



2023

DESOTO, TX

HOME

RULE

CHARTER







HOME RULE CHARTER

EDITOR'S NOTE

Printed herein is the charter of the City of DeSoto, Texas, which was originally adopted at an election held on January 29, 1972, and subsequently amended. The charter printed herein has the amendments adopted through May 6, 2023 as outlined in Ordinance 2324-23 (adopted 7/18/23), consolidated in the text without notation. Apart from minor nonsubstantive changes in style and formatting, the charter is reproduced as originally adopted. Capitalization, punctuation and grammar have been retained. Obviously misspelled words have been corrected without notation. Material enclosed in brackets has been added for clarification. Subsequent amendments will be inserted in their proper place and denoted by a history note following the amended section.

PREAMBLE

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



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ARTICLE I. INCORPORATION, FORM OF GOVERNMENT AND POWERS

Section 1. Incorporation.

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

Section 2. Form of Government.

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

Section 3. General Powers of the City.

The City shall have all powers that now are or hereafter may be granted to municipalities by the Constitution or laws of the State of Texas, and all such powers, whether expressed or implied, shall be exercised and enforced in the manner prescribed by this charter, and when not prescribed therein, in such manner as may be provided by ordinance or resolution of the City Council of the City of DeSoto. The enumeration of particular powers in the charter shall not be held or deemed to be exclusive, but in addition to the powers enumerated herein, implied thereby or appropriate to the exercise thereof, the City shall have and may exercise all other powers which, under the Constitution and laws of the State of Texas, it would be competent for the charter specifically to enumerate. The City of DeSoto shall have and exercise all powers conferred upon cities by what is known as the Home Rule Amendment to the Constitution of the State of Texas and the enabling Act relative thereto, and all other laws passed by the Legislature of the State of Texas relating thereto or which may hereafter be passed by said Legislature in relation to such matters. The City shall have the full power, authority and right to exercise the power of eminent domain in any manner authorized or permitted by the Constitution and laws of the State of Texas when necessary or desirable to carry out any of the powers conferred upon by this charter or by the Constitution and laws of State of Texas. The power of eminent domain hereby conferred shall include the right of the City to take the fee in land so condemned and such power and authority shall include the right to condemn public property for such purposes. The City shall have and possess the power of eminent domain for any municipal or public purposes even though not specifically enumerated in this charter.

(Ordinance 2324-23 adopted 7/18/2023)

Section 4. Streets and Public Property.

The City shall have exclusive dominion, control, and jurisdiction in, upon, over, and under the public streets, sidewalks, alleys, highways, public squares, and public ways within the corporate limits of the City, and in, upon, over, and under all public property of the City. With respect to each and every public street, sidewalk, alley, highway, public square, public park, or other public way within the corporate limits of the City, the City shall have the power to establish, maintain, improve, alter, abandon, or vacate the same; to regulate the use thereof; and to abate and remove in a summary manner any encroachment thereon.



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Section 5. Street Development and Improvement.

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

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

Section 6. Boundaries.

The boundaries of the City of DeSoto shall be those as established and described in ordinances duly passed by the City Council of the City of DeSoto in accordance with state law. The City Secretary shall maintain an official map of the city's boundaries as required by state law.

(Ordinance 2324-23 adopted 7/18/2023)

Section 7. Annexation and Deannexation.

(1) The boundaries of the City of DeSoto may be enlarged and extended by the annexation of additional territory or decreased by disannexation in any manner and by any procedure now or hereafter provided by law.

(2) Upon completion of the annexation procedure, the annexed territory shall become a part of the city, and said land and its residents shall be entitled to all the rights and privileges provided by the City for its citizens and shall be bound by the acts, ordinances, resolutions and regulations of the City.

