
AGENDA

The City Charter Review Commission of the City of Daingerfield shall meet in Regular Session Thursday, November 30, 2023, at 4:00 p.m. in the Daingerfield City Hall located at 101 Linda Drive. The order of business will be as follows:

1. Call Meeting to Order

2. Public Comments.

3. Business

Discuss, Consider, and Possibly Take Action Regarding:

- A. Discuss and Act to Appoint Chair and Vice-Chair of the Charter Review Commission.
- B. Discuss, Review and Consider Charter Revisions to the City of Daingerfield Home Rule Charter and possibly submit suggestions to the Daingerfield City Council.

4. Adjournment.

I, Michelle Jones, certify that the above notice of meeting was posted in a public place before 3:00 p.m. on Monday, November 27, 2023.


Michelle Jones, City Secretary

SEAL



CITY SECRETARY'S AGENDA NOTES
November 30, 2023

2. **Public Comments.:** *At this time, anyone will be allowed to speak on any matter other than personnel matters and matters under litigation, for length of time not to exceed three minutes. No discussion or action may take place on a matter until such matter has been placed on an agenda and posted in accordance with the law.*

3. **Business**

Discuss, Consider, and Possibly Take Action Regarding

A. **Discuss and Act to Appoint Chair and Vice-Chair of the Charter Review Commission:**

B. **Discuss, Review and Consider Charter Revisions to the City of Daingerfield Home Rule Charter and possibly submit suggestions to the Daingerfield City Council:** Attached is a copy of the current Home Rule Charter for review as well as recommendations from the City Attorney.

C. **For your information:** Council has approved the City Manager residency requirements to be placed on election to expand the distance to 20 miles.

D. **For your consideration:** Under Article VI. Section 11. Canvassing elections: Our charter states "*Returns of the elections, general and special, shall be made by the election officers to the City Council no earlier than the second day or later than the sixth day following said election; at which time, the Council shall canvass and declare the results of such election.*" However Chapter 67 of the Election Code states that Canvassing periods for May cannot be any earlier than the later of: (1) the 3rd day after election; (2) the date the provisional ballots were counted; (3) the date that all timely cast overseas ballot were counted; or (4) the 7th day after election day if any deficient carrier envelopes are subject to cure; and no later than 11 days after Election day. In general canvass period is the 3rd to 11th day after election day.

4. **Adjournment**

POSSIBLE CHARTER AMENDMENTS FOR CHARTER COMMISSION CONSIDERATION

Art. V, Sec. 6. Adoption of Budget. Should specify that the adoption must be a record vote and the budget must be adopted in accordance and as required under Texas law. (At times a second vote to ratify the tax rate is required, so referring to the Texas law for procedures for adoption would cover this.)

Art. VI, Sec. 5. Elections. There is a reference to the month of April. The references to ‘April’ should be deleted in favor of the uniform election date in May.

Art. VI, Sec. 15. Duties of the mayor. The Charter Commission should review to make sure the Mayor’s powers are clear and sensible. It’s wise to avoid powers that conflict with the powers of the city manager. As for the mayor pro tem, should also specify that the mayor pro tem exercises the powers of the mayor if the mayor refuses or fails to perform the duties of the mayor, and not only ‘during the absence or disability of the Mayor’

Art. VII, Sec. 3. Open Meetings. This should be updated, there are old references to outdated statutes. To simply, could just change to authorize closed meetings as authorized by Texas law, adopted under Chapter 551 of the Texas Government Code.

Art. IX - Municipal Court.

There should possibly be some consideration whether the Charter Commission wants to allow for the future creation of a municipal court of record under Ch. 30 of the Texas Government Code—to include a term or language authorizing the council to create by ordinance a municipal court of record under Ch. 30 of the Texas Government Code. This would possibly involve eliminating some of the other sections in this Article and simply authorizing the City Council to make changes to the municipal court by ordinance in the future. (such as authorizing the creation of a municipal court of record by adoption of an ordinance).

Art XI. City Manager

Art. IX, Sec. 2. Residence. This is a policy question, whether or not a city manager should be required to be a resident or not, but it’s a good idea to address. In some cities, it’s gotten to where a strict residency requirement makes it more difficult to find a qualified city manager. I have had one other City that addressed this by ordinance only (that city’s charter left it open). That city by ordinance just requires county residency. There’s no real right or wrong on the choice of requiring a city manager to be a city resident, but it may make it more difficult to hire city managers when the residence is restricted to within the city. However, this is purely a policy decision, not really a legal one since residency requirements can be established by the Charter.

Art. IX, Sec. 5. Powers and duties. It's a good idea to review and clarify city manager as needed.

Art XIV.

It may be a good idea to add a section under this Article that would help establish a regular chance and opportunity to amend the Charter possibly by establishing guidelines for the Council's creation or appointment of Charter commissions in the future. Such as requiring a Charter Commission appointment every so number of years, for example, at least every 4 years, to allow for review and updating of the Charter as needed or necessary and providing for the number and appointment of members of the Charter Commission by Charter.

PART I

HOME RULE CHARTER¹

ARTICLE I. INCORPORATION; FORM OF GOVERNMENT

Sec. 1. Incorporation.

The inhabitants of the City of Daingerfield, Morris County, Texas, within the corporate limits as now established or as hereafter established in the manner provided by this Charter, shall continue to be and are hereby constituted a municipal body politic and corporate, in perpetuity, under the name of the "City of Daingerfield," hereinafter referred to as the "City," with such powers, privileges, rights, duties and immunities as are herein provided.

Sec. 2. Boundaries.

The boundaries and limits of said City shall be shown by [a] metes and bounds description on file in the office of the County Clerk of Morris County, together with such additions as may be hereafter adopted by the City Council.

Sec. 3. Form of government.

The municipal government provided by this Charter shall be known as the "council-manager form of city government." Pursuant to its provisions and subject only to the limitations imposed by the constitution and general laws of the State of Texas and by this Charter, all powers of the City shall be vested in an elective City Council hereinafter referred to as the "City Council" or "the Council," which shall enact local legislation, adopt budgets, determine policies, and appoint the City employees. All powers of the City shall be exercised in the manner prescribed by this Charter, or if the manner be [is] not prescribed, then in such manner as may be prescribed by ordinance.

ARTICLE II. GENERAL POWERS

Sec. 1. Powers of the city.

The City shall have all the powers now or hereafter granted to municipal corporations by the constitution and laws of the State of Texas, together with all the implied powers necessary to carry into execution all the powers granted; and, except as prohibited by the constitution of this state or restricted by this Charter, the City

¹Editor's note(s)—The Charter is printed herein as adopted at the Charter election of April 5, 1980. Amendments are indicated by parenthetical history notes following amended provisions. The absence of a history note indicates that the provision remains unchanged from the original Charter. Obvious misspellings have been corrected without notation. For stylistic purposes, a uniform system of headings and catchlines has been used. Additions made for clarity are indicated by brackets.

shall and may exercise all municipal functions, rights, privileges and immunities of every name and nature whatsoever. The enumeration of particular powers by this Charter shall not be deemed to be exclusive, and in addition to the powers enumerated therein or implied thereby, or appropriate to exercise of such powers, it is intended that the City of Daingerfield shall have, and may exercise, all powers of local self-government, and all powers enumerated in Chapter 13, Title 28, Article 1175 of the Revised Civil Statutes of the State of Texas, it would be competent for this Charter specifically to enumerate.

Sec. 2. Special provision for damage suits.

Before the City shall be liable to damage claim or suit for injury of one's person or property or death, the person who is injured or whose property is damaged or the person claiming damages from the death or someone in his behalf shall give the Mayor or City Secretary notice in writing within thirty [(30)] days after the occurring of the alleged injury or damage, stating specifically in such notice when and how the injury or damage was sustained, and setting forth the extent of the injury or damage as accurately as possible. No action at law for damages shall be brought against the City for injury to one's person or property prior to the expiration of sixty [(60)] days' notice, hereinabove described, has been filed with the Mayor or City Secretary. After the expiration of the sixty [(60)] days aforementioned, the complainant may then have forty-five (45) days in which to bring an action at law.

Sec. 3. Eminent domain.

The City shall have the full right, power, and authority 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 or laws of the State of Texas. The power of eminent domain shall include the right of the City to take the fee in the lands so condemned and such power and authority shall include the right to condemn public property for such purposes. The City shall have and possess this power of condemnation for any municipal or public purpose, even though not specifically enumerated herein or in this Charter.

