

HOME RULE CHARTER

★2018★



CITY OF DESOTO
SOARING FOR EXCELLENCE





City of DeSoto

The citizens of DeSoto, Texas, from their earliest history to the present time, have been led by the hand of a kind Providence, and are indebted for the countless blessings of the past and present, and are dependent for continued prosperity in the future upon Almighty God. With a firm reliance on that same Providence, we resolve to carefully conduct the affairs of this City for the benefit of the greater good and in praise of the Power that has made and preserved this community.

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HOME RULE CHARTER – CITY OF DESOTO, TEXAS

ARTICLE I

Incorporation, Form of Government and Powers

Section 1. Incorporation.

The inhabitants of the City of DeSoto in Dallas County, Texas within the corporate limits as now established, or hereafter established in the manner prescribed by this Charter, shall be and shall continue to be a municipal body politic and corporate in perpetuity under the name of the "City of DeSoto".

Section 2. Form of Government.

The municipal government provided by this Charter shall be known as the "Council-Manager" government. Pursuant to its provisions and subject only to the limitations imposed by the State Constitution, by the statutory laws of Texas, and by this Charter, all powers of the City shall be vested in an elective Council, hereinafter referred to as the "Council", which shall enact local legislation, adopt budgets, determine policies, appoint the City Secretary, City Attorney, and Judge of the Municipal Court, and the Council shall also appoint the City Manager, who shall execute the laws and administer the government of the City.

Section 3. General Powers of the City.

The City of DeSoto shall have all powers granted to municipalities by the Constitution and laws of the State of Texas, together with all of the implied powers necessary to carry into execution such granted powers. The City 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 any political subdivision thereof or with the Federal government or any agency thereof, 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 purpose in fee simple, or in any lesser interest or estate, by purchase, gift, devise, lease or condemnation, and subject to the provisions of this Charter, may sell, lease, mortgage, hold, manage, improve and control such property as may now or hereafter be owned by it; provided however, the City shall not sell, convey, mortgage, or otherwise alienate any public utility without prior approval of the qualified voters of the City; may exercise the power of eminent domain where necessary or desirable to carry out any of the powers conferred upon it by this Charter, or by the Constitution and laws of the State of Texas; may pass ordinances and enact such regulations as may be expedient for the maintenance of the City and the welfare, health, morals, comfort, safety and convenience of its inhabitants.

The powers hereby conferred upon the City shall include, but are not restricted to, the powers conferred expressly and permissively by Chapter 147, Page 307, of the acts of the 33rd Legislature, Regular Session, enacted in 1913 pursuant to the Home Rule Amendment of the Constitution of Texas, known as the Enabling Act and including Articles 1175, 1176, 1177, 1179, 1180, of the Revised Civil Statutes of Texas, 1925, as

now or hereafter amended, all of which are hereby adopted. In addition to the powers enumerated herein, and subject only to the limitations imposed by the State Constitution, the State laws, and this Charter, the City shall have, without the necessity of express enumeration in this Charter, each and every power which, by virtue of Article XI, Section V, of the Constitution of Texas, the people of the City are empowered by election to grant to or confer upon the City by expressly and specifically granting and enumerating the same herein. All such powers, whether expressed or implied, shall be exercised and enforced in the manner prescribed in this Charter; or when not prescribed herein, in such manner as shall be provided by ordinance of the Council.

Section 4. 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, and 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 the use thereof; and to abate and remove in a summary manner any encroachment thereon.

Section 5. Street Development and Improvement.

The City shall have the power to develop and improve, or cause to be developed and improved, any and all public streets, sidewalks, alleys, highways, and other public ways within the corporate limits of the City by laying out, opening, narrowing, widening, straightening, extending, lighting and establishing building lines along the same; by purchasing, condemning, and taking property therefor by filling, grading, raising, lowering, paving, repaving, and repairing, in a permanent manner, the same; and by constructing, reconstructing, altering, repairing, and realigning curbs, gutters, drains, sidewalks, culverts, and other appurtenances and incidentals in connection with such development and improvement authorized hereinabove, or any combination or parts thereof. The cost of such development and improvement may be paid partly or entirely by assessments levied as a lien against the property abutting thereon and against the owners thereof, and such assessments may be levied in any amounts and under any procedure not prohibited by State Law; provided, that no assessment shall be made against such land or owners in excess of the enhancement in value of such property occasioned by such improvement.

As an alternate and cumulative method of developing, improving, and paving any and all public streets, sidewalks, alleys, highways, and other public ways within is corporate limits, the City shall have the power and authority to proceed in accordance with Chapter 106, Page 489, Acts 1927, Fortieth Legislature, First Called Session, as now or hereafter amended, the same being Article 1105b of the Revised Civil Statutes of Texas, 1925.

Section 6. Boundaries.

The boundaries and limits of the City of DeSoto, until changed in the manner herein provided, shall be the same as have heretofore been established and exist on the date of the adoption of this Charter, which boundaries are more fully set out and described by metes and bounds in a book called, Official Record Describing the Metes and Bounds of the City of DeSoto, which is now and shall hereafter be in the office of the City Secretary of the City of DeSoto.

Section 7. Annexation and De-Annexation.

Extension of City Limits by Petition. Whenever a majority of the legally qualified property tax-paying voters who are citizens of the State of Texas and inhabitants of any territory adjoining the City of DeSoto, as said territory may be designated by the Council, or in case there are no qualified voters in said territory, then, when persons owning a majority of the land in areas in said territory, desire the annexation of such territory to the City of DeSoto, they may present a written petition to that effect to the Council and shall attach to said petition an affidavit of one or more of their number to the effect that said petition is signed by a majority of such qualified voters, or in the case there are no qualified voters said affidavit shall be to the effect that there are not qualified voters in said territory and that the persons signing the petition own a majority of the land in said territory; and thereupon the Council at regular session or in special session held not sooner than thirty (30) days after the presentation of said petition may by ordinance annex such territory to the City of DeSoto and thenceforth the said territory shall be a part of the City of DeSoto and the inhabitants thereof shall be entitled to all the rights and privileges of other citizens and shall be bound by the acts, ordinances, resolutions, and regulations of said City.

Extension of City Limits by Ordinance. A second method of extending the corporate limits of the City of DeSoto shall be that the Council shall have the power by ordinance to fix the boundary limits of said City and to provide for the extension of said boundary limits by the annexation of additional territory lying adjacent to said City, with or without the consent of the inhabitants of the territory annexed. Upon the introduction of such ordinance to the Council, it shall be published in the official newspaper of the City one time, and in addition all property owners of record in the territory to be annexed shall be notified of the intent of the City by regular mail, and the ordinance shall not thereafter be finally acted upon until at least thirty (30) days have elapsed after the first publication and notification thereof. However, amendments not enlarging or not extending the boundary limits set forth in the published ordinance may be incorporated into the proposed ordinance without the necessity of republication of said ordinance as amended. Any citizen of the City of DeSoto or of the territory to be annexed shall have the right to contest said annexation by filing with the Council a written petition setting out the reasons for said contest, and after such citizens have been given an opportunity to be heard, said ordinance, in original or amended form as the Council in its judgment may determine, shall be finally passed, and the territory so annexed shall be part of the City of DeSoto, and the inhabitants thereof shall be entitled to all rights and privileges of other citizens and shall be bound to the acts, ordinances, resolutions, and regulations of the City of DeSoto.

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

ARTICLE II City Council

Section 1. Number, Selection, Term of Office and Compensation.