(3) If, after the date of annexation, there exists land within and adjacent to the corporate limits of the City of DeSoto not receiving governmental or proprietary services of the City within the time required by the service plan or Chapter 43 of Texas Local Government Code, or its successor statute, then a majority of the qualified voters residing within this particular area may petition the City Council to disannex the area as provided in Chapter 43 of Texas Local Government Code, or its successor statute.

(Ordinance 2324-23 adopted 7/18/2023)



ARTICLE II. CITY COUNCIL

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

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

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

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

The Mayor shall be compensated in the amount of One Thousand Two Hundred Fifty Dollars (\$1,250.00) monthly effective January 21, 2021; and, Councilmembers shall be compensated for their duties in the amount of One Thousand Dollars (\$1,000.00) monthly effective January 21, 2021. The City Council shall be required to amend the Council Rules and Procedures to adopt a minimum attendance policy for such compensation.

(Ordinance 2220-20, prop. B, adopted 12/1/20)



Section 2. Prohibiting Holding or Running for Office.

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

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

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

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

(Ordinance 2324-23 adopted 7/18/2023)

Section 3. Qualifications.

Each of the six (6) Councilmembers, the Mayor and candidates running for these offices shall be a citizen of the United States of America and a qualified voter of the State of Texas, shall be at least 18 years of age, shall have resided for at least 1 year within the Council-represented district prior to the date of election to which he or she seeks election, except for the Mayor, who may be a resident of any district of the City, Councilmembers shall continuously reside within the district from which he or she was elected during the person's term of office, except for the Mayor, who may reside in any area of the City.

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

(Ordinance 2324-23 adopted 7/18/2023)

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

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

Section 5. Vacancies.

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

Section 6. Powers of the Council.

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

Section 7. Mayor - Mayor Pro Tem.

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

The Mayor Pro Tem shall be selected from among the six (6) Councilmembers at the first regular meeting following either the general city election or run-off election, if such occurs, and shall serve in the absence or disability of the Mayor and shall perform all the Mayor's duties.

(Ordinance 2220-20, prop. C, adopted 12/1/20)

Section 8. City Secretary.

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

Section 9. City Attorney

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

(Ordinance 2324-23 adopted 7/18/2023)

Section 10. Meeting of the Council.

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

(Ordinance 2324-23 adopted 7/18/2023)



Section 11. Rules of Procedure.

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

(Ordinance 2324-23 adopted 7/18/2023)

Section 12. Procedure to Enact Legislation.

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

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

Section 13. Publication of Ordinances.

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

(Ordinance 2324-23 adopted 7/18/2023)

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

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

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

Section 15. Code of Ordinances.

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

Section 16. Incumbents.

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

ARTICLE III. ELECTIONS

Section 1. General Elections.

The City's general election shall be held annually on the uniform election day in May as prescribed by the Texas Election Code, at which time officers will be elected to fill those offices which become vacant that year. The City Council shall fix the hours and place for holding such elections. All candidates for the City Council shall file for one place and shall be elected to that place by obtaining a majority of the votes cast.

Section 2. Regulations of Elections.

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

Section 3. Filing for Office.

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

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

Section 4. Official Ballot.

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

Section 5. Conducting and Canvassing Elections.

Returns of all municipal elections, both general and special, shall be made in accordance with the Texas Election Code, at which time the Council shall canvass the votes, declare the results of such election, with notification of election to the candidate elected. The candidate for Mayor who receives the majority of ballot votes, by qualified voters at the election, shall be declared elected. The candidates for election to the places of Councilmember, who receive the majority of ballot votes for each place, cast by qualified voters voting at the election, shall be declared elected. The results of said election shall be posted in the City Hall as soon as they are declared official.

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

(Ordinance 2324-23 adopted 7/18/2023)

Section 6. Election Runoff.

In the event no candidate receives a majority of all votes cast for all the candidates for an office at such election, the Council shall order a runoff election to be held not earlier than twenty (20) days nor later than forty-five (45) days after the final canvass of the regular election, or such other time period as may be prescribed by state law. At which time, the two candidates receiving the highest number of votes for any such office in the first election shall again be placed on the ballot for the runoff election. In the event of a tie between two candidates for any office at said second election, they shall cast lots to determine who shall be elected to such office.

