

**HOME RULE CHARTER  
FOR THE CITY OF EL CAMPO,  
TEXAS**

**PREAMBLE**

We, the citizens of El Campo, Texas, in order to establish a home rule municipal government, provide for the future progress of our city and obtain more fully the benefits of local self-government, do hereby adopt this home rule charter in accordance with the statutes of the State of Texas; and do hereby declare the residents of the City of El Campo in Wharton County, Texas, living within the legally established boundaries of the said city, to be a political subdivision of the State of Texas incorporated forever under the name and style of the "City of El Campo," with such powers, rights and duties as are herein provided.

***ARTICLE 1***

**FORM**

**OF GOVERNMENT AND BOUNDARIES**

**§ 1.01 Form of Government**

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

**§ 1.02 The Boundaries**

The boundaries of the City of El Campo are hereby established as follows: located and situated in the County of Wharton, State of Texas, and being described by metes and bounds in a document titled "Metes and Bounds of the Corporate Limits of the City of El Campo, Texas, as of October 3, 1954," which document is filed in the City Hall of the City of El Campo and is also recorded in the county clerk's office of Wharton County, Texas. All changes, alterations and amendments must also be recorded in the county clerk's office of Wharton County, Texas.

**§ 1.03 Extension of Boundaries**

The boundaries of the City of El Campo may be enlarged and extended by the annexation of additional territory, irrespective of size and configuration, in any of the methods hereinafter designated:

*(a) Extending Limits in Accordance with Chapters 43, Local Government Code:*

Where such additional territory adjoins the municipal limits of the city, such adjacent territory may be annexed to the city in the manner and in conformity with the procedure set forth in Chapter 43, Local Government Code of the Revised Statutes of the State of Texas as presently enacted or hereafter amended.

*(b) Annexation of Unoccupied Lands on Petition of Owners:*

The owner or owners of any land which is without residents, contiguous and adjacent to the city may, by petition in writing to the City Council, request the annexation of such contiguous and adjacent land, describing it by metes and bounds. The City Council shall thereafter, and not less than five (5) and not more than thirty (30) days after the filing of such petition, hear such petition and the arguments for and against the same, and grant or refuse such petition as the City Council may see fit. If the City Council grants such petition, it may by proper ordinance receive and annex such territory as a part of the city.

*(c) Annexation by Any Other Method Provided by Law:*

Additional territory may also be annexed to the city in any manner and by any procedure that may now be provided by law or that may be hereafter provided by law. Same shall be in addition to the methods hereinabove provided.

*(d) Annexed Territory to Become Part of the City:*

Upon completion of any of the procedures hereinabove provided, the territory so annexed shall become a part of the city, and said land and its residents and future residents shall be entitled to all the rights and privileges of other citizens of the city and shall be bound by the acts, ordinances, resolutions and regulations of the city.

**§ 1.04 Contraction of Boundaries**

Whenever there exists within the corporate limits of the City of El Campo any territory not suitable or necessary for city purposes, the City Council may, upon a petition signed by a majority of the qualified voters residing in such territory, if the same be inhabited, or without any such petition if the same be uninhabited, by ordinance duly passed, discontinue said territory as a part of said city; said petition and ordinance shall specify accurately the metes and bounds of the territory sought to be eliminated from the city and shall contain a plat designating such territory so that the same can be definitely ascertained; and when said ordinance has been duly passed the same shall be entered upon the minutes and records of said city, and from and after the entry of such ordinance said territory shall cease to be a part of said city, but said territory shall be liable for its pro rata share of any debts incurred while said area was a part of said city, and the city shall continue to levy, assess and collect taxes on the property within said territory to pay the indebtedness incurred while said area was a part of the city as though the same had not been excluded from the boundaries of the city.

**ARTICLE 2**

**POWERS OF THE CITY**

**§ 2.01 General**

The City of El Campo may use a corporate seal; may sue and be sued; may contract and be contracted with; may implead and be impleaded in all courts in all matters whatsoever; may cooperate with the government of the State of Texas or any agency

thereof, the Federal Government or any agency thereof, or any political subdivision of the State of Texas; and shall have all the powers granted to cities by the constitution and laws of the State of Texas, together with all the implied powers necessary to carry into execution all the powers granted. The city may acquire property within or without its boundaries for any municipal purpose in fee simple or in any lesser interest or estate, by purchase, gift, devise, lease or condemnation and may sell, lease, hold, manage and control any property now owned by it or which it may hereafter acquire; and may construct, own, lease, operate and regulate public utilities; may assess, levy and collect taxes for general and special purposes on all lawful subjects of taxation; may borrow money on the faith and credit of the city by the issuance and sale of bonds or notes of the city; may appropriate the money of the city for all lawful purposes; may regulate and control the use, for whatever purpose, of the streets and other public places, may make and enforce all police, health, sanitary and other regulation and may pass such ordinances as may be expedient for the protection and maintenance of good government, peace and welfare of the city, for the performance of the functions thereof, for the order and security of its residents; and may provide suitable penalties for the violation of any ordinance enacted by the City of El Campo; and, except as prohibited by the constitution and laws of this state or restricted by this charter, the city may exercise all municipal powers, functions, rights, privileges and immunities of every name and nature whatsoever.

### **§ 2.02 General Powers Adopted**

The enumeration of the particular powers in this charter shall not be held or deemed to be exclusive but in addition to the powers enumerated herein or implied hereby or appropriate to the exercise of such powers, the city shall have and may exercise all power of local self-government and all other powers which, under the constitution and laws of the State of Texas, it would be competent for this Charter specifically to enumerate. The City of El Campo shall have and may exercise all the powers enumerated in Article 1175, Chapter 13, Title 28, of the Revised Civil Statutes of the State of Texas of 1925 as now or hereafter amended.

### **§ 2.03 Eminent Domain**

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

## **ARTICLE 3**

### **THE CITY COUNCIL**

#### **§ 3.01 Number, Selection and Term**

The legislative and governing body of the city shall consist of seven (7) councilmembers, and shall be known as "The City Council of the City of El Campo."

(a) The members of the City Council shall be elected from the city by positions, in accordance with the election procedure set out in Article 5 of the charter.

(b) The City Council of the City of El Campo shall be composed of seven (7) councilmembers whereby four (4) positions shall be by district and three (3) positions shall be "at large" positions. The candidates for the district positions shall reside in said voting

district and shall be elected only of voters by majority vote residing within such district.

The candidates for the "at large" positions shall be elected by the voters of the entire city with three (3) such "at large" positions being elected by plurality vote. The initial procedure to implement this plan shall be determined by ordinance to be passed by the City Council in the year 1987, prior to the city election to be held the following year in 1988.

The City Council of the City of El Campo, Texas shall by ordinance, to be passed in the year 1987, divide the city into four (4) separate voting districts, such voting districts to be composed of equal population density as near as possible in all four voting districts. Commencing in the year 1988, all seven (7) council positions shall be declared vacant and seven (7) councilmembers shall be elected, four (4) from district positions and three (3) councilmembers from "at large" positions. The council at its first meeting in January of 1988 shall by a toss of a coin determine the length of term of the district positions and the "at large" positions. One (1) of the two (2) to be one (1) year terms and the other to be two (2) year terms. Thereafter, and commencing with the city election in the year 1988, newly elected councilmembers terms of subsequent duly elected City Councilmembers shall be two (2) years. The district positions and "at large" positions to be in alternate years. Such term of office shall be for a period of two (2) years and until their successor is elected and qualified, unless their place is declared vacant under any of the provisions of this Charter. No councilmember shall be eligible to serve more than five (5) full consecutive terms. A person having served five (5) full consecutive terms shall again be eligible for election to the position of councilmember in the next general election that occurs after the expiration of the (5th) full consecutive term.

\* **Editor's note**—As determined by a coin flip and Ordinance No. 1988-03 adopted January 26, 1988 the terms for the office of the "at large" City Councilmembers were two years and the "district" positions were one year for the election held on May 7, 1988.

(c) The City Council, at its first meeting after each election and qualification of the member, shall elect one of its number, mayor, who shall be the presiding officer of the City Council, and shall be recognized as the head of the city government for all legal and ceremonial purposes and by the Governor for purposes of military law, but shall not have regular administrative duties. The City Council shall, at the same meeting, elect a Mayor Pro-Tem, who shall perform all the duties of the Mayor in the event of their absence or incapacity. The Mayor and Mayor Pro-Tem shall each be entitled to vote on all matters under consideration by the City Council.

### **§ 3.02 Qualifications**

- (a) Each member of the City Council shall have and maintain the following qualifications: Shall be a resident citizen of the City of El Campo, shall be a registered and qualified voter of the State of Texas, shall have been such resident citizen of the City of El Campo for a period of not less than six (6) months immediately preceding the date of filing for their election, provided, however, that any person with the above qualifications, except as to residence, who shall have been a resident for a period of not less than one (1) year immediately preceding their 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 any councilmember 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 3.04 of this Charter.
- (b) The City Council shall be the judge of the election and qualifications of its own members.

### **§ 3.03 Compensation**

The City Council shall fix the compensation to be received by its members for attendance at its meeting; provided, however, that no member shall receive more than one hundred dollars (\$100.00) in any one (1) month for attendance at such meetings. Council members shall also be entitled to reasonable expenses while out of the city on city business.

### **§ 3.04 Vacancies**

When a vacancy occurs in the City Council, the remaining members of the City Council must, within twenty (20) days after declaring a vacancy, appoint a person who possesses the qualifications required by this Charter of a council member, to serve as a successor council member for such vacated position until the immediate following May when such position shall be open to election for the then remaining term of such position, if any, or a new term if the regular term for such vacated position has expired. A vote of at least four (4) council members shall be required for the appointment of a qualified person to fill a vacancy. If a vacancy occurs after February 1<sup>st</sup> of any year, the vacated position shall remain vacant until a successor council member is elected in the immediate following May election and the City Council shall not have the authority to appoint a successor to such vacated position.