Sec. 4. Street powers.

The City of Daingerfield shall have the power to lay out, establish, open, alter, widen, lower, extend, grade, abandon, discontinue, abolish, close, care for, pave, supervise, maintain and improve streets, alleys, sidewalks, squares, parks, public places and bridges and regulate the use thereof and require the removal from streets, sidewalks, alleys, and other public property or places all obstructions and encroachments of every nature or character upon any of said streets, public property and sidewalks.

Sec. 5. Street improvement.

The City of Daingerfield shall have exclusive dominion, control and jurisdiction in, upon, and over and under the public streets, avenues, alleys and highways of the City, and may provide for the improvement thereof by paving, repaving, raising, grading, draining, or otherwise. The City shall have the power and authority to make assessments against abutting owners for all or part of street and curb and gutter improvements.

Sec. 6. Extending city limits.

- (a) The City Council shall have the power by an ordinance duly adopted by said Council to fix or define the boundary limits of the City of Daingerfield; and to provide for the alteration and extension of the boundary limits of Daingerfield, and the annexation of additional territory lying adjacent to the City of Daingerfield, with or without the consent of the territory and the inhabitants annexed. In addition to any publication of the ordinance required by statute, notice shall be posted at City Hall and at the Morris County Courthouse in the same form as published. Upon the introduction of any such ordinance in the City Council, it shall be

published at least one [(1)] time in a newspaper maintaining an office in the City of Daingerfield, and said ordinance shall not, thereafter, be finally acted upon until at least thirty (30) days have elapsed after the first publication thereof. When the said ordinance is published, it shall be accompanied by a statement showing when the said ordinance will be finally acted upon. Upon the final passage of any such ordinance, the boundary limits of the City of Daingerfield shall thereafter be fixed as provided in such ordinance, and when any additional territory has been so annexed, same shall be a part of the City of Daingerfield, and the property situated therein shall bear its pro rata part of the taxes levied by the City, and the inhabitants thereof shall be entitled to all the rights and privileges of all the citizens and shall be bound and governed by the acts, ordinances, resolutions and regulations of the City.

It is intended that annexation provided by this section shall be in the manner and time provided by Article 970a, Revised Civil Statutes of Texas, as the same now exists or may hereafter be amended, and in case of any conflict, Article 970a shall govern. The City shall be governed by the provisions of Article 970a, in providing City services.

- (b) Whenever a majority of the qualified voters who are citizens of the State of Texas and inhabitants of any territory adjoining the City, as said territory may be designated by the City Council, or in case there are no qualified voters in said territory, then when persons owning a majority of the land in area of said territory desire the annexation of such territory to the City, they may present a written petition to that effect to the City Council and shall attach to said petition the affidavit of one [(1)] or more of their number to the effect that said petition is signed by a majority of such qualified voters, or in case there are no qualified voters, said affidavit shall be to the effect that there are no qualified voters in said territory and that the persons signing said petition own a majority of the land in the area of said territory; and, thereupon, the City Council, at a regular session held not sooner than twenty [(20)] days after the presentation of said petition, may, by ordinance, annex such territory to the City, and, thenceforth, the said territory shall be a part of the City, and the inhabitants thereof shall be entitled to all of the rights and privileges of other citizens and shall be bound by the acts, ordinances, resolutions and regulations of said City.

Sec. 7. Water and sewer system.

The City shall have the power to provide for a water and sanitary sewer system, and to require property owners to connect their premises with such water and sewer system; to provide for fixing penalties for failure to make sanitary sewer connections; to provide rules and regulations for the collection of charges for the use of the water and sanitary sewer system.

Sec. 8. Garbage disposal.

The City Council shall have the right by ordinance to adopt and prescribe rules and regulations for the handling and disposition of all garbage, trash and rubbish within the City, and shall further have the right to fix charges and compensation to be charged by the City for the removal of garbage, trash and rubbish and providing rules and regulations for the collection of such charges or compensation.

Sec. 9. Sanitary enforcement.

The City Council shall have the right to provide for the inspection and regulation of the sanitary condition and safety of all premises and vacant lots and abandoned houses or buildings within the City limits, for the removal of garbage, refuse, and unsanitary vegetation; it shall have the right to fix charges for such removal, provide regulations for the collection of such charges, and provide for establishing a lien against any property for any expense incurred by the City in enforcing this provision; and further to provide for the making and enforcing of all proper and reasonable regulations for the health and sanitation of said City and its inhabitants.

Sec. 10. Lands and other properties.

The City may acquire lands and other properties, within or without its corporation limits, for any City purpose in fee simple or any lesser interest or estate, by purchase, gift, devise, lease, lease-purchase or condemnation. The City may sell, lease, mortgage, hold, manage and control such property as its interest may require and as provided by law.

Sec. 11. Regulation of railroads.

The City Council shall have the power by ordinance to direct and control, within the City limits, the speed of engines, locomotives, and motor cars operating on railroad tracks, the length of trains, the construction of railroad tracks, turnouts and switches, the regulation of the grade thereof and the use of the streets for switching or stopping cars.

If improvements be [are] ordered constructed in any part of any area used or occupied by the tracks or facilities of any railroad, then the City Council shall have power to assess the whole cost of improvements in such area and the added costs of improvements in the area adjacent thereof made necessary by such use or occupancy against such railway or utility, and shall have power, by ordinance, to provide for the enforcement of such assessment.

ARTICLE III. TAXATION

Sec. 1. Ad valorem tax.

The City Council shall have power to assess, levy and collect an annual tax upon taxable property not expressly exempted by law within the City not to exceed the maximum provided by the constitution and applicable laws of the State of Texas.

Sec. 2. Licenses.

The City shall have the right and power, by ordinance, to authorize the granting and issuance of licenses and permits and shall direct the manner of issuing and registering the same and fix the fees therefor, but no licenses or permits shall be issued for a longer period than one [(1)] year and shall not be assignable except by permission of the governing authority of the City.

Sec. 3. Street rental charge and/or gross receipts tax.

The City shall have the right and power to levy and collect annually a street rental charge and/or gross receipts tax against any utility corporation using and occupying the public streets and grounds of the City, separately from the tangible property of such corporations, and to levy annually upon the property and shares of corporations, companies and corporate institutions as the same are now, or may be, assessed hereafter by the state laws, and shall have full power to enforce the collection of such taxes.

Sec. 4. Occupation tax.

The City shall have the right to assess and collect such occupational taxes, licenses and franchise taxes upon trades, professions, occupations, and any business transactions carried on in said City as may be authorized by the laws of the State of Texas, but the amount so levied and collected shall not exceed one-half (½) of the amount levied by the State of Texas for the same trades, professions, occupations, vocations, or businesses.

Sec. 5. Tax lists.

The City shall have the power to regulate the manner and mode of making out tax lists, inventories, and appraisements of property therein, and to prescribe the oath that shall be administered to each person rendering property for taxes, and to prescribe how, when, and where property shall be rendered, and to prescribe the number and form of assessment rolls, and to adopt such measures as may be deemed advisable to secure the assessment of all property within the City limits, and to collect taxes thereon, and may provide a fine upon all persons failing, neglecting, or refusing to render their property taxes, and to do any and all things necessary or proper to render effective the collection of monies by taxes.

Sec. 6. Unrendered property.

The City shall have the power to provide for the rendition of unrendered property for taxes and levy and assess taxes thereon annually, and to provide for the rendition, levy and assessment of taxes for previous years on property omitted from taxation, and to provide interest at the rate as permitted by state law upon such delinquent taxes, and to change and provide for correction and reassessment of property erroneously assessed.

Sec. 7. When due and payable.

All taxes due the City of Daingerfield shall be payable to the office of the City Assessor and Collector and may be paid at any time after the tax rolls for the year have been completed and approved which shall be not later than October first (1st). Taxes shall be paid before January thirty-first (31st) following said date of October first (1st), and all such taxes not paid prior to such date shall be declared delinquent and shall be subject to such penalty and interest as may be provided by State law. The City Council may by ordinance provide that all taxes, either current or delinquent due the City, may be paid in installments.

Sec. 8. Seizure and sale of property.