The governing and law making body of the City of DeSoto shall consist of a Mayor and six (6) Councilmembers, and said body shall be known as the "City Council of the City of DeSoto". The members of the City Council of the City of DeSoto shall be the only elective officers of the City. Members of the City Council shall run for office by place, elected at large by the qualified voters of the entire City, and shall, except the Mayor, reside in correspondingly-numbered geographical districts of the City established by ordinance based on equality of population. The Council may appoint a commission to recommend establishment of district boundaries and any subsequent adjustments in order to maintain a substantial equality of population in each district. Candidates shall have resided within the district to which they seek election for at least one (1) year next preceding the election at which they are candidates, and must, if elected, continuously reside within the district during the person's term of office. The Mayor may be a resident of any district of the City and shall be elected at-large by the voters of the entire City.

The Mayor and Councilmembers shall be elected for staggered terms of three (3) years or until their successors have been elected and take office as provided in this charter.

A person who has served as a councilmember for six (6) or more consecutive years shall not be eligible to become a candidate for, or to serve as, a councilmember for any place on the City Council, except Mayor, until at least one (1) year has elapsed from the expiration of such person's previous term of office. A person who has served as Mayor

for six (6) or more consecutive years shall not be eligible to become a candidate for, or to serve in, any place on the City Council, including Mayor, until at least one (1) year has elapsed from the expiration of such person's previous term of office as Mayor.

The Mayor and Councilmembers shall draw no compensation as such for their duties, but shall be reimbursed for any lawful expenditures made in behalf of the City or expenses incurred in the performance of their duties when approved by the Council.

Section 2. Prohibiting Holding or Running for Office.

No person elected to the City Council shall, during the term for which the person was elected, be appointed to any board or commission of the City, nor to any paid or unpaid office or position in the service of the City. A Corporation is not an office, position, or board or commission of the City nor shall the office or position of board of director of a non-profit corporation for which the City Council has authority to appoint one or more directors be considered a position, office, board or commission of the City. Members of the City Council may be appointed to the board of directors of the DeSoto Economic Development Corporation and the DeSoto Park Development Corporation for terms not to exceed six (6) months.

If a member of any board or commission appointed by the Council, or any appointed position or office of the City shall announce his or her candidacy, or in fact become a candidate for nomination or election to any publicly elected office such person shall forfeit his or her place or position with the City effective upon election to and qualification for such publicly elected office.

An employee of the City who shall announce his or her candidacy, or in fact become a candidate for nomination or election to any publicly elected office which would conflict with his or her position with the City, shall forfeit his or her employment with the City effective upon election to and qualification for such publicly elected office.

Should the Mayor or a City Councilmember, who is serving a three (3) year term, announce his or her candidacy, or in fact become a candidate, in any general, special or primary election for any office of profit or trust under the laws of this State or the United States other than the office then held, at any time when the unexpired term of the office then held shall exceed one (1) year, such announcement of such candidacy shall constitute an automatic resignation of the office then held, and the vacancy thereby created shall be filled pursuant to law in the same manner as other vacancies for such office are filled.

Section 3. Qualifications.

Each of the six (6) Councilmembers, the Mayor and candidates running for these offices shall be a citizen of the United States of America and a qualified voter of the State of Texas, shall be at least 18 years of age, shall have resided for at least 1 year as of the deadline for filing for office within the council-represented district to which he or she seeks election, except for the Mayor, who may be a resident of any district of the City, Councilmembers shall continuously reside within the district from which he or she was

elected during the person's term of office, except for the Mayor, who may reside in any area of the City.

A member of the Council ceasing to possess any of the qualifications specified under state law or in this section or any other section of this Charter, or if convicted of a felony while in office, shall immediately forfeit his or her office. No member of the Council shall hold any other public office except as provided in the Constitution of the State of Texas.

Section 4. Council to Be the Judge of the Qualification of its Own Members.

The City Council shall be the judge of the election and qualifications of its own members and of the Mayor, and for such purpose shall have power to subpoena witnesses and require the production of records.

Section 5. Vacancies.

In the event a vacancy occurs in the office of Mayor or Councilmember from any cause whatsoever, such vacancy shall be filled by a special election to be held within one hundred twenty (120) days after the vacancy occurred or as may otherwise be required by the Texas Constitution; provided however a vacancy in the office of Mayor or Councilmember may upon four (4) affirmative votes of the Council, be filled by appointment by the Council if the vacancy created is for an unexpired term of office of twelve (12) months or less. The Mayor or Councilmember thus elected or appointed shall serve for the unexpired portion of the vacant position.

Section 6. Powers of the Council.

All powers and authority which are expressly or explicitly conferred on or possessed by the City shall be vested in and exercised by the City Council, provided however, that the Council shall have no power to exercise those powers which are expressly conferred upon other City officers by this Charter.

Section 7. Mayor -- Mayor Pro Tem.

The Mayor of the City shall preside over the meetings of the City Council and perform such other duties consistent with the office as may be imposed upon the Mayor by this Charter and the ordinances and resolutions passed in pursuance hereof. The Mayor may participate in the discussion of all matters coming before the Council and shall be entitled to vote, but shall have no veto power. The Mayor shall sign all contracts and conveyance made or entered into by the City and all bonds issued under the provisions of this Charter, as may be required by law. The Mayor shall be recognized as the official head of the City by the Governor for the purpose of enforcing military law, and on all ceremonial purposes. In time of danger or emergency, the Mayor may with the consent of the Council take command of the police and govern the City by proclamation and maintain order and enforce all laws.

The Mayor Pro Tem shall be selected from among the six (6) Councilmembers, shall be selected each year at the first regular meeting following the general city election, and shall in the absence or disability of the Mayor perform all the Mayor's duties.

Section 8. City Secretary.

The City Council shall appoint or remove an officer of the City, who shall have the title of City Secretary and who shall give notice of the council meetings, shall keep minutes of its proceedings shall authenticate by his or her signature, and record in full in a manner permitted by law all ordinances and resolution, shall preserve and keep in order all books, papers, records and files of the City Council, shall serve as agent for civil process for lawsuits against the City, shall have custody of the seal of the City, and shall affix same to such documents and obligations only of the City as legally authorized to do and shall perform such other duties as shall be required by this Charter or by the City Council. To perform the duties during temporary absence or disability, the City Secretary, by letter filed with the City Secretary's office, may designate a qualified employee to perform the duties during a temporary absence or disability. In the event of the failure of the City Secretary to make such designation, the Council may by resolution appoint an employee of the City to perform such duties until the City Secretary shall return or the disability shall cease.

Section 9. City Attorney.

The City Council shall appoint or remove a City Attorney who shall be a competent attorney, duly licensed and admitted to the practice of law by the State of Texas. The City Attorney shall be legal advisor of and attorney for all officers of the City and shall represent the City in all litigation and legal proceedings. He shall review every ordinance before it is acted upon by the Council.

Section 10. Meeting of the Council.

The City Council shall hold at least two (2) regular meetings in each month at a time to be fixed by it for such regular meetings, to be designated by ordinance or resolution, which ordinance or resolution shall be published at least one (1) time in the official newspaper of the City. The City Council may hold as many additional meetings during the month as may be necessary for the transaction of the business of the City and its citizens. The Council may, upon a majority vote, cancel a regular or special City Council meeting.

Section 11. Rules of Procedure.