(Ordinance 2324-23 adopted 7/18/2023)

Section 7. Special Elections.

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

ARTICLE IV. INITIATIVE, REFERENDUM AND RECALL

Section 1. Power of Initiative.

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

Section 2. Power of Referendum.

The people reserve the power to approve or reject at the polls any legislation enacted by a Council. The qualified voters of the City may require that any ordinance enacted by the City Council be submitted to the qualified voters of the City for approval or disapproval no later than thirty (30) days after the effective date of any ordinance which is subject to referendum, by submitting a petition signed by at least thirty percent (30%) of the number of qualified voters who voted in the last mayoral election, filed with the City Secretary requesting that such ordinance be either repealed or submitted to a vote of the people. When such a petition has been certified as sufficient by the City Secretary, the ordinance shall be suspended from taking effect and shall not later take effect unless a majority of the qualified voters voting on the same shall vote in favor of the ordinance. The power of referendum shall not apply to ordinances levying taxes, appropriating money, authorizing the issuance of bonds, zoning, and any ordinance not the proper subject of referendum by the state constitution or state law.

(Ordinance 2324-23 adopted 7/18/2023)

Section 3. Form of Petition.

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

Section 4. Filing, Examination and Certification of Petition.

Within ten (10) days after an initiative or referendum petition is filed, the City Secretary shall determine whether the same is signed by the requisite number of qualified voters. The City Secretary shall certify the results thereof to the Council at its next regular meeting. A petition may not be supplemented, modified, or amended on or after the date it is received by the City Secretary except that the petitioner may file one supplementary petition by the original deadline if the original petition contains a number of signatures that exceeds the required minimum number by 10 percent or more and is received by the City Secretary not later than the 10th day before the date of the deadline. The City Secretary shall notify the petitioner as to the sufficiency of the supplemental petition not later than the fifth regular business day after the date of its receipt. If the supplemental petition is found to be insufficient, the City Secretary shall return the petition to the person filing same, without prejudice to the filing of a new petition for the same purpose; provided however, that upon finding the supplemental petition to be insufficient, no new petition covering the same subject matter shall be filed until six (6) months shall have elapsed from the date of filing of the original petition. The City Attorney shall review the petition to determine that it is a proper subject and in proper form. If the petition shall be found to be sufficient, the Secretary shall submit the same to the City Council without delay.

(Ordinance 2324-23 adopted 7/18/2023)

Section 5. Council Consideration and Submission to Voters.

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

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

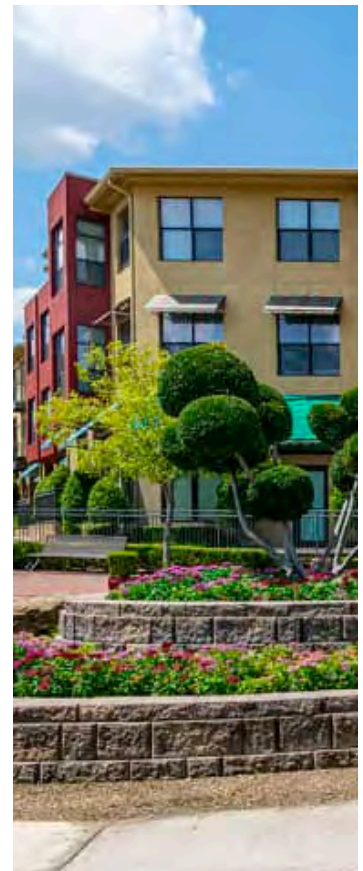
When the Council receives an authorized referendum petition certified by the City Secretary to be sufficient, the Council shall reconsider the referred ordinance, and if upon such reconsideration such ordinance is not repealed, it shall be submitted to the voters at a special election to be held on the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

Section 6. Ballot Form and Results of Election.