### **3.05 Powers of the City Council**

All powers of the city and the determination of all matters of policy shall be vested in the City Council. Within limitation of the foregoing and among the other powers that may be exercised by the City Council, the following are hereby enumerated for greater certainty:

- (a) Remove from office or position of employment in the city government, the city manager and any member of any board or commission.
- (b) Establish, consolidate or abolish administrative departments and distribute the work of divisions.
- (c) Adopt the budget of the city.
- (d) Authorize the issuance of bonds by a bond ordinance.
- (e) Inquire into the conduct of any office, department or agency of the city and make investigations as to municipal affairs.
- (f) Appoint the members of all such boards and commissions as may be established by charter, ordinance or otherwise and provide for the appointment of all vacancies to such boards and commissions and to further provide for such additional boards and commissions not otherwise provided for in this charter, as may be deemed necessary and expand or reduce the number of members to any existing board and/or commission.
- (g) Adopt and modify the zoning plan and all codes of the City,
- (h) Adopt and modify the official map of the city.

- (i) Regulate, license and fix the charges or fares made by any person, firm or corporation owning, operating or controlling any vehicle of any character used for the carrying of passengers for hire or the transportation of freight for hire on the public streets and alleys of the city.
- (j) Fix the salaries and compensation of the city officers and employees, not otherwise provided for in this charter.
- (k) Provide for a sanitary sewer and water system and require property owners to connect their premises with such sewer system, and provide for penalties for failure to make sanitary sewer connections.
- (l) Provide for sanitary garbage disposal and set fees and charges therefor, and provide penalties for failure to pay such fees and charges.
- (m) Exercise exclusive dominion, control and jurisdiction in, upon, over and under the public streets, avenues, sidewalks, alleys, highways, boulevards and public grounds of the city and provide for the improvement of same as provided in Article 1105b, Chapter 9, Title 28 of the Revised Civil Statutes of the State of Texas of 1925, as now or hereafter amended.
- (n) Compromise and settle any and all claims and lawsuits of every kind and character in favor of or against the City of El Campo.

### **§ 3.06 Meetings of the City Council**

The City Council shall hold at least two (2) regular meetings in each month at times to be fixed by it for such regular meetings, and may hold as many additional meetings during the month as may be necessary for the transaction of the business of the city and its citizens. The City Council may, at its discretion, decide to cancel one regular meeting in any one month, however, only two regular City Council meetings may be canceled in a calendar year. All meetings of the City Council shall be public and shall be held at the city hall, except that the City Council may designate another place for such meetings after publishing due notice thereof in one (1) issue of a newspaper in general circulation in the City of El Campo. The Mayor or any two (2) members of the City Council may call special meetings of the City Council at any time.

### **§ 3.07 Rules of Procedure**

The City Council shall determine its own rules of procedure and may compel the attendance of its members. Four (4) of the qualified members of the City Council shall constitute a quorum to do business and the affirmative vote of a majority of those present shall be necessary to adopt any ordinance or resolution, except as otherwise provided for in this charter. Provided however, that the criteria contained within Section 3C-5 of the Zoning Ordinance, as it relates to 75%, or 6 members, of City Council necessary to overrule certain Planning and Zoning Commission recommendations is applicable. Minutes of the proceedings of all meetings of the City Council shall be kept, to which any citizen may have access at all reasonable times and which shall constitute one of the archives of the city. The vote upon the passage of all ordinances and resolutions shall be taken by a hand vote and entered upon the minutes, and every ordinance or resolution, upon its final passage, shall be recorded in a book kept for that purpose, and shall be authenticated by the signature of the presiding officer and the person performing the duties of the City Secretary. Permanent recording of all ordinances shall be made within three (3) days after final passage.

### **§ 3.08 Procedure for Passage of Ordinances**

Every ordinance shall be introduced in written or printed form and, upon passage, shall

take effect at the time indicated therein; provided that any ordinance imposing a penalty, fine or forfeiture for a violation of its provisions shall become effective not less than ten (10) days from the date of its passage; subject to the provisions of Article 7 of this charter. The City Secretary shall give notice of the passage of every ordinance imposing a penalty, fine or forfeiture for a violation of the provisions thereof, by causing the caption or title, including the penalty, of any such ordinance to be published in a newspaper of general circulation, published in the City of El Campo, at least twice within ten (10) days after the passage of said ordinance. The City Secretary shall note on every ordinance, the caption of which is hereby required to be published, and on the record thereof, the fact that same has been published as required by the charter, and the date of such publication, which shall be prima facie evidence of the legal publication and promulgation of such ordinance; provided, that the provisions of this section shall not apply to the correction, amendment, revision and codification of the ordinances of the city for publication in book or pamphlet form. Except as otherwise provided by Article 13 of this Charter, it shall not be necessary to the validity of any ordinance that it shall be read more than one time or considered at more than one session of the City Council. Every ordinance shall be authenticated by the signature of the Mayor and City Secretary and shall be systematically recorded and indexed in an ordinance book in a manner approved by the City Council. It shall only be necessary to record the caption or title of ordinances in the minutes or journal of council meetings. The City Council shall have power to cause the ordinances of the city to be corrected, amended, revised, codified and printed in code form as often as the City Council deems advisable, and such printed code, when adopted by the City Council shall be in full force and effect without the necessity of publishing the same or any part thereof in a newspaper. Such printed code shall be admitted in evidence in all courts and places without further proof. The enacting clause of all ordinances shall be: "Be it Ordained by the City Council of the City of El Campo."

### **§ 3.09 Investigation by the City Council**

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

### **§ 3.10 Audit and Examination of City Books and Accounts**

The City Council shall cause a continuous audit to be made of the books and accounts of each and every department of the city. At the close of each fiscal year a complete audit shall be made by a certified public accountant or licensed public accountant to be selected by the City Council, and such audit shall include a recapitulation of all audits made during the course of each fiscal year, and all audit reports shall be filed with the City Council, shall be available for public inspection, and shall be made a part of the archives of the city. Such accountant, so selected, shall not maintain or keep any of the city's accounts or records.

## **ARTICLE 4 ADMINISTRATIVE**

### **SERVICES**

#### **§ 4.01 The City Manager**

##### *(a) Appointment and Qualifications:*

The City Council shall employ a City Manager who shall be the chief administrative and executive officer of the city. The City Manager shall be employed solely on the basis of education, experience and fitness for the position, and preferably but not required to reside in

the City after hiring. The City Manager shall be employed for a salary and on terms to be determined by City Council. City Council may remove the City Manager for cause on a majority vote of the council, on terms to be determined by City Council. No member of the City Council shall be employed as City Manager during the time for which they are elected nor for one (1) year thereafter.

*(b) Responsibilities of the City Manager:*

The City Manager shall be responsible to the City Council for the efficient and economical administration of the city government. The City Manager shall have the power to appoint and to remove all department heads, subject to the approval of the City Council. The City Manager shall have the power to appoint and remove all other employees in the administrative service of the city. The City Manager may authorize the head of a department to appoint and remove subordinates in their respective department. Employees, excluding the City Manager, the City Attorney, the Judge of Municipal Court and Department Heads, shall have a right to appeal a termination to a grievance review board appointed by City Council. The decision of the review board shall be final.

Except for the purpose of inquiry, the City Council and its members shall deal with the administrative service solely through the City Manager. They shall not in any manner take part in the appointment or removal of any person subordinate to the City Manager, other than department heads, nor shall they give any instructions to any subordinate of the City Manager.

*(c) Duties of the City Manager:*

The City Manager shall supervise the administration of the affairs of the city, see that ordinances of the city are enforced, act as the chief conservator of the peace within the city, recommend to the City Council concerning the affairs of the city, attend all meetings of the City Council with the right to discuss but not to vote, inform the City Council on the city's finances, prepare the annual budget, and perform such other duties as the City Council may require which are consistent with this charter.

**§ 4.02 Administrative Departments**

The City Council may abolish, create or consolidate offices and departments of the city government as it may deem necessary, except as otherwise provided for in this Charter.

**§ 4.03 Bonds and Oaths**

The City Manager, and such other officers and employees as the City Council may require to do so, shall give a bond in such amount and surety as may be approved by the City Council. The premiums on such bonds shall be paid by the city. Every officer and department head of the city shall take the oath of office now prescribed by the constitution of Texas.

**§ 4.04 Department of Police**

There shall be established and maintained a Department of Police to preserve order within the city and to secure the residents of said city from violence and the property therein from injury or loss.

*(a) Chief of Police:*

The Chief of Police shall be the chief administrative officer of the Department of Police. The Chief of Police shall, with the approval of the City Manager, appoint and remove the employees of said department and shall perform such duties as may be required by the City Council. The Chief of Police shall be appointed by the City Manager, with the approval of

the City Council, as provided in Article 998, Chapter 3, Title 28 of the Revised Civil Statutes of the State of Texas of 1925 as now or hereafter amended.

(b) *Special Police:*

No persons except as otherwise provided by general law or the charter or the ordinances passed pursuant thereto shall act as special police or special detective.

#### **§ 4.05 City Secretary**

The City Manager shall appoint the City Secretary and such Assistant City Secretaries as the City Council shall deem advisable. The City Secretary, or an Assistant City Secretary, shall give notice of council meetings, shall keep the minutes of the proceedings of such meetings, shall authenticate by their signature and record in full in a book kept and indexed for the purpose, all ordinances and resolutions and shall perform such other duties as the City Manager shall assign and those elsewhere provided for in this Charter. Further, providing that the Assistant City Secretary may perform any and all of the duties of the City Secretary.

#### **§ 4.06 Municipal Court**

(a) There shall be established and maintained a court designated as "Municipal Court" for the trial of misdemeanor offenses with all such powers and duties as are now or hereafter may be prescribed by the laws of the State of Texas relative to Municipal or Recorder's Courts.

(b) The Judge of said court shall be a qualified voter of the City of El Campo, shall be appointed by the City Council of each odd numbered year for a term of (2) two years, and shall receive such compensation as shall be determined by the City Council.

(c) The City Council shall appoint the clerk of the Municipal Court. The Director of Finance shall oversee the operations of this department.

