSITION NO. 8-TECHNICAL & CLARIFYING CORRECTIONS**

181 FOR

61 AGAINST

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF  
EVERMAN, TEXAS;**


That said election was duly called; that notice of said election was given in accordance with law,  
and that said election was held in accordance with law.

It is further found and determined that in accordance with the order of this governing body that  
the City Secretary posted written notice of the date, place and subject of this meeting on the bulletin board  
located in the City Hall, a place convenient to the public, and said notice having been so posted and  
remained posted continuously for at least seventy-two (72) hours preceding the date of this meeting., A  
copy of the return of said posting shall be attached to the minutes of this meeting and shall be made a part  
thereof for all intents and purposes.

**ADOPTED AND APPROVED THIS 16<sup>TH</sup> DAY OF SEPTEMBER 2003.**

  
\_\_\_\_\_  
Jim Stephenson  
Mayor

ATTEST:

  
\_\_\_\_\_  
Judy Thompson  
City Secretary

## ARTICLE I

### FORM OF GOVERNMENT AND BOUNDARIES

#### Section 1.01 Incorporation

The citizens of the City of Everman, Tarrant County, Texas do hereby declare that the City of Everman is incorporated as a political subdivision of the State of Texas under the name of "City of Everman," hereinafter referred to as the "City" and with the duties, rights, and powers provided in this Charter and State Law.

#### Section 1.02 Form of Government

The City government shall be a "Council Manager Government" Pursuant to the provisions of and subject only to the limitations imposed by this Charter and by the state constitution and statutes of the State of Texas, ~~statutes~~, the City Council shall be vested with all the powers of the City. The City Council shall enact legislation, adopt budgets, determine policies and appoint the City Manager. The City Manager shall execute the laws and administer the government of the City.

#### Section 1.03 Boundaries

The boundaries of the City shall be the ones that exist when this Charter is adopted and shall remain in effect until changed.

#### Section 1.04 Change of Boundaries

The City Council may, by ordinance, annex territory lying adjacent to the City. The City Council may, by ordinance, deannex territory within the City, and/or exchange territory with other cities and towns. These actions are subject only to state law. In accordance with state law, the people who reside in annexed territory shall be entitled to all the rights and privileges of citizens of the City, and shall be bound by the acts, ordinances, resolutions, and regulations of the City.

#### Section 1.05 Petition for Annexation

The City Council may provide for annexation upon petition from a majority of the voters residing in the area to be annexed, or upon petition from a majority of the landowners, such area to be annexed to be adjacent to the boundaries of the City.

## ARTICLE II

### RIGHTS AND POWERS OF THE CITY

#### Section 2.01 General

The City shall have all the rights and powers granted to municipalities and cities under the general laws, and all the rights and powers of self-government that now exists or may hereafter be granted to Home Rule Cities by the Constitution and the general and special

### EXHIBIT "A"

laws of the State of Texas, together with all the rights and powers so granted as fully and completely as though they were enumerated in this Charter. Such rights and powers, whether expressed or implied, shall be exercised and enforced in the manner prescribed by applicable State Law or by this Charter, and when not prescribed herein, in such manner as shall be provided by ordinance or resolution of the City Council.

### **Section 2.02 Construction and Severability**

The rights and powers of the City under this Charter shall be construed liberally in favor of the City in the event of conflict between the City and other governmental agencies or bodies, corporations, or individuals, and the specific mention of particular rights or powers in this Charter shall not be construed as limiting in any way the general rights or powers stated in this Article. In addition, should any phrase, clause, sentence, or provision of this Charter be declared invalid by a court of competent jurisdiction, the validity and applicability of the remainder of this Charter shall not be affected.

### **Section 2.03 Enumerated Powers**

A. To enact, establish and enforce codes, licenses and ordinances for the maintenance of good government and the interest and well-being of its inhabitants.

B. To cooperate with the government of the State of Texas, or any agency or political subdivision thereof, the government of the United States or its agencies, for any lawful purpose for the advancement of the interest, safety, convenience and welfare of its inhabitants.

C. To exercise the right of eminent domain, the right of extraterritorial jurisdiction and to have exclusive dominion over all public property in any manner permitted by the Constitution and the laws of the State of Texas.

D. To contract and be contracted with, to sue, to buy, sell, lease, mortgage, hold, manage and control such property as its interests require.

E. To establish, maintain, improve, alter, abandon, or vacate public streets, right of way, sidewalks, alleys, squares, parks, and other public ways, and to police the use thereof.

F. The City shall have the power to construct and maintain, within or without its corporate limits, streets, flood control facilities and sanitary, water and storm drainage facilities in, over, under or upon all public property or easements granted for that purpose and to levy assessments for the costs of such improvements. The City shall have the power to collect Attorney's fees for the collection of paving assessments in foreclosure cases as allowed under State Law. It shall have the power to cause liens to be established for the purpose of securing the payment of such levies and shall have the power to compel the use of such improvements by inhabitants of the City.

### **Section 2.04 Transfer of Rights, Powers and Obligations**

A. The City shall succeed to all rights, claims, actions, orders, contracts, and

legal or administrative proceedings pending or in process at the effective date of this Charter, except as modified pursuant to the provisions herein; and each matter shall be maintained, carried on, or dealt with by the City authority as appropriate under this Charter.

B. All City ordinances, resolutions, orders, and regulations in force on the date this Charter becomes fully effective are repealed to the extent that they are inconsistent or interfere with the operation of this Charter or of ordinances or resolutions adopted pursuant hereto. To the extent that the Constitution and laws of the State of Texas permit, all laws governing this City or its agencies, officers, or employees at the time this Charter becomes fully effective are superseded and void to the extent that they are inconsistent or interfere with the operation of this Charter or of ordinances or resolutions adopted pursuant hereto.