The City Council shall determine its own rules of procedure and order of business and may compel the attendance of its members. Five (5) members of the City Council shall constitute a quorum for purposes of voting on any matter to be considered by the City Council; however, the affirmative vote of at least four (4) of those attending any meeting at which there is a quorum present shall be necessary to adopt any ordinance or resolution. All meetings of the City Council shall be open to the public, as provided by state law, and minutes of all proceedings shall be kept, to which any citizen may have access at all reasonable times and which shall constitute one of the archives of the City. The vote upon the passage of all ordinances and resolutions shall be taken by ayes and nays made in open meeting by a canvass of the Council, and the vote of each Councilmember shall be entered upon the minutes, and every ordinance or resolution, upon its final passage, shall be recorded in a manner permitted by law and shall be authenticated by the signature of the presiding officer and the City Secretary. At the first

meeting of the Council following the annual municipal election the Council shall adopt its rules of procedure.

Section 12. Procedure to Enact Legislation.

The City Council shall legislate by ordinance and the enacting clause of every clause shall be: "Be it ordained by the City Council of the City of DeSoto".

The City Attorney shall approve all ordinances adopted by the council as to the legality thereof. Every ordinance enacted by the Council shall be signed by the Mayor or Mayor Pro Tem and shall be filed with and recorded by the City Secretary. The caption of all ordinances enacted by the City Council shall be read in open meeting at one regular or special City Council meeting. All ordinances, unless otherwise provided by law or by the terms of such ordinance, shall take effect in accordance with Article II, Section 13.

Section 13. Publication of Ordinances.

Except as otherwise provided by law, or by this Charter, the City Secretary shall give notice of the enactment of every ordinance imposing any penalty, fine or forfeiture for any violation of any of its provisions and of every other ordinance required by law, or this Charter, to the public, by causing the said ordinance, or its caption and penalty, to be published at least one time after final passage thereof in the official newspaper of the City. The affidavit of such publication by the publisher of such newspaper, taken before any officer authorized to administer oaths, and filed with the City Secretary shall be conclusive proof of the legal publication and promulgation of such ordinance in all courts. Such ordinance shall take effect after the date of final publication.

Section 14. Adoption and Ratification of Existing City Ordinances and Prior City Actions.

All ordinances of the City of DeSoto adopted prior to the adoption of this Charter and not inconsistent with the provisions of this Charter shall remain in full force and effect until altered, amended or repealed by the City Council.

All official actions taken by the City of DeSoto, its City Councils or other City officials, and all previous elections, contracts, bonds, warrants and other evidences of indebtedness and any annexations, prior to the adoption of this Home Rule Charter, are hereby adopted, validated, confirmed and ratified.

Section 15. Code of Ordinances.

The City Council shall have the power to cause the ordinances of the City of DeSoto to be printed in code form and shall have the same arranged and digested as often as the Council may deem advisable; however, failure to print the ordinances as herein provided shall not affect the validity of same.

Section 16. Incumbents.

The incumbent City Council members shall continue in office for the term to which they were elected or until their successors shall have been elected or appointed and shall have qualified.

ARTICLE III Elections

Section 1. General Elections.

The City's general election shall be held annually on the uniform election day in May as prescribed by the Texas Election Code, 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 elections. All candidates for the City Council shall file for one place and shall be elected to that place by obtaining a majority of the votes cast.

Section 2. Regulations of Elections.

The Council shall make all regulations considered to be necessary or desirable which are not inconsistent with this Charter or the laws of the State of Texas, for the conduct of municipal elections, or for the prevention of fraud, and shall make provisions for recount of the ballots in case of doubt or fraud. The Council will appoint election officials who will conduct the municipal elections consistent with this Charter, regulations made by the Council and the laws of the State of Texas. The Council shall provide for the compensation of all election officials in City Elections and for all other expenses of holding such elections.

Section 3. Filing for Office.

Any qualified person who desires to become a candidate for election to the office of Mayor or City Councilmember shall file an application for a place on the ballot with the City Secretary as provided by the Texas Election Code.

Candidates for the offices of Mayor and City Councilmembers shall pay a filing fee for the placement of their names on the election ballot, such fee and an alternate procedure to payment of the fee, shall be prescribed by ordinance.

Section 4. Official Ballot.

The official ballot shall be drawn up by the City Secretary and approved by the City Attorney and will contain the names of all candidates for office, except those who may have been withdrawn, deceased or become ineligible. The ballot shall have the designation of the particular office (Mayor or Councilmember) and under the appropriate designation shall appear the applicable place numbers. Names will be placed under each place without party designation and position will be determined by a drawing conducted by the City Secretary.

Section 5. Conducting and Canvassing Elections.

The returns of every municipal election shall be delivered forthwith by the election judges to the Mayor and the City Secretary as required by state law. The Council shall canvass the returns, investigate the qualifications of the candidates and declare the official results of the election in the manner and within the time provided by law and deliver the votes to the City Secretary. Returns of every municipal election shall be recorded in the minutes of the Council. The candidate for Mayor who receives the majority of ballot votes, by qualified voters at the election, shall be declared elected. The

candidates for election to the places of Councilmember, who receive the majority of ballot votes for each place, cast by qualified voters voting at the election, shall be declared elected. The results of said election shall be posted in the City Hall as soon as they are declared official.

The City Council shall be the judge of the election and qualifications of its own members and of the Mayor, but the decisions of the Council in any case shall be subject to review by the Courts.

Section 6. Election Runoff.

In the event no candidate receives a majority of all votes cast for all the candidates for an office at such election, the Council shall on the first day following completion of the official counting of the ballots cast at said first election issue a call for a second election to be held in the City as provided by state law, at which said second election, the two candidates receiving the highest number of votes for any such office in the first election shall again be voted for. In the event of a tie between two candidates for any office at said second election, they shall cast lots to determine who shall be elected to such office.

Section 7. Special Elections.

The Council may, by ordinance or resolution, call such special elections as are authorized by state law and this Charter, fix the time and place of holding same and provide all means for holding such special elections.

ARTICLE IV
Initiative, Referendum and Recall

Section 1. Power of Initiative.

The people of the City of DeSoto reserve the power of direct legislation by initiative, and in the exercise of power, may propose any ordinance not in conflict with this Charter, the State Constitution, or the state laws, except an ordinance appropriating money or authorizing the levy of taxes or an ordinance repealing an ordinance appropriating money or levying taxes. Any initiated ordinance may be submitted to the Council by a petition signed by at least thirty percent (30%) of the number of qualified voters who voted in the last mayoral election.

Section 2. Power of Referendum.

The people reserve the power to approve or reject at the polls any legislation enacted by a Council which is subject to the initiative process under this Charter, except an ordinance which is enacted for the immediate preservation of the public peace, health or safety which contains a statement of its urgency and which is adopted by the favorable votes of the requisite number of Councilmembers required by this Charter to enact emergency legislation. No later than thirty (30) days after the effective date of any ordinance which is subject to referendum, a petition signed by at least thirty percent (30%) of the number of qualified voters who voted in the last mayoral election, may be

filed with the City Secretary requesting that such ordinance be either repealed or submitted to a vote of the people. When such a petition has been certified as sufficient by the City Secretary, the ordinance specified in the petition shall not go into effect, or further action thereunder shall be suspended if it shall have gone into effect, until and unless it is approved by the voters as herein provided.

Section 3. Form of Petition.

Initiative petition papers shall contain the full text of the proposed legislation in the form of an ordinance, including a descriptive caption. The signatures to the initiative or referendum need not be all appended to one paper, but each signer shall sign his or her name in the signer's own handwriting in ink or indelible pencil. The petition must contain in addition to the signature, the signer's printed name, date of birth, voter's registration number, residence address and the date of signing. One of the signers of each separate paper petition shall make an affidavit that he, and he only, personally circulated such petition and that signature appended thereto was made in his presence and is the genuine signature of the person whose name it purports to be, and further that no signature shall have been placed thereon before the one hundred eightieth (180th) day before the petition is filed.