(d) The clerk, or Judge of said court and all deputies shall have the power to administer oaths and affidavits, make certificates, affix the seal of said court thereto, and generally do and perform any and all of the acts usual and necessary by the clerk of courts in issuing process of said courts and conducting the business thereof.

(e) In the case of the disability or absence of the Judge of the Municipal Court, the City Council may appoint an Associate Municipal Judge to act as judge of said court.

#### **§ 4.07 City Attorney**

The City Council shall appoint a competent and duly licensed attorney practicing law in the City of El Campo, Texas, who shall be the City Attorney. The City Attorney shall receive such compensation as shall be determined by the City Council. The City Attorney shall be the legal advisor of, and attorney and counsel for, the city and all officers and departments thereof. The City Attorney, or such other attorneys approved by the City Council, shall represent the city in all litigation.

**§ 4.08 Department of Health and Sanitation**

The City Council shall appoint a City Health Officer and a Board of Health. The Board of Health shall be the governing board of the Department of Health and Sanitation.

*(a) Appointment and Qualifications:*

- (1) The City Health Officer must be a qualified physician licensed to practice medicine in the State of Texas, a resident of the City of El Campo and must be a qualified voter of Wharton County. The City Health Officer shall receive such compensation for their services as the City Council shall determine and shall serve for a period of two (2) years or until their successor shall have been appointed. The first City Health Officer shall be appointed within sixty (60) days after the adoption of this Charter and each succeeding City Health Officer shall be appointed or reappointed within one (1) month after the regular city election in each odd-numbered year.
  
- (2) The Board of Health shall be composed of three (3) members. The members must be qualified voters of Wharton County. One such member shall be a qualified physician (which may be the same as the City Health Officer), licensed to practice medicine in the State of Texas; one member a duly licensed sanitary engineer, or a person whose training is related to the fields of medicine, sanitation, or veterinary medicine; and the third member shall be the City Manager. The members shall receive such compensation for their services on the board as the City Council shall determine and shall serve for a period of two (2) years, or until their successors shall have been appointed and qualified. The first such Board shall be appointed within sixty (60) days after the adoption of this Charter and each succeeding Board shall be appointed or reappointed within one (1) month after the regular city election in each odd numbered years.

*(b) Removal From Office or Removal From Board; Vacancies; How Filled:*

The City Health Officer and members of the Board of Health shall be subject to removal from office by the City Council for any cause deemed by the City Council sufficient for this removal in the interest of the public service, and the decision of the City Council shall be final. Any vacancy shall be filled by the City Council for the unexpired term of the member whose place has become vacant, either by removal or otherwise.

*(c) Administration:*

The physician member shall be the presiding officer of the Board. The City Manager shall be responsible for the general administration of the Department of Health and Sanitation and the supervision of the employees thereof.

*(d) Duties of the Board of Health:*

The Board shall advise the City Council on a program of public health; shall cooperate with nearby cities on problems of health and sanitation; shall cooperate with the Commissioners Court of Wharton County and its agencies, and with the State Health Department and other departments of the state government in matters pertaining to health and sanitation.

*(e) Sanitary Code:*

The Board of Health shall prepare and submit to the City Council for adoption a sanitary code. The sanitary code will specify the regulations and inspections necessary to safeguard the public health of persons resident within the city.

#### **§ 4.09 Fire Department**

The City Council is hereby authorized and shall organize, support and maintain a Fire Department as the best interests of the city may require and the City Council is hereby given all rights and authority as is set out and provided in Articles 1067, 1068, 1069, 1070, and 1070A of the Revised Civil Statutes of Texas in connection with their operation of and control over said Fire Department, and may pass such other ordinances or regulatory measures as the best interests of the City of El Campo shall require.

#### **§ 4.10 Other Departments**

The City Council may abolish or consolidate such offices and departments as it may deem to be to the best interest of the city, and may divide the administration of any such departments as it may deem advisable; may create new departments, and may discontinue any offices or departments at its discretion, except those specifically established by this Charter.

### ***ARTICLE 5***

#### **NOMINATIONS AND ELECTIONS**

##### **§ 5.01 Municipal Elections**

The regular election for the choice of members of the council as provided in Article 3, Section 3.01, shall be held each year on the date specified for such general election by the laws of the State of Texas. Voting shall take place at one centralized polling place for the general election or any runoff election, with the location of such polling place to be determined by the City Council in the ordinance calling for the election. Any runoff election shall be held on a date selected by the City Council for such runoff election as provided in the General Election Statutes of the State of Texas. The City Council may by resolution order such special election for a runoff as provided by the laws of the State of Texas, fix the time for holding same, and provide all means for holding such special elections.

##### **§ 5.02 Regulations of Elections**

The City Council shall make all regulations which it considers needful or desirable, not inconsistent with this Charter or the laws of the State of Texas, for the conduct of municipal elections, for the prevention of fraud in such elections and for the recount of ballots in case of doubt or fraud. Municipal elections shall be conducted by the appointed election authorities, who shall also have power to make such regulations not inconsistent with this Charter, with any regulations made by the City Council or the laws of the State of Texas.

##### **§ 5.03 Filing for Office**

Any qualified elector of the city who is otherwise qualified may have their name printed upon the official ballot for the office of councilmember at any election by filing their application, together with the loyalty oath required of state officials, with the Mayor, City Secretary or City Manager in accordance with the Texas Election Code. If, after the filing deadline has expired no qualified candidate has filed the required application to run for a position that is open to election for council member the vacant position may be filled immediately after the May election by appointment by the City Council as provided for in Section 3.04 of this Charter.

##### **§ 5.04 Official Ballot**

The full names of all candidates for the City Council as hereinbefore provided, except such as may have withdrawn, or become ineligible, shall be printed on the official ballots without party designation. If two (2) candidates with the same surnames, or with names so similar as to be likely to cause confusion are nominated, the addresses of their places of residence shall be placed with their names on the ballot. The order of the names on the ballot shall be determined by lot by the City Council.

### **§ 5.05 Election of Council**

At the regular municipal election the candidates for the district positions of councilmember shall be elected by a majority of the votes cast for such position. The persons receiving the majority of such votes cast in such election shall be declared elected. At the regular municipal election the candidates for the "at large" positions shall be elected by plurality of the votes cast for such position. The three (3) persons receiving the most of such votes cast in such election shall be declared elected.

### **§ 5.06 Canvassing Elections**

Returns of elections, general and special, shall be made by the election officers to the person acting as City Secretary not later than the second day after the holding of any election. The City Council shall meet not later than ten (10) days after the holding of said election, shall canvass the returns and declare the results of such election.

### **§ 5.07 Laws Governing City Elections**

All city elections shall be governed, except as otherwise provided by the Charter, by the laws of the State of Texas governing general and municipal elections, so far as same may be applicable thereto; and in event there should be any failure of the general laws or this Charter to provide for some feature of the city elections, then the City Council shall have the power to provide for such deficiency, and no informalities in conducting a city election shall invalidate the same, if it be conducted fairly and in substantial compliance with the general laws, where applicable, and the Charter and ordinances of the city.

## ***ARTICLE 6    RECALL***

### ***OF OFFICERS***

### **§ 6.01 Scope of Recall**

Any elected city official, whether elected to office by the qualified voters of the city or appointed by the City Council to fill a vacancy shall be subject to recall and removal from office by the qualified voters of the city on grounds of incompetency, misconduct or malfeasance in office.

### **§ 6.02 Petitions for Recall**

Before the question of recall of such officer shall be submitted to the qualified voters of the city, a petition demanding such question to be so submitted shall first be filed with the person performing the duties of City Secretary; which said petition shall be signed by qualified voters of the city equal in number to at least thirty percent (30%) of the number of votes cast at the last regular municipal election of the city, but in no event less than two hundred (200) such petitioners. Each signer of such recall petition shall personally sign their name thereto in ink or indelible pencil, and shall write after their name their place of residence, giving name of street and number, or place of residence, and shall also write thereon the day, the month and year their signature was affixed.

### **§ 6.03 Form of Recall Petition**

The recall petition mentioned above must be addressed to the City Council of the City of El Campo, must distinctly and specifically point out the ground or grounds upon which such petition for removal is predicated, and, if there be more than one ground, such as for incompetency, misconduct or malfeasance in office, shall specifically state each ground with such certainty as to give the officer sought to be removed, notice of the matters and things with which he is charged. The signature shall be certified by oath in the following form:

"STATE OF TEXAS  
COUNTY OF WHARTON

I, \_\_\_\_\_, being first duly sworn, on oath depose and say that I am one of the signers of the above petition; that I personally circulated said petition, and that each of the signatures appearing thereon was made in my presence on the day and date it purports to have been made, and I solemnly swear that the same are the genuine signatures of the persons whose names they purport to be.

Sworn and subscribed to before me this \_\_\_ day of \_\_\_\_\_, 20\_\_

Notary Public in and for  
Wharton County, Texas."

### **§ 6.04 Various Papers Constituting Petition**

The petition may consist of one or more copies, or subscription lists, circulated separately, and the signatures thereto may be upon the paper or papers containing the form of petition, or upon other papers attached thereto. Verifications provided for in the next preceding section of this article may be made by one or more petitioners, and the several parts or copies of the petition may be filed separately and by different persons; but no signatures to such petition shall remain effective or be counted which were placed thereon more than forty-five (45) days prior to the filing of such petition or petitions with the person performing the duties of City Secretary. All papers comprising a recall petition shall be filed with the person performing the duties of City Secretary on the same day, and the said secretary shall immediately notify, in writing, the officer so sought to be removed, by mailing such notice to his El Campo address.

### **§ 6.05 Presentation of Petition to City Council**

Within five (5) days after the date of filing of the papers constituting the recall petition, the person performing the duties of City Secretary shall present such petition to the City Council of the City of El Campo.

### **§ 6.06 Public Hearing to be Held**

The officer whose removal is sought may within five (5) days after such recall petition has been presented to the City Council, request that a public hearing be held to permit them to present facts pertinent to the charges specified in the recall petition. In this event, the City Council shall order such public hearing to be held, not less than five (5) days nor more than fifteen (15) days after receiving such request for a public hearing.