#### **Section 2.05 Exclusive Domain of Public Ways**

The City shall have exclusive domain, control and jurisdiction in, upon, over and under all alleys, streets, highways, gutters and sidewalks, and all public lands and rights-of-way (collectively for the purpose of this section referred to as "Public Ways") situated in the City, and regulate the use thereof, and require the removal from all Public Ways and other public property or places of all obstructions, telegraph, telephone or other poles, carrying electric wires or signs, encroachments of every nature or character. Such exclusive dominion, control and jurisdiction in, upon, over or under the Public Ways of the City shall also include, but not be limited to, the right to regulate, locate, relocate, remove, or prohibit the location of all utility pipes, lines, wires or other property of any sort. Any listing of a specific authority shall not limit or exclude any other power the City has over Public Ways. The right of control and use of the Public Ways is hereby declared to be inalienable to the City, except by ordinances not in conflict with this Charter.

### **ARTICLE III**

#### **THE CITY COUNCIL**

##### **Section 3.01 City Government**

The governing body of the City shall be known as the "City Council of the City of Everman", hereinafter referred to as the "City Council". The City Council shall be composed of a Mayor and (6) other Council members.

##### **Section 3.02 Expense Reimbursement**

The Mayor will receive the sum of fifty (\$50) dollars and each member of the City Council shall receive the sum of twenty-five (\$25) dollars for each regularly scheduled City Council meeting duly attended. In addition to the above, the City shall, upon receiving receipts and other appropriate documentation for authorized expenditures, reimburse the members of the City Council for other necessary expenses incurred by them in the performance of their official duties.

### **EXHIBIT "A"**

### **Section 3.03 Mayor and Mayor Pro-Tem**

The Mayor shall preside at City Council meetings, and shall be recognized as head of the City government, but shall have no regular administrative duties other than signing such documents as the City Council may require. The Mayor shall have all the rights, duties and responsibilities of a Council Member including the right to vote, but shall have no veto power. The City Council shall elect one of its members Mayor Pro-Tem to serve a 1-year term. The Mayor Pro-Tem shall act as Mayor in the absence of the Mayor and shall have the same duties and powers as the Mayor when doing so.

### **Section 3.04 General Duties and Powers**

Except as otherwise provided by law or by this Charter, all powers of the City shall be vested in the City Council. The City Council shall exercise these powers to ensure the performance of all duties and obligations imposed on the City by law and by this Charter. Specifically, the City Council is provided with, but not limited to, the following powers:

- A. To enact municipal legislation.
- B. To appoint and remove all persons appointed by the City Council. If removed from office a hearing shall be granted if requested by the removed person.
- C. To fix the compensation for all appointed City officers.
- D. To create, change, or abolish all offices, departments, and agencies created by this Charter, and to assign additional duties and powers consistent with this Charter to officers, departments, and agencies created by this Charter.
- E. To establish operating policy.
- F. To establish the boundaries of the City.
- G. To create, abolish and establish the duties of any board or commission to assist in the business or interest of the City.

### **Section 3.05 Prohibitions**

A. **Holding other office.** Except where authorized by law, no member of the City Council shall hold any other City office or employment with the City during the term for which the Council member was elected to the City Council. No former member of the City Council shall hold any compensated appointed City office or employment with the City for a period of two years after the expiration of his term of office.

B. **Appointments and Removals.** Neither the City Council nor any of its members shall, in any manner, dictate the appointment or removal of any City Manager officer or employee whom the City Manager or any of his subordinates are empowered to appoint. The City Council may, however, express its views fully and freely, discussing with the City Manager anything pertaining to the appointment and removal of such officers and employees.

C. Interference in Administrative Matters. Except for the purpose of inquiry of investigation, the City Council shall deal with the administrative departments and the personnel of these departments solely through the City Manager. Neither the City Council nor any of its members shall give an order, either publicly or privately, to any subordinate of the City Manager.

### **Section 3.06 Vacancies and Forfeiture of Office**

A. Vacancies. The office of a Council member shall become vacant upon the death, resignation, forfeiture of office, or removal from office in any manner authorized by law or by this Charter. All vacancies shall be filled in accordance with Article IV of this Charter.

B. Forfeiture of Office. A Council member shall forfeit office if the member:

1. Lacks at any time during the term of office any qualifications for the office prescribed by law or by this Charter.
2. Violates any express prohibition of this Charter.
3. Fails to attend three consecutive regular meetings of the City Council without prior consent of the City Council, unless this absence is caused by illness or by the illness of a family member.

### **Section 3.07 Investigations**

The City Council may investigate the affairs of the City and the official conduct of any City department, office, or agency. For this purpose, the City Council may subpoena witnesses, administer oaths, take testimony, and compel the production of all pertinent evidence. Any person who fails or refuses to obey a lawful order issued by the City Council shall be guilty of a misdemeanor, as provided by ordinance.

### **Section 3.08 Meetings of the City Council**

A. The City Council shall hold at least one regular meeting each month and as many additional meetings as it deems necessary to transact the business of the City. The City Council shall fix by ordinance the date and time of the regular meeting(s).

