

HOME RULE CHARTER FOR THE CITY OF DAYTON

PREAMBLE

We, the citizens of Dayton, Texas, in order to establish a home rule municipal government, provide for the future progress of our city, preserve and protect our God-given and lawful right and the equal status under the law of every citizen, regardless of that citizen's race, creed, or political affiliations, and to obtain more fully the benefits of local self-government, do hereby adopt this Home Rule Charter and its subsequent amendments; said amendments to be passed and approved by the Citizens of Dayton and as allowed in accordance with the statutes of the State of Texas; and do hereby declare the residents of the City of Dayton, in Liberty 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 of "City of Dayton" with such powers, rights, and duties as are herein provided.

ARTICLE 1. FORM OF GOVERNMENT AND BOUNDARIES

Sec. 1.01. Form of government.

The municipal government provided by this charter shall be known as the "Council/Manager Form of 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 legislation, adopt budgets, and determine policies. All powers of the City shall be exercised in the manner prescribed by the 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.

(Amended by an election held 11/4/14)

State law reference(s)—Form of government, V.T.C.A., Local Government Code, sec. 26.021.

Sec. 1.02. The boundaries.

The boundaries of the City shall be those boundaries established by the original incorporation of the City and the ordinances of annexation and of disannexation thereafter enacted by the City Council. The City Secretary shall maintain a map indicating the current correct boundaries of the City.

(Amended by an election held 5/4/02)

Sec. 1.03. Change of boundaries and residents' rights.

The boundaries of the CITY may be altered by extension or contraction through annexation or detachment of territory by one or more of the following methods:

A. ANNEXATION:

- (1) The City Council shall have the power to annex territory to the CITY with or without the consent of the inhabitants or owners of such territory.
- (2) Territory may also be annexed to the CITY in any manner and by any procedure that may now or hereafter be provided by law.

B. EXTENSION OF SERVICES: Municipal services shall be extended to annexed territory in accordance with State Law and City ordinances and the annexation plan for the area being annexed.

C. DETACHMENT OF TERRITORY: Territory in the CITY may be detached from the corporate limits pursuant only to State law or City ordinance. However, any detached territory shall remain liable for its prorata share of

indebtedness incurred while such territory was a part of the CITY, and the CITY shall continue to levy and collect taxes within the territory until such indebtedness is discharged.

- D. RESIDENTS' RIGHTS: Residents of territory annexed to the CITY shall be entitled to the rights and privileges of other citizens of the CITY in the manner specified by law or City ordinance and such residents shall be bound by this Charter and the ordinances, resolutions and regulations of the CITY.

(Amended by an election held 11/4/14)

State law reference(s)—Municipal boundaries and annexation, V.T.C.A., Local Government Code, ch. 41 et seq.; municipal annexation, V.T.C.A., Local Government Code, ch. 43; authority of home-rule municipality to annex area, V.T.C.A., Local Government Code, sec. 43.021.

ARTICLE 2. POWERS OF THE CITY

Sec. 2.01. General powers of the city.

The City shall be a Home Rule City, with full power of local self-government, including the right to amend this Charter, as provided by the Constitution and laws of the State of Texas, together with all the implied powers necessary to carry into execution such granted powers.

It may use a corporate seal; may sue and be sued; may contract and be contracted with; may cooperate with the Government of the State of Texas, or any agency or political subdivision thereof, or the Federal Government or its agencies, to accomplish any lawful purpose for the advancement of the interest, welfare, health, morals, comfort, safety, and convenience of the City and its inhabitants; may acquire property within or without its corporate limits for any municipal purposes in fee simple, or in any lesser interest or estate, by purchase, gift, devise, lease, or condemnation, an[d] subject to the provisions of the Charter, may sell, lease, mortgage, hold, manage, and control such property as may now or hereafter be owned by it; may pass ordinances and enact such regulations as may be expedient for the maintenance of the good government, order, and peace of the City and the welfare, health, morals, comfort, safety, and convenience of its inhabitants; and shall have and exercise all municipal powers, functions, rights, privileges, and immunities of every kind and nature whatsoever, subject only to the limitations imposed by the State constitution, the State laws, and this Charter.

The enumeration of particular powers by this Charter shall not be judged to be exclusive and, in addition to the powers enumerated or implied herein, it is intended that the City shall have and may exercise all powers which, under the Constitution and laws of this State, it would be competent for this Charter specifically to enumerate.

Sec. 2.02. 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 this Charter or by the Constitution and laws of this State. The City may exercise the power of eminent domain in any manner authorized or permitted by the Constitution and laws of this State. The power of eminent domain hereby conferred shall include the right of the City to take the fee in land so condemned and such power and authority shall include the right to condemn public property for such purposes. The city shall have and possess the power of condemnation for any municipal or public purposes even though not specifically enumerated in this Charter.

State law reference(s)—Eminent domain, V.T.C.A., Property Code, ch. 21; municipal right of eminent domain, V.T.C.A., Local Government Code, ch. 251.

Sec. 2.03. Streets and public property.

The City shall have exclusive dominion, control, and jurisdiction in, upon, over, and under the public streets, sidewalks, alleys, highways, public squares, public ways within the corporate limits of the City, and in, upon, over, and under all public property of the City. With respect to each and every public street, sidewalk, alley, highway, public square, public park, or other public way within the corporate limits of the City, the City shall have the power

to establish, maintain, improve, alter, abandon, or vacate the same; to regulate, establish, or change the grade thereof; to control and regulate the use thereof; and to abate and remove in a summary manner any encroachment thereon.

State law reference(s)—Authority of municipality over and under public highways, streets and alleys, V.T.C.A., Transportation Code, sec. 311.001.

ARTICLE 3. THE CITY COUNCIL

Sec. 3.01. Number, selection and term.

The legislative and governing body of the City shall consist of a Mayor and five (5) Council Persons and shall be known as the "Council of the City of Dayton".