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

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

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



Section 7. Power of Recall.

The mayor and any Councilmember of this City may be recalled and removed from office by the electors qualified to vote. Before the question of recall of the mayor or a Councilmember shall be submitted to the qualified voters of the City, a petition addressed to the City Council demanding the recall of the Mayor or a Councilmember shall first be filed with the City Secretary, which petition shall name the Mayor or Councilmember whose removal is sought and contain a complete statement of the grounds for which the removal is sought. A separate petition shall be required for the Mayor and each Councilmember whose removal is sought. The petition shall be signed by qualified voters equal in number at least thirty percent (30%) of the number of qualified voters who voted in the last mayoral election, demanding the removal of a member of the City Council. The petition shall be signed in the signer's own handwriting, and contain the signer's printed name, date of birth, voter's registration number, residence address and the date of signing. The petition shall be verified in the manner required by the form prescribed below. Such petition shall contain a statement of the specific acts of misfeasance and/or malfeasance for which the removal is sought, and one of the signers of each petition shall make an affidavit as prescribed below. The following form of petition and acknowledgment is herein prescribed except as otherwise provided by state law:

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

And we further affirm that the information given below is true and correct."

Signers: _____

Voter Registration Number: _____

Residence Address: _____

Printed Name: _____

Date of Birth: _____

Signature: _____

STATE OF TEXAS

COUNTY OF DALLAS

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

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

Notary Public, State of Texas"

(Ordinance 2324-23 adopted 7/18/2023)

Section 8. Recall Election.

Within fifteen (15) days after the date of the filing of the petition, the person performing the duties of City Secretary shall examine the same and from the list of qualified voters ascertain whether or not said petition is signed by the requisite number of qualified voters. The City Secretary shall attach to said petition a certificate showing the result of such examination. If by the Secretary's certificate the petition is shown to be insufficient, it may be amended within ten (10) days from the date of said certificate. The Secretary shall, within ten (10) days after such amendment is filed, in the event one is filed, make like examination of the said amended petition, and if the certificate shall show the petition to be insufficient, it shall not be further amended. If the petition is found to be sufficient, the City Secretary shall within five (5) days or at the next regular City Council meeting, whichever is later, submit it and the certificate declaring the petition to be sufficient to the City Council, and notify the affected Mayor or Councilmember sought to be recalled. The City Council, in the event that the Mayor or Councilmember fails to resign, shall order and set an election to be held on the earliest date allowed by law following the submission of the certified petition to the City Council.

(Ordinance 2324-23 adopted 7/18/2023)

Section 9. Recall Ballot.

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

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

Section 10. Results of a Recall Election.

If a majority of the votes cast at a recall election shall be against removal of the individual named on the ballot, such member of the City Council shall continue in office. If a majority of the votes cast at such election be for the removal of the individual named on the ballot, the Council shall immediately declare the individual's office vacant and such vacancy shall be filled in accordance with the provisions of state law and the Charter for the filling of such vacancies. The individual thus removed shall not be a candidate to fill the vacancy created by their removal in an election called to fill the vacancy.

(Ordinance 2324-23 adopted 7/18/2023)