B. ~~Except as provided by State Law, all meetings shall be open to the public and shall be held and notice given in accordance with the Open Meetings Act, as amended or superseded. Except as provided by State Law, all meetings shall be open to the public and shall be held and notice given in accordance with Article 6252-17 V.A.C.S. as amended or superseded.~~

C. Special meetings may be called by the City Secretary on the written request of the Mayor or and any four (4) City Council members. All City Council meetings shall be held at City Hall or at such a place that will permit the attendance of the general public. ~~All City Council meetings and all sessions of the City Council may recess for the purpose of discussing in a closed or executive session those matters permitted by State Law;~~

### **EXHIBIT "A"**

including, but not limited to:

- ~~1. Pending or contemplated litigation and settlement offers;~~
- ~~2. The acquisition or disposal of real property;~~
- ~~3. Personnel matters;~~
- ~~4. The evaluation of candidates for the office of City Manager.~~

D. A closed or executive session must be ~~conducted in compliance with state law, announced in a public meeting and must state the general subject to be discussed. No final action or vote with regard to any matter considered in a closed meeting shall be made except in a public meeting.~~

~~E.1. Rules and Minutes Journal. The City Council shall determine its own rules and order of business, and shall provide for keeping minutes a journal of all its proceedings. The minutes. This journal shall be a public record.~~

~~F.2. Voting. Except on procedural motions, voting shall be by roll call. The ayes and nays shall be recorded in the minutes journal; four (4) members of the City Council shall constitute a quorum. All matters may be passed by a majority of the quorum except when otherwise provided by state law or this Charter. emergency matters and disciplinary matters dealing with the City Manager. Such matters require a majority vote of Council.~~

### **Section 3.09 Form of Ordinances**

~~Every proposed ordinance shall be introduced in writing and in substantially the form required for final adoption. The subject of the ordinance shall be clearly expressed in its title except ordinances or resolutions making appropriations or authorizing the contracting of indebtedness or issuance of bonds or other evidence of indebtedness. The enacting clause of every ordinance shall be: "Be it ordained by the City Council of the City of Everman," but the same shall be omitted when the ordinances of the City are codified and published in a book or pamphlet form by the City. Any ordinance which repeals or amends an existing ordinance or part of the City code shall clearly set forth the provision or provisions being repealed or amended and, if amended, shall further clearly set forth the amendment being made.~~

### **Section 3.09 Passage of Ordinances**

~~A. The City Council shall legislate by ordinance, and the enacting clause of every ordinance shall be: "Be it ordained by the City Council of the City of Everman, Texas...". Each proposed ordinance shall be introduced in the written or printed form required for adoption. No ordinance shall contain more than one subject which shall be clearly expressed in its title. General appropriation ordinances may contain various subjects and accounts for which monies are to be appropriated. After adoption an ordinance shall not be amended or repealed except by the adoption of another ordinance amending or repealing the original ordinance. Except where an ordinance is repealed in its entirety, amendatory or repealing ordinance shall be set out in full the ordinance sections or subsections to be amended or repealed and shall indicate matter to be omitted by enclosing it in brackets and shall indicate new matter by enclosing it in quotation marks:~~

~~B. Any member of the City Council may offer any ordinance in writing that has been placed on the agenda at regular City Council meeting. Copies of proposed ordinances, in the form required for adoption, shall be furnished to members of City Council 48 hours before the first reading. Copies of the proposed ordinance, in the form required for adoption, shall be available to citizens upon request to the City Secretary before the first reading, and if amended, shall be available and furnished in amended form for as long as the proposed ordinance is before the City Council.~~

~~G. A proposed ordinance, except as related to an emergency, budget, tax, public utility rate setting, bond or obligation ordinances, or State or Federal requirement, shall be read at two (2) City Council meetings with at least one week between readings:~~

~~D. A proposed ordinance may be amended at either reading, but any ordinance amended shall automatically be placed again as a first reading at a subsequent meeting. At any reading of a proposed ordinance, interested persons shall have a reasonable opportunity to be heard:~~

~~E. Every ordinance shall become effective upon adoption or at any later time(s) specified in the ordinance, except that every ordinance imposing any penalty, fine or forfeiture shall become effective only after having been published once in its entirety or summary form, after adoption, in a newspaper designated as the official newspaper of the City.~~

~~F. The reading aloud of the caption of the ordinance shall suffice as a reading provided printed copies of the ordinance in the form required for adoption are in front of all members of the City Council and copies are available to citizens present at the meeting. If a majority of the Council members present request that the ordinance be read in its entirety, it must be read:~~

~~G. The City Council may adopt emergency ordinances only to meet public emergencies affecting life, health, property or the public peace. In particular, such ordinances shall not levy taxes, grant or renew or extend a franchise, or regulate the rate charged by any public utility for its services. Neither shall they authorize the borrowing of money except as provided in this Charter.~~

~~H. An emergency ordinance shall be introduced in the form and manner generally prescribed for ordinances, except that they shall be plainly designated in the title as an emergency ordinance and shall contain after the enacting clause a declaration stating that an emergency exists and describing the emergency in clear and specific terms:~~

~~I. An emergency ordinance may be introduced at any Council meeting and can be adopted with or without amendment or rejected at the meeting at which it is introduced. The affirmative vote of a majority of the City Council shall be required for adoption:~~

~~J. Emergency ordinances shall become effective upon adoption and shall be published as soon thereafter as practical. Every emergency ordinance so adopted, except one authorizing the borrowing of money as described herein, shall automatically stand repealed as of the sixty-first day following the day on which it become effective. The ordinance may be re-enacted if the emergency still exists:~~

## EXHIBIT "A"

~~K. All such ordinances, when printed and published by authority of the City Council, may be admitted and received in all courts, subject to the rules of evidence and laws of jurisdiction where proof of such ordinances is tendered, without further proof. All meetings and ordinances shall be governed in strict accordance with State Law.~~

**Section 3.10 Procedure for Enacting Ordinances and Resolutions; Publications**

A. Ordinances and resolutions may be passed at any regular meeting or special meeting called for that purpose provided notice has been given in accordance with the Texas Open Meetings Act. It shall not be necessary to the validity of any ordinance that it be read more than one time or considered at more than one session of the City Council.