The Assessor and Collector of taxes shall, by virtue of his tax rolls, have power and authority to fix and levy upon all personal property, and sell the same to satisfy all taxes together with all penalties, interest, and costs due on all said personal property, by said delinquent rolls to the City. When he seizes personal property for such purposes, he shall keep the same at the expense of the owner until the sale is made, and shall give notice of the time and place of sale of same by posting a written notice at the City Hall door and one in another public place within the City at least ten (10) days before the date of sale. He shall sell the same to the highest bidder for cash for all taxes, interest, costs, and expense of caring for said property, and shall make an entry in the book of sales of the amount realized. All such sales shall be made at the front door of the City Hall. A sale of personal property for delinquent taxes shall convey with it an absolute title, and the owner shall have no right to redeem the same.

Sec. 9. Tax liens.

The tax levy by the City is hereby declared to be a lien, charge, or encumbrance upon the property upon which the tax is due, which lien, charge, or encumbrance the City is entitled to enforce and foreclose in any court having jurisdiction over the same; and the lien, charge, or encumbrance on the property in favor of the City for the amount of the taxes due on such property is such as to give the state courts jurisdiction to enforce and foreclose said liens on the property on which the taxes are due, not only as against any resident of the state or person whose residence is unknown, but also as against nonresidents. All taxes upon real estate shall especially be a lien and a charge upon the property upon which the taxes are due, which lien may be foreclosed in any court having jurisdiction.

Sec. 10. Tax levy.

The City Council at its first regular meeting in September of each year, or as soon thereafter as practicable, shall levy the annual ad valorem tax for such year, but special taxes or assessments allotted by this Charter may be levied, assessed and collected at such time as the Council may provide.

Sec. 11. Tax suits.

The City shall have full power to provide for the prompt collection, by suit or otherwise, of delinquent taxes assessed, levied, and imposed, and is hereby authorized and shall have full power and authority to sell or cause to be sold all property, real and personal, and shall make such laws and regulations and enact all such ordinances as are deemed necessary for collection of any taxes provided in this Charter. The City may employ an attorney other than the City Attorney to assist in the collection of delinquent taxes and file suits for collection of same.

Sec. 12. Fiscal year.

The City shall have the power to control and manage the finances of the City, to provide its fiscal year and fiscal arrangements, as provided by Article V, Section 1 of this Charter.

Sec. 13. Payment of taxes.

All monies arising from the collection of taxes levied for the payment of interest and sinking funds on bonded indebtedness, shall be maintained in a separate fund to be designated as [the] "Interest and Sinking Fund," and a separate account kept of the funds applicable to each bond issue, and all monies arising from the collection of taxes for general purposes shall be maintained in a separate fund to be designated as the "General Fund."

Sec. 14. Irregularities shall not invalidate.

No irregularities in the time or manner of making or returning the City assessment rolls, or the approval of such rolls, shall invalidate any assessment.

Sec. 15. Equalization board.

- (a) The City Council shall, each year prior to the first day of June, appoint three (3) residents who shall be qualified voters and real property owners as the Board of Equalization who shall choose from its membership a chairman. The City Tax Assessor shall be ex-officio secretary of the board. A majority of said board shall constitute a quorum for the transaction of business. Members of the board while serving shall receive compensation as may be provided for them by the City Council.
- (b) At the same meeting that the Council appoints the Board of Equalization, it shall, by ordinance, fix the time of the first meeting of the board, which shall be as soon after such Council meeting as is practicable. The board may adjourn from time to time and as long thereafter as may be necessary. It shall hear and determine the complaints of any person in relation to the assessment roll. Whenever said board shall find it their duty to raise the value of any property appearing on the lists or the books of the assessor, it shall, after having examined such lists and books and corrected all errors appearing thereon, adjourn to a date not less than ten (10) nor more than fifteen (15) days from the date of adjournment, such day to be fixed in the order of adjournment, and shall cause the secretary of said board to give written notice to the owner of such property or to the person rendering the same, of the time which said board has adjourned, that such owner or person rendering said property may at that time appear and show cause why the value of said property

should not be raised. Such notice may be served by depositing the same, properly addressed, and postage paid, in the City post office.

- (c) It shall be the duty of such board to examine, and, if necessary, revise the assessments as returned by the assessor to the end that all property within the City shall be assessed as fairly and as uniformly as possible. The Board of Equalization shall have the power to:
- (1) Review, on complaint of property owners, assessments for the purpose of taxation of both real and personal property within the City, made by the City Assessor.
 - (2) Administer oath.
 - (3) Take testimony.
 - (4) Hold hearings.
 - (5) Adopt regulations regarding procedure of assessment review.
 - (6) Compel the production of all books, documents, and other papers pertinent to the investigation of the taxable values of any person, firm or organization having or owning property within the corporate limits of the City subject to taxation.
- (d) The board shall be required to keep an accurate record of all its proceedings, which shall be available for public inspection. Immediately upon completion of its work, the board shall certify its approval of the assessment rolls, which shall be returned to the City Council, which shall, thereupon, approve the said rolls as returned to it and adopt the same as the assessment rolls to be used for the collection of taxes for the current year.

Sec. 16. Property tax code.

At such time as Senate Bill 621, Chapter 841 of the 66th Legislature, Regular Session 1979 (known as the Property Tax Code) becomes effective, then the matter of assessments, equalization and collection of such taxes shall be governed by the said Property Tax Code.

ARTICLE IV. MUNICIPAL BONDS AND WARRANTS

Sec. 1. Powers to issue and manner of issuance.

In keeping with the Constitution of the State of Texas and not contrary thereto, the City shall have the power to borrow money on the credit of the City for any public purpose or for any permanent improvement 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. Bonds and warrants of the City shall be issued in the manner provided by the Constitution and/or general laws of the State of Texas.

Sec. 2. Borrowing in anticipation of property taxes.

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

Sec. 3. Borrowing in anticipation of other revenue.

In any budget year in anticipation of the collection or receipt of other revenues of that budget year, the Council may by resolution authorize the borrowing of money by the issuance of negotiable notes of the City, each of which shall be designated "Special revenue note for the year ____." (that is, stating the budget year). Such note shall mature and be payable not later than the end of the fiscal year in which the note shall have been issued.

Sec. 4. Sale of notes.

The notes issued pursuant to the two preceding sections may be sold at not less than par and accrued interest in private sale without previous advertisement, but such sale shall be authorized by the Council.

Sec. 5. Bonds and other evidences of indebtedness incontestable.

All bonds and other evidences of indebtedness of the City having been issued and sold and having been delivered to the purchaser thereof or delivered to the claimant thereof shall, thereafter, be incontestable and all bonds issued to refund outstanding bonds or other evidence of indebtednesses previously issued shall, and after said issuance, be incontestable.

Sec. 6. Time warrants.

The City Council shall have the power to issue Time Warrants in accordance with and as regulated by Article 2368-A, Revised Civil Statutes of Texas, known as the "Bond and Warrant Law of 1931," and all amendments thereto.

Sec. 7. Lease [or] purchase of equipment.

The City of Daingerfield, Texas, acting through its duly elected City Council, hereby elects to have Chapter 252 of the Texas Local Government Code and any amendments enacted after the effective date of this Ordinance, apply to municipal purchases. Chapter 252 of the Texas Local Government Code shall supersede Article IV, Section 7 of the Charter of the City of Daingerfield, Texas, with regard to purchases.

(Ord. No. 2002-02, § 1, 1-28-2002)

ARTICLE V. THE BUDGET

Sec. 1. Fiscal year.

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

Sec. 2. Preparation and submission of budget.

The City Manager, or such other officer as may be designated by the Council, at least ninety (90) days prior to the beginning of each fiscal year shall submit to the Council a proposed budget and an explanatory budget message in the form and with the contents provided herein by Sections 11 and 12. For such purpose at such date as he shall determine, he, or an officer designated by him, shall obtain from the head of each office, department, or agency, detailed by organization units and character and objects of expenditure, and such other supporting data

as he may request. In preparing the budget, such officer shall review the estimates, shall hold hearings thereon, and may revise the estimates as he may deem advisable.

Sec. 3. Public record.

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

Sec. 4. Notice of public hearing.

At the meeting of the Council at which the budget and budget message are submitted, the Council shall determine the place and time of the public hearing on the budget and shall cause to be published a notice of the place and time not less than ten (10) nor more than thirty (30) days prior to the hearing.

Sec. 5. Public hearing.

At the time and place so advertised or at any time and place at which such public hearing shall, from time to time, be adjourned, the Council shall hold a public hearing on the budget as submitted, to which all interested persons shall be given an opportunity to be heard, for or against the estimates or any items thereof.

Sec. 6. Adoption.

The budget shall be adopted by the favorable vote of at least a majority of the Council.

Sec. 7. Effective date of budget.

