

THE HOME RULE CHARTER OF THE CITY OF DICKINSON, TEXAS^[1]

PREAMBLE

We, the people of the City of Dickinson, exercising the powers of home rule granted to us by the constitution and laws of the State of Texas, in order to preserve, protect, and guarantee the lawful rights and freedom of each individual citizen, ensure the proper and efficient expenditure of public funds, provide for the future progress and orderly growth of our city, encourage interest and participation by citizens, do hereby ordain, adopt, and establish this charter of the City of Dickinson within the State of Texas.

1. Editor’s note— The city’s home rule charter was adopted at an election held on January 17, 1987, and is included herein for the convenience of the users of this Code. The original arrangement, article headings and section catchlines have been retained. Words appearing in brackets herein have been added by the editor for clarification. A uniform system of capitalization has been used.

State Constitution reference— Charter to be consistent with constitution and general laws, Art. XI, § 5.

State Law reference— Home rule municipality, V.T.C.A. Local Government Code, § 9.001 et seq.

ARTICLE I. - FORM OF GOVERNMENT AND BOUNDARIES^[2]

2. State Law reference— Home rule municipalities designated, V.T.C.A. Local Government Code, § 5.004.

1.01 - Incorporation.

The inhabitants of the Village of Dickinson in Galveston County, Texas, within the corporate limits as now established and as hereafter altered, shall continue to be a municipal body politic and corporate in perpetuity under the name of the “City of Dickinson,” hereafter referred to as the “city.”

1.02 - Form of government.

The municipal government provided by this charter shall be known as the ~~mayor-council-~~manager form of government. Pursuant to the provisions and subject only to the limitations imposed by the constitution and the laws of the State of Texas and by this charter, all powers of the city shall be vested in ~~and exercised by~~ an elective city council, which shall enact local legislation, adopt budgets, determine policies, and appoint the city manager, who shall execute the laws and administer the government of the city. 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 or state law.

State Law reference— Form of government, V.T.C.A. Local Government Code, § 26.021.

1.03 - Boundaries of the city.

The boundaries of the city shall be the same as have been heretofore established and now exist and those boundaries established and changed hereafter in all annexation and disannexation proceedings of the city, filed in the office of the city secretary.

State Law reference— Municipal boundaries, V.T.C.A. Local Government Code, § 41.001 et seq.

1.04 - Extension of boundaries.

The city council may annex, by ordinance, territory adjacent to the city, with or without the consent of the owners or inhabitants of the annexed territory, and subject to the procedural rules prescribed by state law.
(Election of 5-5-2001, § 5)

State Law reference— Municipal annexation, V.T.C.A. Local Government Code, § 43.001 et seq.; annexation of property during tax year, V.T.C.A. Tax Code, § 26.14.

1.05 - Disannexation.

[The] city council, after a public hearing and an affirmative vote of five (5) members of councilmembers, may by ordinance disannex any property lying within the boundary limits of the city, and lying adjacent to the city limits, and subject to the procedural rules prescribed by state law.

1.06 - Definitions.

[The following definitions shall apply in this charter:]

City —The City of Dickinson.

City council —The mayor and councilmembers acting as a group.

Councilmembers —Persons elected to the city council other than the mayor.

~~*Officers* —City councilmembers, elected city officials, and city department heads.~~

Qualified voters —Residents of the city, properly registered to vote, in accordance with the Texas Election Code.

State Law reference— Voter qualifications and registration, V.T.C.A. Election Code, § 11.001 et seq.

ARTICLE II. - POWERS OF THE CITY

2.01 - General.

The city shall be an incorporated home rule city with full powers and rights of self-government, as provided in or not prohibited by the constitution, statutes, laws of the State of Texas, or this charter, as presently in existence or hereafter amended. By way of example, but not by way of limitation, the city shall specifically have the powers described in other sections of this charter and as described below:

- a. To adopt, enact, establish and enforce codes, licenses, ~~and~~ ordinances, policies, and resolutions for the maintenance of good government and the interest and well-being of its inhabitants.

- b. To cooperate with the government of the State of Texas, or any agency or political subdivision thereof, the government of the United States or its agencies, for any lawful purpose and for the advancement of the interests, safety, convenience and welfare of its inhabitants.
- c. To exercise the right of eminent domain, the right of extraterritorial jurisdiction and to have exclusive dominion over all public property in a manner permitted by the constitution and laws of the State of Texas.
- d. To contract and be contracted with; to sue and be sued; to buy, sell, lease, mortgage, hold, manage, and control such property as its interests require.
- e. To establish, maintain, improve, alter, abandon, or vacate public streets, rights-of-way, sidewalks, alleys, squares, parks and other public ways and to police the use thereof.

State Law reference— Eminent domain, V.T.C.A. Property Code, § 21.001 et seq.

2.02 - Public improvements.

The city shall have the power to construct and maintain, within or without its corporate limits, streets, flood control facilities; and sanitation, water, and storm drainage facilities; in, over, under or upon all public property or easements granted for that purpose. The city shall also have the power by ordinance to levy assessments for the cost of such improvements and to cause liens to be established, as provided by law, for the purpose of securing the payment of such levies and shall have the power to enforce and require the use of such improvements.

State Law reference— Street improvements, enforcement of lien, ~~V.T.C.S. Art. 1086 et seq~~ V.T.C.A. Transportation Code Ch. 311.

2.03 - Land use ordinances.

- a. The city shall have the power to establish and maintain ordinances and regulations governing the use of lands within the city and to enforce by all lawful means these ordinances and regulations, within and without its corporate limits.
- b. The city shall have the power to authorize, regulate and inspect all construction and existing structures within or without its limits, consistent with state statutes, and to establish and enforce ordinances and regulations concerning their use, construction and reconstruction.

ARTICLE III. - CITY COUNCIL

3.01 - Number, term, and election of city council.

- a. The legislative and governing body of the city shall consist of a mayor and six (6) councilmembers known as the “city council.” The mayor and all councilmembers shall be elected from the city at large, and each councilmember shall occupy a position on the city council, such positions being numbered 1 through 6 consecutively. Any candidate for the office of councilmember shall file an application for a specific position on the city council, such as “Councilmember Position No. 1.” The ballot for an election for councilmember shall show each position on city council as a separate office designated by position number.

- ~~a~~b. The mayor and each councilmember shall be elected to serve for three-year terms. The three-year terms of office of councilmembers shall be staggered, and the initial election for said offices shall be as follows:
- (1) The three council positions to be filled in the 1995 general election shall be known as council position numbers 2, 4, and 6.
 - (2) The three council positions to be filled in the 1996 general election shall be known as council position numbers 1, 3, and 5.
- c. No person may be elected to serve more than three consecutive full or regular three year terms as the mayor or a councilmember, or serve or be appointed or elected to serve more than 10 consecutive years on the city council. Any person appointed or elected as the mayor or a council member may not be appointed or elected to any office on the council within three years of the end of the person's prior service on the city council. Provided, however, any service on the city council prior to June 1, 2013 shall not be considered as prior service.

(Res. No. 210-94, § 3, 3-8-94)

3.02 - Qualifications of members.

Each member of city council shall be a resident of the city, shall be at least twenty-one (21) years of age, shall be a qualified voter, shall have been a resident citizen of the city for a period of at least ~~six (6)~~ twelve (12) months immediately preceding ~~his~~ the election, ~~and shall not be indebted to the city, with the exception of indebtedness being contested in accordance with the law.~~ Failure of a member of the city council to maintain the residency requirement shall result in such office being automatically vacated.

3.03 - Compensation.

Each member of council shall receive a salary of Seventy-Five Dollars (\$75.00) for each regular meeting that the officer attends; provided, however, such compensation shall not exceed One Thousand Eight Hundred Dollars (\$1,800.00) in any twelve (12) month period. In addition, [M]members of [the] city council shall be entitled to reimbursement for actual expenses incurred in the performance of official duties with the approval of [the] city council at a public meeting. No other compensation shall be allowed.

3.04 – Presiding officer; Mmayor and mayor pro tem.

- a. The mayor shall be recognized as the official head of the city government for all ceremonial purposes and by the governor for purposes of military law, but shall have no regular administrative duties. The mayor ~~He~~ shall be the presiding officer of the city council with the right to vote on all matters but shall vote only in the case of a tie vote. ~~He shall have the power to veto legislation of city council within three (3) days after passage thereof, but the veto may be overridden by an affirmative vote of four (4) councilmembers at a regular or special meeting occurring within thirty (30) days of the veto.~~ When authorized by [the] city council, the mayor shall sign ~~all~~ official documents, such as ordinances, resolutions, conveyances, grant agreements, official plats, contracts, and bonds.