Section 4. Filing, Examination and Certification of Petition.

Within ten (10) days after an initiative or referendum petition is filed, the City Secretary shall determine whether the same is signed by the requisite number of qualified voters. The City Secretary shall declare void any petition paper which does not have an affidavit attached thereto as required by Section 3 of this Article. In examining the petitions, the City Secretary shall write the letters "D.V." representing the that person is a disqualified voter, in red ink opposite the names of signers found not qualified to vote. After completing examination of the petition, the City Secretary shall certify the results thereof to the Council at its next regular meeting, stating the number of persons found on the petition who are qualified to vote and the number of persons found on the petition who are not qualified to vote. A petition may not be supplemented, modified, or amended on or after the date it is received by the City Secretary except that the petitioner may file one supplementary petition by the original deadline if the original petition contains a number of signatures that exceeds the required minimum number by 10 percent or more and is received by the City Secretary not later than the 10th day before the date of the deadline. The City Secretary shall notify the petitioner as to the sufficiency of the supplemental petition not later than the fifth regular business day after the date of its receipt. If the supplemental petition is found to be insufficient, the City Secretary shall return the petition to the person filing same, without prejudice to the filing of a new petition for the same purpose; provided however, that upon finding the supplemental petition to be insufficient, no new petition covering the same subject matter shall be filed until six (6) months shall have elapsed from the date of filing of the original petition.

Section 5. Council Consideration and Submission to Voters.

When the Council receives an authorized initiative petition certified by the City Secretary to be sufficient, the Council shall either:

- a) Pass the initiated ordinance without amendment with thirty (30) days after the date of the certification to the Council; or
- b) Submit said initiated ordinance without amendment to a vote of the qualified voters of the City on the next uniform election date or other date as allowed by law.
- c) Submit said initiated ordinance without amendment and an alternative ordinance on the same subject proposed by the Council, to a vote of the qualified voters of the City at a regular or special election to be held on the next state uniform election date.

When the Council receives an authorized referendum petition certified by the City Secretary to be sufficient, the Council shall reconsider the referred ordinance, and if upon such reconsideration such ordinance is not repealed, it shall be submitted to the voters at a special election to be held on the next state uniform election date. Special elections on initiated or referred ordinances shall not be held more frequently than once each six (6) months, and no ordinance on the same subject as an initiated ordinance which has been defeated at any election may be initiated by the voters within two (2) years from the date of such election.

Section 6. Ballot Form and Results of Election.

The ballot used in voting upon an initiated or referred ordinance shall state the caption of the ordinance and below the caption shall set forth on separate lines the words: "For the Ordinance" and "Against the Ordinance".

An initiated ordinance and an alternative ordinance proposed by the Council which are submitted at the same election shall be appropriately identified as the imprinted or referred ordinance and as the ordinance proposed by the Council.

Any number of ordinances may be voted upon at the same election in accordance with the provisions of this Article. An ordinance submitted and receiving an affirmative majority of the votes cast, shall thereupon be effective as an ordinance of the City. An ordinance so adopted may be repealed or amended at any time after the expiration of two (2) years by a four-fifths (4/5) vote of the Council. A referred ordinance which is not approved by a majority of the votes cast shall be deemed thereupon repealed.

Section 7. Power of Recall.

The people of the City reserve the power to recall any member of the Council and may exercise such power by filing with the City Secretary a petition, signed by at least fifty percent (50%) of the number of qualified voters who voted in the last mayoral election, demanding the removal of a member of the City Council. The petition shall be signed in the signer's own handwriting, and contain the signer's printed name, date of birth, voter's registration number, residence address and the date of signing. The petition shall be verified in the manner required by the form prescribed below. Such petition shall contain a statement of the specific acts of misfeasance and/or malfeasance for

which the removal is sought, and one of the signers of each petition shall make an affidavit as prescribed below. The following form of petition and acknowledgment is herein prescribed except as otherwise provided by state law:

“By our signatures affixed hereto, we hereby affirm that we seek the recall of _____ who holds the elected office of _____, for the following specific grounds of misfeasance and/or malfeasance as prescribed in Article IV, Section 7 of the Charter of the City of DeSoto:

_____.

And we further affirm that the information given below is true and correct:”

Signers: _____

Voter Registration Number: _____

Residence Address: _____

Printed Name: _____

Date of Birth: _____

Signature: _____

STATE OF TEXAS §
 §
COUNTY OF DALLAS §

“BEFORE ME, the undersigned authority, personally appeared _____, who after being duly sworn by me stated, upon his or her oath, that he or she circulated the above petition, that he or she was personally present when each of the above signatures was affixed thereto; and that each person whose signature is affixed thereto affirmed to him or her that the information provided by such person was true and correct.

SWORN AND SUBSCRIBED BEFORE ME this the ___ day of _____,
_____.

Notary Public, State of Texas

Section 8. Recall Election.

Within fifteen (15) days after the date of the filing of the papers constituting the recall petition, the person performing the duties of City Secretary shall present such petition to the Council.

The officer whose removal is sought may, after such recall petition has been presented to the Council, request in writing to the Council at the next regular meeting a public hearing be held to permit him to present facts pertinent to the charges specified in the recall petition. In this event, the 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.

If the officer whose removal is sought does not resign, then it shall become the duty of the Council to order an election and fix a date for holding such recall election. The date of such election shall be held on the earliest date permitted by state law.

Section 9. Recall Ballot.

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

- a) With respect to each person whose removal is sought the question shall be submitted "Shall (Name) be removed from the office of City Council?"
- b) Immediately below each such question there shall be printed the two following propositions, one above the other, in the order indicated:

"For the recall of (Name)"

"Against the recall of (Name)"

Section 10. Results of a Recall Election.

If a majority of the votes cast at a recall election shall be against removal of the individual named on the ballot, he shall continue in office. If a majority of the votes cast at such election be for the removal of the individual named on the ballot, the Council shall immediately declare his office vacant and such vacancy shall be filled in accordance with the provisions of the Charter for the filling of such vacancies. An individual thus removed shall not be a candidate to succeed himself in an election called to fill the vacancy thereby created.

Section 11. Limitations on Recall.

No recall petition shall be filed against any officer of the City within three (3) months after his election, or within six (6) months after an election for such officer's recall.

Section 12. Petitioner's Committee; Commencement of Proceedings; Affidavit; Withdrawal.

Any five (5) registered voters may commence initiative, referendum or recall proceedings by first filing with the City Secretary an affidavit stating they will constitute the Petitioner's Committee and be responsible for circulating the petition and filing it in a proper form, stating their names and addresses to which all notices to the committee are to be sent, and setting out in full the proposed initiative ordinance, citing in full the ordinance sought to be reconsidered or citing the recall ballot as per Section 9 herein. Promptly after the affidavit of the Petitioner's Committee is filed, the City Secretary shall issue the appropriate petition blanks to the Petitioner's Committee. A petition may be

withdrawn at any time prior to the fifteenth (15th) day preceding the date scheduled for a vote by filing with the City Secretary a request for withdrawal signed by at least four members of the Petitioner's Committee. Upon the filing of such request, the petition shall have no further force or effect and all proceedings thereon shall be terminated.

ARTICLE V

Administrative Organization

Section 1. The City Manager.