Upon final adoption, the budget shall be in effect for the budget year. A copy of the budget as finally adopted shall be filed with the City Secretary, the County Clerk of Morris County, and the State Comptroller of Public Accounts in Austin. The final budget shall be printed, mimeographed, or otherwise reproduced and sufficient copies shall be made available for the use of all offices, departments, and agencies, and for the use of interested persons and civic organizations.

Sec. 8. 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. The City Council may from time to time amend the budget to provide for the appropriation of additional funds received by the City which were not taken into consideration in the original budget, or to remove funds from one section of the budget to another.

Sec. 9. 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.

Sec. 10. Budget message.

The budget message submitted to the Council shall be explanatory of the budget, shall contain an outline of the proposed financial policies of the City for the budget year and shall describe, in connection therewith, the

important features of the budget plan. It shall set forth the reasons for salient changes from the previous year in expenditure and revenue items and shall explain any major changes in financial policy.

Sec. 11. Supporting schedules to budget message.

Attached to the budget message will be such supporting schedules, exhibits, and other explanatory materials in respect to both current operations and capital outlays as shall be useful to the Council.

Sec. 12. Budget.

- (a) The budget message shall contain a complete financial plan for the fiscal year.
- (b) The total estimated expenditures of the various funds shall not exceed the total estimated resources of each fund (prospective income plus cash on hand).

Sec. 13. Accounting procedure.

An accounting procedure shall be devised and maintained for the City adequate to record, in detail, all transactions affecting the acquisition, custodianship, and disposition of anything of value, including cash receipts, credit transactions and disbursements and the recorded facts shall be presented periodically to officials and to the public in such summaries and analytical schedules in detailed support thereof as shall be necessary to show the full effects of such transactions for each fiscal year upon the finances of the City and in relation to each office, department, or agency of the City government including distinct summaries and schedules for each public utility owned and operated.

Sec. 14. Audit.

The City Council shall cause a continuous audit of the books of account and of all records and transactions of the administration of affairs of the City, such audit to be made annually embracing each fiscal year and shall be made by a public accountant licensed by the State of Texas. The duty of the accountant shall include the certification of all statements required by Section 13 herein; such statements shall include a general balance sheet showing summaries of income and expenditures and also comparisons, in proper classifications, with the last previous audit; and such summaries shall be published in the official newspaper of the City one time within ten (10) days after the completion of such audit.

Sec. 15. Depository.

The City Council may approve, execute and deliver any depository services contracted in accordance with the laws of the State of Texas.

(Ord. of 3-15-2004/5-15-2004)

ARTICLE VI. OFFICERS

Sec. 1. Municipal government.

The municipal government of the City of Daingerfield shall consist of the City Council, which shall be composed of five [(5)] councilmen and a Mayor of the City, and these shall be the only elective officers of the City.

Sec. 2. Terms of office.

The Mayor and each Councilman shall serve for a term of two [(2)] years and until his successor is elected and qualified.

Sec. 3. Vacancies.

If no more than one [(1)] vacancy on the City Council exists, a majority of the remaining members of the City Council may fill such vacancy by appointment, such appointee to serve until the next regular City election; provided, however, in filling such vacancy, the Mayor, if any, shall have a vote only in the event of a tie. In lieu of filling one [(1)] vacancy on the City Council by appointment, a special election may be called to fill such vacancy. If two [(2)] or more vacancies on the City Council exist at the same time, a special election shall be called to fill such vacancies. In the event the office of Mayor be [is] vacant, the Mayor Pro Tem shall act as Mayor until the next regular City election. When the Council member who is Mayor Pro Tem becomes Mayor, his office of councilman shall become vacant and shall be filled as herein provided.

Sec. 4. Qualification.

The Mayor and each councilman shall be residents of the City of Daingerfield and have the qualifications of electors therein. The Mayor, Councilmen, and officers and employees shall not be indebted to the City; shall not hold any other public elective office of emolument, and shall not be directly interested in the benefits or emoluments of any contract, job, work or service for the City, or interested in the sale to the City, of any supplies, equipment, material or articles purchased where the amount of the purchase exceeds \$100.00; nor shall either of them be the owner of one (1%) percent of the outstanding stock in any public utility or public service corporation rendering service within the City. Any member of the Council who has three [(3)] consecutive unexcused absences from Council meetings shall forfeit the office. Any officer or employee of the City, who shall cease to possess any of the qualifications herein required, shall forfeit his office or position. The Mayor, City Councilmen, officers and City employees may be members of the Volunteer Fire Department of the City and receive such compensation as the City Council may provide.

Sec. 5. Elections.

The regular election for the choice of members of the Council and Mayor shall be held each year on the first Saturday in April or at such other time as may be provided by State law. The Mayor and two [(2)] Councilmen shall be elected on the first Saturday in April in every even numbered year. The remaining three [(3)] Councilmen shall be elected at an election to be held on the first Saturday in April of every odd numbered year.

Sec. 6. Regulation of elections.

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

Sec. 7. How to get name on ballot.

Any qualified elector of the City, desiring to have his name placed upon the official ballot for any election, may do so by presenting a written request for that purpose, signed by himself, and filing the same with the City

Secretary at least thirty (30) days prior to the date of said election. The name of any qualified elector of the City may be placed upon the official ballot for any election by the presentation of a written request for that purpose signed by at least ten (10) qualified electors, and filed with the City Secretary. The City Secretary shall promptly notify the candidate of the filing of such nomination petition, and the candidate shall file with the City Secretary, at least thirty (30) days prior to the date of said election, a written acceptance of the nomination in the following form:

Acceptance of Nomination

I hereby accept the nomination for the office of _____, and agree to serve if elected.

Date of Filing: ___ / ___ / ___

Sec. 8. Council ballots.

The names of all candidates for Mayor or the Council as hereinbefore provided, except such as may be withdrawn, [have] died or become ineligible shall be printed on the official ballots without party designations and no other descriptive items, except, if two [(2)] candidates with the same surnames or with names so similar as to be likely to cause confusion are nominated, the addresses of their places of residence shall be placed with their names on the ballot. The order of the names on the ballot shall be determined by lot.

Sec. 9. Method of electing mayor and councilmen.

At the time of the adoption of this Charter the method of electing the Mayor and Councilmen is plurality without a run-off election; that is, those candidates for the offices of Mayor and Councilmen receiving the greatest number of votes cast in such election shall be declared elected. This method shall be continued until such time as the Council and other proper authorities direct otherwise. Subject to the approval by appropriate authorities the Council may change the method of selection of Mayor and Councilmen whereby same may be elected by:

- (a) Numbered places and provide for a run-off election;
- (b) Wards for a portion, or all, of the Council, and provide for a run-off election; or
- (c) Provide for a run-off election in the Mayor's race.

Sec. 10. Laws governing city elections.

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

Sec. 11. Canvassing elections.

Returns of the elections, general and special, shall be made by the election officers to the City Council no earlier than the second day or later than the sixth [(6th)] day following said election; at which time, the Council shall canvass and declare the results of such election.

(Amend. of 5-6-89)

Sec. 12. Salary of elective officers.

The monthly salary of the Mayor shall not exceed \$100.00; the monthly salary of each Councilman shall not exceed \$50.00.

Sec. 13. Appointive officers.

The following officers shall be appointed by the City Council to serve until removed from office by a majority vote of the City Council: City Manager and City Attorney. Additional officers, departments, deputies or assistants may be appointed by the Council as shall be deemed necessary by it. Any two [(2)] or more of such offices may be combined by the Council if necessary or expedient. Such officers shall perform the duties delegated to such officer by ordinance of the Council and make such reports as may be requested.

Sec. 14. Compensation of appointive officers.

Appointive officers shall receive such compensation as may be provided for them by the City Council.

Sec. 15. Duties of the mayor.

The Mayor shall be recognized as head of the City government. He shall preside at meetings of the Council but shall have no vote except in case of a tie. The Council shall elect a Mayor Pro Tem from the Council who shall act as Mayor during the absence or disability of the Mayor, and, if a vacancy occurs, shall become Mayor until the next regular election, at which election a Mayor shall be elected to fill the unexpired term.

Sec. 16. Duties and powers of the council.