- b. The mayor shall ~~have the power to see that all state laws and city laws are effectively enforced, prepare and recommend to [the] city council the annual budget, and perform~~ such other duties as may be required by [the] city council or as specified in this charter.
- c. The mayor pro tem shall be a councilmember elected by [the] city council at the first meeting after each regular election of councilmembers. The mayor pro tem shall act as mayor during the disability or absence of the mayor, and in this capacity shall have the rights conferred upon the mayor. The mayor pro tem retains the right to vote while acting as chairman of [the] city council meetings.

3.05 - Vacancies.

- a. The office of the mayor or councilmember shall become vacant upon ~~his~~ the person's death, resignation, forfeiture of, disqualification, or removal from office by any manner authorized by law.
- b. If any member of [the] city council is absent from three (3) regular meetings within a six-month period, without explanation acceptable to a majority of the remaining ~~councilmembers of council,~~ his the person's office shall be declared vacant at the next regular meeting of [the] city council.
- c. Any member of [the] city council who ceases to maintain the required qualifications for office (as delineated in 3.02), or who is convicted of a felony or a misdemeanor involving moral turpitude or who is convicted of violating a state law concerning conflict of interest, shall forfeit ~~his the member's~~ the member's office. Every forfeiture shall be declared and enforced by a majority vote of [the] city council.
- d. In the event of a vacancy in the office of the mayor, the mayor pro tem shall become the mayor, thereby vacating ~~his the mayor pro tem's city~~ city councilmember position.
- e. If a vacancy occurs on city council such vacancy shall be filled, for the remainder of the unexpired term, at a special election held for such purpose. Such election shall be called within one hundred twenty (120) days after such vacancy or vacancies occur. Except that if the remainder of the unexpired term of the vacated office is twelve (12) months or less, then the council is authorized to fill the unexpired term by appointment if the appointment is made within thirty (30) days of the vacancy.

(Res. No. 210-94, § 3, 3-8-94)

3.06 - Powers of the city council.

All powers and ~~authority which are conferred on or possessed by the city the~~ determination of all matters of policy shall be vested in ~~and exercised by~~ [the] city council; provided that [the] city council shall have no power to exercise those powers which are expressly conferred on other city officers by this charter. Without limitation of the foregoing, and among the other powers that may be exercised by the council, the following are here [sic] enumerated for greater certainty:

- a. ~~Establish, consolidate, or abolish administrative departments and distribute the work of divisions.~~ Appoint and remove the city manager;
- b. Adopt the budget of the city;
- c. Inquire into the conduct of any office, department or agency of the city and make investigations as to municipal affairs;

- d. Create, combine or abolish boards and commissions, not otherwise provided for in this charter, as may be necessary, and to appoint or remove the members of all such boards and commissions. Such boards and commissions shall have all powers and duties now or hereafter conferred and created by this charter, by city ordinance or by law;
- e. Adopt and modify a zoning plan by ordinance after the required notice and public hearing prescribed by law;
- f. ~~Adopt~~ Approve or provide for the approval of subdivision plats;
- g. Adopt and modify the official map of the city;
- h. Adopt and modify and carry out plans in cooperation with the planning and zoning commission for the replanning, improvement, and redevelopment of specific areas of the city;
- i. Adopt and modify and carry out plans in cooperation with the planning and zoning commission for the replanning, reconstruction or redevelopment of any area or district which may have been destroyed in whole or in part by disaster;
- j. Provide for the establishment and designation of fire limits and prescribe the kind and character of buildings or structures or improvements to be erected therein and provide for the erection of fireproof buildings within said limits, and provide for the condemnation of dangerous structures or buildings or dilapidated buildings, or buildings calculated to increase the fire hazard and prescribe the manner of their removal or destruction within said limits;
- k. Provide for sanitary garbage disposal, and regulate fees and charges;
- l. Regulate, license, and fix the charges or fares by any person, firm, or corporation owning, operating, or controlling any vehicle of any character used for commercial purposes such as: The carrying of passengers, the transportation of freight, the disposal of garbage, or the towing of motor vehicles on the public streets and alleys of the city;
- m. ~~Shall have the power to~~ License and regulate any business, occupation, profession or trade when authorized by state law;
- n. Exercise exclusive dominion, control, and jurisdiction in, upon, over and under the public streets, avenues, sidewalks, alleys, highways, and public grounds of the city and provide for the improvement of same;
- o. ~~Shall~~ Conduct all business in official meetings held and called pursuant to the provisions of the charter and applicable laws of the State of Texas. Individual members of [the] city council shall have power to act for the city only with specific authorization by [the] city council in an official meeting; ~~and~~
- p. ~~Shall~~ Appoint a city tax collector or contract for the collection of city property taxes consistent with the laws of the State of Texas;
- q. Authorize the issuance of bonds by a bond ordinance; and
- r. Adopt, modify and carry out plans for the replanning, improvement and redevelopment of neighborhoods and for the replanning, reconstruction or redevelopment of any area or district that may have been destroyed in whole or in part by disaster.

State Law reference— Open meetings of governmental bodies, ~~V.T.C.S. Art. 6252-17;~~ V.T.C.A. Government Code Ch. 551; municipal regulation of miscellaneous businesses, V.T.C.A. Local Government Code, § 215.001 et seq.; collection of property taxes, V.T.C.A. Tax Code, § 31.01 et seq.

3.07 - Prohibitions.

- a. Except where authorized by law or by this charter, no mayor or councilmember shall hold any other city office or city employment during ~~his~~ the person's term as mayor or councilmember. No former mayor or councilmember shall hold any compensated appointive office or city employment within one (1) year after the expiration of ~~his~~ the person's term as mayor or councilmember.
- b. Except for the purpose of inquiries and investigations authorized by [the] city council, the individual members of the city council~~members~~ shall deal with the administrative service solely through the city manager and neither the council nor any member of the council shall not give orders to any ~~city officer or employee~~ subordinates of the city manager either publicly or privately, nor interrupt the normal working schedule of such employees.
- c. Neither the council nor any of its members shall direct the appointment of any person to, or any person's removal from, office by the city manager or by any of the city manager's subordinates; provided, however, that the appointment of city secretary, municipal court clerk and chief of police shall be subject to the approval of the city council.

3.08 - Meetings of the city council.

- a. [The] city council shall hold at least one (1) regular meeting each month and as many additional meetings as it deems necessary to transact the business of the city. [The] city council shall fix by ordinance the date and time of the regular meetings. Special meetings of [the] city council shall be held at the call of the mayor, the city manager, or ~~a majority of the three (3)~~ three (3) councilmembers upon provision of public notice in accordance with state law. All meetings shall be open to the public and shall be held and notice given in accordance with state law as now or hereafter amended, except where executive sessions are authorized by state law.
- b. Five (5) members of [the] city council shall constitute a quorum of [the] city council for the purpose of transacting business. No action of [the] city council[,], except as specifically provided in this charter, shall be valid or binding unless adopted by the affirmative vote of a majority of the members of the council~~members~~ present.
- c. In case of the absence of both the mayor and mayor pro tem, the remaining councilmembers shall elect one (1) of their members to serve as chairman for that particular meeting of [the] city council. While serving as presiding officer, the chairman shall retain ~~his~~ the right to vote.
- d. [The] city council shall determine its own rules of order and business. [The] city council shall provide that the citizens of the city shall have a reasonable opportunity to clearly hear and be heard at the public hearings with regard to specific matters under consideration. [The] city council shall provide for minutes to be taken and recorded for all meetings as required by law, except for executive sessions authorized by state law. Such minutes shall be a public record and shall be kept and maintained by the city secretary.
- e. The agenda for the meetings of city council shall be prepared by the ~~mayor~~ city manager and posted by the city secretary in the manner required by state law. Any ~~councilmember~~ member of council may request that an item be placed on the agenda by request to the city manager or council at an open meeting; however, the mayor is not obligated to

~~comply unless such request is timely submitted in writing and signed by three (3) councilmembers. The item shall then be included on the next appropriate agenda.~~

State Law reference— Application of open meeting law, V.T.C.A. Government Code Ch. 551.

3.09 - Passage of ordinances in general.