B. Every ordinance, resolution or motion shall require on passage the affirmative vote of a majority of the members present unless more is required by state law or this Charter.

C. The descriptive caption or title of an ordinance that imposes a penalty, fine or forfeiture and the penalty for violating the ordinance shall be published at least once in the official newspaper of the City.

D. An ordinance required to be published takes effect when the publication requirement is satisfied, unless the ordinance provides otherwise, and an ordinance that is not required to be published takes effect when adopted unless the ordinance provides otherwise.

E. All ordinances and resolutions may be admitted and received in all courts, subject to the rules of evidence and laws of jurisdictions where proof of such ordinances and resolutions are tendered, without further proof.

**Section 3.11 Actions Requiring an Ordinance**

A. The Council shall legislate by ordinance. In addition to other acts required by law or by specific provision of this Charter to be done by ordinance, those acts of the Council shall be by ordinance which:

1. adopt, amend, or establish an administrative code;
2. alter or abolish any City board, department, office, or agency;
3. provide for a fine or other penalty or establish a rule or regulation for violation of which a fine or other penalty is imposed;
4. levy taxes, except as otherwise provided in Chapter 9 of this Charter with respect to the property tax levied by adoption of the budget;
5. grant, renew or extend a franchise;
6. regulate the rate charged for services by a public utility;

**EXHIBIT "A"**

7. authorize the borrowing of money that cannot be repaid within the current fiscal year;
8. convey, lease or authorize the conveyance or lease of any lands of the City;
9. adopt with or without amendment ordinances proposed under the initiative power; and
10. amend or repeal any ordinance previously adopted, except as otherwise provided in Chapter 8 of this Charter with respect to repeal of ordinances reconsidered under the referendum power.

B. Acts other than those referred to in the preceding sentence may be done either by ordinance, resolution or minute order.

### **Section 3.120 Authentication and Recording, Codification, and Printing**

A. Authentication and Recording. The City Secretary shall record in full, in a properly indexed book kept for the purpose, all ordinances and resolutions adopted by the City Council. This record shall be authenticated by the signature of the City Secretary.

B. Codification. After adoption of this Charter the City Council shall provide for the updating of the general codification of all City ordinances and resolutions having the force and effect of the law.

## **ARTICLE IV**

### **MUNICIPAL ELECTION**

#### **Section 4.01 City Council Places and Terms**

A. The City Council shall be composed of a Mayor and six (6) Council members. All members of the City Council, other than the Mayor, shall be elected under the place system.

B. The Mayor and each member of the City Council shall hold office for a two (2) year term. Place 1, Place 3, and Place 5 shall be elected in odd numbered years and the Mayor and Places 2, Place 4, and Place 6 shall be elected in even numbered years. ~~No person shall serve for more than four consecutive terms or eight (8) years (whichever is less), as Council member and Mayor combined.~~

#### **Section 4.02 Annual Elections**

The regular election for City Council members and Mayor, whose terms are expiring, shall be held on the first Saturday of May or as otherwise required by state law. Qualified voters shall be entitled to vote for one (1) candidate for each place. The City Council shall give notice of the election.

## **EXHIBIT "A"**

#### **Section 4.03 Regulation of Election**

All elections shall be held in accordance with the laws of the State of Texas and this Charter. The City Council shall appoint the Election Judges, and shall provide for all materials and pay all expenses in holding the elections. The Election Judges shall be authorized to prevent unlawful practices such as electioneering or loitering near voting places.

#### **Section 4.04 Political Activities of Salaried Officers, Employees, and Candidates**

A. No salaried officer or employee of the City may campaign for or against any issue; influence the nomination, election, or defeat of any candidate for Mayor or Council member; or campaign for or against the recall of the Mayor or Council member. This provision shall not prohibit the ordinary exercise of the right to express opinions and to vote.

B. No candidate for municipal office may solicit the support, the endorsement, or the financial contributions of any City employee.

#### **Section 4.05 Qualifications for Candidacy**

Each member of the City Council, including the Mayor, shall be **at least 21 years old on the date of the election**, a qualified voter of the City, and shall have resided in the City for one (1) year before the date of election. The Mayor or any other member of the City Council who ceases to reside in the City shall immediately forfeit office. In addition, any person who is delinquent in payment of taxes to the City shall not be qualified to hold office on the City Council. Persons holding an elective City position whose position is not then currently up for election must first resign their current position before being eligible to file for another City elective position.

#### **Section 4.06 ~~Canvassing of Election and Declaration of Results~~**

Returns of each municipal election shall be delivered by the Election Judge to the City Secretary and to the City Council. ~~The City Council shall canvass the returns no earlier than the 2<sup>nd</sup> day or no later than the 6th day after election.~~ The candidate receiving a majority of all votes cast for each place shall be declared elected. If no candidate receives a majority of all votes cast for an office, the City Council shall, upon declaring the official results of the election, immediately order a run-off election for each office remaining to be filled. The City Council shall, on the first day following the completion of the official canvass, call a run-off election to be held on the second Saturday following such call. In the run-off election, the ballot shall list, as determined by lot, the names of the two (2) candidates receiving, at the first elections, the first and second highest number of votes for a given office. Any tie in the run-off election shall be decided by lot.