- (a) The Mayor shall be elected at large; Members of the City Council shall be elected as Council Persons by place; said places being one (1) through five (5)[.]
- (b) The Mayor shall be the presiding officer of the City Council and shall be recognized as the head of the City Government for all ceremonial purposes and by the Governor for purposes of military law; the Mayor shall be entitled to vote on all matters under consideration by the City Council in the event of a tie vote by the Council members.
- (c) The Mayor and each Council Person shall hold office for three (3) year terms and until his/her successor is elected and qualified. All elections shall be held in the manner prescribed by Texas law.
- (d) Election by majority and runoff election. At the first election held under this Charter, and thereafter at every city officer's election, the election to each office shall be by a majority vote of all the votes cast at such election for the respective office. In every such election each qualified voter shall vote for not more than one (1) candidate for each office to be filled. In an election to the office of mayor or councilmember, where no candidate receives a majority of all the votes cast for such office at such election, the city council shall, immediately upon declaring the official results of the election, issue a call for a runoff election for every office to which no one was elected. Such runoff election shall be held on such date as established by law. In such runoff election the two (2) candidates who received the highest number of votes for such office shall be voted on again, and the candidate who receives the majority of the votes for such office in the runoff election shall be elected to such office.
- (e) Transition from two-year to three-year terms. The following election schedule and process is established to transition from a two-year term to a three-year term:
 - (1) The three (3) council members elected in the 2022 election shall continue to serve a two (2) year term.
 - (2) In 2023 the Mayor will be elected to a three (3) year term and that position will continue serving three (3) year terms thereafter.
 - (3) In 2023 the Councilmembers elected in Positions four (4) and five (5) will both serve two (2) year terms. Starting in 2025 those positions will become three (3) year terms.
 - (4) The three (3) councilmembers elected in the 2024 election year shall, upon taking the oath of office, collectively draw to determine which position shall have a transitional term of office for two (2) years and the other two positions will start serving three (3) year terms. Starting in 2026 the council position that drew the two (2) year transitional term in 2024 will start serving three (3) year terms.

(Amended by elections held 11/4/14 and 5/7/2022)

Sec. 3.02. Qualifications.

Each candidate for the City Council shall be a resident citizen of the City of Dayton, and shall be qualified to vote in the State of Texas, shall have been such resident citizen of the City of Dayton for a period of not less than six (6) months immediately preceding his election and shall not have a delinquent indebtedness to the City of Dayton, 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 his election, of any of the territory not formerly within the corporate limits of said City, but which is annexed under the provisions of Section 1.03 of the Charter, shall be eligible for said office. If the Mayor or any Council Member fails to maintain the foregoing qualifications, or shall be absent from three (3) consecutive regularly scheduled meetings without valid excuse, the City Council may, at its next regular meeting, declare a vacancy to exist and shall fill the vacancy as set forth in Section 3.06 of this Charter. The City Council shall be the judge of and rule on the validity of any excuse. (Amended by an election held 5/4/02)

State law reference(s)—Age and residence requirements for home-rule city office, V.T.C.A., Election Code, sec. 141.003.

Sec. 3.03. Council to be judge of election qualification.

The City Council shall be the judge of the election and qualification of its own members and other elected officials of the City.

Sec. 3.04. Compensation.

Members of the Council shall serve without pay or compensation; provided, however, they shall be entitled to reimbursement of necessary expenses incurred in the performance of their official duties when approved by the Council.

Sec. 3.05. Mayor pro-tem.

The Mayor shall appoint one (1) member of the City Council after each City election, and who shall perform all the duties of the Mayor in the absence or disability of the Mayor. This appointed member shall be the Mayor Pro-Tem. When called upon to preside over a meeting of the City Council; the Mayor Pro-Tem does not give up the right to vote on matters coming before the Council.

(Amended by an election held 11/4/14)

Sec. 3.06. Vacancies.

When a vacancy occurs in the City Council, including the position of Mayor, the vacancy shall be filled as set forth in Texas law.

(Amended by elections held 5/4/02, 11/4/14 and 5/7/2022)

State law reference(s)—Special election to fill vacancy generally, V.T.C.A., Election Code, sec. 201.051 et seq.

Sec. 3.07. 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. Without 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 any officer or person who is appointed or employed by City Council as provided by this charter or pursuant to law.

- (b) It shall be the duty of the City Council to thoroughly investigate, or cause to be investigated, each appointee or applicant for any city office or position filled by the City Council under the charter or pursuant to law.
- (c) Establish, consolidate, or abolish administrative departments and distribute the work of divisions.
- (d) Adopt the budget of the City.
- (e) Authorize the issuance of bonds by a bond ordinance.
- (f) Inquire into the conduct of any office, department, or agency of the City and make investigations as to municipal affairs.
- (g) Provide for such additional boards and commissions, not otherwise provided for in this Charter, as may be deemed necessary, and appoint 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.
- (h) Adopt and modify the zoning plan and the building code of the City.
- (i) Adopt and modify the official map of the City.
- (j) Adopt, modify, and carry out plans proposed by the Planning commission for the clearance of slum districts and rehabilitation of blighted areas.
- (k) Adopt, modify, and carry out plans proposed by the Planning Commission for the replanning, improvement, and redevelopment of any area or district which may have been destroyed in whole or in part by disaster.
- (l) 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.
- (m) 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 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.
- (n) Fix the salaries and compensation of the City officers and employees.
- (o) Provide for a sanitary sewer and water system and require property owners to connect their premises with sewer system, and provide for penalties for failure to make sanitary sewer connections.
- (p) Provide for sanitary garbage disposal, and set fees and charges therefore, and provide penalties for failure to pay such fees and charges.
- (q) Exercise exclusive dominion, control, and jurisdiction including the right to close and abandon streets and alleys 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.
- (r) Compromise and settle any and all claims and lawsuits of every kind and character in favor of or against the City of Dayton.

(Amended by an election held 2/25/83)

Sec. 3.08. Meetings of the city council.

The City Council shall hold at least one (1) regular meeting in each month at a time to be fixed by the City Council for such regular meetings, and it may hold as many additional meetings as may be necessary for the transaction of city business. All meetings of the City Council will be public except as otherwise permitted by law. Meetings shall be held at the City Hall or at such other locations as may be designated by the City Council. The Mayor or any two (2) members of the City Council may call special meetings of the City Council.

(Amended by an election held 2/25/83)

State law reference(s)—Open meetings, V.T.C.A., Government Code, ch. 551.

Sec. 3.09. Rules of procedure.