The Council shall appoint a City Manager for an indefinite term, who shall be the chief administrative officer of the City. He shall be chosen by the Council solely on the basis of his executive and administrative training, experience, ability and character, and without regard to political consideration. He need not, when appointed, be a resident of the City of DeSoto, but during his tenure of office, he shall reside in the City of DeSoto. No member of the Council shall, during the term for which elected, be chosen as City Manager. The City Manager shall receive such compensation as may be fixed by the Council.

Section 2. Powers and Duties of the City Manager.

The City Manager shall be responsible to the Council for the proper administration of all the affairs of the City. The powers herein conferred upon the City Manager shall include, but shall not be limited to the following:

- 1) Appoint and, when necessary for the welfare of the City, remove any officer or employee of the City, except he or she shall not have the authority to appoint or remove any officer of the City appointed by the City Council, and except as otherwise provided by this Charter, and except as he or she may authorize the head of a department to appoint and remove subordinates in such department.
- 2) Prepare and submit to the Council an annual budget and be responsible for its administration after adoption.
- 3) Prepare and submit to the Council as of the end of the fiscal year a complete report on the finances and administrative activities of the preceding year.
- 4) Keep the Council advised of the financial condition and future needs of the City and shall make such recommendations as are necessary.
- 5) Perform such other duties as may be prescribed by this Charter or required of him by the Council, not inconsistent with this Charter.
- 6) Attend all meetings of the Council, and he shall be notified of all meetings of the Council.

Section 3. Removal of City Manager.

The Council may remove the City Manager, upon the affirmative vote of a majority of the Council. If removed after serving six (6) months, he may demand written charges and the right to be heard thereon at a public meeting of the Council prior to the date on which his final removal shall take effect; but pending such hearing the Council may suspend him from office. The action of the Council in suspending or removing the City Manager shall be final, it being the intention of the Charter to vest all authority and fix all responsibility for such suspension or removal in the Council.

Section 4. 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 One Thousand (\$1,000.00) Dollars.

Section 5. Council Not to Interfere in City Manager's Appointments or Removal.

Neither the Council nor any of its members shall direct or request the appointment of any person to or his removal from office by the City Manager or by any of his subordinates. However, the Council may consult and advise the City Manager, make inquiry regarding the appointments or removals and may express their opinion in regard thereto. In regard to administrative and executive duties under the City Manager, the Council and its members shall deal solely through the City Manager and neither the Council nor any member thereof shall give orders to any subordinate of the City Manager, either privately or publicly. Willful violation of the foregoing provisions of the Charter by any member of the Council shall constitute official misconduct and shall authorize the Council by a vote of a majority of its membership to expel such offending member from the Council if found guilty after a public hearing and thereby create a vacancy in the place held by such member.

Section 6. Absence of the City Manager.

To perform his duties during his temporary absence or disability, the City Manager, by letter filed with the City Secretary, may designate a qualified administrative officer of the City. In the event of failure of the City Manager to make such designation, the Council may by resolution appoint an officer of the City to perform the duties of the City Manager until he shall return or his disability shall cease. In case of disability or illness exceeding thirty (30) days, where his duties could not be performed properly, his salary may be continued at the discretion of the Council.

Section 7. Administrative Departments.

There shall be such administrative departments as are established by this Charter and such other administrative departments as may be deemed necessary by the Council and as are established by ordinance, all of which shall be under the control and direction of the City Manager. The Council may abolish or combine one or more

departments created by it and may assign or transfer duties of any departments of the City from one department to another by ordinance.

Section 8. Directors of Departments.

At the head of each department there shall be a director who shall be appointed and who may be removed by the City Manager. Such directors shall have supervision and control over their respective departments and may serve as chiefs of divisions within their respective departments. Two or more departments may be headed by the same individual and the City Manager may head one or more departments.

Section 9. Performance Review.

During the months of January and July of each calendar year, the City Council shall review the performance of the City Manager, and shall, during the month of January of each calendar year, review the performances of the City Secretary, City Attorney and Municipal Judge, such performance reviews to be recorded in writing. The City Manager shall be responsible for implementing annual performance reviews for all other employees of the City.

**ARTICLE VI
Municipal Court**

Section 1. Municipal Court.

There shall be a court known as the Municipal Court of the City of DeSoto, with such jurisdiction, powers, and duties as are given and prescribed by the laws of the State of Texas and this City.

Section 2. Judge of the Municipal Court.

The Municipal Court shall be presided over by a Magistrate who shall be known as the Municipal Judge. He or she shall be appointed by the Council, and shall serve at the pleasure of the Council. He or she shall receive such compensation as may be set by the Council. The City Council may appoint Alternate Municipal Judges, with the same qualifications as the Municipal Judge, to preside over the Municipal Court in the absence of the Municipal Judge.

Section 3. Clerk of the Municipal Court.

There shall be a Clerk of the Municipal Court who shall be appointed by, and who shall serve at the pleasure of the City Manager. The Clerk shall have power to administer oaths and affidavits, make certificates, affix the seal of the court thereto, and otherwise perform any and all acts necessary in issuing process of such Court, and conducting the business thereof.

There shall be such Deputy Clerks of the Municipal Court as may be authorized and appointed by the City Manager, who shall have authority to act for and on behalf of the Clerk of the Municipal Court.

ARTICLE VII Finance

Section 1. Fiscal Year.

The fiscal year of the City of DeSoto shall begin on October 1st of each calendar year and will end on September 30th of the following calendar year. The fiscal year will also be established as the accounting and budget year. All funds collected by the City during any fiscal year including both current and delinquent revenue shall belong to such fiscal year and, except funds derived to pay interest and create a sinking fund on the bonded indebtedness of the City, may be applied to the payment of the expenses incurred during such fiscal year. Any revenues uncollected at the end of any fiscal year, and any unencumbered funds actually on hand, shall become resources of the next succeeding fiscal year.

Section 2. Preparation and Submission of Budget.

The City Manager, prior to August 1st of each year, shall prepare and submit the budget, covering the next fiscal year, to the Council, which shall contain the following information:

- 1) The City Manager's budget message shall outline the proposed financial policies for the next year with explanations of any change from previous years in expenditures and any major changes of policy and complete statement regarding the financial conditions of the City.
- 2) An estimate of all revenue from taxes and other sources, including the present tax structure rates and property evaluation for the ensuing year.
- 3) A carefully itemized list of proposed expenses by office, department, agency, employee and project for the budget year, as compared to actual expenses of the last ended fiscal year, and the present year-to-date.
- 4) A description of all outstanding bond indebtedness, showing amount, purchaser, date of issue, rate of interest, and maturity date, as well as any other indebtedness which the City had incurred and which has not been paid.
- 5) A statement proposing any capital expenditures deemed necessary for undertaking during the next budget year and recommended provisions for financing.
- 6) A projected list of capital projects which should be undertaken within the five (5) next succeeding years
- 7) All funds, without exception, are to be included in the budget document; and

- 8) In preparing the budget, each employee, officer, board and department shall assist the City Manager by furnishing all necessary information.

Section 3. Budget a Public Record.

The budget and all supporting schedules shall be filed with the City Secretary when submitted to the Council and shall be open to public inspection by anyone interested.

Section 4. Public Hearing on Budget.

At the Council meeting at which time the budget is submitted the Council shall name the date and place of a public hearing and shall cause to be published in the official newspaper of the City the time and place, which will be not less than seven (7) days nor more than fifteen (15) days after the date of the notice. At this hearing, interested citizens may express their opinions concerning items of expenditure, giving their reasons for wishing to increase or decrease any items of expense.

Section 5. Proceeding on Adoption of Budget.

After public hearing the 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 favorable majority vote of all members of the Council.

