

DUNCANVILLE

The Perfect Blend of Family, Community and Business

Home Rule Charter

CHARTER

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* **Editor's Note** -- The City's Home Rule Charter was adopted by the voters at an election held on May 5, 1962, and is included herein for the benefit of the users of this Code. The original arrangement, including section numbers and catchlines and article headings, has been retained.

ARTICLE I

INCORPORATION; FORM OF GOVERNMENT; POWERS

Sec. 1.01 INCORPORATION

The inhabitants of the City of Duncanville in Dallas County, Texas, within the corporate limits as now established or as 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 Duncanville."

Sec. 1.02 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 Judge of the Municipal Court, and appoint the City Manager, who shall execute the laws and administer the government of the City. All powers of the City shall be exercised in the manner prescribed by this Charter or, if the manner be not prescribed, then in such manner as may be prescribed by ordinance. (Ord. No. 1186, adopted 12-19-88, approved at election 1-21-89)

Sec. 1.03 BOUNDARIES

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

Sec. 1.04 ANNEXATION AND DISANNEXATION

- (1) **Extension of City Limits; Annexation.** The boundaries of the City may be enlarged and extended by the annexation of additional territory in any manner and in accordance with the procedures now or hereafter authorized by law. The annexation of territory may be with or without the consent of the owners

or residents thereof. Upon completion of the annexation of territory, the annexed territory shall become a part of the City and said land and its residents shall inure to all of the rights and privileges provided by law for the citizens of the City and shall be bound by the acts, ordinances, resolutions and regulations of the City.

- (2) **Reduction of City Limits; Disannexation.** The boundaries of the City may be decreased by disannexation in any manner and in accordance with the procedures now or hereafter authorized by law. The disannexation of territory may be initiated by petition signed by a majority of the inhabitants or owners of property in the territory sought to be disannexed or may be initiated by the City Council. Disannexation shall be effected by ordinance which, when duly passed, shall be entered upon the minutes and records of the City and, when so entered, the territory shall cease to be a part of the City. (Ord. No. 1918, adopted 2-15-05, approved at election 5-7-05)

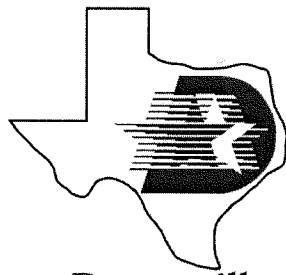
Sec. 1.05 **POWERS**

The City of Duncanville may exercise all powers that now are or hereafter may be granted to municipalities by the Constitution or the laws of the State of Texas. All such powers, whether expressed or implied, shall be exercised and enforced in the manner prescribed by this Charter, and when not prescribed herein, in such manner as may be provided by ordinance or resolution of the Council of the City of Duncanville.

The enumeration of particular powers in this 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 may have and shall exercise all other powers which, under the Constitution of the State of Texas, it would be competent for the Charter specifically to enumerate. The City of Duncanville shall have and exercise all the 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, passed by the Thirty-third Legislature of the State of Texas, found in the published laws of said legislature, regular session, pages 307 to 317, and effective July 7, 1913, 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 of Duncanville may acquire property within or without its corporate limits for any municipal purpose; may cooperate with the government of Texas or any agency thereof, or with the federal government or any agency thereof, or with the government of any county, city, or political subdivision to accomplish any lawful purpose for the advancement of the health, morals, safety, convenience, or welfare of the City of Duncanville or its inhabitants, may sell, lease, mortgage, hold, manage

and control such property as its interest may require; provided the City shall not sell, convey, lease, mortgage, or otherwise alienate any public utility without prior approval of the qualified voters of the City; may exercise the power of eminent domain when necessary or desirable to carry out any of the powers conferred upon it by this Charter or the Constitution or laws of the State of Texas; and may lay out, establish, open, alter, widen, lower, extend, grade, abandon, close, care for, dispose of, abolish, discontinue, pave, supervise, maintain and improve streets, alleys, sidewalks, parks, squares, public places and bridges; and regulate the use thereof and require the removal from streets, sidewalks, alleys and other public property or places of all obstructions and all fruit stands, show cases and encroachments of every nature or character upon any of said streets, sidewalks, or other public property.



Duncanville
City of Champions

ARTICLE II

THE COUNCIL

Sec. 2.01 NUMBER, SELECTION, TERM

The Council shall consist of seven (7) members, a Mayor and six (6) Council Members, elected from the City in the manner provided in Article VII, for a term of two (2) years or until a successor has been elected or appointed and takes office as provided in Section 2.04 of Article II. (Ord. No. 1491, adopted 1-21-97, approved at election 5-3-97; Ord. No. 1783, adopted 3-19-02, approved at election 5-4-02)

Sec. 2.02 QUALIFICATIONS

The members of the Council shall be qualified voters of the City of Duncanville who have been residents of the State of Texas for at least one (1) year and residents of said City or residents of an area now within the corporate limits of said City for at least six (6) months, and shall hold no other public office except that of notary public or member of the National Guard or naval or military reserve. If a member of the Council shall cease to possess any of these qualifications or shall be finally convicted of a felony from which he has not been pardoned or otherwise released from the resulting disability, his office shall immediately become vacant. (Ord. No. 1186, adopted 12-19-88, approved at election 1-21-89; Ord. No. 1783, approved 3-19-02, adopted at election 5-4-02)

Sec. 2.03 COMPENSATION

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

Sec. 2.04 VACANCIES IN COUNCIL

In the event a vacancy occurs in the office of the Mayor or Councilman, the Council shall call a special election to fill such vacancy for the unexpired term if there remains more than six (6) months remaining in such unexpired term at the time such vacancy occurs. If such unexpired term shall be less than six (6) months and more than ninety (90) days at the time such vacancy occurs, then such vacancy shall be filled by a majority vote of the remaining members of the Council within thirty (30) days of the vacancy and the person chosen shall serve for the unexpired term only. If such vacancy occurs within ninety (90) days prior to a general City election, then no special election shall be held and no appointment shall be made to fill such vacancy.

The special election shall be held during the period not less than thirty (30) days and not more than forty (40) days after the vacancy occurs, or if not permitted by prevailing law during such period, then such election shall be held on the earliest date after such period as permitted by prevailing law.

Nominations for a special election called pursuant to this Section 2.04 shall conform to the requirements of Section 7.03 of this Charter. Filing with the City Secretary shall be within the time fixed by the ordinance calling such special election. (Ord. No. 713, §2, adopted 2-27-78, approved at election 4-1-78)

Sec. 2.05 **PRESIDING OFFICER: THE MAYOR**

The Mayor shall preside at meetings of the City Council, and shall be recognized as head of City government for all ceremonial purposes and by the Governor for purposes of military law, but shall have no regular administrative duties. He may participate in the discussion of all matters coming before the Council. He shall be entitled to vote as a member thereof on legislative or other matters, commencing of and from the date that the Council member elected at large assumes the duties of office following the City's general election in May, 2003. The Council shall elect from among the councilmen a Mayor pro tempore who shall act as Mayor during the absence or disability of the Mayor. If a vacancy in the office of Mayor occurs, the Council shall select a Mayor from its own members who shall serve until the next regular election. His former place as councilman shall be deemed vacant and filled as provided for in Section 2.04. (Ord. No. 1783, approved 3-19-02, adopted at election 5-4-02)

Sec. 2.06 **POWERS**

Except as otherwise provided by this Charter, all powers of the City and the determination of all matters of policy shall be vested in the Council. Without limitation of the foregoing powers of the Council, the Council shall also have power to:

- (1) Appoint and remove the City Manager;
- (2) Upon the recommendation of the City Manager, establish other administrative departments and distribute the work of divisions;
- (3) Adopt the budget of the City;
- (4) Authorize the issuance of bonds by a bond ordinance;
- (5) Inquire into the conduct of any office, department or agency of the City and make investigations as to municipal affairs;

- (6) Appoint the members of the Planning & Zoning Commission;
- (7) Appoint the members of the Zoning Board of Adjustment;
- (8) Adopt and modify the official map of the City;
- (9) Regulate and restrict the area, height and number of stories of buildings and other structures, the size of yards and courts, the density of populations and the location and use of buildings for trade, industry, business, residence or other purpose, and adopt such other zoning regulations as may be authorized by law;
- (10) Adopt, modify and carry out plans proposed by the Planning Commission for the replanning, improvement and redevelopment of neighborhoods and the replanning, reconstruction or redevelopment of any area or district which may have been destroyed in whole or in part by disaster;
- (11) Provide an independent audit.
- (12) Appoint a City Attorney who shall be a competent attorney licensed to practice law in the State of Texas and who shall hold office at the pleasure of the City Council. (Ord. No. 1783, approved 3-19-02, adopted at election 5-4-02)

Sec. 2.07 **APPOINTMENT OF CITY MANAGER**

The Council shall appoint a City Manager, at their discretion, for an indefinite term, who shall be the chief administrative and executive officer of the City. 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. Until such time the Council appoints a City Manager, the duties and functions of the City Manager shall be performed by the City Council.

Sec. 2.08 **REMOVAL OF CITY MANAGER**

The Council may remove the City Manager, upon the affirmative vote of a majority of full membership of the Council. If removed after serving three (3) 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.

Sec. 2.09 **REMOVAL OF OTHER APPOINTIVE OFFICIALS**

The Council may, upon the affirmative vote of a majority of the full membership of the Council, remove members of its appointive boards or commissions without notice, except as otherwise provided by state law. (Ord. No. 1491, adopted 1-21-97, approved at election 5-3-97)

Sec. 2.10 **COUNCIL NOT TO INTERFERE IN CITY MANAGER'S APPOINTMENTS OR REMOVALS**

Neither the Council or any of its members shall direct or request the appointment of any person to or his removal from office by the City Manager or by any of his subordinates. However, the Council may consult and advise the City Manager, make inquiry regarding the appointments or removals and may express their opinion in regard thereto. In regard to administrative and executive duties under the City Manager, the Council and its members shall deal solely through the City Manager and neither the Council nor any member thereof shall give orders to any subordinate of the City Manager, either publicly or privately.

Willful violation of the foregoing provisions of this 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.

Sec. 2.11 **CREATION OF NEW DEPARTMENTS OR OFFICES**

The Council, with or without the recommendation of the City Manager, may create, change, and abolish offices, departments or agencies, other than the offices, departments and agencies established by this Charter.

Sec. 2.12 **CITY JUDGE**

The Council shall appoint a magistrate of the municipal court to be known as the municipal judge, who shall be appointed for a term of two (2) years. He may be removed by the Council at any time for incompetency, misconduct, malfeasance, or disability, after a public hearing before the Council. He shall receive such salary as may be fixed by the Council. All costs and fines imposed by the municipal court shall be paid into the City Treasury for the use and benefit of the City. The Council shall have the authority to appoint alternate or temporary municipal court judges as provided by state law. (Ord. No. 1186, adopted 12-19-88, approved at election 1-21-89; Ord. No. 1491, adopted 1-21-97, approved at election 5-3-97)

Sec. 2.13 **INDUCTION OF COUNCIL INTO OFFICE; MEETINGS OF COUNCIL**

The Council shall meet regularly at such times as may be prescribed by ordinance, but no less frequently than once each month. The first meeting of each newly elected Council, for induction into office, shall be the next regularly scheduled meeting following the election. All meetings of the Council shall be conducted in accordance with the Texas Open Meetings Act, as amended. (Ord. No. 1491, adopted 1-21-97, approved at election 5-3-97)

Sec. 2.14 **COUNCIL TO BE JUDGE OF QUALIFICATIONS OF ITS MEMBERS**

The Council shall be the judge of the election and qualification of its members and for such purpose shall have power to subpoena witnesses and require the production of records, but the decision of the Council in any such case shall be subject to review by the courts.

Sec. 2.15 **RULES OF PROCEDURE; MINUTES**

The Council shall determine its own rules and order of business. It shall keep minutes of its proceedings, and the minutes shall be open to public inspection. Minutes of all meetings of the Council shall be promptly entered within forty-eight (48) hours in the minute book of the Council, and City Secretary shall at the same time provide a permanent and adequate index showing the action of the Council in regard to all matters submitted to it at both regular and special meetings.

Sec. 2.16 **ORDINANCE**

In addition to such acts of the Council as are required by statute or by this Charter to be by ordinance, every act of the Council establishing a fine or penalty shall be by ordinance. (Ord. No. 1918, adopted 2-15-05, approved at election 5-7-05)

Sec. 2.17 **PUBLICATION OF ORDINANCES**

The caption of all penal ordinances summarizing the purpose of the ordinance and any penalty for violating the ordinance shall be published at least once in the official newspaper of the City. All other ordinances, except those ordinances specifically required by the provisions of this Charter to be published, are not required to be published in either the official newspaper of the City or in any other publication. All ordinances shall become effective as of the date stated therein, and in the event no particular date is stated, said ordinances shall become effective from and after passage and adoption by the Council. (Ord. No. 1491, adopted 1-21-97, approved at election 5-3-97; Ord. No. 1918, adopted 2-15-05, approved at election 5-7-05)

Sec. 2.18

INDEPENDENT ANNUAL AUDIT

Prior to the end of each fiscal year the Council shall designate qualified certified public accountants who, as of the end of the fiscal year, shall make an independent audit of accounts and other evidences of financial transactions of the City government and shall submit their report to the Council and the City Manager. Such accountants shall have no personal interest, direct or indirect, in the fiscal affairs of the City government or of any of its officers. They shall not maintain any accounts or records of the City business, but, within specifications approved by the Council, shall post-audit the books and documents kept by the department of finance and any separate or subordinate accounts kept by any other office, department or agency of the City government. A copy of such audit shall be kept in the office of the City Secretary subject to inspection by any citizen and officer during regular office hours.

ARTICLE III

THE CITY MANAGER

Sec. 3.01 QUALIFICATIONS

The City Manager shall be chosen by the Council on the basis of his character, executive and administrative training, experience and ability, and without regard to political consideration. He need not when appointed be a resident of the city or the state, but during his tenure of office, the City Manager shall reside in the City of Duncanville. (Ord. No. 1491, adopted 1-21-97, approved at election 5-3-97)

Sec. 3.02 POWERS AND DUTIES

The City Manager shall be the chief executive officer and the head of the administrative branch of the City government. He shall be responsible to the Council for proper administration of all affairs of the City under his jurisdiction and, to that end, he shall have power and shall be required to:

- (1) Appoint and, when necessary for the welfare of the City, remove any officer or employee of the City except as otherwise provided by this Charter and except as he may authorize the head of a department to appoint and remove subordinates in such department;
- (2) Prepare and submit to the Council an annual budget and be responsible for its administration after adoption;
- (3) Prepare and submit to the Council as of the end of the fiscal year a complete report on the finances and administrative activities of the City for the preceding year;
- (4) Keep the Council advised of the financial condition and future needs of the City and make such recommendations as may seem to him desirable;
- (5) Perform such other duties as may be prescribed by this Charter or required of him by the Council, not inconsistent with the Charter;
- (6) Attend all meetings of the Council, except when he is under discussion, with the right to take part in the discussions, but having no vote; and he shall be notified of all special meetings of the Council.