#### **Section 4.07 Vacancies**

**If one vacancy with less than one year in the unexpired term occurs on the Council then the remaining members shall fill the vacancy for the unexpired term and may do so by**

### **EXHIBIT "A"**

appointment or by calling a special election. If two or more simultaneous vacancies occur, or if the unexpired term is more than one year, then the remaining members of the Council shall call a special election to fill the vacancies for the unexpired terms.

~~A. If a vacancy occurs in the office of the Mayor it shall be filled by the Mayor Pro-Tem. Any other vacancy on the City Council, including a position if vacated by the Mayor Pro-Tem, shall be filled by appointment by a majority vote of all of the remaining City Council members; however,~~

~~1. If a Council position is vacated for more than one (1) year, plus at least sixty (60) days, the remaining one (1) year term of office shall be filled through the next regular election in May, however,~~

~~2. Should two (2) or more City Council members vacate their office concurrently with more than sixteen (16) months of their terms remaining, those vacancies shall be filled through a special election.~~

~~B. Any vacancy in a Council position with an unexpired term of less than three (3) months shall not be filled before the next regular election, unless occupancy of that office is necessary to constitute a quorum.~~

## ARTICLE V

### MUNICIPAL ADMINISTRATION

#### Section 5.01 City Administration

The City Council shall appoint a City Manager by affirmative vote of a majority of the Council. The City Council shall by majority vote determine and fix the City Manager's compensation. The City Manager shall be chosen solely upon the basis of executive and administrative training, experience, and abilities, without regard to political considerations. At the time of appointment, residence in the City shall not be required; however, the City Council should consider the driving time required of the applicant to respond to any City emergency. Neither the Mayor nor any Council member may be appointed City Manager or acting City Manager while holding office or for a period of two (2) years after term has ended.

#### Section 5.02 Disability or Termination of the City Manager

A. The City Manager, within thirty (30) days after taking office, shall designate by letter filed with the City Secretary, a qualified administrative officer of the City to perform the duties of the City Manager in his absence or disability. Such designation shall be subject to approval of the Council. No member of the City Council shall serve as Acting City Manager. Upon resignation or termination of the City Manager, the Acting City Manager shall perform the duties of the City Manager until a new City Manager or Acting City Manager is appointed by the Council.

B. Should the need for an Acting City Manager occur prior to the City Manager submitting a designee or prior to the Council's approval of the City Manager's designee,

## EXHIBIT "A"

the Council shall appoint an Acting City Manager.

C. The City Manager may select a different Acting City Manager by repeating the letter of designation and obtaining the Council's approval.

~~The City Secretary shall act as City Manager during disability or termination of the City Manager. During such time the City Secretary shall have all the power and responsibility of the City Manager. Such person shall receive the current salary of the City Manager during this time, until a permanent City Manager can be hired by the City Council.~~

### **Section 5.03 Removal of the City Manager**

The City Council, acting in its sound discretion, may suspend or remove the City Manager at any time by an affirmative vote of a majority of the Council. The City Council shall give the City Manager written reason for proposed removal at least one (1) month prior thereto; and shall, upon written request of the City Manager, provide a public hearing prior to removal to provide an opportunity for the City Manager to present a defense against any accusations made. The City Council shall not arbitrarily or capriciously remove the City Manager, but its decision in such matters shall be final.

### **Section 5.04 Duties and Powers of the City Manager**

The City Manager shall be the chief administrative and executive officer of the City, and shall be responsible to the City Council. Responsibilities of the City Manager shall include the following:

A. Except as otherwise provided in this Charter, appoint, suspend, layoff, demote, or remove any directors or heads of administrative departments, or any other administrative officers, or employees of the City.

B. Supervise and control directly or indirectly all administrative departments, agencies, officers, and employees.

C. Attend all City Council meetings with the right to take part in the discussion, but have no vote.

D. Prepare and submit the annual budget, and be responsible for its administration after it is adopted.

E. Submit to the City Council a report at the end of the fiscal year on the finances and administrative activities of the City for the preceding year.

F. Keep the City Council advised of the financial condition and the future needs of the City, and make such recommendations to the City Council on matters of policy and other matters as may seem desirable.

G. Combine, abolish, or create administrative departments subject to the approval of the City Council.

## **EXHIBIT "A"**

H. Have such other powers and perform such other duties as prescribed by this Charter and the City Council, in accordance with State Law.

I. See that all State Laws and City ordinances are effectively enforced.

#### **Section 5.05 Administrative Departments**

All administrative departments shall remain in effect as presently established unless changed by the City Council by ordinances.

#### **Section 5.06 City Secretary**

The City Council shall appoint the City Secretary by an affirmative vote of a majority of the City Council. The City Council shall by majority vote determine and fix the City Secretary's compensation, The City Secretary shall:

A. Give notice of all official public meetings of the City Council in a manner consistent with this Charter and State Laws.

B. Attend all public meetings and hearings of the City Council.

C. Keep the minutes of the proceedings of all public official meetings and hearings of the City Council in a manner prescribed by the City Council consistent with applicable law.

D. Act as custodian of all official records of the City Council.

E. Hold and maintain the seal of the City of Everman, and affix this seal to all appropriate documents.

F. Authenticate by signature and seal, and record all ordinances, resolutions and proclamations of the City.

G. Perform such other duties as may be required by the City Council, consistent with this Charter and the laws of the State of Texas.

#### **Section 5.07 Removal of City Secretary**

The City Council, acting in its sound discretion, may suspend or remove the City Secretary at any time by an affirmative vote of a majority of the Council. The City Council shall give the City Secretary written reason for proposed removal at least one (1) month prior thereto; and shall, upon written request of the City Secretary, provide a public hearing prior to removal to provide an opportunity for the City Secretary to present a defense against any accusations made. The City Council shall not arbitrarily or capriciously remove the City Secretary, but its decision in such matters shall be final.