Section 6. Budget, Appropriation and Amount to Be Raised by Taxation.

On final adoption, the budget shall be in effect for the budget year. Final adoption of the budget by the Council shall constitute the official appropriation as proposed expenditures for the current year and shall constitute the basis of the official levy of the property tax as the amount of tax to be assessed and collected for the corresponding tax year. Estimated expenditures will in no case exceed proposed revenue plus cash on hand. Unused appropriations may be transferred to any item required for the same general purpose.

Section 7. Unallocated Reserve Fund.

The City Manager may recommend for action by the Council, an unallocated reserve fund to be used for unexpected items of expense which were not contained as original items of expenditures.

Section 8. Administration of Budget.

Payments and obligations prohibited. No payment shall be made or obligations incurred against any allotment or appropriation except in accordance with appropriations duly made in the budget unless the City Manager or his 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. Notwithstanding anything above, there shall be no transfer of budgeted funds or monies from one department to another department without prior Council approval.

Section 9. Financial Reports.

The City Manager shall submit to the Council each month a report of the financial condition of the City by budget item, budget estimate compared to accruals for the preceding month and for the fiscal year-to-date. The financial records of the City will be maintained on an accrual basis to support this type of financial management. The City Manager shall make available to the City Council monthly a cash disbursements journal of the City of all funds and accounts.

Section 10. 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 Council may, by a majority vote of the full membership, 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.

Section 11. Certification: Copies Made Available.

A copy of the budget, as finally adopted, shall be filed with the City Secretary. Copies of the final budget shall be made available for the use of all offices, agencies and for the use of interested persons and civic organizations.

Section 12. 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.

Section 13. Independent Audit.

At the close of each fiscal year, and at such other times as it may be deemed necessary, the Council shall direct that an independent audit be made of all accounts of the City by a Certified Public Accountant. The Certified Public Accountant shall have no personal interest, directly or indirectly, in the financial affairs of the City or any of its officers and shall report directly to the City Council. The Certified Public Accountant selected to prepare the audit shall be limited to providing such services for not more than five (5) consecutive fiscal years, and shall not again thereafter be eligible for selection until at least one fiscal year has elapsed since the proceeding such services were performed by such Certified Public Accountant.

Upon completion of the audit, the results thereof shall be published forthwith in the official newspaper of the City of DeSoto and copies placed on file in the City Secretary's office for public record.

Section 14. Purchase Procedure.

Before any purchase or contracts are made by the City of DeSoto, ample opportunity for competitive bidding shall be provided under such rules and regulations as provided by the laws of the State of Texas, or as the City Council may provide by ordinance.

The City Council shall have the right to reject any and all bids. Qualifications, specification and quality of materials being equal, citizens and business firms of

DeSoto, when allowed by law, shall be given preference in the awarding of all contracts over which the City has jurisdiction, direct or indirect. City Council regulations provided by ordinance shall not conflict with any applicable provision of the Charter or state law governing municipal purchasing or contracting.

ARTICLE VIII

Bonds, Warrants, and Other Evidence of Indebtedness

Section 1. Powers to Issue.

In keeping with the Constitution of the State of Texas and not contrary thereto, the City of DeSoto shall have the power to borrow money on the credit of the City for any public purpose not now or hereafter prohibited by the Constitution and laws of the State of Texas, and shall have the right to issue all tax bonds, revenue bonds, funding and refunding bonds, time warrants and other evidence of indebtedness as now authorized or as may hereafter be authorized to be issued by cities and towns by the laws of the State of Texas.

Section 2. Manner of Issuance.

Bonds, warrants and other indebtedness of the City of DeSoto shall be issued in the manner provided by the general laws of the State of Texas.

Section 3. Sale of Bonds.

No bonds issued by the City of DeSoto shall be invalid because they are sold for less than par value and accrued interest. The Council shall have the right to reject any or all bids. In the event the City shall have received authorizations for the issue of bonds but shall not have issued said bonds within ten (10) years from the date of voter authorization, such authorization shall become null and void.

Section 4. Interest and Sinking Funds.

It shall be the duty of the Council to levy an annual tax sufficient to pay the interest on and approve the necessary sinking fund required by law on all outstanding general obligation bonds of the City. The interest and sinking fund shall be deposited in a separate account and shall not be diverted to or used for any other purpose than to pay the interest and principal on all such bonds issued by the City of DeSoto. The sinking fund maintained for the redemption of any debt may be invested in any interest bearing bonds of the United States Government, and/or secured bonds of the State of Texas as may be provided by the laws of this State. Investment of all sinking funds for interest shall mature at least fifteen (15) days prior to the date of payment due on bonds issued by the City of DeSoto. The Council may also deposit City monies in any state or national chartered bank on time deposit interest.

Section 5. Revenue Bonds.

The City shall have the power to borrow money for the purpose of construction, purchasing, improving, extending, or repairing the public utilities, recreational facilities or any other self-liquidating municipal function not now or hereafter prohibited by the

general laws of the State, and issue revenue bonds to evidence the obligation created thereby. Such bonds shall be a charge upon and payable solely from the properties, or interest therein, acquired and the income therefrom, and shall never be a debt of the City. The Council shall have authority to provide for the terms and force of any purchase agreement, contract, mortgage, bond or document desired or necessary for the issuance of revenue bonds, and the acquisition and operation of any property or interest.

Section 6. Execution and Registration of Bonds.

All bonds, warrants and certificates of indebtedness shall be signed by the Mayor, countersigned by the City Secretary, and sealed with the seal of the City in the manner provided by general law, and shall be payable at such times and place or places as may be fixed, not more than forty (40) years from their date. It shall be the duty of the Mayor, when such bonds are issued, to forward the same to the Attorney General of the State of Texas for approval and for registration by the Comptroller of Public Accounts.

Section 7. Bond Register.

The Director of Finance or other officer of the City designated by the City Council shall keep, or cause to be kept, for and on behalf of the City a complete bond registry and books, showing all bonds, warrants and certificates of indebtedness issued, the date and amount thereof, the rate of interest, maturity, etc. of all bonds or other indebtedness surrendered and other transactions of the Council having reference to the refunding of the indebtedness of said City.

**ARTICLE IX
Taxation**

Section 1. Powers of Taxation.

The Council shall have the power to levy, for general purposes, an ad valorem tax on real, personal, and mixed property within the territory of the City of DeSoto, not exempt from taxation by the Constitution and laws of the State of Texas, based upon its true value as provided by law to the extent of the constitutional limit permitted by the State of Texas to cities of over 5,000 population.

The Council may levy taxes on all property, privileges and franchises of every kind and description within the city limits or having its situs therein on January first of each year and from any other local source, and provide for rendition thereof, the place, time, and manner of payment thereof, with penalties, as the Council may deem best, not in violation of the laws of this state.

Section 2. Payment of Taxes.

The taxes herein and hereby authorized to be levied shall become due and payable October 1st of the year assessed, and same shall be payable in cash at the office of the Assessor and Collector of Taxes or such other officer as the City Mayor, by ordinance, prescribes.

Section 3. Delinquent Taxes.

Taxes shall be deemed and become delinquent if not paid prior to February 1st the year following assessment, and such delinquent taxes shall be subject to the penalties and collection procedures authorized by state law.

Such delinquent taxpayer shall be subject to the payment of all cost and expenses incurred in the advertisement of such delinquent property and the collection of such taxes through any method provided by this Charter and/or the laws of the State of Texas. Such penalties and interest shall be an obligation of the taxpayer and be secured by the same lien and collected in the same manner as other taxes.