Subject to the powers given to the City Manager, 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 Council, the following are hereby enumerated for greater certainty:

- (1) Approve the appointment of all departments' heads made by the City Manager;
- (2) Establish all administrative departments, whether specifically provided for herein or not as deemed necessary, and distribute the work of divisions;
- (3) Inquire into the conduct of any office, department, or agency of the City and make investigations as to municipal affairs;
- (4) Establish boards and commissions and appoint the members;
- (5) Require the filing and approval of all subdivision plats of lands plotted within the City or within the area of extraterritorial jurisdiction of the City and make applicable rules and regulations;
- (6) Adopt, modify and carry out plans proposed by the Planning Commission for the clearance of slum districts or areas and rehabilitation of blighted areas;
- (7) Adopt, modify and carry out plans proposed by the Planning Commission for the replanning, improvement and redevelopment of neighborhoods and for the replanning, reconstruction or redevelopment of any area or district which may have been destroyed in whole or in part by disaster.
- (8) 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, or those providing any other service to the citizens of the City of Daingerfield;

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- (9) Provide for the establishment and designation of fire limits and to prescribe the kind and character of buildings or structures or improvements to be erected therein, and to provide for the erection of fireproof buildings within certain limits, and to provide for the condemnation of dangerous buildings calculated to increase the fire hazard, and the manner of their removal or destruction;
 - (10) To cooperate with the United States, State of Texas, Morris County or other governmental entities, or their agencies in their programs; and
 - (11) To hear and determine any appeals made from a decision of the City Manager or any City board or commission.

Sec. 17. Appointment and duties of the city attorney.

The City Attorney shall be appointed and/or removed by the City Council. The City Attorney shall be the chief legal advisor of the Council and the officers of the City in matters relating to their official powers and duties. He shall represent the City in all legal proceedings, unless otherwise directed by the Council. It shall be his duty to perform all services incident to his position as may be required by law, this Charter or ordinance. He shall serve for such term as may be provided by the Council.

Sec. 18. City council and administrative decisions.

Except for the purposes of inquiry into the affairs of the City, the City Council and its members shall deal with the administrative part of the government solely through the City Manager, and neither the Council nor any member shall give orders to any subordinate of the City Manager, either publicly or privately.

Sec. 19. Volunteer fire department.

The City has a volunteer fire department, and this department shall be continued as a part of the City government. The members of the fire department shall annually elect a fire chief from the department. The powers, privileges, duties and compensation of the fire department shall be set out in ordinances adopted by the Council.

ARTICLE VII. LEGISLATIVE PROCEDURE

Sec. 1. Meetings of the council.

Within five (5) days after the election of the Mayor and/or Councilmen in each general election, the City Council shall meet and canvass the returns of the election, at which time all elected officers shall qualify and assume the duties of their office, or meet as soon thereafter as practicable but not later than thirty (30) days after the election; thereafter, the Council shall meet at such times as may be prescribed by ordinance or resolution, but it shall meet at least once each month.

Sec. 2. Procedure.

The Mayor or any three [(3)] Councilmen may call special meetings of the City Council at any time deemed advisable, after due notice to all members, including the Mayor. The Council shall determine its own rules and order of business and shall keep a journal of its proceedings in a permanent bound book, and any citizen shall have access to the minutes and records thereof at all reasonable times. The Mayor Pro Tem and any three (3) members of the Council shall constitute a quorum for the transaction of business, and the affirmative vote of three [(3)] members of the Council shall be sufficient and necessary to adopt or repeal any ordinance or resolution. All

members of the City Council present at a meeting shall vote upon every question, ordinance or resolution either "yea" or "nay" which shall be entered on said journal. Any councilman refusing to vote shall be entered on the journal and counted as voting in the affirmative. Every ordinance or resolution passed by the City Council shall be signed by the Mayor or in his absence by the Mayor Pro Tem, and such ordinance or resolution shall be attested by the person acting as City Secretary, and the seal of the City impressed thereon within ten (10) days after its passage, but such ordinance or resolution shall not be invalidated merely because the signature of either of such officers shall be lacking or the failure to impress the City seal on the same.

Sec. 3. Open meetings.

All meetings of the City Council shall be open to the public except:

- (a) Consultations with its attorney when the Council seeks the attorney's advice with respect to pending or contemplated litigation, settlement offers, and matters where the duty of a public body's counsel to his client, pursuant to the Code of Professional Responsibility of the State Bar of Texas clearly conflicts with this Act;
- (b) With respect to the purchase, exchange, lease, or value of real property, negotiated contracts for prospective gifts or donations to the governmental body;
- (c) In cases involving the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of a public officer or employee or to hear complaints or charges against such officer or employee, unless such officer or employee requests a public hearing;
- (d) Regarding the deployment, or specific occasions for implementation, of security personnel or devices; and
- (e) At such other times and to consider such matters as may be provided by Article 6252-17, Revised Civil Statutes of Texas, either in the way of exceptions or restrictions.

Sec. 4. Publication of ordinances.

- (a) Every ordinance required by this Charter to be published, or imposing any penalty, fine, or forfeiture, shall, after the passage thereof, be published once in some newspaper maintaining an office in the City of Daingerfield, and no such ordinance shall become effective until after the date of such publication;
- (b) In lieu of the publication required in subparagraph (a) of this section, the Council may, in its discretion, provide for the publication of a descriptive caption or title, stating in summary the purpose of the ordinances and the penalty for violation thereof; and
- (c) The Council may publish its ordinances in pamphlet or book form and need not republish such ordinances as have been previously published. All such ordinances, where printed and published by authority of the City Council shall be admitted and received in all courts without further proof.

Sec. 5. Recording and codification of ordinances.

- (a) Every ordinance or resolution, upon its becoming effective, shall be recorded in a permanent bound book kept for such purpose and shall be authenticated by the signature of the Mayor and the person exercising the duties of the City Secretary; and
- (b) The Council may cause a Code of Civil and Criminal Ordinances to be prepared as early as practicable, and enacted to give effect to this Charter; and to repeal or revise such ordinances as may be obsolete or in conflict with this Charter.

Sec. 6. Ordinances and enacting clause.

In addition to such acts of the Council as are required by statute or by this Charter to be passed by ordinance, every act of the Council establishing a fine or other penalties or for the contracting of indebtedness shall be by ordinance. The enacting clause of all ordinances shall be: "BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DAINGERFIELD."

Sec. 7. Investigation by the council.

The Council shall have power to inquire into the conduct of any office, department, agency, or officer of the City and to make investigation as to municipal affairs, and for that purpose subpoena witnesses, administer oaths and compel the production of books, papers, and other evidence. The Council may provide by ordinance that 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 Hundred Dollars (\$100.00).

Sec. 8. Postponement of council matters.

No matter brought before the City Council shall be tabled without proper motion, second and majority vote of the Council.

(Amend. of 5-6-89)

ARTICLE VIII. FRANCHISE AND PUBLIC UTILITIES

Sec. 1. Powers of the city.

In addition to the City's power to buy, own, construct, maintain, and operate utilities and to manufacture and distribute electricity, gas or anything else that may be needed or used by the public, the City shall have further powers as may now or hereafter be granted under the constitution and the laws of the State of Texas.

Sec. 2. Inalienability 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 this 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 by estoppel or indirection any right, franchise or easement affecting said public streets, highways, sidewalks, alleys, parks, public squares, public places and other real property.

Sec. 3. Power to grant franchise.

The Council shall have the power by ordinance to grant, renew, and extend all franchises of all public utilities of every character operating within the City, and, with consent of the franchise holder, to amend the same. Provided, however, that no franchise shall be granted for an indeterminate term, that no franchise shall be granted for a term of more than [twenty-five] (25) years, and that no franchise shall be granted, renewed, extended, or amended except on condition that the City shall have the right at any time within five (5) years of the expiration of the term thereof to purchase the property of the franchise holder at a price to be determined according to the method agreed upon in the ordinance granting, renewing, extending, or amending the franchise.

Sec. 4. Ordinance granting franchise.

Every ordinance granting, renewing, extending, or amending a public utility franchise shall be read at three regular meetings of the Council, and shall not be finally acted upon until thirty (30) days after the first reading thereof. Within five (5) days following each of the three [(3)] readings of the ordinance, the full text thereof shall be published one [(1)] time in some newspaper of general circulation in the City, and the expense of such publication shall be borne by the prospective franchise holder. No such ordinance shall become effective until the expiration of sixty (60) days following the date of its final adoption by the Council, and every such ordinance shall be subject to the referendum procedure provided by State law and this Charter.

Sec. 5. Transfer of franchise.

No public utility franchise shall be transferred by the holder thereof except with the approval of the Council expressed by ordinance.

Sec. 6. Regulation of franchise.