### **§ 6.07 Election to be Called**

If the officer whose removal is sought does not resign, then it shall become the duty of the City Council to order an election and fix a date for holding such recall election, the date of which election shall be not less than twenty-five (25) nor more than thirty-five (35) days from the date such petition was presented to the City Council, or from the date of the public hearing if one was held.

### **§ 6.08 Ballots in Recall Election**

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

(a) With respect to each person whose removal is sought, the question to be submitted shall be:

"Shall (name of person) be removed from the office of (name of office) by recall?"

(b) Immediately below each such question there shall be printed the two (2) following propositions, one above the other, in the order indicated:

"FOR the recall of (name of person)."

"AGAINST the recall of (name of person)."

### **§ 6.09 Results of Recall Election**

If a majority of the votes cast at a recall election shall be against the recall of the person named on the ballot, they shall continue in office for the remainder of their unexpired term, subject to recall as before. If a majority of the votes cast at such an election be for the recall of the person named on the ballot, they shall, regardless of any technical defects in the recall petition, be deemed removed from office and the vacancy shall be filled as vacancies in the City Council are filled, as provided in section 3.04 of this charter.

### **§ 6.10 Recall, Restrictions Thereon**

No recall petition shall be filed against any officer of the City of El Campo within three (3) months after their election, nor within three (3) months after an election for such officer's recall.

### **§ 6.11 Failure of City Council to Call Election**

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

## ***ARTICLE 7***

### **LEGISLATION BY THE PEOPLE. INITIATIVE AND REFERENDUM**

## **§7.01 General Power**

The qualified voters of the City of El Campo, in addition to the method of legislation hereinbefore provided, shall have the power of direct legislation by the initiative and referendum.

## **§ 7.02 Initiative**

Qualified voters of the City of El Campo may initiate legislation by submitting a petition addressed to the City Council which requests the submission of a proposed ordinance or resolution to a vote of the qualified voters of the city. Said petition must be signed by qualified voters of the city equal in number to twenty percent (20%) of the number of votes cast at the last regular municipal election of the city, for at large councilmembers in a contested councilmember race, or 150, whichever is greater, and each copy of the petition shall have attached to it a copy of the proposed legislation. The petition shall be signed in the same manner as recall petitions are signed, as provided in section 6.02 of this Charter, and shall be verified by oath in the manner and form provided for recall petitions in section 6.03 of this Charter. The petition may consist of one or more copies as permitted for recall petitions in section 6.04 of this Charter. Such petition shall be filed with the person performing the duties of City Secretary. Within five (5) days after the filing of such petition, the person performing the duties of City Secretary shall present said petition and proposed ordinance or resolution to the City Council. Upon presentation to City Council of the petition and draft of the proposed ordinance or resolution, it shall become the duty of the City Council, within ten (10) days after the receipt thereof, to pass and adopt such ordinance or resolution without alteration as to meaning or effect in the opinion of the persons filing the petition, or to call a special election, to be held within thirty (30) days thereafter, at which the qualified voters of the City of El Campo shall vote on the question of adopting or rejecting the proposed legislation. However, if any other municipal election is to be held within sixty (60) days after the filing of the petition, the question may be voted on at such election.

## **§ 7.03 Referendum**

Qualified voters of the City of El Campo may require that any ordinance or resolution, except those ordinances or resolutions annexing land, passed by the City Council be submitted to the voters of the city for approval or disapproval, by submitting a petition for this purpose within thirty (30) days after final passage of said ordinance or resolution, or within thirty (30) days after its publication. Said petition shall be addressed, prepared, signed and verified as required for petitions initiating legislation as provided in section 7.02 of this Charter and shall be submitted to the person performing the duties of City Secretary. Immediately upon the filing of such petition, the person performing the duties of City Secretary shall present said petition to the City Council. Thereupon the City Council shall immediately reconsider such ordinance or resolution and; if it does not entirely repeal the same, shall submit it to popular vote as provided in section 6.07 of this Charter. Pending the holding of such election, such ordinance or resolution shall be suspended from taking effect and shall not later take effect unless a majority of the qualified voters voting thereon at such election shall vote in favor thereof.

## **§ 7.04 Voluntary Submission of Legislation by the Council**

The City Council, upon its own motion and by a majority vote of its members, may submit to popular vote at any election for adoption or rejection any proposed ordinance or resolution or measure, or may submit for repeal any existing ordinance, resolution or measure, in the same manner and with the same force and effect as provided in this article for submission on petition, and may in its discretion call a special election for this

purpose.

### **§ 7.05 Form of Ballots**

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

"FOR the ORDINANCE," and  
"AGAINST the ORDINANCE," or  
"FOR the RESOLUTION," and  
"AGAINST the RESOLUTION."

### **§ 7.06 Publication of Proposed and Referred Ordinances**

The person performing the duties of City Secretary shall publish at least once in a newspaper of general circulation published in El Campo the proposed or referred ordinance or resolution within fifteen (15) days before the date of the election, and shall give such other notices and do such other things relative to such election as are required in general municipal elections or by the ordinance or resolution calling said election.

### **§ 7.07 Adoption of Ordinances**

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

### **§ 7.08 Inconsistent Ordinances**

If the provisions of two (2) or more proposed ordinances or resolutions approved at the same election are inconsistent, the ordinance or resolution receiving the highest number of votes shall prevail.

### **§ 7.09 Ordinances Passed by Popular Vote, Repeal or Amendment**

No ordinance or resolution which may have been passed by the City Council upon a petition or adopted by popular vote under the provisions of this article shall be repealed or amended except by the City Council in response to a referendum, petition or by submission as provided in section 7.04 of this Charter.

### **§ 7.10 Further Regulations by City Council**

The City Council may pass ordinances or resolutions providing other and further regulations for carrying out the provisions of this article not inconsistent herewith.

### **§ 7.11 Franchise Ordinances**

Nothing contained in this article shall be construed to be in conflict with any of the provisions of Article 13 of this Charter, pertaining to ordinances granting franchises when valuable rights shall have accrued thereunder.

## ***ARTICLE 8***

### **MUNICIPAL PLANNING AND ZONING**

#### **§ 8.01 Zoning**

The City Council shall have the powers and duties in regard to zoning as set forth in the Local Government Code of the Revised Civil Statutes of the State of Texas and any

amendments thereto or successor statutes.

### **§ 8.02 Development of Property**

The City Council shall cooperate in every manner possible with persons interested in the development of property within or beyond the city limits. No expenditure of public funds, however, shall be authorized for the development of private-owned subdivisions situated within or beyond the corporate limits of the city, except for the extension of utilities or services to such areas and over-sizing of any infrastructure deemed necessary for future development. The City of El Campo hereby adopts the provisions of Chapter 212 of the Local Government Code.

### **§ 8.03 Planning Commission**

The City Council shall appoint, within sixty (60) days after the adoption of this Charter, a city planning commission of seven (7) members who shall be residents of the City of El Campo, shall serve without compensation, and shall not be employed or hold any other position in the city government.

*(a) Term of Office:*

The term of office for the seven (7) member planning commission shall be three (3) years.

*(b) Rules of Procedure:*

The commission shall elect annually, one of its number, chairman, and shall establish its own rules of procedure which shall include the following: a quorum shall consist of a majority of the members of the commission and an affirmative vote of a majority of those present shall be necessary to pass upon pending questions, the chairman being entitled to vote upon any question. All meetings shall be open to the public and a record of all proceedings shall be kept, which record shall be filed with the person performing the duties of City Secretary and shall be a public record.

*(c) Vacancies:*

Membership on the planning commission shall be accompanied by active participation in the activities of the commission, and any member who is absent from three (3) consecutive meetings of the commission without valid excuse, as determined by the commission, shall automatically be dismissed from membership. The commission shall at once notify the City Council that a vacancy in the planning commission exists. Vacancies occurring in the commission, for whatever reason, shall be filled within thirty (30) days by appointment by the City Council for the unexpired term.

*(d) Powers and Duties:*

The commission shall have the power to:

- (1) Make, amend, extend and add to the master plan for the physical development of the city.
- (2) Approve or disapprove plats of proposed subdivisions submitted in accordance with section 8.02 of this charter. In considering such plats, the Planning Commission shall require that the proposed subdivisions shall meet, so far as is practicable, the City of El Campo's Design and Development Standards. Upon approving such plats, and before they are released for recording, the Planning Commission shall submit all copies of the approved plats to the City Council for approval.

- (3) Draft and recommend to the City Council for adoption, rules and regulations governing platting and subdividing of land as authorized by section 8.02
- (4) Make, and recommend to the City Council for adoption, a zoning plan and recommend or disapprove proposed changes in such plan.
- (5) Meet not less than once each six (6) months; meetings to be held at the City Hall unless prior notice of change of meeting place be given by publication in a newspaper in general circulation in the City of El Campo.
- (6) Perform such other duties and be vested with such other powers as the City Council shall from time to time prescribe.

*(e) Liaison With City Council*

The City Manager, or appointed representative, shall attend the meetings of the planning commission and shall serve as liaison between the planning commission and the city boards.

**§ 8.04 Board of Adjustment**

The City Council shall provide for the appointment of a Board of Adjustment, whose members shall be residents of the City of El Campo and shall serve without compensation and not be employed or hold any other position in the city government. The term of office, powers of the Board of Adjustment and rules of procedure for operation of such board shall be established by ordinance of the City Council.

***ARTICLE 9***

**THE BUDGET**

**§ 9.01 Fiscal Year**

The fiscal year of the City of El Campo shall begin on the first day of October of each calendar year and shall end on the last day of September of each next following calendar year. Such fiscal year shall also constitute the budget and accounting year.