#### **Section 5.08 City Attorney**

The City Council shall appoint a competent, duly qualified, and licensed Attorney,

practicing law in the State of Texas and well versed in municipal law, who shall be the Attorney for the City (and may also be referred to as City Attorney). The City Attorney shall receive for his services such compensation as may be fixed by the City Council and shall hold his position office at the pleasure of the City Council. If under contract, this contract will not exceed two (2) years. The Attorney for the City, or such attorneys selected by him, with the approval of the City Council, shall represent the City in all litigation and shall be the legal Advisor of, and Attorney and Counsel for the City of all officers and departments thereof. The City Attorney may be removed from office at the discretion of the City Council by a vote of at least four (4) Council members.

### **Section 5.09 Special Counsel**

The City Council shall have the authority to retain special counsel for specific purposes.

## **ARTICLE VI**

### **FINANCE**

### **Section 6.01 Fiscal Year**

The fiscal year shall begin on the first day of October and end on the last day of the following September.

### **Section 6.02 Capital Program**

The City Manager, in work session with City Council, shall propose annually a five (5) year capital program for consideration by the City Council on or before the first day of December.

A. Capital Program Contents. The capital program shall contain the following:

1. A summary of its contents.
2. A list of all capital improvements, with supporting information as to the reason for each improvement.
3. Cost estimates, methods of financing, and recommended time schedule for each improvement.
4. Estimated annual cost of operation and maintenance for the proposed improvement.
5. The source or basis of the estimates.

B. Public hearing(s) on the Capital Program. The City Council shall call a public hearing(s) on the proposed capital program and on annual revisions or extensions prior to final adoption. Public Notice of the hearing(s) shall be published in the official medium not less than ten (10) days prior to the hearing(s). The City Secretary shall provide copies to the public at cost, upon request.

## **EXHIBIT "A"**

## Section 6.03 Budget

A. Submission of the Budget. On or before the first day of September of each year, and at least sixty (60) days prior to the adoption of a tax rate for the current fiscal year, the City Manager shall submit to the City Council a balanced budget for the ensuing fiscal year and an accompanying message.

B. Budget Message. The budget message shall explain the budget in fiscal terms and in terms of work programs for the ensuing fiscal year. It shall outline the proposed financial policies of the City, and shall include such other materials, as the City Manager deems necessary. The budget message shall include a forecast of a five-year estimate of revenues and expenditures and an explanation of its effect on taxation. The source or basis of the estimates shall be part of the forecast.

C. Budget Contents. The budget shall contain the following:

1. Comparative figures for the estimated tax rate, revenues, and other income and expenditures for the ending fiscal years compared to the actual and estimated income and expenditures of the current three (3) fiscal years.
2. The proposed expenditures of each office, department, or function.
3. A schedule showing the debt service requirement due on all outstanding indebtedness and on any proposed debt.
4. The source or basis of the estimates.
5. The total of the proposed expenditures shall not exceed the total estimated income and the balance of available funds.

D. Public Hearing on the Budget. The Council shall hold one or more public hearings on the proposed budget prior to the final adoption. Public Notice of the hearings shall be published in accordance with state law the official medium not less than ten (10) nor more than thirty (30) days prior to the hearings. The City Secretary shall provide copies of the proposed budget to the public at cost, upon request.

E. Adoption of the Budget. The City Council shall adopt the proposed budget, with or without amendment, after public hearings and before the first day of the ensuing fiscal year. Should the Council take no final action before the first day of the ensuing year, the amounts appropriated for the current fiscal year shall be deemed adopted on a month to month basis. Final adoption shall constitute appropriation of the expenditures proposed from funds so indicated.

F. Contingent Appropriation. Provision shall be made in the annual budget and in the appropriation ordinance for a contingent appropriation in an amount not more than three (3) percent of the total budget, to be used in case unforeseen items of expenditure. Such contingent appropriation shall be under the control of the City Manager and shall be distributed by him after approval of the City Council. Expenditures from this appropriation

### EXHIBIT "A"

shall be made only in case of established emergencies, and detailed account of such expenditures shall be recorded and reported.

G. Interfund transfers are permitted and allowed provided the City Council approves the same.

H. Defects in the Budget. Defects in the form or preparation of the budget or the failure to perform any procedural requirement shall not invalidate any tax levy, nor shall it invalidate the tax roll.

#### **Section 6.04 Monthly Financial Reports**

The City Manager shall present a monthly financial report. All income and expenses for the preceding month and for the year to date shall be shown, and shall be compared to the fiscal budget. This report shall be presented to the City Council as a part of the agenda at a Council meeting each month. The City Secretary shall provide copies of the monthly financial reports to the public at cost, upon request.

#### **Section 6.05 Annual Audit**

The City Council, by an affirmative vote of a majority of the Council, shall select and contract with a municipally oriented certified public accounting firm for the purpose of rendering an independent audit of all accounts and other financial records of the City government. 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 government or any of its offices. After completion of any audit of the City, the auditor shall prepare a report, and shall submit the report to the City Council as a part of the agenda, at a regular Council meeting within one hundred twenty (120) days after the end of the fiscal year. The City Secretary shall provide copies to the public at cost, upon request.

#### **Section 6.06 Indebtedness**

The City shall have the right to issue and refund general obligation bonds, revenue bonds, and other evidence of indebtedness as is now permitted or as may be hereafter authorized to be issued by a Home Rule City in the State of Texas. All bonds of the City that have been issued, sold, and delivered to the purchaser shall be incontestable. All refunding bonds that have been exchanged shall be incontestable.