The City Council shall determine its rules of procedure. Four members of the City Council (which may include the Mayor) shall constitute a quorum to conduct the City's business and the affirmative vote of a majority of the City Council members present shall be sufficient to approve any action and to adopt any ordinance or resolution. Minutes of all open, public meetings of the City Council shall be kept and shall constitute one of the archives of the City. The vote upon the passage of all ordinances and resolutions shall be taken by indications of "yes" and "no" and entered upon the minutes. Upon final passage, each ordinance or resolutions shall be recorded in a book kept for that purpose and shall be authenticated by the signature of the presiding officer and the City Secretary.

(Amended by an election held 5/4/02)

Sec. 3.10. 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, however, that any ordinance imposing a penalty, fine, or forfeiture for a violation shall become effective upon publication as set forth in Texas law. Every adopted ordinance shall be authenticated by the signature of the Mayor and City Secretary, shall be assigned a number and shall be systematically recorded and indexed in an ordinance book or other form approved by the City Council. The City Secretary shall note on every ordinance requiring publication the fact that it has been published and the date of such publication. The provisions of this section shall not apply to the correction, amendment, revision, or codification of any ordinance or to the publication of ordinances in book or other approved form. Except as provided by Article 7 of this Charter, any ordinance may be adopted upon its consideration and passage at one (1) meeting of the City Council. It shall only be necessary to record the subject matter and number of each adopted ordinance in the City Council minutes. The City Council shall have power to cause the ordinances of the City to be corrected, amended, revised, codified and printed in code or other form as the City Council may deem advisable.

(Amended by elections held 5/4/02 and 5/7/2022)

State law reference(s)—Publication of ordinances, V.T.C.A., Local Government Code, sec. 52.013.

Sec. 3.11. Official bonds for city employees.

The City Manager and the City Secretary and such other City officers and employees as the City Council may require, shall, before entering upon the duties of their offices, enter into a good and sufficient fidelity bond in a sum to be determined by the City Council, payable to the City of Dayton, and conditioned upon the faithful discharge of the duties of such persons and upon the faithful accounting for all monies, credits, and things of value coming into the hands of such persons, and such bonds must be acceptable by the City Council.

State law reference(s)—Official bonds, V.T.C.A., Government Code, ch. 604.

Sec. 3.12. 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 (\$200.00) dollars.

Sec. 3.13. Audit and examination of city books and accounts.

The City Council shall cause an annual 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, who shall 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.

State law reference(s)—Audit of municipal finances, V.T.C.A., Local Government Code, ch. 103.

ARTICLE 4. ADMINISTRATIVE SERVICES

Sec. 4.01. City manager.

- (a) The City of Dayton shall operate under the Council/Manager form of government.
- (b) Appointment and Qualifications: The City Council shall appoint a City Manager who shall be the chief administrative and executive officer (CEO) of the City and shall be responsible to the City Council for the administration of all the affairs of the City. The City Manager shall be chosen by the City Council solely on the basis of his/her executive and administrative training, experience, and ability and need not, when appointed, be a resident of the City of Dayton. No member of the City Council shall, during the time for which he/she is elected and for one (1) year thereafter, be appointed City Manager. Within six (6) months of appointment, the City Manager shall reside within the corporate limits of the City or within the City's extraterritorial jurisdiction (ETJ).
- (c) Term and Salary: The City Manager shall not be appointed for a definite term but may be removed at the will and pleasure of the City Council by a vote of the majority of the entire council. The action of the City Council in suspending or removing the City Manager shall be final, it being the intention of this Charter to vest all authority and fix all responsibility of such suspension or removal in the City Council. In case of the absence or disability of the City Manager, the City Council may designate some qualified person to perform the duties of the office during such absence or disability. The City Manager shall receive compensation as may be fixed by the Council.
- (d) Duties of the City Manager: Except as otherwise provided by this charter, to employ, appoint and remove officers and employees of the City. The City Council and its members shall deal with the administrative services of the City for which the City Manager is responsible solely through the City Manager, and only the City Manager shall give orders to any subordinate of the City Manager, whether publicly or privately.
- (e) Absence or disability: In case of the absence or disability of the City Manager, the City Council may designate a qualified person to perform the City Manager's duties during such absence or disability.

(Amended by elections held 2/25/83, 11/4/14, and 5/7/2022)

Sec. 4.02. 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 of him by the City Council. The Chief of Police shall be appointed by the City Manager with the approval of the City Council.

- (b) No persons except as otherwise provided by State Law, this Charter or Ordinances passed pursuant thereto shall act as special police or special detective.

(Amended by an election held 11/4/14)

Sec. 4.03. City secretary.

The City Manager shall appoint the City Secretary and such assistant City Secretaries as deemed necessary and as provided for in the annual budget. 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 his/her 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 to him/her, and those elsewhere provided for in this Charter.

(Amended by an election held 11/4/14)

Sec. 4.04. Municipal court.

- (a) There shall be established and maintained a court designated as a "Municipal Court" for the trial of misdemeanor offenses, with all such powers and duties as are now or hereafter may be prescribed by laws of the State of Texas relative to corporation or Recorder's Courts.
- (b) The Judge of said Court shall be appointed for an indefinite term by the City Council, to serve at the will and pleasure of the City Council, and shall receive such salary as may be fixed by the City Council.
- (c) The City Manager shall appoint and supervise a Municipal Court Clerk.
- (d) The Clerk of said Court and his/her 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 acts usual and necessary by the Clerk of Courts in issuing process of said Courts and conducting the business thereof.
- (e) The City Council may by ordinance provide for an associate Judge of said Court, to serve during the temporary absence or disability of the Judge of said Court.

(Amended by elections held 5/15/04 and 11/4/14)

State law reference(s)—Municipal courts generally, V.T.C.A., Government Code, sec. 29.001 et seq.; jurisdiction of municipal courts, V.T.C.A., Government Code, sec. 29.003.

Sec. 4.05. City attorney.

The City Council shall appoint a competent and duly licensed Attorney who shall be the City Attorney. He/she shall receive for this services such compensation as may be fixed by the City Council and shall hold his office at the pleasure of the City Council. The city Attorney, or such other attorneys selected by him with the approval of the City Council, shall represent the City in all litigation. He/she shall be the legal advisor of, and attorney and counsel for, the City and all officers and departments thereof.

(Amended by an election held 11/4/14)

State law reference(s)—Appointment of municipal attorney, V.T.C.A., Local Government Code, sec. 22.071.

Sec. 4.06. Department of health and sanitation.