Every grant, renewal, extension, or amendment of a public utility franchise, whether so provided in the ordinance or not, shall be subject to the right of the Council:

- (1) To forfeit any such franchise by ordinance at any time for failure of the holder thereof to comply with the terms of the franchise, such power to be exercised only after notice and hearing;
- (2) To impose reasonable regulations to ensure safe, efficient and continuous service to the public;
- (3) To require such expansion and extension of plants and facilities as are necessary to provide adequate service to the public;
- (4) To require every franchise holder to furnish to the City, without cost to the City, full information regarding the location, character, extent and condition of all facilities of such franchise holder in, over and under the streets, alleys, and other public property of the City; and to regulate and control the location, relocation, and removal of such facilities;
- (5) To collect from every public utility operating in the City its fair and just proportion of the expense of excavating, grading, paving, repaving, constructing, reconstructing, draining, repairing, maintaining, lighting, sweeping, and sprinkling such portions of the alleys, bridges, culverts, viaducts, and other public places and ways of the City as may be occupied or used in whole or in part by such utilities; or to compel such public utility to perform, at its own expense, such excavating, relocation, grading, paving, repaving, constructing, reconstructing, draining, repairing, maintaining, lighting, sweeping and sprinkling;
- (6) To require every franchise holder to allow other public utilities to use its tracks, poles, wires, pipes or other facilities, including bridges and viaducts, wherever in the judgment of the Council such use shall be in the public interest and without damage to the franchise holder, provided that in such event the Council shall fix a reasonable rental to be paid to the owner of the facility for such use, after notice to the interested parties and a hearing of the facts;
- (7) [Accounts and reports.]
 - a. To prescribe the form of accounts kept by every franchise holder;
 - b. To examine and audit at any time the accounts and other records of any franchise holder;
 - c. To require annual and other reports, including reports on the local operations of the utility, which shall be in such form and contain such information as the Council shall prescribe;

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- (8) To require and collect any compensation and rental or taxes not now or hereafter prohibited by the laws of this State;
 - (9) To require such franchise holders who request an increase in rates, charges or fares, to reimburse the City for reasonable expenses incurred in employing attorneys, engineers, accountants and rate consultants to conduct investigations and present evidence and advise the Council on such requested increase.

Sec. 7. Regulation of rates.

The Council shall have full power after notice and hearing to regulate by ordinance the rates, charges and fares of every public utility franchise holder operating in the City. Any franchise holder requesting an increase in its rates, charges, or fares shall have, at the hearing on such request, the burden of establishing by clear and convincing evidence the value of its investments and the amount and character of its expenses and revenues. No franchise holder shall institute any legal action to contest any rate, charge, or fare fixed by the Council until such franchise holder has filed a motion for rehearing with the Council specifically setting out each ground of its complaint against the rate, charge or fare fixed by the Council, and until the Council shall have acted upon such motion.

Sec. 8. Other conditions.

All franchises, contracts, and agreements heretofore granted are recognized as contracts between the City of Daingerfield and the grantee, and the 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 of Daingerfield to exercise the right of eminent domain in the acquisition of any utility property, is in all things reserved, and except the general power of the City heretofore existing and herein provided for, to regulate the rates and services of a grantee, which shall include the right to require proper and adequate extension of plant and service, and the maintenance of the plant and fixtures at the highest reasonable standard of efficiency. Every public utility franchise 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 Council or the electors of the City in imposing terms and conditions as may be reasonable in connection with any franchise grant.

Sec. 9. Franchise records.

Within six (6) months after this Charter takes effect, every public utility and every owner of a public utility franchise shall file with the City certified copies of all franchises owned or claimed, or under which such utility is operated. The City shall compile and maintain a public record of public utility franchises.

Sec. 10. 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 expenses 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 to, or rendered by any such utility to any other City or governmental department. The Council shall annually cause to be made and published, a report showing the financial results of such City ownership and operation, giving the information specified in this section or such data as the Council shall deem expedient.

ARTICLE IX. MUNICIPAL COURT

Sec. 1. Municipal court created.

There is hereby created in the City of Daingerfield, a court, to be known as the Municipal Court, which shall have the jurisdiction defined by Article 1195, of the 1925 Revised Civil Statutes of the State of Texas [See now Texas Government Code § 29.003], and Chapter 4 of the Code of Criminal Procedure.

Sec. 2. Judge of municipal court.

Such court shall be presided over by a judge appointed by the Council for a term of two (2) years to be known as the judge of the Municipal Court. Any City elective officer or employee may be appointed Judge with salary to be set by the Council; but in case of the absence or disqualification of the regular acting judge, the Council may appoint a substitute.

Sec. 3. Jury trial.

Every person brought before the Judge to be tried for any offense to which the penalty may be fine shall be entitled, if he shall demand it, to be tried by a jury of six [(6)] legal voters of the City, who shall be summoned, empaneled and qualified as are jurors in justice court, under the laws of the State.

Sec. 4. Practice and procedure.

Proceedings in the Municipal Court shall be commenced by complaint, which may be sworn to before the Judge, or his deputy, or any other officer authorized by law to administer oaths. Where not otherwise prescribed by the terms of this Charter or ordinance, the rules of pleadings, practice and procedure prevailing and prescribed by law for municipal and/or justice courts shall apply to the municipal court, as far as applicable.

Sec. 5. Court seal.

The Court shall have a seal, having engraved thereon a star of five [(5)] points in the center, and the words "Municipal Court of Daingerfield, Texas," the impress of which shall be attached to all process, except subpoenas issued out of said court, and shall be used to authenticate the official acts of the secretary and the judge where he is authorized or required to use the seal of office.

Sec. 6. Complaints and prosecutions.

In all prosecutions in said Court, either under ordinances or the provisions of the Penal Code of the State of Texas, the complaint shall commence: "In the name and by the authority of the State of Texas," and shall conclude: "Against the peace and dignity of the State," and where the offense is covered by an ordinance the complaint may also conclude: "Contrary to the said Ordinance." Prosecutions of such court shall be conducted by the person acting in the capacity of City Attorney, or his deputy.

Sec. 7. Fines and costs.

All fines imposed and collected by said court shall be paid into the City treasury for the use and benefit of the City. Court costs for the Criminal Justice Planning Fund and Texas Commissioners on Law Enforcement Officers Standards and Education, and for such other funds as may be provided by law, shall be collected in each case, except parking tickets or pedestrian offenses, in which a fine is imposed.

Sec. 8. Jury; witness fees; bonds; miscellaneous court proceedings.

Proceedings in the Municipal Court in regard to the amount paid to jurors and witnesses, enforcing the attendance of witnesses upon said court, authority of the Court to punish for contempt, service of process, execution and issuance of writs, and proceedings in relation to peace bonds and bonds required by the Court, shall be governed by the provisions of the Penal Code and Code of Criminal Procedure as the same now exists, or may hereafter be amended, relating to Justice Courts and Municipal Courts.

Sec. 9. Appeals.

Appeals from judgment rendered by said court shall be heard by the state court of competent jurisdiction in Morris County, Texas, and in all such appeals the trial shall be de novo; the same as if the prosecution had been originally commenced in that court. Said appeals shall be governed by the rules of practice and procedure for appeals from justice courts to the county courts, as far as the same may be applicable.

Sec. 10. Collection of fines in appeal cases.

In all cases, the fines imposed on appeal, together with the costs, if any, imposed in the Municipal Court and the court to which the appeal is taken, shall be collected of the defendant and his bondsman, and such costs, if any, when collected, be [are] paid into the treasury of the City. When the defendant in such cases is committed to custody, he shall be committed to the custody of the officer acting as Chief of Police of the City, to be held by him in accordance with the ordinances of the City, providing for the custody of prisoners convicted before said court.

Sec. 11. Court clerk.

The Council may by ordinance provide such court with a clerk, and if such a clerk is provided, then he shall be one of the City's appointive officers or employees; if appointed, he shall have the same powers and authority which clerks of state courts of records have in issuing process of said court and conducting the business thereof.

Sec. 12. No terms.

Said court shall hold no terms and shall be at all times open for the transaction of business.

Sec. 13. Enforcing judgments.

To enforce the judgments of said court the Council may, by ordinance, provide such means for working them out as it may deem best, and fix the compensation for such work.

ARTICLE X. GENERAL PROVISIONS

Sec. 1. Publicity of records.

All records and accounts of every office, department or agency of the City shall be open to inspection by any citizen, any representative of a citizen's organization or any representative of the press at all reasonable times and under reasonable regulations by the Council, except as may be otherwise provided by law.