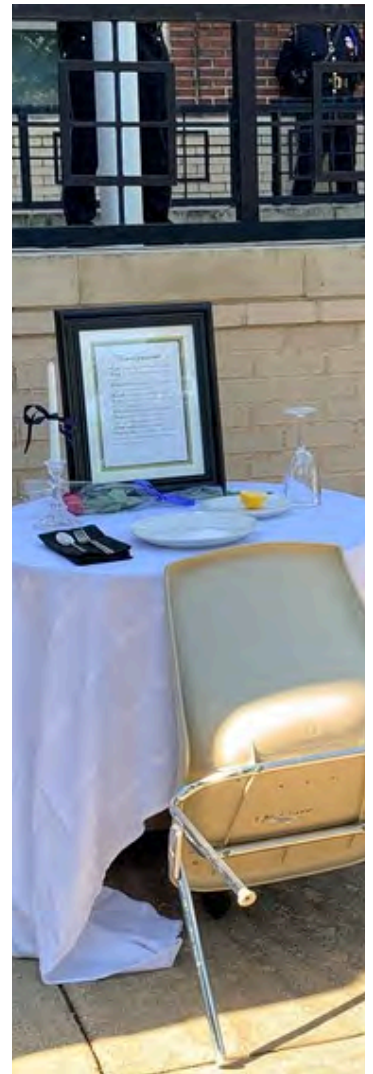
Section 11. Limitations on Recall.

No recall petition shall be filed against the Mayor or any Councilmember any officer of the City within three (3) months after such person's election or appointment to the City Council and qualifying for office, or within six (6) months after an election for such officer's recall, and in no case within 3 months prior to the expiration of such person's term of office.

(Ordinance 2324-23 adopted 7/18/2023)

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

Any five (5) registered voters may commence initiative, referendum or recall proceedings by first filing with the City Secretary an affidavit stating they will constitute the Petitioner's Committee and be responsible for circulating the petition and filing it in a proper form, stating their names and addresses to which all notices to the committee are to be sent, and setting out in full the proposed initiative ordinance, citing in full the ordinance sought to be reconsidered or citing the recall ballot as per Section 9 herein. Promptly after the affidavit of the Petitioner's Committee is filed, the City Secretary shall issue the appropriate petition blanks to the Petitioner's Committee. A petition may be withdrawn at any time prior to the fifteenth (15th) day preceding the date scheduled for a vote by filing with the City Secretary a request for withdrawal signed by at least four members of the Petitioner's Committee. Upon the filing of such request, the petition shall have no further force or effect and all proceedings thereon shall be terminated.



ARTICLE V. ADMINISTRATIVE ORGANIZATION

Section 1. The City Manager.

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

(Ordinance 2324-23 adopted 7/18/2023)

Section 2. Powers and Duties of the City Manager.

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

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

(Ordinance 2324-23 adopted 7/18/2023)

Section 3. Removal of City Manager.

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

Section 4. Investigation by the City Council.

The City Council shall have power to inquire into the conduct of any office, department, agency, officer or employee of the City and to make investigations as to municipal affairs, and for that purpose may subpoena witnesses, administer oaths and compel the production of books, papers and other evidence. Failure to obey such subpoena or to produce books, papers or other evidence, as ordered under the provisions of this section shall constitute a misdemeanor and shall be punishable by fine not to exceed One Thousand Dollars (\$1,000.00).

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

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

(Ordinance 2324-23 adopted 7/18/2023)

Section 6. Absence of the City Manager.

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

(Ordinance 2324-23 adopted 7/18/2023)

Section 7. Administrative Departments.

There shall be such administrative departments as are established by this Charter and such other administrative departments as may be deemed necessary by the Council and as are established by ordinance, all of which shall be under the control and direction of the City Manager. The Council may abolish or combine one or more departments created by it and may assign or transfer duties of any departments of the City from one department to another by ordinance.

Section 8. Directors of Departments.

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

Section 9. Performance Review.

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



ARTICLE VI. MUNICIPAL COURT

Section 1. Municipal Court.

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

Section 2. Judge of the Municipal Court.