Sec. 3.03 **BOND OF CITY MANAGER**

The Council may require the City Manager, before entering upon the duties of his office, 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 the Council may demand, payable to the City of Duncanville, and conditioned for the faithful performance of the duties of his office; premium of such bond to be paid by the City. (Ord. No. 1918, adopted 2-15-05, approved at election 5-7-05)

Sec. 3.04 **ABSENCE OF CITY MANAGER**

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

Sec. 3.05 **ADMINISTRATIVE DEPARTMENTS**

There shall be a department of police, department of fire, department of water and sewers, and such other departments as may be established by ordinance upon the recommendation of the City Manager.

Sec. 3.06 **DIRECTORS OF DEPARTMENTS**

At the head of each department there shall be a Director, who shall be an officer of the City and shall have supervision and control of the department subject to the City Manager.

Two or more departments may be headed by the same individual, the City Manager may head one or more departments, and directors of departments may also serve as chiefs of divisions.

Sec. 3.07 **CITY SECRETARY**

The City Manager shall appoint an officer of the City who shall have the title of City Secretary, shall give notice of the Council meetings, shall keep minutes of its proceedings, shall authenticate by his signature and record in full in a book kept for the purpose all ordinances and resolutions and shall perform such other duties as shall be required by this Charter or by the City Manager.

ARTICLE IV

BUDGET

Sec. 4.01 FISCAL YEAR

The fiscal year of the City of Duncanville shall begin on October 1 of each calendar year and will end on September 30 of the following calendar year. The fiscal year will also be established as the accounting and budget year.

Sec. 4.02 PREPARATION AND SUBMISSION OF BUDGET

The City Manager, prior to August 1 of each year, shall prepare and submit the budget, covering the next fiscal year, to the Council. In preparing this budget, each employee, officer, board and department shall assist the City Manager by furnishing all necessary information. The budget shall contain the following information. (Ord. No. 1491, adopted 1-21-97, approved at election 5-3-97)

- (1) The City Manager's budget message shall outline the proposed financial policies for the next fiscal year with explanations of any changes from previous years in expenditures and any major changes of policy and a complete statement regarding the financial condition of the City.
- (2) An estimate of all revenue from taxes and other sources, including the present tax structure rates and property evaluations for the ensuing year.
- (3) A carefully itemized list of proposed expenses by office, department, agency, employee and project for the budget year, as compared to actual expenses of the last ended fiscal year, and the present year to date.
- (4) A description of all outstanding bond indebtedness, showing amount, purchaser, date of issue, rate of interest, and maturity date, as well as any other indebtedness which the City has incurred and which has not been paid.
- (5) A statement proposing any capital expenditures deemed necessary for undertaking during the next budget year and recommended provision for financing.
- (6) A list of capital projects which should be undertaken within the five (5) next succeeding years.

Sec. 4.03 **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 opened to public inspection by anyone interested.

Sec. 4.04 **PUBLIC HEARING ON BUDGET**

At the Council meeting at which time the budget is submitted, the Council shall name the date and place of a public hearing and shall cause to be published in the official newspaper of the City the time and place, which notice shall be published in accordance with state law. At this hearing, interested citizens may express their opinions concerning items of expenditure, giving their reasons for wishing to increase or decrease any items of expense. (Ord. No. 1918, adopted 2-15-05, approved at election 5-7-05)

Sec. 4.05 **PROCEEDING ON ADOPTION OF BUDGET**

After public hearing, the Council shall analyze the budget, making any additions or deletions which they feel appropriate, and shall, at least ten (10) days prior to the beginning of the next fiscal year, adopt the budget by a favorable majority vote of all members of the Council.

Sec. 4.06 **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 appropriations as proposed expenditures for the current year and shall constitute the basis of 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.

Sec. 4.07 **UNALLOCATED RESERVE FUND**

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

Sec. 4.08 **AMENDING THE BUDGET**

The City Council may authorize an emergency expenditure as an amendment to the original budget only in a case of grave public necessity to meet an unusual and unforeseen condition that could not have been included in the original budget through the use of reasonably diligent thought and attention. These amendments shall be by ordinance and shall become an attachment to the original budget. (Ord. No. 1783, adopted 3-19-02, approved at election 5-4-02)

Sec. 4.09 **CERTIFICATION; COPIES MADE AVAILABLE**

A copy of the budget, as finally adopted, shall be filed with the City Secretary, the County Clerk of Dallas County, and the Duncanville Public Library. The final budget shall be printed, mimeographed or otherwise reproduced, and sufficient copies shall be made available for the use of all offices, agencies, interested persons, and civic organization. (Ord. No. 1186, adopted 12-19-88, approved at election 1-21-89)

Sec. 4.10 **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.



Duncanville
City of Champions

ARTICLE V

BONDS, WARRANTS AND OTHER EVIDENCE OF INDEBTEDNESS

Sec. 5.01 POWERS TO ISSUE

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

Sec. 5.02 MANNER OF ISSUANCE

Bonds and warrants of the City of Duncanville shall be issued in the manner provided by the general laws of the State of Texas.

Sec. 5.03 SALE OF BONDS

No bonds issued by the City of Duncanville 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.

Sec. 5.04 INTEREST AND SINKING FUNDS

It shall be the duty of the Council to levy an annual tax sufficient to pay the interest on and provide 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 Duncanville. 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. Investments 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 Duncanville. The Council may also invest City monies in any state or national chartered bank insured by the Federal Deposit Insurance Corporation on time deposit interest.

Sec. 5.05 **REVENUE BONDS**

The City shall have power to borrow money for the purpose of constructing, purchasing, improving, extending or repairing of public utilities, recreational facilities or facilities for any other self-liquidating municipal function not now or hereafter prohibited by any general laws of the State and to issue revenue bonds to evidence the obligation created hereby. Such bonds shall be a charge upon and payable solely from the properties, or interest therein, acquired and the income therefrom, and shall never be a debt of the City. All revenue bonds issued by the City shall first be authorized by a majority of the qualified voters voting at an election held for such purpose. The Council shall have authority to provide for the terms and form of any purchase agreement, contract, mortgage, bond or document desired or necessary for the issuance of revenue bonds and the acquisition and operation of any such property or interest.

Sec. 5.06 **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.

Sec. 5.07 **BOND REGISTER**

The Director of Finance or other officer of the City designated by the City 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 all other transactions of the Council having reference to the refunding of the indebtedness of said City. When bonds or their coupons are paid, their payment or cancellation shall be noted in said registry. The books shall be safely kept among the records of the City.

ARTICLE VI

ASSESSMENT AND COLLECTION OF TAXES

Sec. 6.01 **POWER TO TAX**

The Council shall have power to levy, for general purposes, an ad valorem tax on real, personal, and mixed property within the territory of the City of Duncanville, not exempt from taxation by the Constitution and laws of the State of Texas, based upon its true value as provided by law to the extent of the constitutional limit permitted by the State of Texas to home-rule cities. Unless otherwise provided by this Charter and by ordinances passed hereunder, all property in the City liable for taxation shall be assessed in accordance with the general laws of the state of Texas insofar as applicable. In addition to the powers herein conferred with reference to the assessment and collection of taxes, the City of Duncanville shall have and may exercise all powers and authority not conferred or which may hereafter be conferred upon home-rule cities of the State of Texas.