Sec. 2. Oath of office.

All elective officers of the City shall, before entering upon the duties of his office, take and subscribe 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 Daingerfield, 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 this State; and I furthermore solemnly swear (or affirm), that I have not directly nor indirectly paid, offered, or promised to pay, contributed, nor promised to contribute any money, or valuable thing, or promised any public office or employment, as a reward for the giving or withholding a vote at the election at which I was elected. So help me God."

All full-time appointed officers of the City shall, before entering upon the duties of his office take and subscribe 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 Daingerfield, 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 this State; and I furthermore solemnly swear (or affirm) that I have not directly nor indirectly paid, offered, or promised to pay, contributed, nor promised to contribute any money, or valuable thing, or promised any public office or employment, as a reward to secure my appointment or the confirmation thereof. So help me God."

Sec. 3. Zoning ordinances.

For the purpose of promoting the health, safety, morals or general welfare of the City, the Council may, by ordinance, regulate the location height, bulk and size of buildings and other structures, the size of yards, courts and other open spaces, the density of population and the uses of buildings, structures and land for trade, industry, business, residence or other purposes. All of the powers granted by Title 28, Chapter 4, Articles 1011A to 1011J, both inclusive, of the 1925 Revised Civil Statutes of Texas [see now Texas Local Government Code ch. 211], together with existing amendments and all amendments as hereinafter may be made relating to zoning in cities, are hereby adopted and made a part of this Charter.

Sec. 4. Provision 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 of execution or cost bill. The funds belonging to the City in the hands of any person, firm or corporation, shall not be liable to garnishment, attachment or sequestration; nor shall the City be liable to garnishment on account of any debt it may owe or funds of property it may have on hand or owing to any person. Neither the City nor any of its officers or agents shall be required to answer any such writ or garnishment on any account whatever. The City shall not be obligated to recognize any assignment of wages of funds by its employees, agents, or contractors.

Sec. 5. City not required to give security or execute bonds.

It shall not be necessary in any action, suit or proceeding in which the City of Daingerfield 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, and said City shall be just as liable as if security of bond had been duly executed.

Sec. 6. Effect of this charter on existing law.

All ordinances, resolutions, rules and regulations now in force under the City government of Daingerfield 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 right of the City of Daingerfield under existing franchises and contracts are preserved in full force and effect.

Sec. 7. Elected officers shall serve out full term.

All City officials who have been elected to office prior to the effective date of this Charter shall continue to perform the duties assigned to them and shall continue to have all of the powers delegated to them prior to the effective date of this Charter, until their term has expired, unless such officer resigns, dies, or his office becomes vacant for some other reason.

Sec. 8. Amending the charter.

This Charter may be amended as provided in Article 1170, Revised Civil Statutes of Texas of 1925, as the same now exists or may be hereafter amended.

Sec. 9. Separability clause.

If any section or part of any section of this Charter shall be held invalid by a court of competent jurisdiction, such holdings 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 separately connected in meaning and effect with the section or part of section to which such holding shall directly apply.

Sec. 10. Surety bond.

All officers through whose office, agency or department City funds are collected, handled, deposited, or disbursed, shall make good and sufficient surety bonds in a surety company authorized to do business in Texas, payable to the City of Daingerfield, so conditioned that the City shall be protected against all actionable malfeasances or derelictions of official duties; and such bonds shall be in principal sums as may be fixed by the Council to fully protect the City. All bond premiums are to be paid by the City.

Sec. 11. Nepotism.

No person shall be employed by the City who is related either by blood or marriage within the third degree to any member of the Council, Mayor or City Manager.

ARTICLE XI. CITY MANAGER

Sec. 1. Appointment.

The City Council shall appoint a City Manager at the organization meeting of said Council following the adoption of this Charter or as soon thereafter as practicable. The City Manager shall be the chief executive officer

and the head of the administration of the City government completely responsible to the City Council for the proper administration of all the affairs of the City.

Sec. 2. Residence of city manager.

The City Manager must reside in the City of Daingerfield after his appointment.

Sec. 3. Term of office.

The City Manager shall be appointed for an indefinite period and shall be subject to discharge by a majority vote of the City Council.

Sec. 4. Absence or disability of city manager.

During the absence or disability of the City Manager, the City Council shall designate some properly qualified person to perform the duties of said office.

Sec. 5. Powers and duties.

The powers and duties of the City Manager shall be:

- (a) To devote all his working time and attention to the affairs of the City and be responsible to the City Council for the efficient administration of its affairs;
- (b) To see that all laws and ordinances are enforced;
- (c) With the advice and consent of the City Council to appoint all heads of the departments of the City, except the City Attorney, to approve the appointment of such subordinate employees of the City as may be recommended by the department heads, and to discharge any employee of the City except the City Attorney;
- (d) To exercise supervision and control over all departments, offices and agencies created by this Charter or that may hereafter be created by the City Council, except as otherwise provided herein;
- (e) To attend all meetings of the City Council with the right to take part in the discussions but having no vote;
- (f) To see that all terms and conditions imposed in favor of the City or its inhabitants on any public utility franchise are faithfully kept and performed; and upon knowledge of any violation thereof, to call the same to the attention of the City Council;
- (g) To act as budget commissioner and as such to prepare and submit to the City Council, prior to the beginning of each fiscal year, a budget of proposed expenditures for the ensuing year, showing in it [in] as much detail as practicable, the estimated amounts required for the efficient operation of each department of the City government and the reasons for such estimated expenditures;
- (h) To make a full written report to the City Council as soon after the close of each month's accounts as possible, showing the operation and expenditures of each department of the City government for the preceding month, and a comparison of such monthly expenditures, by departments, and to keep the council advised at all times as to the financial condition and needs of the City;
- (i) To act as purchasing agent for the City and to purchase all merchandise, materials and supplies needed by the City; to establish a suitable storehouse where such supplies can be kept, and from which same shall be issued as needed, and to adopt such rules and regulations governing requisitions and the transaction of business between himself as such purchasing agent and the heads of the departments,

officers and employees of the City, as the City Council may approve; the City Manager, as purchasing agent, shall not bind the City for more than the sum provided by the City Council by ordinance;

- (j) To recommend to the City Council the salaries to be paid each appointive officer and subordinate employee of the City;
- (k) To recommend to the City Council in writing, from time to time, for adoption, such measures as he may deem necessary or expedient; and
- (l) To do and perform such other duties as may be prescribed by this Charter or be required of him by the ordinances and resolutions of the City Council.

Sec. 6. Shall be appointed.

Until a City Manager shall be appointed by the City Council, the Mayor and Council shall perform all duties and exercise the powers herein provided for the City Manager, as far as may be practicable.

ARTICLE XII. PUBLIC CEMETERIES

[Sec. 1. Authority.]

The City Council shall have the authority to maintain public cemeteries inside the City or to acquire, establish and own, either by purchase, donation, bequest or otherwise, all property that may be useful and necessary for the purpose of establishing and maintaining a municipal cemetery.

ARTICLE XIII. INITIATIVE, REFERENDUM AND RECALL

Sec. 1. Power of initiative.

The electors shall have power to propose any ordinance except an ordinance appropriating money or authorizing the levy of taxes, and to adopt or reject the same at the polls, such power being known as the initiative. Any initiative ordinance may be submitted to the Council by a petition signed by qualified electors of the City equal in number to at least twenty-five (25%) percent of the qualified voters in the City.

Sec. 2. Power of referendum.

The electors shall have power to approve or reject at the polls any ordinance passed by the Council, or submitted by the Council to a vote of the electors, such power being known as the referendum, except in cases of bond, warrant and note ordinances and ordinances making the annual tax levy. Ordinances submitted to the Council by initiative petition and passed by the Council without change shall be subject to the referendum in the same manner as other ordinances. Within twenty [(20)] days after the enactment by the Council of any ordinance which is subject to a referendum, a petition signed by qualified voters of the City equal in number to at least twenty-five (25%) percent of the qualified voters in the City may be filed with the City Secretary requesting that any such ordinance be either repealed or submitted to a vote of the electors.

Sec. 3. Form of petitions; committee of petitioners.