Section 4. Tax Lien and Liability.

A special lien is hereby created on all real, personal, and mixed property, located in the City of DeSoto, in favor of the City of DeSoto for all taxes, ad valorem, occupational or otherwise. Said lien shall exist from January 1st in each year until the taxes are paid. Such lien shall be prior to all other claims, and no gift, sale, assignment or transfer of any kind, or judicial writ of any kind, can ever defeat such lien, but the Assessor and Collector of Taxes can pursue such property, and whenever found out may, by judicial writ, seize and sell enough thereof to satisfy such taxes.

All persons or corporations owning real, personal or mixed property on the first day of January of each year shall be liable for all municipal taxes levied thereon for such year.

**ARTICLE X
Planning**

Section 1. The Planning and Zoning Commission.

There shall be established a Planning and Zoning Commission which shall consist of seven (7) citizens from the City of DeSoto. The members of said Commission shall be appointed by the City Council for a term of three (3) years. The initial appointment of the Planning and Zoning Commission members by the Council shall designate which members shall serve three (3) years, which members shall serve two (2) years and which members shall serve one (1) year, and on each succeeding year thereafter, the Council shall select replacements for the Planning and Zoning Commission members whose terms have expired. The Commission shall elect a chairman and a vice-chairman from among its membership and shall meet not less than once each month. Vacancies and unexpired terms shall be appointed by the Council for the remainder of the term. A majority of the members shall constitute a quorum, and the affirmative vote of four (4) members shall be necessary for the passage of any recommendation to the City Council. Members of the Commission may be removed by the Council after public hearing and for cause set forth in writing.

The Commission shall keep minutes of its proceedings which shall be of public record. The Commission shall serve without compensation.

Section 2. Planning and Zoning Commission Powers and Duties.

The Planning and Zoning Commission shall recommend to the City Council approval or disapproval of proposed changes in the Zoning Plan, Master Plan, Master Thoroughfare Plan and shall review and recommend approval or disapproval of all subdivision plats.

The Commission shall be responsible to and act as an advisory body to the Council and shall have and perform such additional duties as may be prescribed by ordinance.

Section 3. The Master Plan.

A Master Plan for the physical development of the City of DeSoto shall be adopted by the City Council and shall contain recommendations for growth, development and beautification of the City.

The City Council shall have the authority to amend the Master Plan in whole or in part after one public hearing on the proposed action.

The Planning and Zoning Commission shall review the Master Plan annually and present a report of its findings to the City Council. The Planning and Zoning Commission shall conduct a comprehensive review of the Master Plan at least every ten (10) years and provide the City Council with appropriate recommendations for any amendments thereto.

**ARTICLE XI
Franchises and Public Utilities**

Section 1. Powers of the City.

In addition to the City's power to buy, own, construct, maintain and operate utilities within or without the City's limits, and to manufacture and distribute electricity, gas or anything else that may be needed or used by the public, the City shall have further power as may now or hereafter be granted under the Constitution and laws of the State of Texas.

Section 2. Inalienability of 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 the provisions of the Charter. No act or omission by the Council or any officer or agent of the City shall be construed to grant, renew, extend or amend, expressly or by estoppel or implication any right, franchise or easement affecting said public streets, highways, sidewalks, alleys, parks, public squares, public places and other real property, except as provided in this Charter.

Section 3. Ordinance Granting Franchises.

The caption of all ordinances granting, amending, renewing, or extending franchises for public utilities shall be published once in the official newspaper of the City and the

expense of such publication shall be borne by the proponent of the franchise. The ordinance shall not be finally passed until thirty (30) days after such publication. The granting of franchises by the City Council shall be governed by the following regulations:

- 1) No exclusive franchise or privilege shall ever be granted;
- 2) No determinate or fixed term franchise shall ever be granted for a longer term than forty (40) years;
- 3) All holders of franchises for public services from the City, their successors or assigns, as compensation for the right or privilege of such franchise enjoyed, shall pay to the City such fees, sums or other compensation as allowed under state or federal law. Such sum shall be exclusive of, and in addition to, all special assessments and taxes of whatever nature, including ad valorem taxes upon the value of the franchise and other property of the franchise holder. The sum due hereunder shall be due and payable in accordance with the specific franchise ordinance.

Section 4. Transfer of Franchise.

Except as otherwise provided by state or federal law, no public utility franchise shall be transferable except to persons, firms, or corporations taking all or substantially all of the holder's business in the City and except with the approval of the Council expressed by ordinance. All liabilities to the City shall be paid in full at the time of the transfer.

Section 5. Franchise Value not to be Allowed.

In fixing reasonable rates and charges for utility service within the City and determining the just compensation to be paid by the City for public utility property which the City may acquire by condemnation or otherwise, nothing shall be included as the value of any franchise granted by the City under this Charter.

Section 6. Regulation of Rates.

The Council shall have full power to regulate by ordinance the rates, charges and fares of public utility franchise holder operating in the City as allowed by federal or state law.

Section 7. Consent of Property Owners.

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

Section 8. 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 hereinbefore made. The right to use and maintain any extensions shall terminate

with the original grant. 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.

Section 9. Temporary Permits.

Permits unconditionally revocable at the will of the governing body for minor or temporary privileges in the streets, public ways, and public places of the City may be granted and revoked by ordinances, from time to time, and such permits shall not be deemed franchises as the term is used in this Charter.

Section 10. Other Conditions.

All franchises heretofore granted are recognized as contracts between the City and the grantee, and contractual rights as contained in any such franchises shall not be impaired by the provisions of this Charter, except that the power of the City to exercise the right of eminent domain in the acquisition of any utility property is in all things reserved, and except the general powers of the City heretofore existing and herein provided for to regulate the rates and services of a utility, which shall include the right to require adequate and reasonable extension of plant and service and the maintenance of the plant fixtures at the standard necessary to render the highest reasonable quality of utility service to the public. 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 franchises. Nothing in this Charter shall operate to limit in any way, as specifically stated, the discretion of the Council in imposing terms and conditions as may be reasonable in connection with any franchise grant, including the right to require such compensation or rental as may be permitted by the laws of the State of Texas.

Section 11. Franchise Records.

Within six months after this Charter takes effect, every public utility and every owner of public utility franchises shall file with the City, as may be prescribed by ordinance, certified copies of all franchises owned or claimed, or under which such utility is operated in the City. The City shall compile and maintain a public record of public utility franchises.

Section 12. 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, appropriately subdivided into different classes, all liability subdivided by classes, depreciation reserve, other reserves, and surplus; also revenues; operating expense including depreciation, interest payments, rental, and other disposition of annual income. The accounts shall show the actual capital cost to the City of each public utility owned, also the cost of all extensions, additions, and improvements and the source of the funds expended for such capital purposes. They shall show as nearly as possible the cost of any service furnished or rendered by any such utility to any other City or governmental department. The Council shall annually cause to be made by a certified public accountant; and shall publish, a report showing

the financial condition of said public utility and the financial results of such City ownership and operation, giving the information specified in this section and such additional data as the Council shall deem expedient.

ARTICLE XII General Provisions

Section 1. Public Records of the City.

Every ordinance or resolution, upon its becoming effective, shall be recorded in a manner permitted by law and shall be authenticated by the signature of the Mayor or Councilmember and attested by the City Secretary as herein provided, and a duplicate copy thereof shall be kept in a safe and secure location. All public records of every office, department or agency of the City shall be open for inspection by a citizen at all reasonable times, subject only to the provisions and limitations of the Texas Public Information Act as now exists or hereafter amended.

Section 2. Conflict of Interests.