**§ 9.02 Preparation, Submission and Content of Budget**

The City Manager, at least forty-five (45) days prior to the beginning of each budget year, shall submit to the City Council a proposed budget, which budget shall provide a complete financial plan for the fiscal year, and shall contain the following:

- (1) A budget message, explanatory of the budget, which shall contain an outline of the financial policies of the city for the fiscal year, shall set forth the reasons for salient changes from the previous fiscal year in expenditure and revenue items, and shall explain any major changes in financial policy.
- (2) A consolidated statement of receipts and expenditures for all funds, including municipal utility funds.
- (3) An analysis of property valuations.
- (4) An analysis of tax rate.
- (5) Tax levies and tax collections by years for at least five (5) years or for the number of years for which records are available.
- (6) General fund resources in detail.

- (7) Summary of proposed expenditures by fund, department and activity.
- (8) Summary of proposed expenditures by character and object.
- (9) Detailed estimates of expenditures shown separately for each activity to support the summaries number 7 and 8 above. Such estimates of expenditures are to include an itemization of positions showing the number of persons having each title and the rate of pay.
- (10) A schedule detailing all outstanding bond status.
- (11) A description of all bond issues outstanding, showing rate of interest, date of issue, maturity date, amount authorized, amount issued and amount outstanding.
- (12) A schedule of requirements for the principal and interest on each issue of bonds.
- (13) A special funds section.
- (14) The appropriation ordinance.
- (15) The tax levying ordinance.
- (16) A capital improvement program for the budget year and proposed method of financing.

### **§ 9.03 Actual Revenues and Proposed Expenditures Compared with Other Years**

The City Manager in the preparation of the budget shall show in parallel columns opposite the various properly classified items of revenues and expenditures, the actual amount of such items for the last completed fiscal year, the actual amount for the current fiscal year, and the proposed amount for the ensuing fiscal year.

### **§ 9.04 Budget of a Public Record**

The budget and all supporting schedules shall be a public record in the office of the City Secretary open to inspection by anyone. The City Manager shall cause sufficient copies of the budget to be prepared for distribution to interested persons.

### **§ 9.05 Notice of Public Hearing on Budget**

At the meeting of the City Council at which the budget is submitted, the City Council shall fix the time and place of a public hearing on the budget and shall cause to be published a notice of the hearing, setting forth the time and place thereof and presenting a condensed summary of the budget, at least seven (7) days before the date of the hearing.

### **§ 9.06 Public Hearing on Budget**

At the time and place set forth in the notice required in section 9.05, or at any time and place to which such public hearing shall from time to time be adjourned, the City Council shall hold a public hearing on the budget submitted and all interested persons shall be given an opportunity to be heard for or against any item or the amount of any item therein contained.

### **§ 9.07 Final Adoption; Failure to Adopt**

The budget shall be adopted by the favorable votes of at least a majority of all members of the whole City Council and shall be finally adopted not later than September 30; or within twenty-one (21) days from the date the appraisal valuations of the city are received from the Central Appraisal District, whichever date is the later. If the City Council fails to adopt

the annual budget before the start of the fiscal year to which it applies, appropriations of the last budget adopted shall be considered as adopted for the current fiscal year on a month-to-month, pro-rata basis until the next budget is adopted.

#### **§ 9.08 Effective Date of Budget; Certification; Copies Made Available**

Upon final adoption, the budget shall be in effect for the fiscal year. A copy of the budget, as finally adopted, shall be filed with the City Secretary, the County Clerk of Wharton County, and the State Comptroller of Public Accounts in Austin. Copies of the final budget shall be made available for the use of all offices, departments and agencies, and for the use of interested persons.

#### **§ 9.09 Budget Establishes Appropriations**

From the effective date of the budget, the several amounts stated therein as proposed expenditures shall be and become appropriated to the several departments and purposes therein named.

#### **§ 9.10 Budget Establishes Amount to be Raised by Property Tax**

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

#### **§ 9.11 Contingent Appropriation**

Provision shall be made in the annual budget and in the appropriation ordinance for a contingent appropriation in an amount equal to at least three (3) months of the general operating budget, to be used in case of unforeseen items of expenditures. Such contingent appropriation shall be under the control and distribution of the City Manager after approval by the City Council. Expenditures from this appropriation shall be made only in case of established emergencies and a detailed account of such expenditures shall be recorded and reported. The proceeds of the contingent appropriation shall be disbursed only by transfer to other departmental appropriations, the spending of which shall be charged to the departments or activities for which the appropriations are made.

#### **§ 9.12 Estimated Expenditures Shall Not Exceed Estimated Resources**

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

#### **§ 9.13 Surplus and Encumbrances**

Anticipated revenues shall include the surplus arising from unencumbered appropriation balances at the beginning of the budget year and from receipts of revenues in excess of the estimates in the budget. Encumbrances of appropriation at the end of the fiscal year shall be detailed and shall include only those evidenced by signed purchase orders or contracts.

## *ARTICLE 10*

### *FINANCE ADMINISTRATION*

#### **§ 10.01 Director of Finances; Appointment and Qualifications**

There shall be a Department of Finance, the head of which shall be the Director of Finance, who may be appointed by the City Manager, with the approval of the City Council. The Director of Finance shall have the proper knowledge of municipal accounting and sufficient experience in budgeting and financial control to properly perform the duties of the office. The position of Director of Finance may be held by any qualified person, including the City Manager or the City Secretary with the approval of the City Council.

#### **§ 10.02 Director of Finance; Powers and Duties**

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

- (1) Employ such administrative assistants as are deemed necessary for the conduct of their office.
- (2) Supervise and be responsible for the disbursement of all monies and have control over all expenditures to ensure that budget appropriations are not exceeded.
- (3) Maintain a general accounting system, along the lines of the uniform system as promulgated by the National Committee on Municipal Accounting or some other nationally accepted system, for the city government and each of its offices, departments and agencies; cause to be kept books for an exercise financial budgetary control over each office, department and agency; keep separate accounts for the items of appropriation contained in the city budget, each of which accounts shall show the amount of appropriation, the amounts paid therefrom, the unpaid obligations against it and the unencumbered balance; require reports of receipts and disbursements from each receiving and spending agency of the city government to be made daily or at such intervals as he may deem expedient.
- (4) Submit to the City Council a quarterly statement of all receipts and disbursements, in sufficient detail to show the exact financial condition of the city, and a statement of unencumbered appropriation balances by funds.
- (5) Prepare at the end of each fiscal year, a complete financial statement and report.
- (6) Supervise and be responsible for the collection of all revenues of the city for whose collection the city is responsible and receive all monies receivable by the city from any source, including other offices, departments and agencies of this city.
- (7) Have custody of all public funds belonging to or under the control of the city, or any office, department or agency of the city government, and deposit all funds in accordance with the City Council approved investment policy, subject to the requirements of law in force from time to time as to the furnishing of bond or the deposit of securities and the payment of interest on deposits. All such interest shall be the property of the city and shall be accounted for and credited to the proper account.

(8) Have custody of all investments and invested funds of the city government, or in possession of such government in a fiduciary capacity, and have the safekeeping of all bonds and notes of the city and receipt and delivery of city bonds and notes for transfer, registration or exchange.

(9) Supervise and be responsible for the purchase, storage and distribution of all supplies, materials, equipment and other articles used by any office, department or agency of the city government.

(10) Approve all proposed expenditures in accordance with the established purchasing procedures.

(11) Inspect and audit any account or records of financial transactions which may be maintained in any office, department or agency of the government apart from or subsidiary to the accounts kept in their office.

### **§ 10.03 Transfer of Appropriations**

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

### **§ 10.04 Lapse of Appropriations**

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

### **§ 10.05 Fees Shall be Paid to City**

All fees received by any full time officer or employee of the city shall belong to the city government and shall be deposited to the appropriate fund at such time as required by the Director of Finance.

### **§ 10.06 Sale of City Property**

Before the city makes any sale or contract for the sale of any property belonging to the city, either in the form of land, real estate or other properties, having an estimated value of one thousand dollars (\$1,000.00) or less, opportunity shall be given for open competition under such rules and regulations as the City Council may prescribe.

In the sale of property having an estimated value of more than one thousand dollars (\$1,000.00), the property shall be advertised for sale and bids advertised in a newspaper of general circulation published in El Campo; the contract of sale shall be award to the highest responsible bidder; either at auction or upon sealed bids, after such public notice and competition as may be prescribed, and upon such other terms and conditions not inconsistent with express provisions of law and of this Charter, as the City Council shall order; provided the City Council shall have the power to reject all bids and advertise again. These same procedures shall be used whenever the City Council acts as transfer agent.

### **§ 10.07 Competitive Bidding or Competitive Proposals Required**

The City Council shall adopt purchasing procedures by ordinance for any expenditure of less than fifty thousand dollars (\$50,000). Where such expenditure of fifty thousand dollars (\$50,000) or more is involved, such proposed purchase or

contract shall be submitted to competitive sealed bidding in accordance with the requirements of applicable state laws, as amended from time to time.

Nothing herein shall affect the right of the City Council to authorize the following procurements by resolution or ordinance without the requirement of competitive sealed bids:

- (1) a procurement made because of a public calamity that requires the immediate appropriation of money to relieve the necessity of the municipality's residents or to preserve the property of the municipality;
- (2) a procurement necessary to preserve or protect the public health or safety of the municipality's residents;
- (3) a procurement necessary because of unforeseen damage to public machinery, equipment or other property damage;
- (4) a procurement for personal, professional or planning services;
- (5) a procurement for work that is performed and paid for by the day as the work progresses;
- (6) a purchase of land or a right-of-way;
- (7) a procurement of items that are available from only one source;
- (8) personal property sold:
  - (A) at an auction by a state licensed auctioneer;
  - (B) at a going out of business sale held in compliance with Subchapter F, Chapter 17, Business and Commerce Code;
  - (C) by a political subdivision of this state, a state agency of this state, or an entity of the federal government; or
  - (D) under an interlocal contract for cooperative purchasing administered by a regional planning commission established under Chapter 391.
- (9) The renewal of all, or any part of any insurance contract or policy within 20% of current contract or policies with approval of City Council.