- a. [The] city council shall legislate by ordinance only, and the enacting clause of every ordinance shall be “Be it ordained by the City Council of the City of Dickinson, Texas” Each proposed ordinance shall be introduced in the written or printed form required for adoption. ~~No ordinance shall contain more than one (1) subject which shall be clearly expressed in its title. General appropriation ordinances may contain various subjects and accounts for which monies are to be appropriated. After adoption, an ordinance shall not be amended or repealed except by the adoption of another ordinance amending or repealing the original ordinance. An amendatory or repealing ordinance shall set out fully the ordinance sections or subsections to be amended or repealed and shall indicate new matter by enclosing it in quotation marks except where an ordinance is repealed in its entirety.~~
- b. Any member of [the] city council may offer any ordinance in writing that has been placed on the agenda at a regular city council meeting. Copies of proposed ordinances, in the form required for adoption, shall be furnished to members of the city council before the first reading. Copies of the proposed ordinances, in the form required for adoption, shall be available at the city offices and shall be furnished to citizens upon request to the city secretary before the first reading and, if amended, shall be available and furnished in amended form for as long as the proposed ordinance is before [the] city council.
- c. A proposed ordinance, except as related to an emergency, budget, tax, public utility rate setting, or state or federal requirement, shall be read at ~~three (3)~~ two (2) city council meetings with at least one (1) week between readings, ~~provided that the third reading can be suspended by the vote of four (4) councilmembers.~~
- d. A proposed ordinance may be amended at either reading, ~~but any ordinance amended in substance shall automatically be placed again as a first reading at a subsequent meeting.~~ At any reading of a proposed ordinance, interested persons shall have a reasonable opportunity to be heard.
- e. Every ordinance shall become effective upon adoption or at any later time(s) specified in the ordinance, except that every ordinance imposing any penalty, fine or forfeiture shall become effective only after having been published once in its entirety or caption form, after adoption, in a newspaper designated as the official newspaper of the city.
- f. The reading aloud of the title and caption of the ordinance shall suffice as a reading, provided printed copies of the ordinance in the form required for adoption are in front of all members of [the] city council and a reasonable number of additional copies are available to citizens present at the meeting. ~~If a majority of the councilmembers present so request, then the ordinance must be read in its entirety.~~

3.10 - Emergency ordinances.

- a. [The] city council may adopt emergency ordinances only to meet public emergencies affecting life, health, property or the public peace. In particular, such ordinances shall not levy taxes, grant or renew or extend a franchise, or regulate the rate charged by any

public utility for its services. Neither shall they authorize the borrowing of money except as provided in Article VII of this charter.

- b. An emergency ordinance shall be introduced in the form and manner generally prescribed for ordinances, except that they [sic] shall be plainly designated in the title as an emergency ordinance and shall contain[,] after the enacting clause, a declaration stating that an emergency exists and describing the emergency in clear[,] concise and specific terms.
- c. An emergency ordinance may be introduced at any city council meeting and can be adopted with or without amendment, or rejected at the meeting at which it is introduced. The affirmative vote of at least four (4) members of [the] city council shall be required for adoption.
- d. Emergency ordinances shall become effective upon adoption and shall be published as soon thereafter as practicable. Every emergency ordinance so adopted, except one authorizing the borrowing of money as described herein, shall automatically stand repealed as of the sixty-first day following the day on which it became effective. The ordinance may be reenacted if the emergency still exists.

3.11 - Authentication, recording, printing and distribution.

- a. All ordinances and resolutions adopted by [the] city council shall be authenticated by [the] seal and signature of the city secretary and numbered consecutively as adopted. They shall be properly indexed and placed in a book kept open for public inspection or as otherwise provided by state law.
- b. [The] city council shall cause all ordinances and amendments to this charter to be printed promptly following their adoption. A copy of each ordinance and amendment shall be placed in appropriate city offices for public reference. Printed ordinances and charter amendments shall be made available for purchase by the public at a reasonable price fixed by [the] city council.

3.12 - Investigations by the city council.

[The] city council shall have the power to inquire into the official conduct of any department, agency, office, officer or employee of the city. For that purpose, [the] city council shall have the power to administer oaths, subpoena witnesses and compel the producing of books, papers, or other evidence material to the inquiry. [The] city council shall provide by ordinance, penalties for contempt for failing or refusing to obey any such subpoena or to produce any such books, papers, or other evidence, and shall have the power to punish any such contempt in the manner provided by the ordinance. Complaints charging contempt shall be filed and tried in municipal court.

3.13 - Bonds required.

[The] city council shall require bonds of all municipal officers and employees who receive or pay out any monies of the city as required by state law. The amount of the bonds shall be determined by the city council and the cost shall be borne by the city.

ARTICLE IV. - ADMINISTRATIVE SERVICES

4.01 - City ~~administrator~~ manager.

- a. The city council shall hire and appoint the city ~~administrator~~ manager who shall serve as the chief ~~administrative~~ executive officer and head of the administrative branch of city government. The city ~~manager~~ of the city shall serve at the pleasure of the city council. ~~He~~ The city manager need not be a resident of the city when appointed and may reside outside the city only with the approval of the city council.
- b. [The] city council shall fix the compensation of the city ~~administrator~~ manager.
- c. The city ~~administrator~~ manager shall be appointed for an indefinite term, and may be removed by the affirmative vote of four (4) ~~council~~ members of the council. The action of [the] city council in removing the city ~~administrator~~ manager shall be final. [The] city council shall appoint an acting city ~~administrator~~ manager during all vacancies of said office.
- d. [The] city ~~manager~~ shall be responsible to the city council ~~may delegate to and confer upon the city administrator those powers and duties as in their judgement may be proper for the proper and efficient administration of all city affairs. The city administrator shall be responsible to the mayor and city council in the performance of such duties and to that end the city manager shall have the power and shall be required to:~~
 - appoint and employ and, when necessary for the good of the service, remove all officers and employees of the city except as otherwise provided by this charter and except as the city manager may authorize the head of a department to appoint and remove subordinates in such department;
 - prepare the budget annually and submit it to the council and be responsible for its administration after adoption;
 - enforce the charter and ordinances;
 - control work of all department created by the charter and ordinances;
 - attend council meetings;
 - keep the council advised as to the financial condition of city, and to prepare and report to the council as of the end of the fiscal year a complete report on the finances and administrative activities of the city for the preceding year;
 - execute documents as executive of city;
 - appoint assistants and delegate powers to them;
 - administer the city's pension and benefits programs;
 - conduct investigations as deemed necessary, or as directed by council; and
 - perform such other duties assigned by council not inconsistent with this charter.

(Election of 5-5-2001, § 1)

4.02 - City secretary.

- a. The ~~mayor~~ city manager shall appoint, subject to the approval of [the] city council, a city secretary, who shall be appointed for an indefinite term, and may be removed by the city manager only with approval ~~action~~ of [the] city council. ~~[The] city council shall fix the compensation of the city secretary.~~
- b. The city secretary shall:

- (1) Give notice of all official public meetings of [the] city council in a manner consistent with this charter and the state laws;
- (2) Attend all public meetings and hearings of [the] city council and keep the minutes of the proceedings of such meetings in a manner prescribed by [the] city council consistent with applicable law;
- (3) Maintain the official records and files of the city;
- (4) Hold and affix the seal of the city to all appropriate documents;
- (5) Authenticate by signature and seal, and record and post all ordinances, resolutions and proclamations of the city; and
- (6) Perform such other duties as may be required by [the] city council, this charter, or the laws of the State of Texas.

4.03 - Municipal court.

- a. [The] city council shall establish and maintain a municipal court. The municipal court shall have all the powers and duties as are now, or may be[,] prescribed by the laws of the State of Texas relative to municipal courts.
- b. The mayor with the approval of the city council shall appoint a judge of the municipal court who shall be a competent, duly qualified attorney; licensed and practicing for at least two (2) years in the State of Texas. In the event a duly qualified attorney is not available, the mayor, with the approval of the city council, shall select a qualified person to be the municipal judge. The municipal judge of said court shall be appointed for a term of three (3) years, such term to run concurrently with that of the mayor. The municipal judge shall receive such compensation as may be established by the city council. The municipal judge may be removed from office, with or without cause, by action of the city council.
- c. In the absence of the municipal judge or in the event of vacancy in said position, the mayor, with the approval of the city council, may appoint associate judges and relief or temporary judges. Any person appointed as associate judge or relief or temporary judge shall have the qualifications prescribed by this section for the municipal judge.
- d. The city secretary or the assistant city secretary shall be ex officio clerk of said court.
- e. The city manager shall appoint the clerk and deputy clerks of the municipal court who shall have the power to administer oaths, affidavits, make certificates, affix the seal of the municipal court, and perform all acts usual and necessary by the clerks of said court, in conducting the business thereof, including but not limited to, the keeping of records and accounts of the municipal court.
- f. All fines, special expenses, and penalties imposed by the municipal court shall be paid into the city treasury for the use and benefit of the city, as may be consistent with present and future state laws.