- (a) Appointment and Qualifications: The City Council shall appoint a City Health Officer who shall be a licensed physician qualified to practice medicine in the State of Texas. The City Health Officer shall be the director of the Department of Health and Sanitation.

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- (b) Duties of the Health Officer: The City Health Officer shall advise with the City Council on a program of Public Health; shall cooperate in the preparation of a Sanitary code; shall cooperate with nearby cities on problems of health and sanitation; shall cooperate with the Commissioner's Court of Liberty county and its agencies, and with the State Health Department and other departments of the state government in matters pertaining to health and sanitation.

(Amended by an election held 5/4/02)

Sec. 4.07. 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 such department 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.

Sec. 4.08. Internal auditor.

The City Council may choose to establish the position of Internal Auditor for the CITY. Such Internal Auditor shall be appointed by the City Council and shall report directly to the City Council. The Internal Auditor shall examine all financial records, payments and matters pertaining to the operations of the CITY and shall report the appropriateness of same directly to the City Council. This is a special appointment and may not be filled by an existing City employee. The Internal Auditor shall receive such compensation as may be fixed from time to time by the City Council, and the Internal Auditor shall serve at the will and pleasure of the City Council.

(Amended by elections held 5/2/92 and 11/4/14)

Sec. 4.09. Employees.

All employees of the CITY OF DAYTON shall be employees at will of the CITY unless otherwise expressly provided in this Charter.

(Amended by an election held 5/2/92)

Sec. 4.10. Local purchase option.

In accordance with State Law, the City Council may elect to offer a local purchase option in its procurement process.

(Amended by an election held 11/4/14)

State law reference(s)—Purchasing and contracting authority of municipality, V.T.C.A., Local Government Code, chs. 252, 271.

ARTICLE 5. NOMINATIONS AND ELECTIONS

Sec. 5.01. Elections.

The regular City elections shall be held annually on a date set by ordinance which shall be a date authorized by state law at which time officers will be elected to fill those offices which become vacant that year. The City Council shall fix the hours and place for holding such election, same to be in conformity with State Election Law. The City Council may by ordinance call special elections for the purposes required or permitted by this Charter or by the laws of the State of Texas. Such special elections shall be conducted in the manner prescribed by law.

(Amended by elections held 5/4/02 and 11/4/14)

State law reference(s)—Election dates, V.T.C.A., Election Code, ch. 41.

Sec. 5.02. Regulation of elections.

The City Council shall make such 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 and for the prevention of fraud in such elections. Municipal elections shall be conducted by the appointed election authorities who shall also have power to make regulations not inconsistent with this Charter or with any regulations made by the Council or the laws of the State of Texas.

Sec. 5.03. Filing for office.

Any qualified person who desires to become a candidate for election to a place on the City Council shall file, with the City Secretary no sooner than and not later than the dates prescribed by State Election Law, an application for the candidate's name to appear on the ballot. Additionally, this application must specify if the applicant is running for Mayor (at Large) or a Council seat. If running for a Council seat, the application must specify which place (1-5) that the applicant desires to run.

(Amended by elections held 5/4/02 and 11/4/14)

State law reference(s)—Candidate's application for home-rule city office, V.T.C.A., Election Code, sec. 143.005.

Sec. 5.04. The official ballot.

The names of all candidates for office, except such as may have withdrawn, died, or become ineligible, shall be printed on the official ballots without party designations in the order determined in a drawing of lots conducted by the City Secretary. All official ballots shall be printed at least twenty (20) days prior to the date of any general or special election, and absentee voting shall be governed by the general election laws of the State of Texas. If other than the Mayor who runs at large, each candidate's name shall be followed by the numerical designation of the place that the respective candidate is seeking, same being one (1) through five (5).

(Amended by an election held 11/4/14)

State law reference(s)—Ballot form, content and preparation, V.T.C.A., Election Code, ch. 52.

Sec. 5.05. Election by plurality.

At any regular or special municipal election, the candidates for the offices shall be elected based on, who shall have received the greatest number of votes cast in such election. Those candidates receiving the greatest number of votes shall be declared elected. In the event a tie vote makes it impossible to determine the winning candidate, the Mayor, or if he fails to do so, the City Council shall cause to be held a runoff election between the tied candidates pursuant to state election law. Provided, however, if the two (2) candidates concerned shall agree in writing, same to be filed with the returning officer and the City Secretary, upon a different method of deciding which of the two (2) shall be declared elected, the decision shall be made in that manner and the special election not ordered, in accordance with the provisions of the Texas Election Law.

(Amended by an election held 11/4/14)

State law reference(s)—Election by plurality, V.T.C.A., Election Code, sec. 2.001 et seq.

Sec. 5.06. Conducting and canvassing elections.

The election judges and other necessary election officials for conducting all such elections shall be appointed by the City Council. The election judges shall conduct the elections, determine, record, and report the results as provided by the general election laws of Texas. As soon as practical after an election and in compliance with Texas

State Election Law the City Council shall meet, open the returns, canvass and officially declare the result of the election as to candidates and questions and issue certificates of election to those candidates elected as herein before provided.

(Amended by an election held 11/4/14)

State law reference(s)—Canvassing elections, V.T.C.A., Election Code, ch. 67.

Sec. 5.07. Oath of office.

Every officer of the City shall, before entering upon the duties of his office, take, and subscribe to the following oath or affirmation to be filed and kept in the office of the City Secretary.

"I, _____, do solemnly swear (or affirm), that I will faithfully execute the duties of the office of _____, of the City of Dayton, State of Texas, and will to the best of my ability preserve, protect and defend the constitution and laws of the United States and of the State and the Charter and ordinances of this City; and I furthermore solemnly swear (or affirm), that I have not directly paid, offered, or promised to pay, contributed, nor promised to contribute to any public office or employment, as a reward for the giving or withholding a vote at the election at which I was elected, or if the office is one of appointment, to secure my appointment. So help me God."

State constitution reference(s)—Oath of office, Texas Constitution, art. 16, sec. 1.

ARTICLE 6. RECALL OF OFFICERS

Sec. 6.01. Scope of recall—General.

Any member of the City Council, including the Mayor, may be removed from office by recall.

(Amended by an election held 5/3/03)

Sec. 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 in the last regular municipal election of the City, but in no event less than One Hundred Fifty (150) such petitioners. For a petition to be valid, the petition must comply with the requirements of the Texas Election Code for petitions prescribed by law outside the Texas Election Code.