A. General Obligation Bonds. The City shall have the power to borrow money through the sale of general obligation bonds, which shall constitute direct and general obligations of the City, payable from ad valorem, ~~valorem~~ taxes levied against all taxable property located therein, within the limits prescribed by law or this Charter.

B. Revenue Bonds. The City shall have the power to borrow money for constructing, purchasing, improving, extending, or repairing public utilities, recreational facilities, or any other self-liquidating municipal function not prohibited by state law. Such borrowing shall be implemented through revenue bonds that are payable, both as to the principal and interest, solely from and secured by a first lien on and pledge from the income, or both, after deduction of reasonable operating and maintenance expenses as

### **EXHIBIT "A"**

required by law. The holders of the revenue bonds shall never have the right to demand payment thereof of monies raised or to be raised by taxation.

C. Short Term Borrowing. The City may borrow funds on the credit of the City for a term not to exceed one year. Such obligations must be retired by the end of the budget year in which they were issued. All short-term obligations are payable out of available current revenue.

D. Certificates of Obligation. The City shall have the power to issue Certificates of Obligation in accordance with the laws of the State of Texas.

## ARTICLE VII

### REVENUE AND TAXATION

#### Section 7.01 City Tax Assessor Collector

The City 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 collection of taxes for any body possessing the power of taxation and having a contract with the City for such services.

#### Section 7.02 Power of Taxation

The City Council shall have the power to levy and collect taxes for any municipal purpose not prohibited by State Law or restricted by this Charter.

#### Section 7.03 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 exempt 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 appraisal value on January 1 as determined by the Tarrant Appraisal District or its successor.

#### Section 7.04 Tax Rate

The tax rate shall be calculated, publicized, and adopted in accordance with State Law and as further provided in this Charter.

A. ~~In accordance with state law, By August 7, of each year, or as soon thereafter as practical,~~ the City Tax Assessor Collector shall calculate, publicize, and inform the City Council of the effective tax rate for the current year as prescribed by State Law.

B. Subsequently, if the tax rate proposed to be adopted by the City Council results in a tax rate which exceeds the effective tax rate determined by (A) above, the City Council shall cause written notification to be provided to all property owners and shall, within 21 days of such notification, call a public hearing to afford adequate opportunity for proponents and opponents of the tax increase to present their views.

### EXHIBIT "A"

C. ~~In accordance with state law, By September 1, or as soon thereafter as practical,~~ the City Council shall adopt, by ordinance, a tax rate for the current year, subject to the limitations prescribed by State Law and by this Charter, and shall notify the City Tax Collector of such adoption. The vote on said ordinance shall be separate from the vote adopting the budget.

#### **Section 7.05**      ~~Reserved~~ — **Election to Repeal Tax Increase**

~~If the City Council adopts a tax rate that exceeds the effective tax rate calculated in accordance with State Law by more than eight (8) percent, the qualified voters of the City, by petition, may require that an election be held to determine whether or not to reduce the tax rate adopted for the current year to a rate that exceeds the effective tax rate by eight (8) percent. Such petition is valid if it complies with State Law.~~

#### **Section 7.06**      **Homestead Tax Exemptions**

A. The City Council may pass, by ordinance, General Homestead exemptions, special Homestead exemptions, or such as "Over 65" exemption, and Military Disabled exemption (Military exemption rates set by State Law), or other exemptions provided by State Law.

B. The City Tax Assessor Collector shall prescribe the method and manner in which such exemptions may be secured by qualified property owner(s) in accordance with State Law.

#### **Section 7.07**      **Tax Payments**

All taxes due the City shall be payable in legal tender to the City, and shall become due and payable upon receipt of the tax bill. Such taxes shall be ~~deemed~~ delinquent ~~in accordance with state law 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.

#### **Section 7.08**      **Tax Liens and Liability**

On January 1; of each year, a tax lien in favor of the City attaches to all real and personal property to secure the payment of all taxes, penalties, and interest ultimately imposed for the year on that property, whether or not 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 ~~deceased~~ ~~descendent~~ made against the estate of a ~~deceased~~ ~~descendent~~ as provided by law.

### **ARTICLE VIII**

#### **BOARDS AND COMMISSIONS**

#### **Section 8.01**      **Boards and Commission - General**

**A** In addition to the boards and commissions established by this Charter, the

#### **EXHIBIT "A"**

City Council shall be empowered to create additional boards and commissions. A board or commission member shall be a qualified voter, not delinquent in payment of City taxes, and shall serve without compensation but may be reimbursed for actual expenses as approved by the City Council.

~~A board or commission member shall not serve on any other City board or commission which term runs concurrently or be a member of the City Council, City employee, or member of the immediate family, i.e., husband or wife and children living at home.~~

**B** The City Secretary shall provide application forms to all qualified citizens who express interest in serving on the boards and commissions, and shall publish notices of this procedure and of impending vacancies. All such applicants shall receive due consideration by the City Council; however, the City Council may select and appoint any qualified person.