The Council may levy taxes on all property, privileges, and franchises, of every kind and description, within the City limits or having its situs therein on January 1 of each year. The City Council shall appoint an assessor and collector of taxes who shall perform such duties as is required by law. (Ord. No. 1491, adopted 1-21-97, approved at election 5-3-97; Ord. No. 1783, approved 3-19-02, adopted at election 5-4-02)



Duncanville
City of Champions

ARTICLE VII

NOMINATIONS AND ELECTIONS

Sec. 7.01 ELECTION

The regular City election shall be held on the first Saturday in May each year, at which time officers will be elected to fill those offices which become vacant that year. The Council shall fix the hour and place for holding such elections. The Council may, by resolution, order a special election, fix the time and place for holding same and provide all means for holding such special election. (Ord. No. 1186, adopted 12-19-88, approved at election 1-21-89)

Sec. 7.02 REGULATION 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, 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 or the laws of the State of Texas.

Sec. 7.03 NOMINATIONS

Any person having the qualifications required by this Charter may place his own name in nomination as candidate for Mayor or Councilman by filing with the City Secretary, or may be placed in nomination by a petition signed by the greater of twenty-five qualified voters or the number of qualified voters equal to one-half of one percent of the total vote received in the territory from which the office is elected by all candidates for Mayor in the most recent mayoral general election. No voter shall sign more than one petition and should a voter do so, his signature shall be void except as to the petition first filed. With each signature shall be stated the place of residence of the signer, giving the street, number or other description sufficient to identify it. (Ord. No. 1491, adopted 1-21-97, approved at election 5-3-97; Ord. No. 1783, approved 3-19-02, adopted at election 5-4-02)

Persons who desire to be candidates, or petitioners placing a name in nomination, must file an application to be placed on the ballot with the City Secretary no later than 5 p.m. on the sixty-second (62nd) day before election day. Such application may not be filed earlier than the thirtieth (30th) day before the filing deadline. An application filed by mail shall be considered filed at the time of its receipt by the City

Secretary. A member of the Council who submits an application to be placed on the ballot and submits his/her name in nomination as a candidate to run for election for any seat on the Council not then held by such member, whether for a general election or for a special election to fill a vacancy in an unexpired term, shall forfeit his/her seat but serve until his/her successor is duly qualified. (Ord. No. 1186, adopted 12-19-88, approved at election 1-21-89; Ord. No. 1783, adopted 3-19-02, approved at election 5-4-02; Ord. No. 1918, adopted 2-15-05, approved at election 5-7-05)

Acknowledgment of nomination by each nominee will be in writing and will be accepted by the City Secretary or other persons authorized to administer oaths under the laws of the State of Texas.

Any person who has placed his own name in nomination or has been placed in nomination by a petition shall take the following oath: (Ord. No. 1491, adopted 1-21-97, approved at election 5-3-97)

“I do hereby declare that I accept the nomination for the Council and agree to serve if elected. I am _____ years of age, a qualified voter of the City of Duncanville, a resident of the State of Texas for at least one year and of the City of Duncanville or an area now within the corporate limits of the City of Duncanville for at least six months. At present time, I reside at _____ in the City of Duncanville.

Signature of Candidate _____

Date and Hour of Filing _____

Received by _____
Signature of City Secretary”

The petition placing a person in nomination shall be in the following form:

“We, the undersigned voters of the City of Duncanville, hereby nominate and sponsor _____, whose residence is _____, for the office of _____, to be voted for at the election to be held on the _____ day of _____, 20____, and we individually certify that we are qualified to vote for a candidate for Mayor or Councilman and that during the current election we have not signed any other nominating petition for that office.

Name _____

Street and number _____

Address from which last registered (if different) _____

Date of signing _____.”

These above statements will contain the following notarization:

“State of Texas
County of Dallas

Before me, the undersigned authority, on this day personally appeared _____, known to me to be the person whose name is subscribed to the foregoing instrument and who acknowledged to me that the same was subscribed as his free act and deed for the purposes and consideration therein expressed.

Given under My Hand and Seal of Office This _____ day of _____, 20____.”

(Ord. No. 1918, adopted 2-15-05, approved at election 5-7-05)

Sec. 7.04 **NUMBER, SELECTION AND TERM OF COUNCIL**

The Council shall be composed of a Mayor and six (6) Councilmembers who shall be elected and serve in the following manner:

- (a) The Mayor shall be elected from the City at large.
- (b) One (1) Council member shall be elected from the City at large.
- (c) Five (5) Council members shall be elected from single member districts. There shall be five (5) districts and a Council member elected from each district. The five (5) districts shall be defined by ordinance and the boundaries thereof shall be subject to review no less frequently than the year following each federal decennial census based upon population equality to ensure equal voting rights for all citizens under state and federal law. In addition to the qualifications of Section 2.02 each such candidate must reside in their district for no less than six (6) months prior to said election. If a member of the Council elected from a single member district should cease to reside within his elected district, his office shall immediately become vacant.
- (d) The Council member elected at large and the Council members from Districts One (1), Three (3), and Five (5) shall be elected in each odd numbered year or until their successors are elected and qualify. The Mayor and council members from Districts Two (2) and Four (4) shall be elected in each even numbered year or until their successors are elected and qualify. The Council member elected at large shall first be elected in the City’s general election in May of 2003.

- (e) If no candidate for a particular office receives a majority vote, a runoff election for that office is required, and the Council shall, within five days following the completion of the final canvass of the main election, order a runoff election to be held in the City not earlier than the twentieth or later than the thirtieth day after the date the final canvass of the main election is completed. Said runoff election may be held after the foregoing period, but not later than the forty-fifth day after the date the final canvass of the main election is completed, only to permit a runoff election to be held with another political subdivision in accordance with Chapter 271 of the Texas Election Code, or to avoid holding the runoff on a legal state or national holiday or a weekend day within three days of a legal state or national holiday. The candidates in a runoff election are the candidates who receive the highest and second highest number of votes in the main election or who tie for the highest number of votes, provided if more than two candidates tie for the highest number of votes, the tied candidates shall cast lots to determine which two are to be the runoff candidates. The official ballot to be used at said second election shall be prepared by the City Secretary, and the two (2) persons receiving at said first election the first and second highest number of votes cast for candidates for such office at such first election will have their names printed on said official ballot in the order of their standing in the computation of votes cast for such candidates at said first election. In the event of a tie for the second place position at the first election, the candidates tying shall cast lots to determine who will be the second candidate at the second election. In the event of a tie between the two (2) candidates for any office at said second election, they shall cast lots to determine who shall be elected to such office.
- (f) Qualified voters shall vote for a candidate for Mayor, for the Council member at large, and only for a Council member candidate seeking election within that voter's single member district.

(Ord. No. 463, adopted 2-9-70, approved at election 4-7-70; Ord. No. 712, § 2, adopted 2-24-78, approved at election 4-1-78; Ord. No. 934, § 1, adopted 12-5-83, approved at election 1-21-84; Ord. No. 1783, approved 3-19-02, adopted at election 5-4-02)

Sec. 7.05 **THE OFFICIAL BALLOT**

The official ballot shall be drawn up by the City Secretary and will contain the names of all candidates for office, except those who may have been withdrawn, deceased and become ineligible. Names will be placed on the ballot without party designation and position on ballot will be determined by drawing.

Sec. 7.06 **RESERVED**

Sec. 7.07 **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 municipal elections. (Ord. No. 1783, approved 3-19-02, adopted at election 5-4-02)

Sec. 7.08 **CONDUCTING AND CANVASSING ELECTIONS**

Returns of all municipal elections, both general and special, shall be made by the election officers to the Council within five (5) days after election at which time the Council shall canvass the votes and declare the results of such election, with notification of election to the candidate elected.

Sec. 7.09 **OATH OF OFFICE**

Every elected officer of the City shall, before taking the oath of office prescribed by this section and entering upon the duties of office, subscribe to the following statement: (Ord. No. 1491, adopted 1-21-97, approved at election 5-3-97)

“I, _____, do solemnly swear (or affirm) that I have not directly or indirectly paid, offered, promised to pay, contributed, or promised to contribute any money or thing of value, or promised any public office or employment for the giving or withholding of a vote at the election at which I was elected, so help me God.”