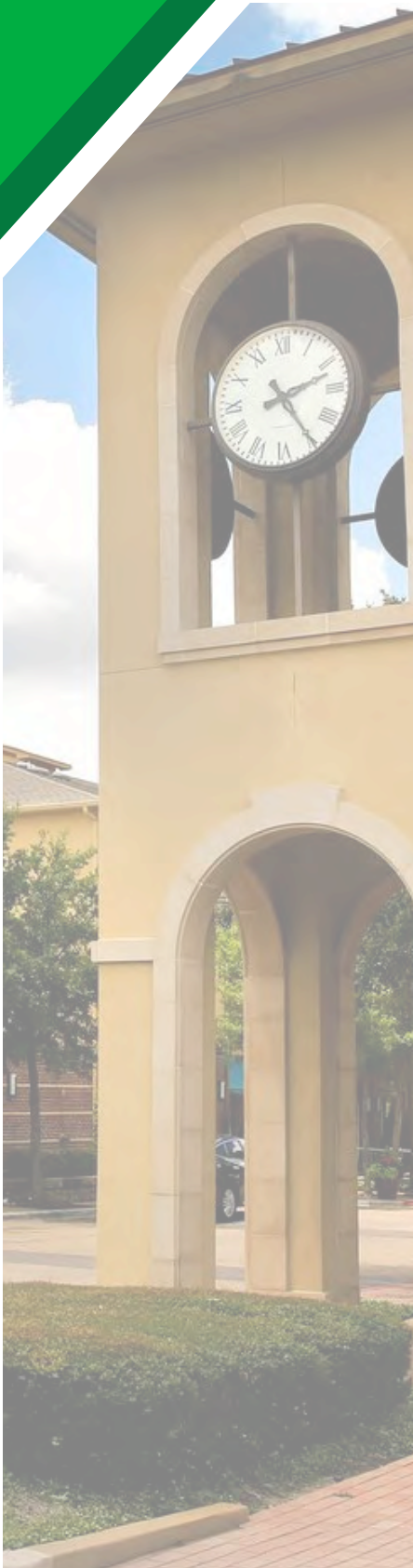
The Municipal Court shall be presided over by a Magistrate who shall be known as the Municipal Judge who shall be a duly licensed, practicing attorney in the State of Texas appointed by the Council for a term of two years except as otherwise allowed by state law. The City Council may appoint Alternate Municipal Judges for a term of two years except as otherwise allowed by state law, with the same qualifications as the Municipal Judge, to preside over the Municipal Court in the absence of the Municipal Judge. The Municipal Judge and Alternate Municipal Court Judges shall receive compensation as is approved by the City Council.

(Ordinance 2324-23 adopted 7/18/2023)

Section 3. Clerk of the Municipal Court.

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

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



ARTICLE VII. FINANCE

Section 1. Fiscal Year.

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

Section 2. Preparation and Submission of Budget.

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

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

(Ordinance 2324-23 adopted 7/18/2023)

Section 3. Budget a Public Record.

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

(Ordinance 2324-23 adopted 7/18/2023)

Section 4. Public Hearing on Budget.

At the Council meeting at which time the budget is submitted the Council shall name the date and place of a public hearing for a date occurring after the 15th day after the date the proposed budget is filed with the municipal clerk but before the date the governing body makes its tax levy, and shall cause to be published in the official newspaper of the City the time and place in accordance with state law. At this hearing, interested citizens may express their opinions concerning items of expenditure and revenue.

(Ordinance 2324-23 adopted 7/18/2023)





Section 5. Proceeding on Adoption of Budget.

After public hearing the Council shall analyze the budget, making any additions or deletions which they feel appropriate, and shall adopt the budget by a majority vote of all members of the Council unless state law provides otherwise.

(Ordinance 2324-23 adopted 7/18/2023)

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

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

Section 8. Administration of Budget.

Payments and obligations prohibited. No payment shall be made or obligations incurred against any allotment or appropriation except in accordance with appropriations duly made in the budget unless the City Manager or his designee first certifies that there is a sufficient unencumbered balance in such allotment or appropriation and that sufficient funds therefrom are or will be available to cover the claim or meet the obligation when it becomes due and payable.

Notwithstanding anything above, there shall be no transfer of budgeted funds or monies from one department to another department without prior Council approval.

Section 9. Financial Reports.