(Amended by an election held 5/3/03)

Sec. 6.03. Form of recall petition.

The recall petition shall be addressed to the City Council and it shall distinctly and specifically point out each ground upon which the recall petition is predicated. Each ground shall state with certainty the matter and things with which the official is charged so as to give such official fair notice of the charges. The signatures shall be verified by the oath in the following form:

"STATE OF TEXAS

COUNTY OF LIBERTY

I, _____, being first duly sworn, on oath depose and say that I am one of the signers of the above petition; and that the statements made therein are true, and that each signature

appearing thereto was made in my presence on the day and date it purports to have been made, and I solemnly swear that the same is the genuine signature of the person whose name it purports to be.

Sworn and subscribed to before me this ____ day of _____, 20 ____.

Notary Public in and for Liberty County Texas."

(Amended by an election held 5/3/03)

Sec. 6.04. Various papers constituting petition.

The petition may consist of one or more copies, or subscription lists, circulated separately, and the signature thereto may be upon the paper or papers containing the form of petition, or upon other papers attached thereto. Petition signatures and the verifications thereof shall be signed and dated at a time of not earlier than forty-five (45) days prior to filing of such petition. All papers comprising a recall petition shall be filed with the City Secretary on the same day, and the City Secretary shall immediately notify, in writing, the officer so sought to be removed, by mailing such notice to his Dayton address.

(Amended by an election held 5/3/03)

Sec. 6.05. Presentation of petition to city council.

Within fifteen (15) days after the date of the filing of all documents constituting the recall petition, the City Secretary shall present the petition to the City Council.

(Amended by an election held 5/4/02)

Sec. 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 him 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.

Sec. 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 not be 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.

Sec. 6.08. Ballots in recall election.

Ballots used at recall elections shall conform to the requirements of the Texas Election Code pertaining to ballots for voting on a proposition or measure.

(Amended by an election held 5/3/03)

Sec. 6.09. Result of recall election.

If a majority of the votes cast at a recall election is against the recall of the person named on the ballot, such person shall continue in office for the remainder of the official's unexpired term. If a majority of the votes cast at such election is for the recall of the person named on the ballot, such person shall, regardless of any technical defects in the recall petition, be deemed removed from office and the vacancy shall be filled.

(Amended by an election held 5/3/03)

Sec. 6.10. Recall, restrictions thereon.

A recall petition shall not be filed against any official of the City within six (6) months after such person's election or appointment to fill a vacancy or within six (6) months after a failed election for such official's recall. An official shall not be subject to a subsequent recall election on the same grounds as a prior, unsuccessful recall election.

(Amended by an election held 5/3/03)

Sec. 6.11. Failure of city council to call an 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 Liberty 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

Sec. 7.01. General power.

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

Sec. 7.02. Initiative.

Qualified voters of the City may initiate legislation by submitting a petition addressed to the City Council requesting the submission of a proposed ordinance or resolution to a vote of the qualified voters of the City. For petition to be valid, it must have the signatures of qualified voters of the City equal in number to twenty (20%) percent of the number of votes cast at the last regular municipal election of the City, or one hundred fifty (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 addressed, dated, signed, and verified under oath using the same form of oath as the petition described in Section 6.03 of this Charter, and shall be submitted to the person performing the duties of City Secretary. For a petition signature to be valid, the petition must comply with the Texas Election Code requirements for petitions prescribed by law outside the Texas Election Code. Within fifteen (15) days after the filing of such petition, the City Secretary shall present the petition and proposed ordinance or resolution to the City Council. Upon presentation, it shall be the duty of the City Council, within ten (10) days after receipt thereof, to pass and adopt such ordinance or resolution without alteration as to meaning or effect or to call a special election, to be held within thirty (30) days thereafter, at which the qualified voters of the City 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.

(Amended by an election held 5/4/02)

Sec. 7.03. Referendum.

Qualified voters of the City may require that any ordinance or resolution, with the exception of ordinances or resolutions levying taxes, 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. For the petition to be valid, it must have the signatures of

qualified voters of the City equal in number to twenty (20%) percent of the number of votes cast in at the last regular municipal election of the City, or one hundred fifty (150), whichever is greater, and each copy of the petition shall have attached a statement requesting a referendum that includes a description of the ordinance or resolution in question and a copy of the ordinance or resolution as originally adopted by the City Council. The petition shall be addressed, dated, signed, and verified under oath using the same form of oath as the petition described in Section 6.03 of this Charter, and shall be submitted to the person performing the duties of City Secretary. For a petition signature to be valid, the petition must comply with the Texas Election Code requirements for petitions prescribed by law outside the Texas Election Code. Within fifteen (15) days after the filing of such petition, the City Secretary shall present the petition to the City Council. Thereupon, the City Council shall immediately reconsider the ordinance or resolution and, if it does not entirely repeal the same, shall submit it to popular vote as provided in Section 7.02 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 shall vote in favor thereof.

(Amended by an election held 5/3/03)

Sec. 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, 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.

Sec. 7.05. Form of ballots.

The ballots used for voting shall comply with requirements of the Texas Election Code for ballots on a proposition or measure.

(Amended by an election held 5/3/03)

Sec. 7.06. Publication of proposed and referred ordinance.

The person performing the duties of City Secretary shall publish at least once in the official newspaper of the city 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.

Sec. 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.

Sec. 7.08. Inconsistent ordinances.

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

Sec. 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.

Sec. 7.10. Further regulations by city council.

The City Councilman may pass ordinances or resolutions providing other and further regulations for carrying out the provision of this Article consistent herewith.

(Amended by an election held 11/4/14)

Sec. 7.11. Franchise ordinances.

Nothing contained in this Article shall be construed to be in conflict with any of the provisions of Article 10 of this Charter, pertaining to ordinances granting franchises when valuable rights shall have accrued thereunder.

ARTICLE 8. MUNICIPAL PLANNING AND ZONING

Sec. 8.01. Platting of property.

The City Council may, by ordinance, regulate the platting and subdivision of property both within the boundaries of the City, and within the extraterritorial jurisdiction of the City, to the fullest extent and subject to the restriction, conditions and limitations established by the laws and constitution of the State of Texas.