Every elected officer of the City shall, before entering upon the duties of office, take the following oath or affirmation:

“I, _____, do solemnly swear (or affirm), that I will faithfully execute the duties of the office of _____ of the City of Duncanville, of the 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, so help me God.”

All appointed officers of the City shall, before taking the oath or affirmation of office prescribed by this section and entering upon the duties of office, subscribe to the following statement:

“I, _____, do solemnly swear (or affirm), that I have not directly or indirectly paid, offered, or promised to pay, contributed, or promised to contribute any money or thing of value, or promised any public office or employment as a reward to secure my appointment or confirmation thereof, so help me God.”

All appointed officers of the City shall, before entering upon the duties of office, take the following oath or affirmation:

“I, _____, do solemnly swear (or affirm), that I will faithfully execute the duties of the office of _____ of the City of Duncanville, of the 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, so help me God.”

ARTICLE VIII

FRANCHISES AND PUBLIC UTILITIES

Sec. 8.01 POWER OF THE CITY

In addition to the City's power to buy, own, construct, maintain, and operate utilities, within or without the City 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 powers as may now or hereafter be granted under the Constitution and laws of the State of Texas.

Sec. 8.02 FRANCHISES, POWER OF COUNCIL

The Council shall have power to grant, amend, renew or extend by ordinance all franchises of all public utilities of every character operating within the City of Duncanville, and for such purposes is granted full power. All ordinances granting, amending, renewing, or extending franchises for public utilities shall be read at two (2) separate regular meetings of the Council and shall not be finally passed until thirty (30) days after the first reading; and no such ordinance shall take effect until sixty (60) days after its final passage; and pending such time, the full text of such ordinance shall be published once each week for two (2) consecutive weeks in the official newspaper of the City of Duncanville, and the expense of such publication shall be borne by the proponent of the franchise. 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 of Duncanville and except with the approval of the Council expressed by ordinance.

Sec. 8.03 FRANCHISE VALUE NOT TO BE ALLOWED

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

Sec. 8.04 RIGHT OF REGULATION

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

- (1) To repeal the same by ordinance at any time for failure to begin construction or operation within the time prescribed or for failure otherwise to comply

with the terms of the franchise, such power to be exercised only after due notice and hearing.

- (2) To require an adequate and reasonable extension of plant and service, and the maintenance of the plant and fixtures at the standard necessary to render the highest reasonable quality of utility service to the public.
- (3) To establish reasonable standards of service and quality of products and prevent unjust discrimination in service on rates.
- (4)
 - (a) To prescribe the form of accounts kept by each such utility, provided that if the utility shall keep its accounts in accordance with the uniform system of accounts for said utility prescribed by the National Association of Railroad and Public Utility Commissioners, the State Railroad Commission of Texas, or their successors or other state or federal utility regulating agencies, this shall be deemed sufficient compliance with this paragraph.
 - (b) At any time to examine and audit the accounts and other records of any such utility and to require annual and other reports, including reports on local operations by each such public utility.
- (5) To impose such reasonable regulations and restrictions as may be deemed desirable or conducive to the safety, welfare and accommodation of the public.

Sec. 8.05 **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.

Sec. 8.06 **EXTENSIONS**

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

Sec. 8.07 **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 ordinance from time to time, and such permits shall not be deemed franchises as the term is used in this Charter.

Sec. 8.08 **OTHER CONDITIONS**

All franchises heretofore granted are recognized as contracts between the City of Duncanville 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 Duncanville 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 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 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 or the electors of the City 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.

Sec. 8.09 **FRANCHISE RECORDS**

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

Sec. 8.10 **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, depreciation reserves, 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 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.

Sec. 8.11 **REGULATIONS OF RATES AND SERVICES**

The Council shall have full power, after due notice and hearing, to regulate by ordinance the rates and service of every public utility operating in the City of Duncanville to the extent permitted by state law as contained in the Texas Utilities Code, as now or hereafter amended. (Ord. No. 1491, adopted 1-21-97, approved at election 5-3-97; Ord. No. 1783, approved 3-19-02, adopted at election 5-4-02)

ARTICLE IX

RECALL, INITIATIVE AND REFERENDUM

Sec. 9.01 SCOPE OF RECALL

Any elected City official, whether elected to office by the qualified voters of the City or appointed by the Council to fill a vacancy, shall be subject to recall and removal from office by the qualified voters of the City on grounds of incompetency, misconduct or malfeasance in office.

Sec. 9.02 PETITIONS FOR RECALL

The Mayor or any other member of the City Council may be removed from office in the following manner: (Ord. No. 1491, adopted 1-21-97, approved at election 5-3-97; Ord. No. 1783, adopted 3-19-02, approved at election 5-4-02; Ord. No. 1920, adopted 3-7-05, approved at election 5-7-05)

- (1) Any qualified voter of the City may make and file with the City Secretary a petition that recall of the Mayor or the Council member elected at large is sought and containing a statement of the grounds for removal.
- (2) Any qualified voter of a district may make and file with the City Secretary a petition that recall of a Council Member for that district is sought and containing a statement of the grounds for removal.
- (3) The procedure for processing a recall petition shall be the same for recall of the Mayor or a Council Member, as provided in this Section, except that the signatures for removal of a Council Member elected from a single member district shall be only of qualified voters of the district whose Council Member is being recalled.
- (4) A petition calling for the recall of a member of the Council under the provisions of this Section shall be signed by registered voters equal in number to at least fifty percent (50%) of the total number of votes cast in the last contested election for that Council position, but in no event less than 200 such petitioners.
- (5) Each signer of a recall petition shall sign his name in ink or indelible pencil, shall print his name, shall furnish his voter registration certificate number, residence address (including Council district) and shall state the day, month and year his signature was affixed to the recall petition.

Sec. 9.03 **FORM OF RECALL PETITION**

The recall petition mentioned above must be addressed to the Council of the City of Duncanville, must distinctly and specifically point out the ground or grounds upon which such petition for removal is predicated, and, if there be more than one ground, such as for incompetency, misconduct or malfeasance in office, shall specifically state each ground with such certainty as to give the officer sought to be removed notice of the matters and things with which he is charged. The signature shall be verified by oath in the following form:

“State of Texas
County of Dallas

I, _____, being first duly sworn, on oath depose and say that I am one of the signers of the above petition, and that the statements made therein are true, and that each signature appearing thereto was made in my presence on the day and date it purports to have been made, and I solemnly swear that the same is the genuine signature of the person whose name it purports to be.

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

Notary Public in and for Dallas County, Texas”

(Ord. No. 1918, adopted 2-15-05, approved at election 5-7-05)

Sec. 9.04 **VARIOUS PAPERS CONSTITUTING PETITION**

The petition may consist of one or more copies, or subscription lists, circulated separately, and the signatures thereto may be upon the paper or papers containing the form of petition, or upon other paper attached thereto. Verifications provided for in the next preceding section of this Article may be made by one or more petitioners, and the several parts of copies of the petition may be filed separately and by different persons; but no signature to such petition shall remain effective or be counted which were placed thereon more than one hundred eighty (180) days prior to the filing of such petition or petitions with the person performing the duties of City Secretary. All papers comprising a recall petition shall be filed with the person performing the duties of City Secretary on the same day, and the said Secretary shall immediately notify, in writing, the officer so sought to be removed, by mailing such notice to his Duncanville address. (Ord. No. 1491, adopted 1-21-97, approved at election 5-3-97)

Sec. 9.05 **PRESENTATION OF PETITION TO THE COUNCIL**

Within five (5) days after the date of filing of the papers constituting the recall petition, the person performing the duties of City Secretary shall present such petition to the Council.