The City Manager shall submit to the Council each month a report of the financial condition of the City in a format and containing such information as the Council may require. The financial records of the City will be maintained on an accrual basis to support this type of financial management. The City Manager shall make available to the City Council monthly a cash disbursements journal of the City of all funds and accounts.

(Ordinance 2324-23 adopted 7/18/2023)

Section 10. Amending the Budget.

Expenditures to meet unusual and unforeseen conditions, which were not included in the original budget, may from time to time be authorized as amendments to the original budget. Any amendment providing for additional expenditure shall also provide for reductions in other expenditures or supplemental revenues to fund such amendments, or an amount from the unallocated fund balance as a supplement. Amendments shall be approved by ordinance prior to the expenditure of funds, except in the case of emergencies. In the case of emergencies, the City Manager shall notify the City Council of the emergency and shall ratify the amendment as soon as is reasonably allowed.

(Ordinance 2324-23 adopted 7/18/2023)

Section 11. Certification: Copies Made Available.

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

(Ordinance 2324-23 adopted 7/18/2023)

Section 12. Defect Shall Not Invalidate the Tax Levy.

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

Section 13. Independent Audit.

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

The annual audit, including all reports and management letters, shall be submitted and reported to the Council. A copy of the annual audit, after acceptance by the Council, will be filed with the City Secretary and shall be available for public inspection.

(Ordinance 2324-23 adopted 7/18/2023)

Section 14. Purchase Procedure.

The City shall comply with state law regarding purchasing and contracting of municipalities including provisions relating to notice of contracts, advertisements for notice, requirements for taking sealed bids or proposals on specifications for public improvements or purchases, the manner of opening bids and the award of contracts.

(Ordinance 2324-23 adopted 7/18/2023)



ARTICLE VIII. BONDS, WARRANTS, AND OTHER EVIDENCE OF INDEBTEDNESS

Section 1. Powers to Issue.

The City of DeSoto shall have the power to borrow money on the credit of the City in accordance with the Constitution and laws of the State of Texas, for permanent public improvements, for any public purpose not now or hereafter prohibited by the Constitution and laws of the State of Texas, including the funding of economic development programs permitted by the Constitution and laws of the State of Texas. The City shall have the right to issue general obligations bonds, revenue bonds, funding and refunding bonds, time warrants, certificates of obligation, notes and other evidence of indebtedness permitted by the Constitution and laws of the State of Texas as now authorized or as may hereafter be authorized to be issued by the Constitution and laws of the State of Texas applicable to the City. In accordance with the Constitution and laws of the State of Texas, the City shall have the right to refund any outstanding bonds or obligations by the issuance of refunding bonds.

(Ordinance 2324-23 adopted 7/18/2023)

Section 2. Manner of Issuance.

Any proposition to issue general obligation bonds, payable from the ad valorem taxes as authorized herein, shall be first submitted to a vote of the qualified voters of the City at an election to be held for that purpose. Any such election shall be held and conducted in accordance with the Constitution and laws of the State of Texas, as the same may be amended from time to time.

(Ordinance 2324-23 adopted 7/18/2023)

Section 3. Sale of Bonds.

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

Section 4. Interest and Sinking Funds.

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



Section 5. (Reserved)

Editor's note—Former § 5 pertaining to revenue bonds, was deleted in its entirety by Ordinance 2324-23 adopted 7/18/2023.

Section 6. Execution and Registration of Bonds.

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

Section 7. Bond Register.

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

ARTICLE IX. TAXATION

Section 1. Powers of Taxation.

All property, real, personal or mixed, lying and being within the corporate limits of the City of DeSoto on the first day of January of each year, excepting such property as may be exempt from taxation under the Constitution and laws of the State of Texas, shall be subject to taxation.

(Ordinance 2324-23 adopted 7/18/2023)

Section 2. Payment of Taxes.