### **§ 10.08 Contracts for Improvements**

Any city improvements costing more than fifteen thousand dollars (\$15,000.00) shall be executed by contract except where such improvement is authorized by the City Council to be executed directly by a city department in conformity with detailed plans, specifications and estimates. All such contracts for more than fifteen thousand dollars (\$15,000.00) shall be awarded to the lowest responsible bidder after such public notice and competition as may prescribed by ordinance, provided the City Council shall have the power to reject all bids and advertise again. Alterations in any

contract may be made when authorized by the City Council upon the written recommendation of the City Manager when and only when such alterations do not increase the cost to the city more than twenty-five percent (25%) of the original amount.

If a contract change order involves a decrease or increase of \$15,000 or less, the City Council may grant general authority to the City Manager to approve the change orders as long as funds are budgeted for such purpose. The original contract price may not be increased or decreased by more than 25 percent.

#### **§ 10.09 Disbursement of Funds**

All checks, vouchers or warrants for the withdrawal of money from the city depository shall be signed by the Director of Finance, or appointed deputy, and countersigned by the City Manager, or designee. In the event the City Manager is the Director of Finance, all checks shall be countersigned by the person performing the duties of City Secretary.

#### **§ 10.10 Accounting Control of Purchases**

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

#### **§ 10.11 Borrowing in Anticipation of Property Taxes**

In any fiscal year, in anticipation of the collection of the property tax for such year, whether levied or to be levied in such year, the City Council may by resolution authorize the borrowing of money by the issuance of negotiable notes of the city, each of which shall be designated "Tax Anticipation Note for the Year 20\_\_" (stating the budget year). Such notes shall mature and be payable not later than the end of the fiscal year in which the original notes have been issued.

#### **§ 10.12 Borrowing in Anticipation of Other Revenues**

In any fiscal year, in anticipation of the collection or receipt of other revenues of that budget year, the council may by resolution authorize the borrowing of money by the issuance of negotiable notes of the city, each of which shall be designated "Special Revenue Note for the Year 20\_\_" (stating the budget year). Such notes may be renewed from time to time, but all such notes, together with the renewals, shall mature and be payable not later than the end of the fiscal year in which the original notes shall have been issued.

#### **§ 10.13 Sale of Notes, Report of Sale**

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

#### **§ 10.14 Surety Bonds**

The directors of all administrative departments whose duties include the handling of moneys, and all employees whose duties include the handling of moneys, belonging to the

City of El Campo, shall before entering upon the duties of their office or employment, make bond in some responsible surety company, acceptable to the City Council for such amount as the City Council may prescribe, the premium of which bond shall be paid by the city; and the City Council may also require any such surety bond to be further conditioned that the principal thereon will faithfully perform and/or discharge the duties of their office, and if there are provisions of state law bearing upon the functions of their office under which the execution of a surety bond is required, it shall be further conditioned to comply therewith.

## *ARTICLE 11*

### *TAX ADMINISTRATION*

#### **§ 11.01 Division of Tax Administration**

There may be established in the Department of Finance, a division of taxation, to collect taxes, the head of which shall be the city collector, unless the City Council shall appoint an alternate collection agency.

#### **§ 11.02 Power to Tax**

The City Council of the City of El Campo shall have the power, and is hereby authorized to levy and collect annual taxes in an amount not to exceed the maximum limits set by the constitution and laws of the State of Texas as they now exist or as they may be amended on each hundred dollars (\$100.00) assessed valuation of all real and personal property within the corporate limits of the City of El Campo and not exempt from taxation by the Constitution and laws of the State of Texas.

#### **§ 11.03 Taxes: When Due and Payable**

All taxes due the City of El Campo shall be payable at the office of the Director of Finance, unless the City Council, by ordinance shall designate another governmental agency to collect the taxes due the city.

All delinquent taxes shall bear interest and penalty as provided by the state statutes as presently enacted or hereafter amended.

#### **§ 11.04 Seizure and Sale of Personal Property**

The collector of taxes for the city shall collect the taxes, sue for taxes, furnish notification to the taxpayer, and levy on personal property to satisfy a tax judgment in the manner prescribed by the Tax Code of Texas as presently enacted and as hereafter amended.

#### **§ 11.05 Tax Liens**

The tax levied by the city is hereby declared to be a lien, charge, or encumbrance upon the property upon which the tax is due, which lien, charge or encumbrance the city is entitled to enforce and foreclose in any court having jurisdiction over the same, and the lien, charge or encumbrance on the property in favor of the city, for the amount of the taxes due on such property is such as to give the state courts' jurisdiction to enforce and foreclose said lien on the property on which the tax is due, not only as against any resident of this state of person whose residence is unknown, but also as against nonresidents. All taxes upon real estate shall especially be a lien and a charge upon the property upon which the taxes are due, which lien may be foreclosed in any court having jurisdiction. The city's tax lien shall exist from January 1 in each year until the taxes are paid, and the statute of limitations shall not apply. Such lien

shall be prior to all other claims, and no gift, sale, assignment, or transfer of any kind, or judicial writ of any kind, can ever defeat such lien.

All persons or corporations owning or holding personal property or real estate in the City of El Campo on the first day of January of each year shall be liable for all municipal taxes levied thereon for such year. The personal property of all persons owing any taxes to the City of El Campo is hereby made liable for all of said taxes, whether the same be due upon personal or real property, or upon both.

### **§ 11.06 Tax Remissions, Discount, and Compromise**

The City Council or any other official of the city shall never extend the time for the payment of taxes or remit, discount or compromise any tax legally due the city, nor waive the penalty and interest that may be due thereon to any persons, firms or corporations owing taxes to the city for such year or years; provided, however, that this provision shall not prevent the compromise of any tax suit.

## ***ARTICLE 12***

## **ISSUANCE**

### **AND SALE OF BONDS**

### **§ 12.01 Power to Borrow**

The City of El Campo shall have the right and power to borrow money on the credit of the city for permanent public improvements or for any other public purpose consistent with the constitution and laws of the State of Texas. The city shall also have the power to borrow money against the revenues of any municipally-owned utility and to mortgage the physical properties of such utilities in payment of such debt. In no event, however, shall revenue bonds be considered an indebtedness of the City of El Campo nor repaid with funds secured by taxation.

### **§ 12.02 Bond Ordinance and Election**

The city shall authorize the issuance of bonds by a bond ordinance passed by an affirmative vote of a majority of all members of the City Council, and approved by a majority of the qualified voters voting at an election called for the purpose of authorizing the issuance of such bonds. The bond ordinance shall provide for proper notice, the calling of the election, and the propositions to be submitted. The latter shall distinctly specify:

- (1) The purpose for which the bonds are to be issued and, where possible, the probable period of usefulness of the improvements for which the bond funds are to be expended.
- (2) The amount thereof.
- (3) The rate of interest.
- (4) The levy of taxes sufficient to pay interest and sinking fund.
- (5) That the bonds to be issued shall mature serially within a given number of years not to exceed twenty-five (25).

The bond ordinance and the manner of conducting the election shall in all respects conform to

the general laws of this State and the provisions of this charter.

### **§ 12.03 Issuance of Bonds**

All bonds shall be serial bonds and shall specify for what purpose they are issued. Such bonds shall never draw interest in excess of ten percent (10%) per annum and shall never be sold at less than par value and accumulated interest, exclusive of commissions. All bonds shall contain a redemption provision making them callable at the option of the city upon or after the expiration of fifteen (15) years from the date of issuance, or such redemption provision may be for a lesser period than fifteen (15) years if such provision will not materially affect their marketability or a favorable rate of interest.

### **§ 12.04 Advertising and Sale of Bonds**

All bonds of the city, after having been authorized and issued in accordance with the provisions of this Charter and the laws of the State, shall be advertised once a week for two (2) consecutive weeks, the first publication to be at least fourteen (14) days prior to the time set for the sale, and shall be sold at public sale for the best bid, either at auction or upon sealed bids, and upon such other terms and conditions not inconsistent with express provisions of law and of this Charter, as the City Council may order. The City Council shall have the right to reject any or all bids.

### **§ 12.05 Creation of Sinking Funds and Investments**

The ordinance authorizing any bonds to be issued shall provide for the creation of a sinking fund sufficient to pay the bonds or warrants at maturity, and make provision for the payment of the interest thereon as it matures, and any money in any sinking fund or any general fund may be invested in bonds of the State of Texas, or in securities of the United States, or such funds may be used for the purchase of the bonds or warrants of the City of El Campo which are not yet due; provided, however, that the price paid for said bonds or securities shall not exceed the market value at the time of purchase and the accrued interest provided for in said bonds or securities, and provided further that no such bonds or securities shall be purchased which, according to their terms, mature at a date subsequent to the time of maturity of the bonds for the payment of which such sinking fund was created. Neither interest nor sinking fund shall be devoted to any other purpose whatsoever.

### **§ 12.06 Responsibility for Diversion of Interest or Sinking Funds**

Any officer of the city who shall divert or use the interest or sinking funds for any purpose except that for which the fund is created or is expressly authorized to be invested, shall be liable and responsible to the City of El Campo in the full amount of such diversion and/or use, with lawful interest; and in case such diversion or use is made or participated in by more than one officer of the city the liability and responsibility therefor shall be joint and several.

### **§ 12.07 Diversion of Bond Proceeds**

In no instance may the proceeds of any bonds be diverted to any other purpose other than that called for in the bond ordinance, without first properly calling and holding an election, stating the disposition to be made, and receiving an affirmative vote of a majority of the qualified voters voting at said election for the proposition.

## **ARTICLE 13**

### **FRANCHISES AND PUBLIC UTILITIES**

#### **§ 13.01 Control Over and Powers With Reference to City Property**

The ownership, right of control and use of streets, highways, alleys, parks, public places and all other real property of the City of El Campo is hereby declared to be inalienable to said city, except by ordinances passed by vote of the majority of the governing body of the city, as hereinafter provided; and no franchise or easement involving the right to use same, either along, across, over or under the same shall ever be valid, unless expressly granted and exercised in compliance with the terms hereof, and of the ordinances granting the same. No act or omission of the city, its governing body, officers or agents shall be construed to confer or extend by estoppel or indirection, any right, franchise or easement not expressly granted by ordinance.