~~The City Council shall have the authority to remove any appointee from any board or commission for disinterest, incompetence, malfeasance, or other good cause, as determined by the Council. If removed, a hearing shall be granted upon request by the removed person.~~

## **Section 8.02 Planning and Zoning Commission**

~~A Planning and Zoning Commission shall be established in accordance with state law, with powers and duties prescribed by state law and ordinances of the City of Everman, to advise and formulate recommendations to the City Council on zoning regulations. The commission shall consist of five (5) voting members, appointed by and responsible to the City Council. Commission members shall serve two (2) year terms, Places 1, 3, 5 shall be appointed in odd numbered years, and Places 2, 4 shall be appointed in even numbered years. The qualifications specified in Section 4.05 shall apply to members of the Planning and Zoning Commission. The Commission shall elect a chairperson from its members, and shall meet not less than once each month. A majority of all the members shall constitute a quorum. The duties and powers of the Planning and Zoning Commission shall include:~~

~~A. To review proposed changes in zoning districts and make recommendations to the City Council, in accordance with procedures for such review as established by ordinance. Review all current and proposed ordinances and amendments pertaining to planning and zoning and make recommendations to the City Council for action to be taken. When the City Council has denied a proposal with prejudice, or when the applicant has withdrawn the proposal at the Zoning Commission meeting thereon, no reapplication requesting the same zoning classification for the same property shall be accepted by the City or scheduled for hearing by the Zoning Commission within a period of twelve (12) calendar months of the Council's denial with prejudice or applicant's withdrawal. Provided, however, upon receipt of a request stating how conditions have changed substantially within the community since the prior denial with prejudice or withdrawal, the Commission may waive the mandatory delay period and authorize the acceptance of a new application.~~

~~B. To review and approve or deny proposed platting or subdivision of land within the City and its extraterritorial jurisdiction in accordance with procedures established by~~

### **EXHIBIT "A"**

ordinance and State Law. Any party aggrieved by the decision of the Planning and Zoning Commission may appeal to the City Council for a review of the decision. Make, amend, extend and add to a master plan for the physical development of the City.

~~C. Keep public records of its resolutions, findings and determination, and any other duties or powers assigned to the Commission by ordinance.~~

### **Section 8.03 Board of Adjustment**

~~A Zoning Board of Adjustment shall be established in accordance with state law, with powers and duties prescribed by state law and ordinances of the City of Everman, to hear appeals from any aggrieved person or by any officer, department or Board of the City affected by any decision pertaining to zoning. The Board of Adjustment shall consist of five (5) voting members, appointed by and responsible to the City Council. Board members shall serve two (2) terms, with Places 1, 3, 5 appointed in odd numbered years and Place 2 and 4 appointed in even numbered years. In addition, the City Council may appoint up to three (3) alternates, to serve in the absence of any Board member. The qualifications specified in Section 4.05 shall apply to members of the Board of Adjustment. The Board shall elect a chairperson from its members and meetings shall be held at the call of the chairperson. The Board shall keep public records of its resolutions, findings, and determination.~~

~~The Board of Adjustments shall have all powers granted by, and controlled by the provisions of State Law. The Board is vested with the power and authority, and in appropriate cases and subject to appropriate conditions and safeguards, to make such exemptions to the terms of appropriate ordinances in harmony with their general purposes and intent and in accordance with general and special rules therein contained for the purpose of rendering full justice and equity to the general public. The City Council shall establish, by ordinance, procedures for accepting, hearing and acting upon appeals. The concurring vote of four (4) members of the Board of Adjustments shall be necessary to reverse any order, requirement, decision or determination, or to decide in favor of the application.~~

### **Section 8.04 Parks and Recreation Board**

~~The City Council shall appoint a policy board to be known as the Parks and Recreation Board. The Board shall be composed of five (5) members who shall be appointed for two (2) years, Places 1, 3, 5 appointed in odd numbered years and 2, and 4, appointed in even numbered years. The Board shall implement the Parks and Recreation programs and policies solely through the Director of Parks and Recreation. The qualification specified in Section 4.05 shall apply to members of the Parks and Recreation Board.~~

### **Section 8.05 Vacancies**

~~Any vacancy on any Board shall be filled following the same procedure provided for making the original appointment. The replacement shall sit on the Board for the remainder of the original term.~~

## ARTICLE IX

### MUNICIPAL COURT

#### **Section 9.01 Establishment of the Municipal Court**

A Municipal Court, known as the "Municipal Court in Everman, 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. The City Council shall have the power to create and establish by ordinance additional Municipal Courts.

#### **Section 9.02 Fines, Fee, and Costs**

All fines, fees, or costs collected by the Municipal Court shall be deposited in the City treasury. No fee or costs shall be charged except those authorized by State Law. Neither the compensation of the Judge of the Municipal Court, nor of any full or part-time employee of the City, shall be based upon a percentage of the fines imposed by the Municipal Court.

#### **Section 9.03 Judge of the Municipal Court**

The City Council shall appoint a Judge who shall be known as the "Judge of the Municipal Court." The Judge shall be appointed for a two (2) year term. The City Council shall fix the compensation for the Judge. The City Council shall have the authority to remove the Municipal Judge for good cause as determined by the City Council. A hearing must be held, and removal shall require an affirmative vote of at least four (4) members of the City Council. If for any reason the Judge is unable to act, the City Council shall either declare the office vacant, or appoint a temporary Judge to serve until the Judge is able to act. If the office of the Judge is declared vacant, it shall be filled by appointment by the City Council in accordance with this Section.

#### **Section 9.04 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 of the duties prescribed by law for clerks of such courts, insofar as those duties are applicable.

#### **Section 9.05 City Prosecutor**

All cases in Municipal Court shall be prosecuted by the City Attorney or such attorneys as the Council may authorize.

## ARTICLE X

### UTILITY AND PUBLIC SERVICE FRANCHISES AND LICENSES

#### **Section 10.01 Authority**

The City shall have the power to buy, own, sell, construct, lease, maintain, operate and

#### **EXHIBIT "A"**