Sec. 9.06 **PUBLIC HEARING TO BE HELD**

The officer whose removal is sought may, within five (5) days after such recall petition has been presented to the Council, request that a public hearing be held to permit him to present facts pertinent to the charges specified in the recall petition. In this event, the Council shall order such public hearing to be held, not less than five (5) days nor more than fifteen (15) days after receiving such request for a public hearing.

Sec. 9.07 **ELECTION TO BE CALLED**

If the officer whose removal is sought does not resign, then it shall become the duty of the Council to order an election and fix a date for holding such recall election, the date of which election shall not be less than forty-five (45) days following the date of such order. (Ord. No. 1783, approved 3-19-02, adopted at election 5-4-02)

Sec. 9.08 **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 _____ be removed from the office of
_____ by recall?”

- (2) Immediately below each such question there shall be printed the following words, one above the other, in the order indicated:

“Yes”

“No”

Sec. 9.09 **RESULT OF RECALL ELECTION**

If a majority of the votes cast at a recall election shall be “No,” that is against the recall of the person 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 “Yes,” that is for the recall of the person named on the ballot, he shall, regardless of any technical defects in the recall petition, be deemed removed from office and the vacancy be filled as vacancies in the Council are filled, as provided in this Charter.

Sec. 9.10 **RECALL, RESTRICTIONS THEREON**

No recall petition shall be filed against any officer of the City within three (3) months after his election, nor within (6) months after an election for such officer's recall.

Sec. 9.11 **FAILURE OF THE COUNCIL TO CALL AN ELECTION**

In case all the requirements of this Charter shall have been met and the Council shall fail or refuse to receive the recall petition, or order such recall election, or discharge any other duties imposed upon said Council by the provisions of this Charter with reference to such recall, then the County Judge of Dallas County, Texas, shall discharge any of such duties herein provided to be discharged by the person performing the duties of the City Secretary or by the Council.

Sec. 9.12 **GENERAL POWER OF INITIATIVE AND REFERENDUM**

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

Sec. 9.13 **INITIATIVE**

Qualified voters of the City may initiate legislation by submitting a petition addressed to the Council which requests the submission of a proposed ordinance or resolution to a vote of the qualified voters of the City. Said petition must be signed by qualified voters of the City equal in number to fifty (50) per cent of the total number of votes cast in the last contested Mayoral election in the City, and each copy of the petition shall have attached to it a copy of the proposed legislation. The petition shall be signed in the same manner as recall petitions are signed, as provided in this Article, and shall be verified by oath in the manner and form provided for recall petitions in this Article. The petition may consist of one or more copies as permitted for recall petitions. Such petition shall be filed with the person performing the duties of City Secretary. Within five (5) days after the filing of such petition, the person performing the duties of City Secretary shall present said petition and proposed ordinance or resolution to the Council. Upon presentation to it of the petition and draft of the proposed ordinance or resolution, it shall become the duty of the Council, within ten (10) days after the receipt thereof, to pass and adopt such ordinance or resolution without alteration as to meaning or effect in the opinion of the persons filing the petition, or to call a special election, to be held on the next uniform election date available by law, at which the qualified voters of the City of Duncanville shall vote on the question of adopting or rejecting the proposed legislation. (Ord. No. 1918, adopted 2-15-05, approved at election 5-7-05; Ord No. 1921, adopted 3-7-5, approved at election 5-7-05)

Sec. 9.14 **REFERENDUM**

Qualified voters of the City of Duncanville may require that any ordinance or resolution, with the exception of ordinances or resolutions appropriating money or levying taxes, passed by the Council be submitted to the voters of the City for approval or disapproval, by submitting a petition for this purpose within thirty (30) days after final passage of said ordinance or resolution, or within thirty (30) days after its publication. Said petition shall be addressed, prepared, signed and verified as required for petitions initiating legislation as provided in Section 9.13 of this Charter and shall be submitted to the person performing the duties of City Secretary. Immediately upon the filing of such petition, the person performing the duties of City Secretary shall present said petition to the Council. Thereupon the Council shall immediately reconsider such ordinance or resolution and, if it does not entirely repeal the same, shall submit it to popular vote as provided in Section 9.13 of this Charter. Pending the holding of such election, such ordinance or resolution shall be suspended from taking effect and shall not later take effect unless a majority of the qualified voters voting thereon at such election shall vote in favor thereof.

Sec. 9.15 **VOLUNTARY SUBMISSION OF LEGISLATION BY THE COUNCIL**

The Council, upon its own motion and by a majority vote of its members, may submit to popular vote at any election for adoption or rejection any proposed ordinance or resolution or measure, or may submit for repeal any existing ordinance, resolution or measure, in the same manner and with the same force and effect as provided in this Article for submission on petition, and may in its discretion call a special election for this purpose.

Sec. 9.16 **FORM OF BALLOTS**

The ballots used when voting upon such proposed and referred ordinances, resolutions or measures, shall set forth their nature sufficiently to identify them and shall also set forth upon separate lines the words:

“For the Ordinance” and
“Against the Ordinance” or
“For the Resolution” and
“Against the Resolution”

Sec. 9.17 **PUBLICATION OF PROPOSED AND REFERRED ORDINANCES**

The person performing the duties of City Secretary shall publish at least once in the official newspaper of the City the proposed or referred ordinance or resolution within

fifteen (15) days before the date of the election, and shall give such other notices and do such other things relative to such election as are required in municipal elections or by the ordinance or resolution calling said election. (Ord. No. 1783, approved 3-19-02, adopted at election 5-4-02)

Sec. 9.18 **ADOPTION OF ORDINANCES**

If a majority of the qualified voters on any proposed ordinance or resolution or measure shall vote in favor thereof, it shall thereupon, or at any time fixed therein, become effective as a law or as a mandatory order to the Council.

Sec. 9.19 **INCONSISTENT ORDINANCES**

If the provisions of two (2) or more proposed ordinances or resolutions approved at the same election are inconsistent, the ordinance or resolution receiving the highest number of votes shall prevail.

Sec. 9.20 **ORDINANCES PASSED BY POPULAR VOTE, REPEAL OR AMENDMENT**

No ordinance or resolution which may have been passed by the Council upon a petition or adopted by popular vote under the provisions of this Article shall be repealed or amended except by the Council in response to a referendum petition or by submission as provided in Section 9.15 of this Charter.

Sec. 9.21 **FURTHER REGULATIONS BY THE COUNCIL**

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

Sec. 9.22 **FRANCHISE ORDINANCES**

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

ARTICLE X

MISCELLANEOUS PROVISIONS

Sec. 10.01 NO OFFICER OR EMPLOYEE TO ACCEPT GIFT, ETC. FROM PUBLIC UTILITY

No officer or employee of the City of Duncanville shall ever 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 such employment of such employee, except as may be authorized by law or ordinance. Any officer or employee of the City who shall violate the provisions of this section shall be guilty of a misdemeanor and may be punished by any fine that may be prescribed by ordinance for this offense, and may forthwith be removed from office.

Sec. 10.02 OFFICERS OR EMPLOYEES OF THE CITY NOT TO HAVE FINANCIAL INTEREST IN ANY CONTRACTS OF THE CITY

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

Sec. 10.03 RETIREMENT SYSTEM AND SOCIAL SECURITY; GROUP INSURANCE

The Council shall have the power to provide for coverage of its appointed officers and employees under the Workmen's Compensation, retirement and Social Security systems provided by laws of the State of Texas for such officers and employees of the City and for group insurance coverage of such officers and employees, with the Council having power to provide for the payment of all or any part of the cost.