(Election of 5-5-2001, § 2)

State Law reference— Municipal courts, V.T.C.A. Government Code, § 29.001 et seq.; temporary judges, V.T.C.A. Government Code, § 29.007(g).

4.04 - City attorney.

- a. The mayor shall appoint[,] subject to the confirmation of the city council, a duly qualified, licensed and practicing attorney in the State of Texas who shall serve as the city attorney.
- b. The city attorney shall serve as the legal advisor to the ~~mayor and~~ city council and city manager; represent the city's interests in litigation and legal proceedings as directed by the city council and city manager; review and provide opinions as requested by the ~~mayor or~~ city council or city manager on contracts, legal instruments, ordinances of the city and other items of city business.
- c. The city council shall have the right to retain special counsel at any time that it may deem necessary and appropriate.
- d. The city attorney and special counsel shall receive compensation as may be established by the city council.
- e. The city attorney, with approval of the city council, may select additional attorneys to act for him and the city in its representation and/or litigation.
- f. The city attorney may be removed by action of the city council.

4.05 - Department of police.

A department of police shall be established and maintained 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. The chief of police shall be the chief administrative officer of the department of police and shall be appointed by the ~~mayor~~ city manager with the approval of [the] city council, for an indefinite term, and may be removed by the city manager with the approval of the affirmative vote of four (4) council members. The chief of police shall be responsible to the city ~~administrator~~ manager, and with the approval of the city ~~administrator~~ manager shall appoint and remove the employees of said department. ~~The chief of police may be removed from office only by action of [the] city council.~~
- ~~b. [The] city council shall fix the compensation of the chief of police.~~
- ~~eb.~~ No persons, except as otherwise provided by the laws of the State of Texas, shall act as special police within the city.

State Law reference— Private Investigators and Private Security Agencies Act, ~~V.T.C.S. Art. 4413(29bb)~~ V.T.C.A. Occupations Code Ch. 1702.

4.06 - Volunteer fire department.

The Dickinson Volunteer Fire Department, existing in the city at the time of adoption of the charter, shall continue in force under the direction of the fire chief until such time as [the] city council deems it advisable by ordinance to create a paid fire department for the city. [The] city council shall contribute funds as deemed necessary to assist operations of the volunteer fire department and shall provide for subject funds in the budget.

4.07 - Administrative departments and offices.

- a. [The] city manager with approval of the council may, ~~after hearing recommendations of the city administrator,~~ establish, redesignate or combine departments and offices.

- b. Except as provided elsewhere in this charter, all departments, offices and agencies of the city shall be under the direction and supervision of the city ~~administrator~~ manager. ~~With the consent of [the] city council, the city administrator may serve as the head of one (1) or more city departments or offices, or appoint one (1) person as the head of two (2) or more departments.~~

4.08 - Personnel system.

Personnel rules shall be prepared by the city ~~administrator~~ manager and presented to [the] city council, which may adopt such rules by ordinance, with or without amendment. The adopted rules shall establish the city as an equal opportunity employer and shall govern the equitable administration of the personnel system of the city.

ARTICLE V. – ELECTIONS

5.01 - Laws governing city elections.

- a. All city elections shall be governed, except as otherwise provided by this charter, by the general election laws of the State of Texas, as amended.
- b. In the event there shall be any failure of the general election laws of [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 such election shall invalidate the same, if it be conducted fairly and in substantial compliance with the general election laws, the charter, and ordinances of the city.

State Law reference— Applicability of Election Code, V.T.C.A. Election Code, § 1.002.

5.02 - Regular or special elections.

The city council may, by resolution, order such regular and special elections as may be required by law or this Charter, or by action of city council. All elections shall be held in compliance with applicable state and federal election laws.

(Res. No. 210-94, § 3, 3-8-94)

Editor's note— Current election dates are found in V.T.C.A. Election Code, § 41.001 et seq.

State Law reference— Ordering election of political subdivision, V.T.C.A. Election Code, § 3.004; hours for voting, V.T.C.A. Election Code, §§ 41.031, 41.032.

5.03 - Filing for office.

Any qualified citizen who desires to become a candidate for city office shall file an application with the city secretary ~~for his name~~ to appear on the ballot. Candidate qualifications are outlined in 3.02 and prohibitions in 3.07. Nothing other than the candidate's name shall appear on the ballot, except as provided by state law.

State Law reference— Election ballots generally, V.T.C.A. Election Code, § 52.001 et seq.; application for place on ballot, V.T.C.A. Election Code, § 141.031 et seq.

5.04 - Official ballots.

All ballots, including early ballots shall, shall be prepared as prescribed by applicable state and federal law.

(Res. No. 210-94, § 3, 3-8-94)

State Law reference— Form of ballot, V.T.C.A. Election Code § 52.061 et seq.; absentee voting, V.T.C.A. Election Code, Ch. 81 et seq.

5.05 - Election of mayor and councilmembers.

- a. Terms of office for mayor and councilmembers shall be for a period of three years.
- b. The mayor and all councilmembers shall be elected by a simple majority vote. A simple majority is defined as fifty (50) percent plus at least one (1) vote of the votes cast in the election for the respective office or position.
 - (1) If no candidate receives a simple majority of the votes cast in a particular race, a runoff election shall be held between the two candidates in that race receiving the most votes. The runoff election shall be conducted as prescribed by state law.
 - (2) In a special election for the office of mayor or any council position, the candidate receiving a simple majority of votes cast at such election shall be declared elected for such term. Special elections shall be conducted as prescribed by state law.

(Res. No. 210-94, § 3, 3-8-94)

Editor's note— The requirements in cases of tie votes, and tie votes in a runoff election, are set out in V.T.C.A. Election Code, §§ 2.002 and 2.028.

5.06 - Canvassing elections.

The election judges shall conduct the election and tally the results. The city council shall meet within the time prescribed by state law to canvass and declare the results of the election as to candidates and questions.

(Election of 5-5-2001, § 6)

ARTICLE VI. - INITIATIVE, REFERENDUM, AND RECALL

6.01 - General authority.

- a. *Initiative:* The qualified voters of the city shall have power to propose ordinances to [the] city council and if [the] city council fails to adopt an ordinance so proposed without any changes in substance, the voters shall adopt or reject it at a city election. Such power shall not extend to the budget; capital program; any ordinance relating to appropriation of money, levy of taxes or salaries of city officers or employees; or any other ordinance not subject to initiative.
- b. *Referendum:* The qualified voters of the city shall have power to require reconsideration by [the] city council of any adopted ordinance and, if [the] city council fails to repeal an ordinance so reconsidered, the voters shall approve or reject it at a city election. Except as provided by state statute, such power shall not extend to the budget; capital program; any ordinance relating to appropriation for money, levy of taxes, or salaries of city officers or employees; or any other ordinance not subject to referendum.

- c. *Recall*: The qualified voters of the city shall have the power to remove, for cause, any official serving in an elective office.

State Law reference— Wording of propositions on ballots, V.T.C.A. Election Code, § 52.072.

6.02 - Petitioners' committee.

- a. Any five (5) qualified voters may commence proceedings contemplated by this article by filing with the city secretary an affidavit stating that they shall constitute the petitioners' committee. Such committee shall be responsible for preparing, printing and circulating the petition. They shall file it in proper form and specify the address to which all notices to the petitioners' committee are to be sent. The affidavit shall set out in full the proposed initiative ordinance or cite the ordinance sought to be reconsidered, or in the case of recall, shall provide a statement of the grounds for removal.
- b. In the case of recall, the city secretary shall immediately notify, in writing, the officer(s) to be removed that the affidavit has been filed and shall inform the officer(s) of its statement of grounds.

6.03 - Circulation and form of petitions.