The City of El Campo shall have the power, subject to the terms and provisions hereof, by ordinance to confer upon any person or corporation, the franchise or right to use the property of the city, as defined in the preceding paragraph, for the purpose of furnishing to the public any general public service, including heat, light, power, telephone service, refrigeration, steam, and the carriage of passengers or freight, within the said city and its suburbs, in, on or over the streets, highways and property of said city, or for any other purposes whereby a general service is to be furnished to the public for compensation or hire, to be paid to the franchise holder, whereby a right to, in part, appropriate or use the streets, highways or other property of the city is necessary or proper; and generally to fix and regulate the rates, tolls and charges of all public utilities of every kind operating within the corporate limits of the City of El Campo.

#### **§ 13.02 Limitations**

No exclusive franchise or privilege shall ever be granted nor a franchise, nor a privilege, to commence at any time after six (6) months subsequent to the taking effect of the ordinance granting the same, and no franchise shall be directly or indirectly extended beyond the term originally fixed by the ordinance granting the same, except as provided by the terms of the City Charter; nor, except as hereinafter provided, shall any franchise be granted to any person, firm or corporation, their associates, assigns or successors, to acquire the physical property, rights or franchise of another person, firm or corporation to whom or which a franchise has already been granted by the city, whereby the rights and properties held and used under such franchise are assigned to any other person, firm or corporation which holds a franchise from the city extending beyond the time of the expiration of the franchise of the person, firm or corporation selling such physical properties, rights or franchises; provided, however, that when it shall appear that the public welfare will be promoted by permitting or requiring the properties of two (2) or more companies doing the same character of business to be under one (1) common ownership the city may, in granting a franchise for such properties, allow or require the ownership of such properties to become vested in one (1) ownership or one (1) corporation, provided that no debts or obligations of any of the said companies so consolidated shall be assumed by the corporation, person or association of persons acquiring the ownership of such properties except such debts and obligations of said companies, or either of them as could at the time of the creation of such indebtedness, lawfully be created under the constitution and laws of the State of Texas, and only to the extent that the assumption of such indebtedness is permitted under the provisions of the ordinance granting such franchise and the amount of such indebtedness shall be fixed or limited in such ordinance and the same shall not thereafter be increased except by such actual moneys as may hereafter be expended pursuant to the rules and

regulations to be formulated by the City Council from time to time.

### **§ 13.03 Procedure**

The City of El Campo shall have the power by ordinance to grant any franchise or right mentioned in the preceding sections hereof, which ordinance shall not be passed finally until its third and final reading, said ordinance shall be read at three (3) separate regular meetings of the City Council of the City of El Campo, the last of which shall take place not less than thirty (30) days from the first. The franchise ordinance shall be published in a newspaper published in the City of El Campo once a week for three (3) consecutive weeks prior to the third and final reading thereof. No ordinance granting a franchise shall pass any reading except by a vote of the majority of the City Council, and such ordinance shall not take effect until sixty (60) days after its adoption on its third and final reading; provided, however, that if at any time before such ordinance shall finally take effect a petition shall be presented to the City Council signed by not less than twenty percent (20%) of the voters voting at the last general election but in no event less than 150 of the bona fide qualified voters of the city, then the City Council shall submit the question of the granting of said franchise to a vote of the qualified voters of the City of El Campo at the next succeeding general election to be held in said city; provided that notice thereof shall be published at least twenty (20) days in a newspaper of general circulation published in El Campo prior to the holding of said election. Ballots shall be used, briefly describing the franchise to be voted on and the terms thereof and containing the words, "For the granting of a franchise," and "Against the granting of a franchise." The vote shall be canvassed by the governing body, and should it result in a majority of those voting thereon casting their votes "For the granting of a franchise," then by order entered in its minutes, the City Council shall so declare and said franchise shall at once take effect. But should a majority of such votes be cast "Against the granting of a franchise," as ascertained by the City Council, then said City Council by order entered in its minutes shall so declare and such franchise shall not take effect. In case a franchise is refused by the City Council, then the matter may be submitted to the qualified voters on petition, as hereinbefore provided, and a failure to finally pass on an application within twelve (12) months after the filing of such application shall be construed as a refusal. The City Council in passing an ordinance granting a franchise may provide therein that it shall not take effect until the same shall have been submitted to and approved by a majority of the qualified voters voting thereon at a general election. All expenses of publication shall be borne by the applicant for the franchise, who shall make a deposit in advance to cover the estimated cost of publication, to be determined by the City Manager.

### **§ 13.04 Term and Conditions**

No determinate or fixed term franchise shall ever be granted for a longer term than twenty-five (25) years; nor shall any right, privilege or franchise now in existence be extended beyond the period now fixed for its termination, directly or indirectly, or through any means whatsoever, and any ordinance in violation or evasion of this prohibition shall be absolutely void; provided, however, that any corporation, person or association of persons now holding any franchise under any Charter or Charters or ordinances of the City of El Campo may, with the consent of the City Council of the city surrender such franchise or franchises, subject to the provisions of the City Charter then in force, and take a new franchise under such Charter, or a new franchise may be granted to a new company or another person with the privilege of acquiring the properties of such franchise holder upon the surrender of the franchise rights then held. No subsidiary franchise or franchises of any character appertaining or relating to any other franchise holder, or to any person, firm or corporation acting directly or indirectly for such franchise holder, shall be granted and such grant in violation of this prohibition shall be absolutely void to the extent of the excess in time beyond the life of such main franchise. No franchise, privilege or easement shall ever be used or operated so as to extend or enlarge any other franchise or privilege granted by said city except upon surrender of such original franchise as herein provided, and any violation of this prohibition shall operate as a forfeiture of each and all such franchise privileges or easements. No holder of a franchise heretofore or

hereafter granted shall have a right (unless such right is granted in the franchise) to transfer or assign its properties and franchise to any other person, firm or corporation without the consent of the city, and such consent when given shall not operate as the granting of a franchise or as a new franchise.

The City Council shall have the power to compel all persons, firms or corporations operating any public utilities in this city, whether operating under existing franchises, or franchises that may be hereafter granted, to extend their service, lines, pipes, etc., if the person to be benefited by such extension will pay the costs thereof, or if it can be shown that the revenue resulting from such extension will, within a reasonable time after same is made, pay a reasonable return on the investment, after making the customary allowance for depreciation. All public utility franchises in the City of El Campo shall be held, whether expressed in the ordinance or not, subject to the right of the city (each of the following being a condition):

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

Every utility franchise hereafter granted shall be subject to the terms and conditions of this Charter, whether such terms and conditions are specifically mentioned in the franchise or not.

### **§ 13.05 Utility Rates and Charges**

The City Council shall have the power by ordinance to fix and regulate the price of water, gas, electric lights, electric power and steam heat, and to regulate and fix charges of all public buses, carriages, hacks and vehicles of every kind, whether transporting passengers, freight or baggage, subject to such regulation as may be established for a state regulatory body, and generally fix and regulate the rates, tolls and charges of all public utilities of every kind operating within the corporate limits of the City of El Campo, except such

utilities as shall be regulated by the Public Utility Commission.

### **§ 13.06 Applicable to Streets and Highways**

The right to use the public streets, highways, alleys and thoroughfares of this city, which necessitates the digging up, or displacement thereof, for the installation of equipment, appliances or appurtenances, either on, above or below the surface of same, to make the intended use thereof practicable, shall be deemed and considered "a franchise," granting of which shall be governed and controlled in the manner herein provided.

The use of said public streets, highways, alleys and thoroughfares of this city, which does not require the digging up or similar interference with said streets, alleys or highways for the installation of equipment, appliances or appurtenances, to make the intended use possible, shall be treated and considered as "a privilege," subject to the control and disposition of the City Council, and such privilege over and upon the said public streets, alleys, highways and thoroughfares, of the city shall not be granted to any person or corporation excepting when public necessity and convenience may require such use and when given by ordinance passed by a two-thirds (2/3rd's) vote of the entire City Council.

All privileges for the use and occupancy of public streets, highways, alleys and thoroughfares of this city shall, in the event public necessity and convenience so require, be subject to cancellation by the City Council; and the city reserves the right to require all public utilities holding franchises from the City of El Campo to conform to street grades, and to alter their structures to meet changing conditions.

### **§ 13.07 Public Service Corporations to File Annual Reports**

It shall be the duty of the City Council to pass an ordinance requiring all public service corporations operating within the corporate limits of the city to file a sworn annual report of the receipts from the operation of the said business for the current year, how expended, how much thereof for betterments or improvements, the rate of tolls or charges for services rendered to the public, and any other facts or information that the council may deem pertinent for its use in intelligently passing upon any questions that may arise between the city and the said public service corporations; said reports to be filed with the City Clerk, and preserved for the use of the City Council. Such reports shall be reviewed annually by the council to determine the propriety of the rates being charged.

### **§ 13.08 Consent of Property Owners**

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

### **§ 13.09 Extensions**

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

### **§ 13.10 Other Conditions**

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

### **§ 13.11 Franchise Records**

The city shall compile and maintain a public record of public utility franchises.

### **§ 13.12 Accounts of Municipality-Owned Utilities**

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

### **§ 13.13 Sale of Utility Services**

(a) The City Council shall have the power and authority to sell and distribute water and to sell and provide for sewer services and garbage collections to any person, firm or corporation outside the limits of the City of El Campo, and to permit them to connect with said system under contract with the city, under such terms and conditions as may appear to be for the best interests of the city; provided the charges fixed for such services outside the city limits shall be reasonable when considered in the light of all circumstances, to be determined by the City Council.

(b) The City Council shall have the power and authority to prescribe the kind of water or sewer pipes within or beyond the limits of the City of El Campo, where it furnishes the service, and to inspect the same and require them to be kept in good order and condition at all times and to make such rules and regulations as shall be necessary and proper, and prescribe penalties for noncompliance with same.