Chapter 171 of the Texas Local Government Code, as amended from time to time, being the State law which regulates conflicts of interest of local public officials, is hereby adopted and made a part of this Charter for all purposes.

Section 3. Nepotism.

No person related within the second degree by affinity, or the third degree consanguinity to the Mayor, any member of the City Council, or the city Manager shall be appointed to any paid office, position, clerkship, or other service of the City. This prohibition shall not apply, if the person has been continuously employed in the position for at least six (6) months immediately before the election of the related member of the Mayor or Councilmember, or has been continuously employed in the position for at least thirty (30) days before the appointment of the City Manager, if related to the City Manager.

Section 4. Officers Not to be Interested in Franchises: Forfeiture of Office.

No officer or employee of the City of DeSoto shall accept, directly or indirectly, any gift, favor, privilege or employment from any public utility corporation enjoying a grant of any franchise privilege or easement from said City, during the term of office of such officer or during the employment of such employee of the City, except as may be authorized by law or ordinance. Any employee or officer of the City who shall violate the provisions of this Section shall be guilty of a misdemeanor and shall be punished by such fine as may be prescribed by ordinance for this offense, and may be forthwith removed from office.

Section 5. Mechanic, Material or Labor Claim.

All subcontractors, materialmen, mechanics and laborers upon any public works of the City of DeSoto are hereby required to notify the City of all claims they may have against the contractor on account of such work, subject to proof of payments by the said contractor, and when such notice has been given, the City shall retain an amount from any funds due the contractors, sufficient to satisfy such claims; provided that such

notice must be given at any time after such indebtedness becomes due and before the City's final settlement with the contractor; and provided further, that no contractor or subcontractor shall issue any checks on, or on account of, any public works of said City.

Section 6. Notice of Claim.

The City of DeSoto shall not be held responsible on account of any claim for damages to any person unless the person making such complaint or claiming such damages shall, within six (6) months after the time at which it is claimed such damages were inflicted upon such person, file with the City Secretary, a true statement under oath, as to the nature and character of such damages or injuries, the extent of the same, and the place where same happened, the circumstances under which same happened, the conditions causing same, with a detailed statement of each item of damages and the amount thereof, and if it be for personal injuries, giving a list of the witnesses, if they are known to affiants, who witnessed such accident.

Section 7. Assignment, Execution and Garnishment.

The property, real and personal, belonging to said City shall not be liable to be sold or appropriated under any writ of execution or cost bill, nor shall the funds belonging to said City, in the hands of any person, be liable to garnishment on account of any debt the City may owe or funds the City may have on hand due any person, nor any of its officers or agents shall be required to answer any writ of garnishment on any account whatsoever, nor shall said City be liable to the assignee of any wages of any officer, agent or employee of said City, whether earned or unearned, upon any claim or account whatsoever, and any such attempted assignment shall be absolutely void as to the City.

Section 8. Bond of Contractors.

The governing body of the City of DeSoto shall require sufficient payment and performance bonds of all contractors, with a good corporate surety thereon, acceptable to the governing body of the City of DeSoto.

Section 9. Condemnation of Dangerous Structures.

Whenever, in the opinion of the governing body of the City or DeSoto, or appropriate city official, any building, fence, shed, awning, cave, excavation, structure, object or thing of any kind or part thereof may fall or collapse and injure persons or property, the City may order the owner or agent of the same or occupant of the premises to take such corrective measures as the governing body may direct, and may punish by fine all persons failing to do so. Upon his failure to comply, the governing body shall have the additional power to remove the same on account of the owner of the property and assess the expenses thereof, including condemnation proceedings, as a special tax against the land or improvements, and the same may be collected as other special taxes provided for in this Charter, or by suit in any court of competent jurisdiction.

Section 10. Building Permits.

The City of DeSoto shall have the power to prohibit the erection or construction of any building or structure of any kind within the City of DeSoto without a permit first having been issued by the City for the construction or erection of such building or structure, and

may authorize a fee to be charged for such permit, and in pursuance of said authority may authorize the inspection by the City of all buildings or structures during the progress of their construction and may require that all buildings shall be constructed in conformity with the building code which exists in said City or shall hereafter be passed.

Section 11. Pool, Ponds, and Lakes.

The City of DeSoto shall have power to control or prohibit construction of pools, ponds, or lakes, receiving water from a recognizable stream, creek, branch, or natural drainage. The City may control location, construction, height of structure, depth and size of body of water to be impounded. No pool, pond, or lake, receiving water from a recognizable stream, creek, branch, or natural drainage, shall be constructed without first obtaining a permit issued by the City.

Section 12. Bonds of City Officials, Employee, or Department Director.

In addition to any bonding provisions herein provided, the Council shall require not less than \$50,000 for the Tax Assessor and Collector, and may require any city official, department director or city employee before entering upon his duties, to execute a good and sufficient bond with a surety company doing business in the State of Texas, and approved by the Council, as surety thereon, said bond to be in such amount as Council may demand, payable to the City of DeSoto, and conditioned for the faithful performance of the duties of his office; premium of such bond to be paid by the City.

Section 13. Amendment of the Charter.

- (a) This Charter may be amended no more than once every two (2) years as provided by the laws of the State of Texas. The City Council shall appoint a twenty-one (21) member Citizens Charter Review Commission at least every five (5) years.

Every Charter Amendment Proposition shall include as part of the ballot language a complete cost summary and authority for the City to increase revenue accordingly if the proposition requires the expenditure of funds.

No Charter Amendment Proposition or implementation of such proposition by the City of DeSoto shall exceed one-half (½) of the state mandated limit for the rollback of a property tax increase as calculated for the current municipal budget year if the amendment requires the expenditure of funds.

Section 14. Severability Clause.

If any Section or part of a Section of this Charter is held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity shall not invalidate or impair the validity, force, or effect of any other Section or part of a Section of this Charter.

Section 15. Construction of the Charter.

In the wording of the Charter, the use of the singular number shall include the plural, and the plural shall include the singular. Words used in the masculine gender shall

include the feminine also unless by reasonable construction, it appears that such was not the intention of this Charter.

Section 16. Construction of Power.

This Charter shall not be construed as a mere grant of enumerated powers, but shall be construed as a general grant of power and as a limitation of power on the government of the City of DeSoto in the same manner as the Constitution of Texas is construed as a limitation on the power of the Legislature. Except where expressly prohibited by this Charter, each and every power under Article XI, Section 5, of the Constitution of Texas, which it would be competent for the people of the City of DeSoto to grant expressly to the City, shall be construed to be granted to the City by the Charter.

Section 17. Effective Date of Charter.

This Charter, if adopted, shall become effective from and after the votes cast at the election at which it is submitted to the voters shall have been counted and the result of said election declared and an order or ordinance shall have been entered upon the records of the City Council declaring it adopted.

Section 18. Rearrangement and Renumbering.

The Council shall have the power, by ordinance, to renumber and rearrange all Articles, Sections, and paragraphs of the Charter or any amendments thereto, as it shall deem appropriate, and upon the passage of any such ordinance, a copy thereof certified by the City Secretary, shall be forwarded to the Secretary of State for filing.

Section 19. Damages.

No member of the City Council shall be liable for damages arising from actions taken while in the performance of his official duties.

Section 20. Requirements for City Board and Commission Members.

All appointees to boards and commissions of the City of DeSoto shall be residents of the City of DeSoto prior to their appointment and during their tenure.

**Amended by the DeSoto Voters
May 5, 2018
Adopted by Ordinance 2130-18**



Office of the City Secretary
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