- a. All petition blanks used for the circulation by the members of the petitioners' committee or their designees shall be numbered, dated and submitted to the city secretary. These blank petitions shall be signed by the city secretary or authorized designee prior to the conclusion of business on the following working day; however, such petitions shall not exceed in number of signature spaces two hundred fifty (250) percent of the signatures required in 6.04a and 6.04b. In the event the city secretary fails to comply with the preceding, such blank petitions shall be deemed valid and ready for circulation the following day.
- b. All pages of a petition shall be uniform in size and style and shall be assembled as one (1) instrument for filing. Each signer of a petition must be a registered voter of the city and shall write after his name his address, giving name of street and number, his voter registration number, and shall also write thereon the date his signature was affixed. Petitions shall contain or have attached throughout their circulation the full text of the ordinance proposed or sought to be reconsidered, or in the case of recall petition, a statement which distinctly and specifically states the ground(s) upon which such petition for removal is predicated. If there be more than one (1) ground, the statement shall specifically state each ground with such certainty as to give the officer(s) sought to be removed notice of such matters with which ~~he~~ the officer is charged.
- c. Each page of the petition shall have attached to it, when filed, an affidavit executed by the circulator stating that ~~he~~ the circulator personally circulated the paper, the number of signatures thereon, that all the signatures were affixed in ~~his~~ the circulator's presence, that ~~he~~ the circulator believes them to be genuine signatures of the persons whose names they purport to be, and that each signer had an opportunity before signing to read the full text of the ordinance proposed, or sought to be reconsidered, or the identity of the official whose recall is being sought.
- d. Location for twenty (20) signatures shall be provided on each blank petition.

6.04 - Presentation of petitions to the city council.

- a. A petition for initiative or referendum, containing the signatures of qualified voters equal in number to twenty (20) percent of those who voted in the last general municipal election, or three hundred fifty (350), whichever is greater, shall be presented to the city secretary not later than thirty (30) days following the filing of the affidavit by the petitioners' committee.
- b. Petitions for the recall of the mayor and/or councilmembers containing the signatures of qualified voters equal in number to thirty-five (35) percent of those who voted in the last general municipal election, or five hundred (500), whichever is greater, shall be presented to the city secretary no later than thirty (30) days following the filing of the affidavit by the petitioners' committee.

6.05 - Suspension of effect; ordinance for referendum petitions.

When a referendum petition is filed with the city secretary, the enforcement of the ordinance sought to be reconsidered shall be suspended unless such suspension will create an immediate breach of public health and safety as determined by the mayor. Such suspension shall terminate when:

- a. There is a final determination of insufficiency of the petition, or
- b. The city council repeals the ordinance, or
- c. When the election results are certified by the election officials.

6.06 - Certification of petitions.

- a. Within ten (10) days after the petitions are presented, the city secretary shall complete a certificate of sufficiency or insufficiency. Sufficiency shall be determined by compliance with state law and Sections 6.02, 6.03, and 6.04 hereof.
- b. If the petition is certified sufficient, the city secretary shall present the certificate to [the] city council at the next regular city council meeting. [The] city council shall verify determination of the sufficiency of the petition.
- c. If a petition has been certified insufficient, the city secretary shall send the petitioners' committee a certificate of insufficiency by certified mail which shall include the particulars in which the petition is defective. The petitioners' committee may, within five (5) working days after receiving the copy of such certificate, file a request that it be reviewed by [the] city council. [The] city council shall review the certificate at its next regular meeting following such a request and determine its sufficiency or insufficiency.
- d. If a petition is certified insufficient, it may be amended once if the petitioners' committee files a notice of intention to amend it with the city secretary within five (5) working days after having received the copy of the certificate. Such a supplementary petition shall comply with all the requirements of 6.03 of this article.
- e. Within five (5) working days after the amended petition is filed, the city secretary shall complete a certificate of sufficiency or insufficiency of the petition, as amended, and shall send a copy of such certificate to the petitioners' committee by certified mail as in the case of an original petition. The final determination as to the sufficiency of an amended petition shall be determined in the same manner as prescribed for original petitions in this section, except no petition, once amended, may be amended again.

(Amd. of 5-5-2001, § 7)

6.07 - Public hearing on recall of elected officers.

- a. An elected official whose removal is sought by recall 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 ~~him~~ such officer to present facts pertinent to the charges specified in the petition. Should a request be made, [the] city council shall order a public hearing be held not less than seven (7) days nor more than fifteen (15) days after receiving such request for a public hearing.
- b. Notice of the public hearing shall be published in the official newspaper of the city at least five (5) days before such hearing.

6.08 - Action on initiative and referendum petitions.

- a. When an initiative or referendum petition has been finally determined sufficient, [the] city council shall promptly consider the proposed initiative ordinance in the manner prescribed for enacting ordinances or reconsider the referred ordinance by voting its repeal. The city council shall either adopt the ordinance proposed or repeal the ordinance referred within thirty (30) days thereafter, or it shall submit such proposed or referred ordinances to a vote of the qualified voters of the city at an election to be held at the earliest date permitted by the Texas election laws.
- b. Copies of the proposed or referred ordinance shall be made available at the polls and shall be published at least once in the official newspaper of the city not more than fifteen (15) days immediately prior to the date of the election.

State Law reference— Uniform election dates, V.T.C.A. Election Code, § 41.001.

6.09 - Calling of recall election.

If the officer whose removal is sought does not resign, [the] city council shall order an election and set the date for holding such recall election. The date selected for the recall election shall be the earliest date permitted by Texas election laws, but not earlier than thirty (30) days after the date the petition was presented to [the] city council, or from the date of the public hearing, if one was held. If, after the recall election date is established, the officer vacates ~~his~~ the position, the election shall be cancelled.

State Law reference— Election dates, V.T.C.A. Election Code, § 41.001 et seq.

6.10 - Withdrawal of petitions.

An initiative, referendum or recall petition may be withdrawn at any time prior to determination of sufficiency by filing with the city secretary a request for withdrawal, signed by at least three (3) members of the petitioners' committee. Upon the filing of such request the petition shall have no further force or effect and all proceedings thereon shall be terminated.

6.11 - Voluntary submission of legislation by city council.

[The] city council, upon its own motion and by a majority vote of its members, may submit to popular vote for adoption or rejection any proposed ordinance or measure, or may submit for repeal any existing ordinance or resolution, subject to the limitations provided in this article for submission on petition, and may in its discretion call a special election for this

purpose. At the time the election is called, the city council shall declare whether the vote is binding or nonbinding.

6.12 - Form of ballots.

- a. Ordinances shall be submitted by ballot title, which shall be prepared in all cases by the city attorney. The ballot title may be different from the legal title of any such initiated or referred ordinance and it shall be a clear, concise statement, without argument or prejudice, descriptive of the substance of such ordinance.
 - (1) Below the title of an initiative ballot the voter may vote ~~his ballot~~:
“For adoption of the ordinance.” or
“Against adoption of the ordinance.”
 - (2) Below the title of a referendum ballot the voter may vote ~~his ballot~~:
“Vote to retain the ordinance.” or
“Vote to repeal the ordinance.”
- b. Ballots used at recall elections shall, with respect to each person whose removal is sought, submit the question:
“Shall (name of person) be removed from the office of (name of office) by recall?”
Below the question the voter may vote his ballot:
“For the removal of (name of person) by recall.” or
“Against the removal of (name of person) by recall.”

6.13 - Results of election.

- a. If a majority of qualified voters vote in favor of a proposed initiative ordinance, it shall be adopted upon certification of the election results and shall be treated in all respects in the manner as ordinances of the same kind adopted by the city council. If conflicting ordinances are approved at the same election, the one receiving the greatest number of affirmative votes shall prevail to the extent of such conflict.
- b. An ordinance adopted by initiative may not be repealed or amended at any time until after the expiration of two (2) years by a majority vote of [the] city council.
- c. If a majority of the qualified voters vote to repeal the referred ordinance, such repeal shall take effect upon certification of the election results. If a majority of the qualified voters vote to retain a referred ordinance, the ordinance shall be considered in effect.
- d. An ordinance repealed by referendum may not be reenacted at any time until after the expiration of two (2) years by a majority vote of [the] city council.
- e. If a majority of the votes cast on the question of recall at a recall election shall be against the removal of the elected official named on the ballot, such official shall continue in office for the remainder of his unexpired term, subject to recall as before within the limitations of 6.14 below. If a majority of the votes cast on the question of recall election shall be for the removal of the elected official named on the ballot, ~~he~~ such official shall, regardless of any technical defects in the recall petition, be deemed removed from office at the time [the] election canvass is complete (5.06) and the vacancy shall be filled in accordance with the provisions of 3.05 for the filling of vacancies.

6.14 - Limitations and restrictions.

- a. Unless successfully withdrawn, no petition shall be filed on a proposed or referred ordinance of substantially the same content within a period of two (2) years of the failure of the petition at a city election.
- b. No elected officer shall be subjected to more than one (1) recall election during a term of office. A recall election need not be ordered by [the] city council if the term of office of the elected officer against whom a petition is filed is to expire within one hundred eighty (180) days after the petition is filed with the city secretary

6.15 - Failure of city council to call an election.