Sec. 10.04 CHURCH AND SCHOOL PROPERTY NOT EXEMPT FROM SPECIAL ASSESSMENTS

No property of any kind, church, school or otherwise, in the City of Duncanville shall

be exempt from any of the special taxes and assessments authorized by this Charter for local improvements.

Sec. 10.05 **NOTICE OF DAMAGE OR INJURY REQUIRED**

The City of Duncanville shall never be liable for any personal injury, whether resulting in death or not, unless the person injured or someone in his behalf, or in the event the injury results in death, the person or persons who may have a cause of action under the law by reason of such death injury, shall file a notice in writing with the City Manager or City Secretary within six (6) months after the same has been received, stating specifically in such notice when, where, and how the exact injury occurred and the full extent thereof, together with the amount of damage claimed or asserted. The City of Duncanville shall never be liable for any claim for damage or injury to personal property unless the person whose personal property has been injured or damaged, or someone in his behalf, shall file a claim in writing with the City Manager or the City Secretary within six (6) months after said damage or injury occurred, stating specifically when, where and how the injury or damage occurred and the full extent thereof, and the amount of damage sustained.

The City of Duncanville shall never be liable for any claim for damage or injury to real property caused by this negligent act of omission of its officers, servants, agents or employees unless the person whose real property has been injured or damaged, or someone in his behalf, shall file a claim in writing with the City Manager or City Secretary within six (6) months after said damage or injury has occurred, stating specifically when, where and how the injury or damage occurred, and the amount of damage claimed. The City of Duncanville shall never be liable on account of any damage or injury to person or to personal property arising from or occasioned by any defect in any public street, highway, alley, grounds or public work of the City of Duncanville unless the specific defect causing the damage or injury shall have been actually known to the City Manager at least twenty-four (24) hours prior to the occurrence of the injury or damage, or unless the attention of the City Manager shall have been called thereto by a notice thereof in writing at least twenty-four (24) hours prior to the occurrence of the injury or damage and proper diligence has not been exercised to rectify the defect. The notice herein required to be given to the City Manager or the City Secretary of the specific defect causing the damage or injury shall apply where the defect arose from any omission of the City itself, through its agents, servants or employees, or acts of third parties.

No provision of this section shall ever be so construed as to expand ordinary liability of the City. Nothing contained within this Section or the provisions of this Charter or the ordinances of the City shall be deemed to constitute a waiver of sovereign, legislative, official or other immunity and unless otherwise provided by law, such waivers shall only be by resolution or ordinance duly adopted by the City Council. (Ord. No. 1491, adopted 1-21-97, approved at election 5-3-97; Ord. No. 1918, adopted 2-15-05, approved at election 5-7-05)

Sec. 10.06 **CITY EXEMPT FROM APPEAL BONDS**

It shall not be necessary in any action, suit or proceeding in which the City of Duncanville is a party for any bond, undertaking or security to be executed in behalf of said City, but all such actions, suits, appeals or proceedings shall be conducted in the same manner as if such bond, undertaking or security had been given, and said City shall be liable as if such obligation had been duly given and executed.

Sec. 10.07 **EXECUTION, GARNISHMENT AND ASSIGNMENT**

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 it may owe or funds it may have on hand due any person, nor shall the City or any of its officers or agents be required to answer to 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 as to the City such assignment shall be absolutely void.

Sec. 10.08 **NO LIENS ON PUBLIC PROPERTY; CONTRACTORS, ETC., TO NOTIFY CITY OF CLAIMS**

No lien of any kind can ever exist against the public buildings, public halls, parks or public works of the City of Duncanville. All subcontractors, materialmen, mechanics and laborers upon any public works of the City of Duncanville are hereby required to notify the City of all claims they may have on account of such work against the City, and when such notice has been given, the City shall retain an amount from any funds due the contractors, sufficient to satisfy all claims; provided that such notice may be given at any time after such indebtedness becomes due and before final settlement; and provided, further, that no contractor or subcontractor shall issue any time checks on or on account of any public works of said City.

Sec. 10.09 **BONDS OF CONTRACTORS**

Any person or persons, firm or corporation, entering into a formal contract in excess of \$25,000 with the City of Duncanville for the construction, alteration or repair of any public building or the prosecution or completion of any public works shall be required, before commencing such work, to execute to the City of Duncanville a payment bond in the amount of the contract solely for the protection of all claimants who have a direct contractual relationship with the contractor or a subcontractor to supply public work labor or material; any person or persons, firm, or corporation, entering into a formal contract in excess of \$100,000 with the City of Duncanville for

the construction, alteration or repair of any public building or the prosecution or completion of any public works shall be required, before commencing such work, to execute to the City of Duncanville a performance bond in the amount of the contract, conditioned upon the faithful performance of the work in accordance with the plans, specifications, and contract documents. A bond required by this Section must be executed by a corporate surety or sureties duly authorized to do business in the State of Texas, and in accordance with the Texas Insurance Code, Article 7.19-1. (Ord. No. 1491, adopted 1-21-97, approved at election 5-3-97)

Sec. 10.10 **CONDEMNATION OF DANGEROUS STRUCTURES**

Whenever in the opinion of the governing body of the City 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 governing body 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 at the expense of the City 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 same may be collected as other special taxes provided for in this Charter, or by suit in any court of competent jurisdiction.

The governing body of this City shall have full power to condemn all dangerous buildings or obstructions of any kind that it may determine to be hazardous in any way especially to health and fire, and may provide regulations therefor by ordinance.

Sec. 10.11 **FIRE LIMITS**

The governing body may establish fire limits and prescribe the kind and character of materials to be used in buildings constructed within such limits.

Sec. 10.12 **BUILDING PERMITS**

The City of Duncanville shall have power to prohibit the erection or construction of any building or structure of any kind within the City of Duncanville 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 regulations which exist in said City or which shall hereafter be passed.

Sec. 10.13 **POOLS, PONDS AND LAKES**

The City of Duncanville shall have power to control or prohibit the construction of pools, ponds or lakes, receiving water from a recognizable stream, creek, branch or natural drainage, without a permit having first been issued by the City. The City may control location, construction, height of structure, depth and size of body of water to be impounded.

Sec. 10.14 **BONDS OF CITY OFFICIAL, EMPLOYEE OR DEPARTMENT DIRECTOR**

In addition to any bonding provisions herein provided, the Council 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 the Council may demand, payable to the City of Duncanville, and conditioned for the faithful performance of the duties of his office, premium of such bond to be paid by the City.

Sec. 10.15 **NEPOTISM**

No person shall hereafter be appointed to an office or employed by the City of Duncanville who is related to any member of the Council within the second degree of affinity or the third degree of consanguinity, and this shall apply to heads of departments in their respective departments.

Sec. 10.16 **DISASTER CLAUSE**

In case of disaster when a legal quorum of elected Councilmen cannot otherwise be assembled due to multiple deaths or injuries, the surviving member or members of the elected Council or highest surviving City official, if no elected official remains, must within twenty-four (24) hours of such disaster request the highest surviving officers of the local Chamber of Commerce and the Board of Trustees of the local school district, and the County Judge of Dallas County to appoint a commission to act during the emergency and call a City election within fifteen (15) days of such disaster for election of a required quorum, if for good reasons it is known a quorum of the present Council will never again meet.

Sec. 10.17 **WHEN PROVISIONS TAKE EFFECT**

For the purpose of nominating and electing members of the Council, the provisions

of this Charter shall be in effect for the regular municipal election to be held in April, 1963. For all other purposes this Charter shall be in effect from and after its approval by the electors of the City and the entering of an official order upon the records of the City by the governing body declaring the same adopted.

Sec. 10.18 RIGHT TO AMEND THE CHARTER

This Charter may be amended no more than once every two (2) years as provided by the laws of the State of Texas.