(Amended by an election held 5/4/02)

Sec. 8.02. Development of property.

The City Council shall cooperate in every manner possible with persons interested in the development of property within the City Limits or the City's extra territorial jurisdiction (ETJ), save and except for the extension of utilities or services to such areas. Provided however that special arrangements may be made with developers through development agreements that are approved by the adoption of an Ordinance and/or as allowed by Texas State Law. Absent any special arrangements with developer, public funds may not be expended for the development of privately-owned land that is situated within or beyond the corporate limits of the City.

(Amended by an election held 11/4/14)

Sec. 8.03. Planning and zoning commission.

The City Council shall have the authority to appoint a City Planning and Zoning Commission in accordance with the general laws of the State of Texas as provided for in Article 1011A through 1011j of the Revised Civil Statutes of the State of Texas of 1925, as now or hereafter amended.

ARTICLE 9. MUNICIPAL FINANCE

Sec. 9.01. Fiscal year.

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

State law reference(s)—Power to establish fiscal year, V.T.C.A., Local Government Code, sec. 101.022; city fiscal year, V.T.C.A., Tax Code, sec. 1.05.

Sec. 9.02. Preparation and submission of budget.

The City Manager, between sixty (60) and ninety (90) days prior to the beginning of each fiscal year, shall submit to the council a proposed budget, which budget shall provide a complete financial plan for the fiscal year, and shall contain the following:

- (a) A budget message, explanatory of the budget, which message shall contain an outline of the proposed 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.
- (b) A consolidated statement of anticipated receipts and proposed expenditures for each department, comparing them with those of the previous fiscal year.
- (c) An analysis of property evaluations.
- (d) An analysis of tax rate.
- (e) Tax levies and tax collection by years for at least two (2) years.
- (f) General fund resources in detail.
- (g) Special fund resources in detail.
- (h) Summary or [of] proposed expenditures by function, department and activity.
- (i) A revenue and expense statement for all types of bonds, time warrants, and other indebtedness.
- (j) Detailed estimates of expenditures shown separately for each activity to support summary No. (h) above.
- (k) A description of all bond issues, time warrants, and other indebtedness outstanding, showing rate of interest, date of issue, maturity date, amount authorized, amount issued and amount outstanding.
- (l) A schedule of requirements for the principal and interest of each issue of bonds, time warrants, and other indebtedness.
- (m) The appropriation ordinance.
- (n) The tax levying ordinance.

State law reference(s)—Annual budget required, V.T.C.A., Local Government Code, sec. 102.002; itemized budget and contents, V.T.C.A., Local Government Code, sec. 102.003.

Sec. 9.03. Anticipated revenues compared with other years in budget.

In preparing the budget, the City Manager shall place in parallel columns opposite the several items of revenue; the actual amount of each item for the last completed fiscal year, the estimated amount for the current fiscal year, and the proposed amount for the ensuing fiscal year.

Sec. 9.04. Proposed expenditures compared with other years.

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

Sec. 9.05. Budget a public record.

The budget and all supporting schedules shall be filed with the person performing the duties of City Secretary, submitted to the City Council, and shall be a public record. The City Manager shall provide copies for distribution to all interested persons.

State law reference(s)—Proposed budget filed with municipal clerk and public inspection, V.T.C.A., Local Government Code, sec. 102.005.

Sec. 9.06. Notice of public hearing on budget.

The City Council shall provide for public notice of the date, time, and location of the public hearing on the proposed budget as prescribed by Texas state law.

State law reference(s)—Special notice by publication for budget hearing, V.T.C.A., Local Government Code, sec. 102.0065.

(Amended by an election held 5/7/2022)

Sec. 9.07. Public hearing on budget.

The City Council shall hold a public hearing on the proposed budget as prescribed by Texas state law.

State law reference(s)—Public hearing on proposed budget, V.T.C.A., Local Government Code, sec. 102.006.

(Amended by an election held 5/7/2022)

Sec. 9.08. Proceedings on budget after public hearing.

After the conclusion of such public hearing, the City Council shall take all steps required, and may take any steps permitted, as prescribed by Texas state law regarding the adoption of the budget.

(Amended by an election held 5/7/2022)

Sec. 9.09. Vote required for adoption.

The budget shall be adopted as prescribed by Texas state law.

State law reference(s)—Adoption of budget, V.T.C.A., Local Government Code, sec. 102.007.

(Amended by an election held 5/7/2022)

Sec. 9.10. Proceeding on budget after public hearing.

The budget shall be finally adopted in accordance with the timelines as prescribed by Texas state law.

(Amended by elections held 5/4/02 and 5/7/2022)

Sec. 9.11. 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 person performing the duties of City Secretary, the County Clerk of Liberty County, and the State Comptroller of Public Accounts at Austin. The final budget shall be printed, mimeographed, or otherwise reproduced and copies shall be made available for the use of all offices, departments and agencies and for the use of interested persons and civic organizations.

State law reference(s)—Approved budget filed with municipal clerk, V.T.C.A., Local Government Code, sec. 102.008.

Sec. 9.12. 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 objects and purposes therein named. No funds can be transferred or added to a budgeted item without Council approval.

Sec. 9.13. Purchase procedure.

All contracts and purchases shall be made in compliance with applicable state statutes and the city's purchasing policies as approved by the city council.

(Amended by elections held 1/7/80, 2/25/83, 5/2/92, 11/4/14, and 5/7/2022)

Sec. 9.14. 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; provided, however, that in no event shall such levy exceed the legal limit provided by the laws and constitution of the State of Texas.

Sec. 9.15. Borrowing to meet emergency appropriations.

In the absence of unappropriated available revenues or other funds to meet emergency appropriations, the Council may by resolution authorize the borrowing of money to meet such deficit by the issuance of: (1) time warrants, or (2) by obtaining a short-term note, but all such short-term notes and any renewals thereof shall mature and be payable not later than twelve (12) months following the month in which the emergency appropriation was made.

(Amended by an election held 5/3/03)

Sec. 9.16. 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 (prospective income plus cash on hand). 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 Governmental Accounting or some other nationally accepted classification.

Sec. 9.17. Other necessary appropriations.

The City budget may be amended and appropriations altered in accordance therewith in cases of public necessity, the actual fact of which shall have been declared by the City Council.

Sec. 9.18. Power to tax.