(c) *Powers of the City:* In addition to the city's power to buy, own, construct, lease, maintain, operate and regulate public utilities and to manufacture, distribute and sell the output of any such utility operation, the city shall have further powers as may now or hereafter be granted under the constitution and laws of the State of Texas.

## *ARTICLE 14*

### GENERAL PROVISIONS

#### **§ 14.01 Publicity of Records**

All records and accounts of every office, department, or agency of the city shall be open to inspection by any citizen or by any representative of the press at all reasonable times and under such reasonable regulations as may be established by the City Council, except records and documents the disclosure of which would tend to defeat the lawful purpose which they are intended to accomplish.

#### **§ 14.02 Personal Interest**

No officer or employee of the city shall have a financial interest, direct or indirect, in any contract with the city, nor shall be financially interested, directly or indirectly, in the sale to the city of any land, or rights or interest in any land, materials, supplies or service. The above provision shall not apply where the interest is represented by ownership of stock in a corporation involved, provided such stock ownership amounts to less than ten percent (10%) of the voting stock or shares of the corporation. The above provision shall also not apply if the funds received by the officer or employee from the contract or sale to the city of any materials, supplies or services does not exceed ten (10%) percent of that individual officer or employee's gross income for the previous year. Any violation of this section shall constitute malfeasance in office, and any officer or employee of the city found guilty thereof shall thereby forfeit his office or position. Any violation of this section with the knowledge, express or implied, of person or corporation contracting with city shall render the contract voidable by the City Manager or the City Council.

#### **§ 14.03 Drilling Operations**

The City Council may, by ordinance, prohibit the drilling of oil, gas and sulphur wells, and may provide regulations for the drilling, spacing completion and operation of oil, gas and sulphur wells. The City Council may, by ordinance, prohibit the drilling of water wells for commercial, industrial and agricultural purposes, and may provide regulations for the drilling and use of water wells for commercial, industrial, agricultural and domestic purposes.

#### **§ 14.04 Nepotism**

No person related within the second degree by affinity, or within the third degree by consanguinity to any elected officer of the city, or to the City Manager, shall be appointed to any office, position or clerkship or other service of the city. It shall be an exception to the above limitation if the relative in the service of the city shall have been continuously employed in a position or duty for a period of one (1) year prior to the election or appointment of the related member or officer.

#### **§ 14.05 Public Library**

The City Council shall have the authority to establish and maintain a free public library within the city and to cooperate with any person, firm, association or corporation under such terms as the City Council may prescribe for the establishment of such free public library. For budget purposes, the library shall be considered as a department of the city and the appropriations therefor shall comply with all the budgetary requirements as outlined in this Charter and as may be prescribed from time to time by the City Council.

#### **§ 14.06 Provisions Relating to Assignment, Execution and Garnishment**

The property, real and personal, belonging to the city shall not be liable to be sold or appropriated under any writ or execution or cost bill. The funds belonging to the city, in the hands of any person, firm or corporation, shall not be liable to garnishment, attachment, or sequestering; nor shall the city be liable to garnishment on account of any debt it may owe or funds or property it may have on hand or owing to any person. Neither the city nor any of its officers or agents shall be required to answer any such writ or garnishment on any account whatever. The city shall not be obligated to recognize any assignment of wages or funds by its employees, agents or contractors.

#### **§ 14.07 City Not Required to Give Security or Execute Bond**

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

#### **§ 14.08 Special Provisions Covering Damage Suits**

Before the city shall be liable to damage claim or suit for personal injury, or damage to property, the person who is injured or whose property is damaged or someone on their behalf shall give the City Manager or the person performing the duties of City Secretary, notice in writing within sixty (60) days after the occurrence of the alleged injury, or damage, stating specifically in such notice when, where and how the injury or damage was sustained, and setting forth the extent of the injury or damage as accurately as possible, and giving the names and addresses of all witnesses upon whose testimony such person is relying to establish the injury or damage. No action at law for damages shall be brought against the city for personal injury or damage to property prior to the expiration of sixty (60) days after the notice herein before described has been filed with the City Manager or the person performing the duties of City Secretary, nor later than two (2) years after the occurrence of the injury or damage to property. In case of injuries resulting in death, before the city shall be liable in damages therefor the person or persons claiming such damages shall within sixty (60) days after the death of the injured person give notice as above required in case of personal injury. Provided, however, that nothing herein contained shall be construed to mean that the City of El Campo waives any rights, privileges, defenses or immunities in tort actions which are provided under the common laws, the constitution and general laws of the State of Texas.

#### **§ 14.09 Separability Clause**

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

#### **§ 14.10 Effect of This Charter on Existing Law**

All ordinances, resolutions, rules and regulations now in force under the city government of El Campo and not in conflict with the provisions of this Charter shall remain in force under this Charter until altered, amended or repealed by the council after this Charter takes effect; and all rights of the City of El Campo under existing franchises and contracts are preserved in full force and effect to the City of El Campo.

### **§ 14.11 Interim Municipal Government**

From and after the date of the adoption of this Charter, the persons then filling elective offices will continue to fill those offices for the terms to which they were elected. At the first regular city election after the adoption of this charter, three (3) councilmembers shall be elected. Thereafter, the City Council shall be elected as provided in Section 3.01 of this charter.

### **§ 14.12 Applicability of General Laws**

The constitution of the State of Texas, the statutes of said state applicable to home-ruled municipal corporations, as now or hereafter enacted, this Charter and ordinances enacted pursuant hereto shall, in the order mentioned, be applicable to the City of El Campo, but the city shall also have the power to exercise any and all powers conferred by the laws of the State of Texas upon any other kind of city, town or village, not contrary to the provisions of said home-rule statutes, charter, and ordinances, but the exercise of any such powers by the City of El Campo shall be optional with it, and it shall not be required to conform to the law governing any other cities, towns or villages unless and until by ordinance it adopts same.

### **§ 14.13 Amending This Charter**

When the governing body desires to submit amendments to any existing Charter, said body may on its own motion, in the absence of a petition, and shall, upon receiving a qualifying petition, submit any proposed amendment or amendments to such Charter. Amendments to this Charter may be framed and submitted to the voters of the city in the manner provided by Chapter 13 of Title 28 of the Revised Civil Statutes of Texas, Art. 1170, as now or hereafter amended.

### **§ 14.14 Charter Review Commission**

Each city council member shall appoint a citizen of the City of El Campo to serve on the Charter Review Commission. The seven appointments shall be made at the first regular meeting of the City Council in July of each odd numbered year.

#### *(a) Duties of the Commission:*

It shall be the duty of the Commission:

- (1) Inquire into the operation of the city government under the Charter provisions and determine whether any such provisions require revisions. To this end at least one public hearing shall be held. The commission shall have the power to compel the attendance of any officer or employee of the city and to require the submission of any of the city records which it may deem necessary to conduct any of its meetings or hearings.
- (2) Propose any recommendations it may deem desirable to insure compliance with the provisions of the Charter by the several departments of the city government.
- (3) Propose, if it deems desirable, amendments to this charter to improve the effective application of said Charter to current conditions.
- (4) Report its findings and present its proposed amendments, if any, to the City Council.

#### *(b) Action by the City Council:*

The City Council shall receive and have published in a newspaper of general circulation published in El Campo any report presented by the Charter Review Commission, shall consider any recommendations made, and if any amendment or amendments be presented as a part of such report, shall order such amendment or amendments to be submitted to the voters of the city in the manner provided by Chapter 13 of Title 28 of the Revised Civil Statutes of Texas, 1925, as now or hereafter amended.

*(c) Term of Office:*

The term of office of such Charter Review Commission shall be six months, and, if during such term no report is presented to the City Council, then all records of the proceedings of such commission shall be filed with the person performing the duties of City Secretary and shall become a public record. Council may extend the six (6) months reporting term for an additional thirty (30) days for good cause.

**§ 14.15 Submission of Charter to Voters**

The Charter Commission in preparing this Charter finds and decides that it is impracticable to segregate each subject so as to permit a vote of "yes" or "no" on the same, for the reason that the Charter is so constructed that in order to enable it to work and function it is necessary that it should be adopted in its entirety. For these reasons, the Charter commission directs that the said Charter be voted upon as a whole and that it shall be submitted to the qualified voters of the City of El Campo at an election to be held for that purpose on the 30th day of November, A. D. 1954. Not less than thirty (30) days prior to such election, the City Council shall cause the City Secretary to mail a copy of this Charter to each qualified voter of the City of El Campo as appears from the latest tax collector's roll. If a majority of the qualified voters voting in such election shall vote in favor of the adoption of this Charter, it shall become the Charter of the City of El Campo, and after the returns have been canvassed, the same shall be declared adopted and the City Secretary shall file an official copy of the charter with the records of the city, and same shall become effective on January 1, A. D. 1955. The City Secretary shall furnish the Mayor a copy of said Charter, which copy of the Charter so adopted, authenticated and certified by his signature and the seal of the city, shall be forwarded by the Mayor to the Secretary of State of the State of Texas and shall show the approval of such Charter by majority vote of the qualified voters voting at such election.

**§ 14.16 Application of Texas Statutes**

All reference to article or state numbers appearing in the foregoing provisions of this Charter are deleted and in their place reference therein shall be made to the Local Government Code or such successor statutes of the State of Texas as may then be applicable.

In the event of a conflict of the provisions of this Charter and the laws of the State of Texas, the stricter law shall apply as between the Charter and the state law.

ADOPTED: NOVEMBER 30, 1954  
AMENDED: APRIL 6, 1971  
AMENDED: APRIL 8, 1975  
AMENDED: APRIL 7, 1979  
AMENDED: APRIL 11, 1983  
AMENDED: APRIL 6, 1985  
AMENDED: APRIL 4, 1987  
AMENDED: MAY 6, 1989  
AMENDED: MAY 4, 1991  
AMENDED: MAY 1, 1993  
AMENDED: MAY 6, 1995  
AMENDED: MAY 1, 1999  
AMENDED: MAY 6, 2003  
AMENDED: MAY 7, 2005  
AMENDED: MAY 12, 2007  
AMENDED: MAY 9, 2009