Initiative petition papers shall contain the full text of the proposed ordinance. The signatures of initiative or referendum petitions need not all be appended to one paper, but to each separate petition there shall be attached

a statement of the circulator thereof as provided by this section. Each signer of any petition paper shall sign his name in ink or indelible pencil and shall indicate after his name his place of residence by street and number, or other description sufficient to identify the place. There shall appear on each petition the names and addresses of five [(5)] qualified voters, who, as a committee of the petitioners, shall be regarded as responsible for the circulation and filing of the petition. Attached to each separate petition paper there shall be an affidavit of the circulator thereof that he, and he only, personally circulated the foregoing paper, that it bears a stated number of signatures, that all signatures appended thereto were made in his presence, and that he believes them to be the genuine signatures of the persons whose names they purport to be.

Sec. 4. Filing, examination and certification of petitions.

All petition papers comprising an initiative or referendum petition shall be assembled and filed with the City Secretary as one instrument. Within ten [(10)] days after the petition is filed, the City Secretary shall determine whether each paper of the petition has a proper statement of the circulator and whether the petition is signed by a sufficient number of qualified voters. The City Secretary shall declare any petition paper entirely invalid which does not have attached thereto an affidavit signed by the circulator thereof. If a petition paper is found to be signed by more persons than the number of signatures certified by the circulator the last signatures in excess of the number certified shall be disregarded. If a petition paper is found to be signed by fewer persons than the number certified, the signatures shall be accepted unless void on other grounds. After completing his examination of the petition, the City Secretary shall certify the result thereof to the Council at its next regular meeting. If he shall certify that the petition is insufficient he shall set forth in his certificate the particulars in which it is defective and shall at once notify the committee of the petitioners of his findings.

Sec. 5. Amendment of petitions.

An initiative or referendum petition may be amended at any time within ten [(10)] days after the notification of insufficiency has been sent by the City Secretary, by filing a supplementary petition upon additional papers signed and filed as provided in case of an original petition. The City Secretary shall, within five [(5)] days after such an amendment is filed, make examination of the amended petition and, if the petition be [is] still insufficient, he shall file his certificate to that effect in his office and notify the committee of petitioners of his findings and no further action shall be had on such insufficient petition. The finding of the insufficiency of a petition shall not prejudice the filing of a new petition for the same purpose.

Sec. 6. Effect of certification of referendum petition.

When a referendum petition, or amended petition as defined in Sec. 5 of this Article 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 approved by the voters, as hereinafter provided.

Sec. 7. Consideration by council.

Whenever the Council receives a certified initiative or referendum petition from the City Secretary, it shall proceed at once to consider such petition. A proposed initiative ordinance shall be read and provision shall be made for a public hearing upon the proposed ordinance. The Council shall take final action on the ordinance not later than thirty [(30)] days after the date on which such ordinance was submitted to the Council by the City Secretary. A referred ordinance shall be reconsidered by the Council and its final vote upon such reconsideration shall be upon the question, "Shall the ordinance specified in the referendum petition be repealed?"

Sec. 8. Submission to electors.

If the Council shall fail to pass an ordinance proposed by the initiative petition, or shall pass it in a form different from that set forth in the petition therefor, or if the Council fails to repeal a referred ordinance, the proposed or referred ordinance shall be submitted to the electors at the next authorized election date that is more than thirty (30) days after the passage by the Council.

Sec. 9. Form of ballot for initiated ordinances.

Ordinances submitted to vote of the electors in accordance with the initiative and referendum provisions of this Charter shall be submitted by the ballot title, which shall be prepared in all cases by the City Attorney. The ballot title may be different from the legal title of any such initiated or referred ordinance and shall be a clear, concise statement, without argument or prejudice, descriptive of the substance of such ordinance, if a paper ballot, shall have below the ballot title the following propositions, one above the other in the order indicated: "For The Ordinance," and "Against The Ordinance." Any number of ordinances may be voted on at the same election and may be submitted on the same ballot, but any paper ballot used for voting thereon shall be for that purpose only.

Sec. 10. Results of election.

If a majority of the electors voting on a proposed initiative ordinance shall vote in favor thereof, it shall thereupon be an ordinance of the City. A referred ordinance which is not approved by a majority of the electors voting thereon shall thereupon be deemed repealed. If the conflicting ordinances are approved by the electors at the same election, the one receiving the greatest number of affirmative votes shall prevail to the extent of such conflict.

Sec. 11. Repealing ordinances; publications.

Initiative and referendum ordinances adopted or approved by the electors shall be published, and may be amended or repealed by the Council, as in the case of other ordinances.

Sec. 12. Recall; general.

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

Sec. 13. Recall procedure.

Qualified voters of the City of Daingerfield may make and file with the City Secretary an affidavit containing the name or names of the officer or officers whose removal is sought and a statement of the grounds for removal. The Secretary shall thereupon deliver to the voter making such affidavit copies of petition blanks demanding such removal. The City Secretary shall keep a sufficient number of such printed petition blanks on hand for distribution. Such blanks when issued by the City Secretary shall bear the signature of that officer and be addressed to the City Council, and shall be numbered, dated and indicate the name of the person to whom issued. The petition blanks when issued shall also indicate the number of such blanks issued and the name of the officer whose removal is sought. The City Secretary shall enter in a record to be kept in his office the name of the voter to whom the petition blanks were issued and the number issued to said person.

Sec. 14. Recall petitions.

The recall petition to be effective must be returned and filed with the City Secretary within thirty [(30)] days after filing of the affidavit required in Sec. 13 of this Article, and it must be signed by qualified voters of the City equal in number to at least twenty-five (25%) percent of the total number of qualified voters. No petition papers shall be accepted as part of a petition unless it bears the signature of the City Secretary as required in Sec. 13 of this Article.

Sec. 15. Recall election.

The City Secretary shall at once examine the recall petition, and if he finds it sufficient and in compliance with the provisions of this Article of the Charter, he shall submit it to the City Council at its next meeting with his certificate to that effect and notify the officer sought to be recalled of such action. If the officer whose removal is sought does not resign within five [(5)] days after such notice, the City Council shall thereupon order and fix a date for holding a recall election. Any such election shall be held at the next authorized election date that is more than thirty (30) days after the passage by the Council.

Sec. 16. Ballots in recall election.

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

- (1) With respect to each person whose removal is sought the question shall be submitted "Shall (name of person) be removed from the office of Councilman (Mayor) by recall?"
- (2) Immediately below each such question there shall be printed the two following propositions (proposition), one above the other, in the order indicated:
 - [a.] "For the recall of (name person)."
 - [b.] "Against the recall of (name person)."

Sec. 17. Results of recall election.

If a majority of the votes cast at a recall election shall be against the recall of the officer named on the ballot, he shall continue in office for the remainder of his unexpired term, subject to recall as before. If a majority of the votes cast at such an election be [are] for the recall of the officer named on the ballot, he shall, regardless of any technical defects in the recall petition, be deemed removed from office and the vacancy shall be filled in accordance with law or this Charter.

Sec. 18. Limitations on recall.

No recall petition shall be filed against a Councilman or Mayor within ninety (90) days after he takes office nor within ninety (90) days of the time his term will expire.

Sec. 19. District judge may order election.

Should the City Council fail or refuse to order any of the elections as provided for in this Article, when all the requirements for such election have been complied with by the petitioning qualified voters in conformity with this Article of the Charter, then it shall be the duty of the District Judge of Morris County, Texas, upon proper application being made therefor, to order such elections and to enforce the carrying into effect of the provisions of this Article of the Charter.

ARTICLE XIV. SUBMISSION OF CHARTER AND EFFECTIVE DATE

Sec. 1. Submission of the charter to electors.

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 Charter be voted upon as a whole and that it shall be submitted to the qualified voters of the City of Daingerfield at an election to be held for that purpose on the 5th day of April, 1980. In 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 Daingerfield. 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 Daingerfield and, after the returns have been canvassed, the same shall be declared adopted.

An official copy of the Charter shall be filed with the records of the City, and the Mayor shall, as soon as practicable, certify to the Secretary of State an authenticated copy under the seal of the City, showing the approval by the qualified voters of such Charter.

Sec. 2. Date this charter shall become effective.

This Charter, if adopted, shall become effective and operative on April 11, 1980.

HOME RULE CHARTER COMPARATIVE TABLE ORDINANCES

This table shows the location of the sections of the Charter and any amendments thereto. The Charter was approved at the election held on April 5, 1980.

Ordinance Number	Adopted Date	Election Date	Section	Section this Charter
	5- 6-89		—	Art. VII, § 8
			—	Art. VI, § 11
2002-02	1-28-02		1	Art. IV, § 7
	3-15-04	5-15-04	—	Art. V, § 15