The City Council shall have the power under the provisions of the State law to levy, assess, and collect an annual tax upon real and personal property within the City as limited by the Constitution and general laws of the State of Texas. The council shall also have the power to levy other taxes consistent with the Laws of the State of Texas.

State law reference(s)—Tax collection powers, V.T.C.A, Tax Code, sec. 302.102.

Sec. 9.19. Depository and withdrawals.

All monies received by any person, department, or agency of the City for or in connection with affairs of the City shall be deposited promptly in the City depository or depositories, which shall be designated by the Council in accordance with such regulations and subject to such requirements as to security for deposits and interest thereon as may be established by ordinance. All checks, vouchers, or warrants for the withdrawal of money from the City depositories shall be signed by the City Manager and countersigned by the Mayor, or alternates designated by the

City Council. Provided, that the Council, under such regulations and limitations as it may prescribe, may be [by] resolution authorize the use of machine imprinted facsimile signatures of said City Manager on such checks, vouchers, or warrants.

State law reference(s)—Depositories for municipal funds, V.T.C.A., Local Government Code, ch. 105.

Sec. 9.20. Issuance of bonds and other lawful indebtedness.

(Previously 9.29)

The City shall have the power to borrow money on the credit of the City by the issuance of tax or revenue bonds or by any other form of indebtedness authorized by law, and to provide for the repayment thereof. The City may issue refunding bonds to refund outstanding, previously issued bonds. Revenue bonds shall be a charge upon and payable solely from the properties or interest therein pledged or the income therefrom, or both, and shall never be a debt of the City.

Sec. 9.21. Sale of bonds or other forms of indebtedness.

Bonds or other indebtedness of the City may be issued singly or in a series, be made payable, and be issued with other characteristics, on terms, and in a manner as specified by the City Council in the proceedings authorizing such bonds or indebtedness.

All bonds or other indebtedness of the City issued, sold and delivered to purchasers shall thereafter be incontestable. All bonds or other indebtedness of the City issued to refund outstanding, previously issued bonds or other indebtedness shall, after exchange or firm banking arrangements for payment or discharge of such previously issued bonds or indebtedness, be incontestable.

(Amended by an election held 5/3/03)

State law reference(s)—Public Security Procedures Act, V.T.C.A., Government Code, ch. 1201; refunding bonds, V.T.C.A., Government Code, ch. 1207; bond elections generally, V.T.C.A., Government Code, ch. 1251; municipal bonds, V.T.C.A., Government Code, ch. 1331; authority of municipality to issue bonds for public improvements, V.T.C.A., Government Code, sec. 1331.052.

ARTICLE 10. FRANCHISE AND PUBLIC UTILITIES

Sec. 10.01. Powers of the city.

In addition to the City's power to buy, construct, lease, maintain, operate, and regulate public utilities and to manufacture, distribute, and sell the output of such utility operations, the City shall have further powers as may now or hereafter be granted under the Constitution and Laws of the State of Texas.

Sec. 10.02. Franchise; power of city council.

The City Council shall have power by ordinance to grant, amend, renew, and extend, all franchises of all public utilities of every character operating within the City of Dayton. All ordinances granting, amending, renewing, or extending franchises for public utilities shall be read at two (2) separate regular meetings of the city Council, and shall not be finally passed until thirty (30) days after the first reading; and no such ordinance shall take effect until thirty (30) days after its final passage; and pending such time, the full text of such ordinance shall be published once each week for four (4) consecutive weeks in the official newspaper of the City of Dayton, and the expense of such publication shall be borne by the proponent of the franchise. No public utility franchise shall be granted for a term of more than twenty-five (25) years nor be transferable except with the approval of the City Council as evidenced by an ordinance.

(Amended by an election held 11/4/14)

Sec. 10.03. Franchise value not to be allowed.

No value shall be assigned to any franchise granted by the City of Dayton under this Charter in fixing reasonable rates and charges for utility service within the City and in determining the just compensation to be paid by the City for public utility property which the City may acquire by condemnation or otherwise.

Sec. 10.04. Right of regulation.

All grants, renewals, extensions, or amendment of public utility franchises, whether it be so provided in the ordinance or not, shall be subject to the right of the City Council of the City of Dayton:

- (a) To repeal the same ordinance at any time upon the failure of the grantee to comply with an provision of the ordinance, the franchise, the Charter of the city of Dayton, an applicable statute of the State of Texas or the rule of any applicable governmental body, such power to be exercised only after notice and hearing and under the conditions hereinafter provided; provided, however, action may be taken only after the City has given to the grantee written notice of the particular or particulars in which it is receipt of such notice, which time in no event shall be less than thirty (30) days, to cure such alleged default or defaults, after the expiration of which time, if said default or defaults are not cured, the City may at its option, after a hearing, declare the ordinance repealed;
- (b) To approve, after joint conference with said utility company, the location of said utilities when said right-of-way is obtained and/or provided by the City of Dayton;
- (c) 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;
- (d) To establish reasonable standards of service and quality of products and prevent unjust discrimination in service or rates;
- (e) 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 operations within the City of Dayton;
- (f) To impose such reasonable regulations and restrictions as may be deemed desirable or conducive to the safety, welfare and accommodation of the public;
- (g) To require such compensation and rental as may be permitted by the laws of the State of Texas.

Sec. 10.05. Grant not be exclusive.

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

Sec. 10.06. 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 by [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.

Sec. 10.07. Extensions.

All extensions of public utilities within the City limits shall become a part of the aggregate property of the public utility, 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 Section 10.04 of the Charter. In case of an extension of 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.

Sec. 10.08. Other conditions.

All franchises heretofore granted are recognized as contracts between the City of Dayton and the grantee, and the contractual rights as contained in any such franchise shall not be impaired by the provisions of this Charter, except that the power of the City of Dayton to exercise the right to Eminent Domain in the acquisition of 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 hereafter 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 City Council or voters of the City in imposing terms and conditions as may be reasonable in connection with any franchise grant.

Sec. 10.09. Accounts of municipally 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, 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 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.

Sec. 10.10. Sales of electricity, water, sewer, and other services.

- (a) The City Council shall have the power and authority to sell and distribute electricity and water and to sell and provide for sewer services and any other utilities to any person, firm, or corporation outside the limits of the City of Dayton, 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 materials used within or beyond the limits of the City of Dayton 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 non-compliance with same.