In case all of the requirements of this charter have been met and [the] city council shall fail or refuse to receive an initiative, referendum or recall petition, or order such initiative, referendum or recall election, or discharge other duties imposed upon [the] city council by the provisions of this charter with reference to initiative, referendum or recall, then a district judge of Galveston County may discharge any such duties herein provided to be discharged by the city secretary or by [the] city council. In addition, any qualified voter in the city may seek judicial relief to have any of the provisions of this charter pertaining to initiative, referendum or recall carried out by the proper official.

State Law reference— Tenth judicial district (Galveston County), V.T.C.A. Government Code, § 24.111 et seq.

ARTICLE VII. - FINANCIAL PROCEDURES^[3]

3. State Law reference— Texas Property Tax Code supersedes municipal charters, V.T.C.A. Tax Code, § 1.02.

7.01 - Fiscal year.

The fiscal year of the city shall begin on the first day of October and end on the last day of September of the next succeeding year. Such fiscal year shall also constitute the budget and accounting year.

State Law reference— City fiscal year, V.T.C.A. Local Government Code, § 101.022, V.T.C.A. Tax Code, § 1.05.

7.02 - Submission of budget.

On or before the first day of the ~~eleventh~~ tenth month of the fiscal year, the ~~mayor~~ city manager shall submit a budget to [the] city council for the ensuing fiscal year with an accompanying message.

State Law reference— Municipal budget, V.T.C.A. Local Government Code, § 102.001 et seq.; when charter provisions control, V.T.C.A. Local Government Code, § 102.011.

7.03 - Budget: a public record.

The budget and all supporting schedules shall be filed with the city secretary when submitted to [the] city council and shall be open for public inspection.

7.04 - Public hearing on budget.

Prior to adoption of the budget, [the] city council shall call a public hearing and have the hour, date, and place published in the official newspaper ~~and posted in three (3) different places as designated by [the] city council~~ or as otherwise provided by state law.

7.05 - Proceeding on adoption of budget.

The city council shall analyze the budget, making any additions or deletions which they feel appropriate and shall, at least ten (10) days prior to the beginning of the next fiscal year, adopt the budget by a majority vote of the entire city council. Should [the] city council fail to adopt a budget within the specified time, the existing budget and its appropriations shall be deemed adopted on an emergency basis for up to thirty (30) days.

7.06 - Adoption of budget; appropriation and tax levy ordinance.

On final adoption by the city council, the budget shall be in effect for the budget year. Adoption of the budget shall constitute adoption of an ordinance appropriating the amounts specified as proposed expenditures and an ordinance levying the property tax as the amount of the tax to be assessed and collected for the corresponding tax year. A separate ordinance shall be adopted to set the tax rate. Estimated expenditures shall in no case exceed proposed revenue plus any unencumbered fund balance. Unused appropriations may be transferred to any item required for the same general purpose, except when otherwise specified by this charter or state law. (Election of 5-5-2001, § 8)

State Law reference— Changes in budget for municipal purposes, V.T.C.A. Local Government Code, § 102.010.

7.07 - Disaster contingency fund.

There is established a disaster contingency fund which shall not ~~exceed~~ not be less than seven (7) percent of the total current annual budget. Excesses occurring in this fund are to be transferred to the general fund at the end of the current fiscal year. This fund shall be used only in the event of disaster as declared by the mayor. The annual budget may provide for appropriations to this fund not to exceed two (2) percent of the total current budget. This fund shall be carried forward from year to year and shall not be considered an unencumbered fund balance as referred to in 7.06. Expenditures from this fund shall be approved by the city council.

(Election of 5-5-2001, § 8)

7.08 - Amending the budget.

Under conditions which may arise and which could not reasonably have been foreseen in the normal process of planning the budget, [the] city council may, by a majority vote of the entire city council, amend or change the budget to provide for any additional expense in which the general welfare of the citizenry is involved. These amendments shall be by ordinance, and shall become an attachment to the original budget.

7.09 - Public filing of the budget.

A copy of the budget, as finally adopted, shall be filed with the city secretary and such other places required by state law or as [the] city council shall designate.

7.10 - Capital program.

A five-year capital program shall be submitted as an attachment to the annual budget. The program as submitted shall include, but not be limited to:

- a. A clear general summary of its contents.
- b. A list of all capital improvements which are proposed to be undertaken during the five (5) fiscal years succeeding the current budget year, with appropriations supporting information as to the necessity for such improvements.
- c. Cost estimates, method of financing and recommended time schedules for each improvement.
- d. The estimated annual cost of operating and maintaining the facilities to be constructed or acquired.

7.11 - Defect shall not invalidate the tax levy.

Errors or defects in the form or preparation of the budget or the failure to perform any procedural requirements shall not nullify the tax levy or the tax rate.

7.12 - Lapse of appropriations.

Every appropriation, except an appropriation for a capital expenditure, shall lapse at the close of the fiscal year to the extent that it has not been expended nor encumbered. An appropriation for a capital expenditure shall continue in force until the purpose for which it was made has been accomplished or abandoned.

7.13 - Borrowing.

- a. *Authorized:* Except as prohibited by law or provided in this charter, the city shall have the right and power to borrow money by whatever method it may deem to be in the public interest.
- b. *Tax obligation bonds, general:*
 - (1) The city shall have the power to borrow money on the credit of the city and to issue general obligation bonds for permanent public improvements or any other public purpose not prohibited by law or this charter, and to issue refunding bonds to refund outstanding bonds previously issued. All such bonds or certificates of obligation shall be issued in conformity with the laws of the State of Texas and shall be used only for purposes for which they were issued.
 - (2) No bonds shall be issued under the provisions of this section without an election. The city council shall prescribe the procedure for calling and holding such elections.
 - (3) If at such elections, a majority of the voters shall be in favor of creating such a debt or refunding outstanding valid bonds of the city, it shall be lawful for [the] city council to issue bonds as proposed in the ordinance submitting same. However, if a majority of the vote polled shall be against the creation of such debt or refunding such bonds, [the] city council shall be without authority to issue the bonds. In all cases when [the] city council shall order an election for the issuance

of bonds of the city, it shall at the same time submit the question of whether or not a tax shall be levied upon the property within the city for the purpose of paying the interest on the bonds and to create a sinking fund for their redemption.

- c. *Revenue bonds:* The city shall have the power to borrow money for the purpose of constructing, purchasing, improving, extending or repairing of public utilities, recreational facilities or any other self-liquidating municipal function not prohibited by the constitution and the laws of the State of Texas. No bonds shall be issued under the provisions of this section without an election and shall require a majority vote in favor of issuing such bonds. Such bonds shall be a charge upon and payable from the properties, or interest therein pledged, or the income therein gained from, or both. The holders of the revenue bonds shall never have the right to demand payment thereof out of monies raised or to be raised by taxation. All such bonds shall be issued in conformity with the laws of the State of Texas and shall be used only for the purpose for which they were issued.

State Law reference— Municipal bonds, V.T.C.S. Art. 823 et seq.

7.14 - Purchasing.

- a. The city council may, by ordinance, give the city ~~administrator~~ manager authority to contract for expenditures without further approval of [the] city council for all budgeted items not exceeding limits set by [the] city council. All contracts for expenditures involving more than the limits set by the city council shall be let ~~to the lowest bidder whose submittal is most responsive and most advantageous to the needs of the city.~~ in accordance with the provisions of state law. There must be an opportunity for competitive bidding as provided by law or ordinance. The city council, or city ~~administrator~~ manager in such cases as ~~he~~ the city manager is authorized to contract for the city, shall have the right to reject any and all bids.
- b. Emergency contracts as authorized by law and this charter may be negotiated by the city council or city ~~administrator~~ manager if given authority by [the] city council, without competitive bidding. Such emergency shall be declared by the mayor and approved by [the] city council, or may be declared by [the] city council.

State Law reference— Competitive bidding, V.T.C.A. Local Government Code, § 252.021 et seq.; exemptions from competitive bidding provisions, V.T.C.A. Local Government Code, §§ 252.022, 252.023.

7.15 - Administration of budget.

- a. No payment shall be made or obligation incurred against any allotment or appropriation except in accordance with appropriations duly made unless the city ~~administrator~~ manager or ~~his~~ the city manager's designee first certifies that there is a sufficient unencumbered balance in such allotment or appropriation and that sufficient funds therefrom are or will be available to cover the claim or meet the obligation when it becomes due and payable.
- b. Any authorization of payment or incurring of obligation in violation of the provisions of this charter shall be void, and any payment so made illegal. Such action shall be cause for removal of any officer who knowingly authorized or made such payment or incurred such obligation, and such officer shall be liable to the city for any amount so paid.