Sec. 10.19 ORDINANCES, RULES AND REGULATIONS VALIDATED

All ordinances, resolutions, rules and regulations of the City of Duncanville heretofore ordained, passed or enacted that are in force at the time this Charter becomes effective, and which are not in conflict with such Charter, shall remain in full force until altered, amended or repealed by the governing body of the City after such Charter takes effect.

Sec. 10.20 SEPARABILITY CLAUSE

If any section or part of section of this Charter shall be held invalid by a court of competent jurisdiction, such holding shall not affect the remainder of this Charter nor the context in which such section or part of section so held invalid may appear, except to the extent that an entire section or part of section may be inseparably connected in meaning and effect with the section or part to which such holding shall directly apply.

ARTICLE XI

DEFINITIONS

Sec. 11.01 RULES OF CONSTRUCTION

In the construction of this Charter, the following definitions shall be observed, unless such definitions are in conflict with state or federal law which defines such terms otherwise.

Sec. 11.02 DEFINITIONS

In this Charter, the following meaning shall be given to each of the following words, unless a different meaning is apparent from the context.

- (a) “Abutting” shall mean adjoining, touching, or bordering.
- (b) “Affinity” as used in Section 10.15 shall mean the relationship between two individuals if they are married to each other or the spouse of one of the individuals is related by consanguinity to the other individual.
- (c) “Aggregate property” shall mean the entire mass or quantity of property composed or consisting of several or many parcels united together.
- (d) “Arrears” shall mean the state of being behind in the discharge of obligations, such as taxes or other unpaid and overdue debt, due the City of Duncanville.
- (e) “Condemnation” shall have the same meaning as “eminent domain” defined in subsection (i).
- (f) “Consanguinity” as used in Section 10.15 shall mean the relationship between two individuals if one is a descendent of the other or they share a common ancestor.
- (g) “Contract” shall mean a promissory agreement between the City of Duncanville and another party that creates or modifies a legal relation.
- (h) “Cost Bill” shall mean the invoice or statement for costs of suit, including all costs incident to litigation, including attorneys fees, if applicable.

- (i) “Eminent domain” shall mean the right given the governing body of the City of Duncanville to acquire public or private property, whether located inside or outside the City, when it considers such acquisition necessary for a public purpose, and includes all the rights granted the City of Duncanville by state law.
- (j) “Encroachment” shall mean erecting or placing any object on public property or within a public right-of-way or easement so that free and full use of such property, right-of-way or easement by the City of Duncanville, its franchisees or the public in general is prevented or interfered with.
- (k) “Fiscal” relates to taxation, public revenues, public debt or financial matters generally; the fiscal year of the City of Duncanville begins on October 1 and ends on September 30 of the following calendar year.
- (l) “Franchise” shall mean a contract under which the franchisee is granted the right to make certain uses of the public streets, rights-of-way and easements of the City.
- (m) “Garnishment” shall mean a proceeding whereby the property, money, or credits of a debtor in the possession of, or owning by, another, designated as a garnishee, are applied to the payment of the debt of the debtor by means of proper process issued against the garnishee.
- (n) “Incompetency” shall mean gross ignorance of official duties, gross carelessness in the discharge of official duties, or inability or unfitness to promptly and properly discharge official duties because of a serious mental or physical defect that did not exist at the time of the officer’s election.
- (o) “Initiative” shall mean the power reserved to the people of the City of Duncanville to propose laws and City Charter amendments and to enact or reject the same at the polls, generally independent of the City Council.
- (p) “Judicial writ” shall mean any process or order issued by a court.
- (q) “Lien” shall mean a charge or encumbrance on property to secure payment of a debt owing to and in favor of the City of Duncanville as authorized by state law.
- (r) “Magistrate” shall mean the judge of the municipal court of the City of Duncanville or any other person designated by state law as magistrate.

- (s) “Malfeasance” shall mean the commission of some act which is unlawful or wrongful conduct or that affects, interrupts or interferes with the performance of official duties.
- (t) “Measure” shall mean a question or proposal submitted in an election for the expression of the voters’ will.
- (u) “Misconduct” shall mean an intentional or corrupt failure, refusal, or neglect of an elected City official to perform a duty imposed on an official by law in relation to the duties of the office.
- (v) “Moral turpitude” shall mean a crime involving inherent baseness or vileness; principle or action contrary to justice, honesty, modesty, or good morals.
- (w) “Ordinance” is a legislative enactment of the City Council defined generally by a state law and by Section 2.16 of this Charter.
- (x) “Public utility” shall mean any person, corporation, cooperative, river authority, or any combination thereof operating for compensation in the City of Duncanville equipment or facilities for providing electrical, telecommunications, water, sewage, gas, telegraph, or similar services to the public.
- (y) “Qualified voter means a person who:
 - (1) is 18 years of age or older;
 - (2) is a United States citizen;
 - (3) has not been determined mentally incompetent by a final judgement of a Court;
 - (4) has not been finally convicted of a felony or, if so convicted, has fully discharged the person’s sentence, including any term of incarceration, parole, or supervision, or completed a period of probation ordered by any court; or been pardoned or otherwise released from the disability to vote;
 - (5) is a resident of this state; and
 - (6) is a registered voter.
- (z) “Quorum”, unless otherwise defined by an applicable law or rule, shall mean a majority of the City Council, inclusive of the Mayor, of the City of Duncanville.
- (aa) “Recall” shall mean the method of removal of the Mayor or a City Council Member granted or reserved by the people in Article IX of the Home Rule Charter of the City of Duncanville.

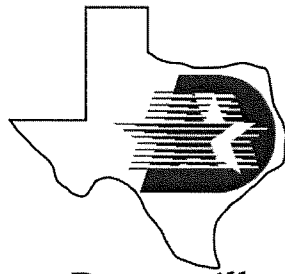
- (bb) “Referendum” shall mean the power reserved to the people of the City of Duncanville to approve or reject at the polls any act of the City Council, unless otherwise prohibited by law.
- (cc) “Resolution” shall mean an official act of the City Council containing a formal expression of its opinion, will, or intent.
- (dd) “Statute” shall mean an act of the legislature of the State of Texas or the United States expressing the collective will of such body.
- (ee) “Territory” shall be a geographic area belonging to or under the jurisdiction or extraterritorial jurisdiction of the City of Duncanville.
- (ff) “Time Clocks” as used in Section 10.08 shall mean certificates, signed by a person in charge of laborers, reciting the amount due to the laborer for labor for a specified time.
- (gg) “Writ of Execution” shall mean a process of the court from which it is issued authorizing the seizure and sale of the property of a judgment debtor to satisfy a judgment rendered against him, and shall include all process issued to carry into effect the final judgment of a court.

(Ord. No. 1491, adopted 1-21-97, approved at election 5-3-97; Ord. No. 1783, adopted 3-19-02, approved at election 5-4-02)

CHARTER COMPARATIVE TABLE

Note -- This is a chronological and/or numerical listing of amendments to the City's Home Rule Charter which was adopted at an election held on May 5, 1962. Repealed, superseded or omitted legislation is not reflected in this table.

Ord. No.	Date	Approved at Election Held	Disposition
463	02-09-70	04-07-70	7.04
712	02-24-78	04-01-78	7.04
713	02-27-78	04-01-78	2.04
934	12-05-83	01-21-84	7.04
1186	12-19-88	01-21-89	2.02 et al
1491	01-21-97	05-03-97	1.04 et al
1783	03-19-02	05-04-02	2.01 et al
1918	02-15-05	05-07-05	1.04 et al
1920	03-07-05	05-07-05	9.02
1921	03-07-05	05-07-05	9.13 & 9.14



Duncanville
City of Champions

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