Sec. 10.11. Regulation of rates and service.

The council shall have full power, after notice and hearing, to regulate by ordinance, the rates and service of every public utility operating in the City provided that no such ordinance shall be passed as an emergency measure; shall have the power to employ, at the expense of the grantee and the City of Dayton, jointly, on an equal share basis, expert advice and assistance in determining a reasonable rate and equitable profit to the public utility.

Sec. 10.12. Control of public property.

The right of control and use of the public streets, highways, sidewalks, alleys, parks, public squares and public places of the City is hereby declared to be inalienable by the City, except by ordinances not in conflict with applicable law and/or the provisions of this Charter. No act or omission by the City or an officer of [or] agent of the City shall be construed to grant, renew, extend or amend, expressly or by estoppel or implication, any right, franchise, permit, privilege or easement affecting such public streets, highways, sidewalks, alleys, parks, public squares, public places and other real property, except as provided in this Charter.

(Amended by an election held 2/25/83)

ARTICLE 11. GENERAL PROVISIONS

Sec. 11.01. Publicity of records.

All records and accounts of every office, department or agency of the city will be open to inspection by the general public at all reasonable times and under such reasonable regulations as may be established by the City Council. However, the City shall be authorized to withhold the disclosure or duplication, in any manner, of any records or proceedings whatsoever that are not required to be disclosed by law.

State law reference(s)—Public access to records, V.T.C.A., Local Government Code, sec. 201.009; public information, V.T.C.A., Government Code, ch. 552.

Sec. 11.02. Personal interest.

City Council Members and other elected or appointed persons shall abide by the conflict-of-interest laws of the State of Texas.

(Amended by elections held 5/2/62 and 5/7/2022)

State law reference(s)—Conflicts of interest of officers, V.T.C.A., Local Government Code, ch. 171; public disclosure, V.T.C.A., Government Code, ch. 553.

Sec. 11.03. Nepotism.

Questions regarding nepotism in either employment, service through election or appointment shall be controlled by those guidelines established in the Local Government Code, Title 5, Chapter 573, Nepotism Prohibited and/or any amended version thereof.

(Amended by an election held 11/4/14)

State law reference(s)—Nepotism, V.T.C.A., Government Code, ch. 573.

Sec. 11.04. 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 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 of garnishment on any account whatever. The City shall not be obligated to recognize an assignment of wages or funds by its employees, agents or contractors.

State law reference(s)—Authority relating to property, V.T.C.A., Local Government Code, sec. 51.076; authority to provide that municipal funds not subject to garnishment, V.T.C.A., Local Government Code, sec. 101.023.

Sec. 11.05. 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 Dayton, 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.

State law reference(s)—Cities exempt from security for court costs, V.T.C.A., Civil Practice and Remedies Code, sec. 6.002.

Sec. 11.06. Special provisions covering damage suits.

Claims against the City are to be presented in the following manner:

- (a) Claims for Death or Personal Injury: Before the City shall be liable for damages for the death or personal injuries of any person, the person injured, if living, or his representatives, if dead, shall give the City Council notice in writing of such death or injury, duly verified, within thirty (30) days after same has been sustained, stating in such written notice when, where and how the death or injury occurred, and the apparent extent of any such injury, the amount of damages sustained, the actual residence of such claimant for six (6) months immediately preceding the occurrence of such death or injury, and the name and addresses of all the witnesses upon whom it is relied to establish the claim for damages; and the failure so to notify the City Council within the time and manner specified herein shall exonerate, excuse, and exempt the City from any liability.
- (b) Claims for Property Damage: The City shall not be held responsible on accounts of claim for damage to or destruction of property of any kind, which does not constitute a taking or damaging of property under Article 1, Section 17, constitution of the State of Texas, unless, such claim is filed within thirty (30) days after the time at which it is claimed such damages or injuries occurred. The person making such a claim must file with the City Council, a true statement under oath as to the nature and character of such damages or injuries, the extent of same, and the exact location where same occurred, the conditions causing same, with a detailed statement of each item of damages and the amount thereof.
- (c) Provided, however, that nothing herein contained shall be construed to mean that the City of Dayton waives any rights, privileges, defenses, or immunities in tort actions which are provided under the common law, the Constitution and general laws of the State of Texas.

State law reference(s)—Texas Tort Claims Act, V.T.C.A., Civil Practice and Remedies Code, ch. 101; notice procedures, V.T.C.A., Civil Practice and Remedies Code, sec. 101.101.

Sec. 11.07. 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.

Sec. 11.08. Effect of this charter on existing law.

All ordinances, resolutions, rules and regulations now in force under the City Government of Dayton 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 Dayton under existing franchises and contracts are preserved in full force and effect to the City of Dayton.

Sec. 11.09. Interim municipal government.

From and after the date of the adoption of this Charter, the persons then filing [filling] elective offices which are retained under this Charter will continue to fill those offices for the terms to which are retained under this Charter 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, the Mayor and two (2) Council persons shall be elected. Candidates for Mayor shall run at large while candidates for the two (2) Council positions shall run by place, said place being either place four (4) or place five (5), and shall serve terms of two (2) years. Thereafter, the City Council shall be elected as provided in Section 3.01 of this Charter. Persons, who on the date this Charter is adopted are filling appointive positions with the City of Dayton which are retained under this Charter, may continue to fill these positions for the term for which they were appointed.

(Amended by an election held 11/4/14)

Sec. 11.10. Applicability of general laws.

The Constitution of the State of Texas, the Penal Code, the Code of Criminal Procedure, and 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 Dayton, 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 Dayton, 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.

Sec. 11.11. Amending the 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, 1925, as now or hereafter amended.

Sec. 11.12. Charter review commission.

The City Council may appoint a Charter Review Commission of five (5) citizens of the City of Dayton.

Sec. 11.13. 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 Dayton at an election to be held for that purpose on April 3, 1976. 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 Dayton 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 Dayton, 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. The 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 votes voting at such election.

We, the undersigned members of the Dayton Charter Commission heretofore duly elected to prepare a charter for the City of Dayton, Texas, do hereby certify that this publication constitutes a true copy of the proposed Charter for the City of Dayton, Texas, as unanimously adopted by the members thereof.

E.L. Priest, Chairman

Glenn Pruitt, Vice Chairman

Barbara Frederick, Secretary