- c. This prohibition shall not be construed to prevent the making or authorizing of payments, or making of contracts for capital improvements to be financed wholly or partly by the issuance of bonds, time warrants, certificates of indebtedness, or certificates of obligation, or to prevent the making of any contract or lease providing for payments beyond the end of the fiscal year, providing that such action is made or approved by ordinance.
- d. The city ~~administrator~~ manager shall submit a monthly report to [the] city council covering the revenues and expenditures of the city in such form as requested by [the] city council.

7.16 - Depository.

All monies received by any person, department, or agency of the city for or in connection with the affairs of the city shall be deposited promptly in the city depository or depositories. The city depositories shall be designated by [the] city council in accordance with such regulations and subject to the requirements as to security for deposits and interest thereon as may be established by ordinance and law. Procedures for withdrawal of money or the disbursement of funds from the city depositories shall be prescribed by ordinance.

State Law reference— Drawing of checks and warrants, V.T.C.A. Local Government Code, § 105.074; checks payable at depository, V.T.C.A. Local Government Code, § 105.075; debts payable other than at municipal treasury, V.T.C.A. Local Government Code, § 105.076.

7.17 - Independent audit.

At the close of each fiscal year, and at such other times as may be deemed necessary, [the] city council shall call for an independent audit to be made of all accounts of the city by a certified public accountant. No more than five (5) consecutive annual audits shall be completed by the same firm. The certified public accountant selected shall have no personal interest, directly or indirectly, in the financial affairs of the city or any of its officers. The report of audit, with the auditor’s recommendation[,] shall be made to [the] city council. Upon completion of the audit, the summary shall be published immediately in the official newspaper of the city and copies of the audit placed in the city secretary’s office as a public record.

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

7.18 - Power to tax.

- a. The city shall have the power to levy, assess and collect taxes of every character and type for any municipal purpose not prohibited by the constitution and the laws of the State of Texas as now written or hereafter amended.
- b. The city shall have the power to grant tax exemption in accordance with the laws of the State of Texas.

State Law reference— Exemptions from property tax, V.T.C.A. Tax Code, § 11.11 et seq.

7.19 - Office of tax collector.

There may be established an office of taxation to collect taxes, the head of which shall be the city tax collector, or [the] city council may contract for such services.

7.20 - Taxes; when due and payable.

- a. All taxes due in the city shall be payable at such location or locations as may be designated by [the] city council, and may be paid at any time after the tax rolls for the year have been completed and approved. Taxes for each year shall be paid before February first of the year following the year the taxes are assessed, and all such taxes not paid prior to that date shall be deemed delinquent, and shall be subject to penalty and interest as [the] city council shall provide by ordinance. The city council may provide discounts for the payment of taxes prior to January first in amounts not to exceed those established by state law.
- b. Failure to levy and assess taxes through omission in preparing the appraisal rolls shall not relieve owners of the property so omitted from obligation to pay such current or past due taxes as shown to be payable by recheck of the rolls and receipts for the years in question, omitting penalty and interest.

Editor's note— Property tax discounts are provided for in V.T.C.A. Tax Code, § 31.05; penalties and interest under the Property Tax Code are provided for in V.T.C.A. Tax Code, § 33.01.

7.21 - Tax liens, liabilities, and suits.

- a. All taxable property located in the city on January first of each year shall stand charged from that date with a special lien in favor of the city for the taxes due. All persons purchasing any real property on or after January first in any year shall take the property subject to the liens provided above. In addition to the liens herein provided, on January first of any year the owner of property subject to taxation by the city shall be personally liable for the taxes due for that year.
- b. The city shall have the power to sue for and recover personal judgement for taxes without foreclosure, or to foreclose its lien or liens, or to recover both personal judgement and foreclosure. In any such suit where it appears that the description of any property in the city appraisal rolls is insufficient to identify such property, the city shall have the right to plead a good description of the property to be assessed, to prove the same, and to have its judgement foreclosing the tax lien or for personal judgement against the owners for such taxes.

ARTICLE VIII. - BOARDS AND COMMISSIONS

8.01 - Authority, composition and procedures.

- a. In addition to a planning and zoning commission, [the] city council shall create, establish or appoint, as may be required by the laws of the State of Texas or this charter, such boards, commissions, and committees as it deems necessary or desirable to carry out the function, duties, accountability and tenure of each board, commission, and committee where such are not prescribed by law or this charter.

- b. The city council shall give preference to qualified voters of the City when appointing individuals to serve on such boards, commissions, or committees where such qualification is not otherwise prescribed by law or this charter.
- c. All boards, commissions, or committees of the city shall keep and maintain minutes of any proceedings to be placed on file with the city secretary.
- d. Members of [the] city council shall not be appointed to any board, commission, or committee created or established by [the] city council other than in an advisory capacity, except as permitted by state law. This does not preclude subcommittees made up entirely of city council members.

(Election of 5-5-2001, § 3)

ARTICLE IX. - COMMUNITY PLANNING

9.01 - Comprehensive community plan.

[The] city council shall adopt, and may from time to time modify, a comprehensive plan setting forth in graphic and textural form policies to govern the future physical development of the city. [The] city council shall hold a public hearing on the proposed comprehensive plan or modification thereof and shall thereafter adopt it by resolution with or without amendment. The plan shall serve as a guide to all future city council action concerning land use and development regulations, urban renewal programs and expenditures for capital improvements.

9.02 - Planning and zoning commission.

At the direction of the city council, the planning and zoning commission shall have duties and powers as follows:

- (1) To investigate, consider, and recommend to the city council, prior to approval of same, all plats of new subdivisions within the city or its extraterritorial jurisdiction and to perform all duties imposed upon city planning and zoning commissions by the statutes of the state;
- (2) Make reports and recommendations relating to the comprehensive community plan and development of the city; and
- (3) Such other duties as may be delegated from time to time to the planning and zoning commission by the city council.

(Election of 5-5-2001, § 4)

ARTICLE X. - FRANCHISES AND PUBLIC UTILITIES

10.01 - Authority.

The city shall have the power to buy, own, sell, construct, lease, maintain, operate, and regulate public services and utilities and to manufacture, distribute and sell the output of such services and utility operations. The city shall not supply any utility services outside the city limits, except by a written contract. The city shall have such regulatory and other power as may be now or hereafter granted under the constitution and laws of the State of Texas.

10.02 - Ordinance granting franchise.

- a. Any ordinance granting, renewing, extending, or amending a public service or utility franchise must be read at two (2) separate meetings of [the] city council, and shall not take effect until thirty (30) days after the final reading of the ordinance. A summary of the ordinance shall be published once in the official newspaper of the city, with the expense of such publication borne by the franchisee.
- b. No franchise shall be granted for a term of more than thirty (30) years from the date of the grant, renewal, or extension.
- c. No franchise may be exclusive.

10.03 - Transfer of franchise.

No public service or utility franchise is transferable, except with the approval of [the] city council. However, the franchisee may pledge franchise assets as security for a valid debt or mortgage.

10.04 - Franchise value not to be allowed.

Franchises granted by the city are of no value in fixing rates and charges for the public services or utilities within the city and/or in determining just compensation to be paid by the city for property which the city may acquire by condemnation or otherwise.

10.05 - Right of regulation.

In granting, amending, renewing, or extending public service and utility franchises, the city reserves unto itself the right of regulation:

- a. To repeal the franchise by ordinance for failure to begin construction or operation within the time prescribed, or for failure to comply with terms of the franchise;
- b. To require all extensions of service within the city limits to become part of the aggregate property of the service and operate subject to all obligations and reserved rights contained in this charter. Any such extension is considered part of the original grant and terminable at the same time under the same conditions as the original grant;
- c. To require expansion and extension of facilities and services, and to require maintenance of existing facilities to provide adequate service at the highest level of efficiency;
- d. To examine and audit accounts and records and to require annual reports on local operations of the public service or utility;
- e. To require the franchisee and/or utility to restore, at [the] franchisee's expense, all public or private property to a condition as good as or better than before disturbed by the franchisee for construction, repair or removal;
- f. To require the franchisee to furnish to the city prior to construction and repair, at the franchisee's expense, a general map outlining current location, character, size, length, depth, height, and terminal of all facilities over and under property within the city and its extraterritorial jurisdiction; and
- g. To require compensation, rent, or franchise fees to be paid to the city as may be permitted by the laws of the State of Texas.

10.06 - Regulation of rates.