Except as otherwise provided by state law, taxes are due on receipt of the tax bill and are delinquent if not paid before February 1st of the year following the year in which imposed. The City Council may by ordinance provide for penalty and interest to be assessed on all delinquent taxes in such amounts as may be authorized by law.

(Ordinance 2324-23 adopted 7/18/2023)

Section 3. (Reserved)

Editor's note—Former § 3 pertaining to delinquent taxes, was deleted in its entirety by Ordinance 2324-23 adopted 7/18/2023.

Section 4. Tax Lien and Liability.

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

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



ARTICLE X. PLANNING

Section 1. The Planning and Zoning Commission.

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

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

Section 2. Planning and Zoning Commission Powers and Duties.

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

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

Section 3. The Master Plan.

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

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

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



ARTICLE XI. FRANCHISES AND PUBLIC UTILITIES

Section 1. Powers of the City.

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

Section 2. Inalienability of Control of Public Property.

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

Section 3. Ordinance Granting Franchises.

The caption of all ordinances granting, amending, renewing, or extending franchises for public utilities shall be published once in the official newspaper of the City and the expense of such publication shall be borne by the proponent of the franchise. The ordinance shall not be finally passed until thirty (30) days after such publication. The granting of franchises by the City Council shall be governed by the following regulations:

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

Section 4. Transfer of Franchise.

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

Section 5. Franchise Value not to be Allowed.

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

Section 6. Regulation of Rates.

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





Section 7. Consent of Property Owners.

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

Section 8. Extensions.

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

Section 9. Temporary Permits.

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

Section 10. Other Conditions.

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

Section 11. Franchise Records.

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

Section 12. Accounts of Municipally Owned Utilities.

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

ARTICLE XII. GENERAL PROVISIONS

Section 1. Public Records of the City.

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

Section 2. Conflict of Interests.

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

Section 3. Nepotism.

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

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

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

Section 5. Mechanic, Material or Labor Claim.

All subcontractors, materialmen, mechanics and laborers upon any public works of the City of DeSoto are hereby required to notify the City of all claims they may have against the contractor on account of such work, subject to proof of payments by the said contractor, and when such notice has been given, the City shall retain an amount from any funds due the contractors, sufficient to satisfy such claims; provided that such notice must be given at any time after such indebtedness becomes due and before the City's final settlement with the contractor; and provided further, that no contractor or subcontractor shall issue any checks on, or on account of, any public works of said City.

Section 6. Notice of Claim.

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





Section 7. Assignment, Execution and Garnishment.

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

Section 8. Bond of Contractors.

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

Section 9. Condemnation of Dangerous Structures.

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

Section 10. Building Permits.

The City of DeSoto shall have the power to prohibit the erection or construction of any building or structure of any kind within the City of DeSoto without a permit first having been issued by the City for the construction or erection of such building or structure, and may authorize a fee to be charged for such permit, and in pursuance of said authority may authorize the inspection by the City of all buildings or structures during the progress of their construction and may require that all buildings shall be constructed in conformity with the building code which exists in said City or shall hereafter be passed.

Section 11. Pool, Ponds, and Lakes.

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

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

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

Section 13. Amendment of the Charter.

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

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

No Charter Amendment Proposition or implementation of such proposition by the City of DeSoto shall exceed one-half (1/2) of the state mandated limit for the rollback of a property tax increase as calculated for the current municipal budget year if the amendment requires the expenditure of funds

Section 14. Severability Clause.

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

Section 15. Construction of the Charter.

In the wording of the Charter, the use of the singular number shall include the plural, and the plural shall include the singular. Words used in the masculine gender shall include the feminine also unless by reasonable construction, it appears that such was not the intention of this Charter.

Section 16. Construction of Power.

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

Section 17. Effective Date of Charter.

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

Section 18. Rearrangement and Renumbering.

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

Section 19. Damages.

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

Section 20. Requirements for City Board and Commission Members.

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





DeSoto

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HOME RULE CHARTER 2023

DESOTO, TX