- a. [The] city council has the power to fix and regulate the rates and charges of all utilities and public services, consistent with state statutes.
- b. Upon receiving written request from a utility or public service requesting a change in rates, or upon a recommendation from the city that rates for services provided by the city be changed, [the] city council shall call a public hearing for consideration of the change.
- c. The utility or public service must show the necessity for the change by any evidence required by [the] city council, including, but not limited to, the following:
 - (1) Cost of its investment for service to the city;
 - (2) Amount and character of expenses and revenues connected with rendering the service;
 - (3) Copies of any reports or returns filed with any state or federal regulatory agency within the last three (3) years; and,
 - (4) Demonstration that the return on investment is within state and federal limitations.
- d. The burden of establishing by clear and convincing evidence the value of its investments and the amount and character of its investments and revenues is upon the utility or franchisee making the request.
- e. [The] city council may hire rate consultants, auditors and/or attorneys to investigate, and if necessary, litigate requests for rate changes, the expense of which shall be reimbursed to the city by the franchisee, regardless of granting or denial of the rate request.
- f. No franchise holder shall institute any legal action to contest any rate, charge, or fare fixed by [the] city council until such franchise holder has filed a motion for rehearing with [the] city council specifically setting out each ground of its complaint against the rate, charge, or fare fixed by [the] city council, and until [the] city council shall have acted upon such motion.

10.07 - Option to purchase.

Any public utility franchise may be terminated by ordinance after ten (10) years after the beginning of operation, whenever [the] city council determines to acquire by condemnation or otherwise the property of such utility necessarily used in or conveniently useful for the operation of the city within [the] city limits of same.

10.08 - Accounts of municipally owned utilities.

If the city engages in ownership or operation of any utility, [the] city council shall annually cause to be made and published a report showing comprehensive financial results of city ownership and operation.

ARTICLE XI. RESERVED FOR FUTURE USE.

ARTICLE XII. - GENERAL PROVISIONS.

12.01 - Public records.

All city records open to the public by law shall be available for inspection by any citizen at such times and in such manner as shall be established by [the] city council.

State Law reference— Access by public to information in custody of governmental agencies and bodies, ~~V.T.C.S. Art. 6252-17a~~ V.T.C.A. Government Code Ch. 552.

12.02 - Oath.

All officers of the city shall, before entering upon duties of their respective offices, take and subscribe to the official oath prescribed in the constitution of the State of Texas.

State Constitution reference— Oath of elected officers, Art. XVI, § 1.

12.03 - Official newspaper.

[The] city council shall declare annually an official newspaper of general circulation in the city. All ordinances, notices, and other matters required by this charter, city ordinance, or the constitution and laws of the State of Texas shall be published in the official newspaper or as otherwise permitted by state law.

State Law reference— Publication of ordinance adopting a code of municipal ordinances, V.T.C.A. Local Government Code, § 53.002.

12.04 - Wording interpretation.

The gender of the wording throughout this charter shall always be interpreted to mean either sex. All singular words shall include the plural and all plural words shall include the singular. All references to state law, however expressed in this charter, shall mean as presently enacted or hereafter amended.

12.05 - Drilling operations.

[The] city council may, by ordinance[,] provide regulation for the testing, drilling, spacing, completion, and operation of oil, gas, and sulphur wells.

12.06 - Civil rights.

Equality of rights under the law shall not be denied or abridged with respect to appointment to or removal from any position because of race, gender, age, national origin, political or religious opinions or affiliation.

12.07 - Nepotism.

Nepotism as defined by the state statutes is prohibited.

State Law reference— Nepotism, ~~V.T.C.S. Art. 5996a et seq~~ V.T.C.A. Government Code Ch. 573.

12.08 - Garnishment.

No fund of the city shall be subject to garnishment, and the city shall never be required to answer in any garnishment proceedings unless provided by state law.

State Law reference— Garnishment, V.T.C.A. Civil Practice and Remedies Code, § 63.001 et seq.; garnishment of municipal funds, V.T.C.A. Local Government Code, § 101.023.

12.09 - Security and bond.

It shall not be necessary in any action, suit, or proceeding in which the city is a party for any bond, undertaking, or security to be demanded or excused by or on behalf of the city. All

such actions shall be conducted in the same manner as if such bond, undertaking or security had been given as required by law.

State Law reference— Cities exempt from security for court costs, V.T.C.A. Civil Practice and Remedies Code, § 6.002.

12.10 - Notice of claim.

The city shall not be held liable on account of any claim for the death of any person or injuries to any person or damages to any property unless the person making such complaint or claiming such damages shall, within ~~ninety (90) days~~ six (6) months after the time at which it is claimed such damages were inflicted upon such person or property, file with the city a written statement under oath, stating the nature and character of such damages or injuries, the extent of same, the place where same happened, the circumstances under which same happened and the conditions causing same, with a detailed statement of each item of damage and the amount thereof, and if it be for personal injuries, giving a list of any witnesses known by the affiant to have seen the accident.

State Law reference— Notice procedures, V.T.C.A. Civil Practice and Remedies Code, § 101.101.

12.11 - Power to settle claims.

[The] city council shall have the power to compromise and settle any and all claims and lawsuits of every kind and character, in favor of, or against the city, including suits by the city to recover delinquent taxes.

12.12 - Service or process against the city.

All legal process against the city shall be served upon the mayor.

12.13 - Judicial notice.

This charter shall be deemed a public act, may be read in evidence without pleading of proof, and judicial notice shall be taken thereof in all courts and places.

12.14 - Severability.

If any section or part of this charter is held invalid by a court of competent jurisdiction, such holding shall not invalidate or impair the validity, force, or effect of any other section or part of this charter.

12.15 - Personal interest in city contract.

No officer or employee of the city shall ~~have a financial interest, direct or indirect, in any contract with the city, or shall be financially interested, directly or indirectly, in the sale by the city of any land, materials, supplies, or service, except on behalf of the city as an officer or employee. Any willful violation of this section shall constitute malfeasance in office, and any officer or employee guilty thereof shall be subject to removal from his office or position. Any violation of this section, with the knowledge, expressed or implied, of the person or corporation contracting with [the] city council shall render the contract involved voidable by [the] city~~

~~council~~ participate in a vote or decision on any matter involving a business entity or real property in which the official or employee has a substantial interest as provided by state law.

12.16 - Applicability of general law.

The constitution of the State of Texas, the statutes of said state applicable to home rule municipal corporations, as now or hereafter enacted, this charter and ordinances enacted pursuant hereto shall in the order mentioned, be applicable to the city, 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 shall be optional with it, and it shall not be required to conform to the law governing any other city, town, or village unless and until by ordinance it adopts same.

State Law reference— General powers of municipalities, V.T.C.A. Local Government Code, § 51.001 et seq.; authority of local self-government, V.T.C.A. Local Government Code, § 51.072.

12.17 - Amendment of charter.

Amendments to this charter may be framed and submitted to the qualified voters of the city in a manner provided by the applicable statute of the State of Texas.

State Law reference— Charter amendments, V.T.C.A. Local Government Code, § 9.004 et seq.

12.18 - Charter review commission.

[The] city council may appoint a charter review commission of five (5) citizens of the city.

- a. It shall be the duty of such charter review commission to:
 - (1) Inquire into the operation of the city government under the charter provisions and determine whether any such provisions require revision. To this end, public hearings may be held; and the charter review 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 the conduct of such hearing.
 - (2) Propose any recommendations it may deem desirable to insure compliance with the provisions of this charter by the several departments of the city.
 - (3) Propose 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. Any report of the charter review commission shall be delivered to the city attorney at least thirty (30) days prior to its presentation to [the] city council. Within such time, and no later than ten (10) days prior to its presentation to [the] city council, the city attorney shall advise the charter review commission in writing, of any changes in proposed amendments which ~~he~~ the city attorney deems necessary or desirable. A copy of the city attorney's recommendations shall be attached to the report of the charter review commission at the time of its presentation to [the] city council.

- b. [The] city council shall receive any report and have published in a newspaper of general circulation in the city or on the City's website a summary of all proposed amendments recommended by the final report of the charter review commission.
- c. The term of office of such charter review commission shall be six (6) months, and, if during such term no report is presented to [the] city council, then all records of the proceedings of such charter review commission shall be filed with the city secretary.

State Law reference— Charter amendments, V.T.C.A. Local Government Code, § 9.004 et seq. 12.19 - Reserved.

Editor's note— A Charter election held on May 5, 2001, § 10, provided for the repeal of Charter Section 12.19 in its entirety. Formerly, said Section pertained to submission of charter to voters as adopted by the city on March 17, 1987.